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Peggy Coe, Editor-in-Chief

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Control	475	Oklahoma STUDENT Loan Authority	700
Board of Regents of NORTHERN Oklahoma College (<i>exempted</i>		TASK Force 2000	705
11-1-98)	480	Oklahoma TAX Commission	710
Oklahoma Board of NURSING	485	Oklahoma Commission for TEACHER Preparation (<i>merged under</i>	
Oklahoma State Board of Examiners for LONG-TERM Care		<i>Office of Educational Quality and Accountability 7-1-14 - See Title</i>	
Administrators (Formerly: Oklahoma State Board of Examiners		218)	712
for NURSING Home Administrators)	490	TEACHERS' Retirement System	715
Board of Regents of OKLAHOMA City Community College (<i>exempted</i>		State TEXTBOOK Committee	720
11-1-98)	495	TOBACCO Settlement Endowment Trust Fund	723
Board of Regents of OKLAHOMA Colleges (<i>exempted 11-1-98</i>)	500	Oklahoma TOURISM and Recreation Department	725
Board of Examiners in OPTOMETRY	505	Department of TRANSPORTATION	730
State Board of OSTEOPATHIC Examiners	510	Oklahoma TRANSPORTATION Authority (<i>Name changed to</i>	
PARDON and Parole Board	515	Oklahoma TURNPIKE Authority 11-1-05) - See Title 731	
Oklahoma PEANUT Commission	520	Oklahoma TURNPIKE Authority (Formerly: Oklahoma	
Oklahoma State PENSION Commission	525	TRANSPORTATION Authority AND Oklahoma TURNPIKE	
State Board of Examiners of PERFUSIONISTS	527	Authority) - See also Title 745	731
Office of PERSONNEL Management (<i>consolidated under Office</i>		State TREASURER	735
of Management and Enterprise Services 8-26-11 - See Title		Board of Regents of TULSA Community College (<i>exempted</i>	
260)	530	11-1-98)	740
Board of Commercial PET Breeders (<i>abolished 7-1-12 - See Title</i>		Oklahoma TURNPIKE Authority (<i>Name changed to Oklahoma</i>	
35)	532	TRANSPORATION Authority 11-1-99 - no rules enacted in this	
Oklahoma State Board of PHARMACY	535	<i>Title - See Title 731</i>)	745
PHYSICIAN Manpower Training Commission	540	Oklahoma UNIFORM Building Code Commission	748
Board of PODIATRIC Medical Examiners	545	Board of Trustees for the UNIVERSITY Center at Tulsa (<i>exempted</i>	
Oklahoma POLICE Pension and Retirement System	550	11-1-98)	750
State Department of POLLUTION Control (<i>abolished 1-1-93</i>)	555	UNIVERSITY Hospitals Authority	752
POLYGRAPH Examiners Board	560	UNIVERSITY Hospitals Trust	753
Oklahoma Board of PRIVATE Vocational Schools	565	Board of Regents of the UNIVERSITY of Oklahoma (<i>exempted</i>	
State Board for PROPERTY and Casualty Rates		11-1-98)	755
(<i>abolished 7-1-06; see also Title 365</i>)	570	Board of Regents of the UNIVERSITY of Science and Arts	
State Board of Examiners of PSYCHOLOGISTS	575	of Oklahoma (<i>exempted 11-1-98</i>)	760
Department of CENTRAL Services (Formerly: Office of PUBLIC		Oklahoma USED Motor Vehicle and Parts Commission	765
Affairs; <i>consolidated under Office of Management and Enterprise</i>		Oklahoma Department of VETERANS Affairs	770
<i>Services 8-26-11 - See Title 260</i>)	580	Board of VETERINARY Medical Examiners	775
		Statewide VIRTUAL Charter School Board	777

Agency/Title Index – *continued*

Agency	Title	Agency	Title
Oklahoma Department of CAREER and Technology Education (Formerly: Oklahoma Department of VOCATIONAL and Technical Education)	780	Oklahoma WHEAT Commission	795
Oklahoma WATER Resources Board	785	Department of WILDLIFE Conservation	800
Board of Regents of WESTERN Oklahoma State College (<i>exempted</i> <i>11-1-98</i>)	790	WILL Rogers and J.M. Davis Memorials Commission	805
		Oklahoma WORKERS' Compensation Commission	810

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 410. RADIATION MANAGEMENT

[OAR Docket #19-718]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

252:410-1-7. Incorporation of federal regulations by reference [AMENDED]

Subchapter 10. Radioactive Materials Program

Part 1. General Provisions

252:410-10-1. Radioactive Materials Program [AMENDED]

Part 32. Byproduct Material: Specific Licenses for Manufacturing and Transferring Certain Items

252:410-10-32. 10 CFR 32 incorporations by reference [AMENDED]

Part 35. Medical Use of Byproduct Material

252:410-10-35. 10 CFR 35 incorporations by reference [AMENDED]

Part 40. Domestic Licensing of Source Material

252:410-10-40. 10 CFR 40 incorporations by reference [AMENDED]

SUMMARY:

The proposed rulemaking consists of four main elements. (1) The first element is to amend Chapter 410, Subchapter 1 (General Provisions) [See OAC 252:410-1-7(a)] to change the date for incorporation of federal regulations by reference to January 1, 2019. (2) The second element of this rulemaking is to amend the regulations related to the medical use of byproduct material to conform the Oklahoma rules to the updated federal regulations which includes revisions to 10 CFR Parts 30, 32 and 35. This rule amends the reporting and notification requirements for a medical event for permanent implant brachytherapy. This rule also amends the training and experience (T&E) requirements to remove from multiple sections the requirement to obtain a written attestation for an individual who is certified by a specialty board whose certification process has been recognized by the NRC or an Agreement State; and to exempt certain board-certified individuals from certain T&E requirements (i.e., "grandfather" these individuals). Additionally, this rule amends the requirements for measuring molybdenum contamination; adds a new requirement for the reporting of failed technetium and

rubidium generators; and allows licensees to name associate radiation safety officers on a medical license. (3) The third element is a revision to better organize, clarify, and update the regulations in OAC 252:410-10-32 [10 CFR Part 32]. The renaming of subparts C and D and the movement of Sec. 32.72 and 32.74 from subpart B to subpart C. These two sections are being moved because they do not cover generally licensed items. (4) The fourth element is to correct an error made when 10 CFR 40 was adopted. 10 CFR 40 covers source material. An error was made in a section on "unimportant quantities of source material". In a list of five types of unimportant quantities of source material, four of them were intended to be excluded from our rules and reserved to the NRC, but five were excluded. The format was corrected and the fifth category (depleted uranium counterweights) should not have been excluded, as DEQ has jurisdiction. This rulemaking will correct this error.

The gist of this rulemaking is to maintain compatibility with federal regulations.

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-104, and 2-2-201; Radiation Management Advisory Council, 27A O.S. § 2-2-201; and 27A O.S. §§ 2-9-104, and 2-9-105.

COMMENT PERIOD:

Deliver or mail written comments on the proposed rules to the contact person from August 15, 2019 through September 25, 2019. Oral comments may be made at the Radiation Management Advisory Council meeting at 9:00 a.m. on September 26, 2019 and at the Environmental Quality Board meeting at 9:30 a.m. on November 8, 2019.

PUBLIC HEARINGS:

Before the Radiation Management Advisory Council at 9:00 a.m. on September 26, 2019, at the Tulsa Technology Center Riverside, located at 801 East 91st Street, Tulsa, OK 74132.

Before the Environmental Quality Board at 9:30 a.m. on November 8, 2019, in the Woodward Conference Center, 3401 Centennial Drive, Woodward, OK, 73801.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Department requests that business entities affected by these proposed rules provide the Department, within the comment period and in dollar amounts if possible, the increase or decrease in the level of direct costs such as fees and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or

Notices of Rulemaking Intent

other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, may be viewed on the DEQ website at www.deq.ok.gov/land-protection-division/land-protection-division-proposed-rules/, or may be reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

RULE IMPACT STATEMENT:

The Rule Impact Statement for the proposed rules will be on file at the Department of Environmental Quality and may be requested from the contact person, or viewed on the DEQ website at www.deq.ok.gov/land-protection-division/land-protection-division-proposed-rules/.

CONTACT PERSON:

Mike Broderick, Land Protection Division, Radiation Management Section, P.O. Box 1677, Oklahoma City, OK 73101-1677, e-mail at mike.broderick@deq.ok.gov, phone 405-702-5100, or fax 405-702-5101.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the public hearing and need assistance should notify the contact person three days in advance of the meeting during business hours at 405-702-5100 or by using TDD relay number 1-800-522-8506.

[OAR Docket #19-718; filed 7-23-19]

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

[OAR Docket #19-600]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Fee Schedules

35:2-3-12. Schedule of horticulture program fees [AMENDED]

35:2-3-29. General animal industry supply fees [AMENDED]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); 2 O.S. § 6-1 et seq., 2 O.S. § 6-91 et seq., 2 O.S. § 6-121 et seq., 2 O.S. § 6-131 et seq., 2 O.S. § 6-141 et seq., 2 O.S. § 6-281 et seq., 2 O.S. § 6-501 et seq., 2 O.S. § 6-601 et seq., and 2 O.S. § 9-130 et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

January 24, 2019

COMMENT PERIOD:

February 15, 2019 through March 19, 2019

PUBLIC HEARING:

March 19, 2019

ADOPTION:

March 27, 2019

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 28, 2019

LEGISLATIVE APPROVAL:

Approved May 28, 2019 by HJR 1022

FINAL ADOPTION:

May 28, 2019

EFFECTIVE:

September 14, 2019

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

The proposed rules clean up language for Horticulture fees and change fees for General animal industry supply fees.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.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 14, 2019:

SUBCHAPTER 3. FEE SCHEDULES

35:2-3-12. Schedule of horticulture program fees

(a) The fee for each Federal Phytosanitary Certificate issued or renewed shall be as follows:

(1) Federal Phytosanitary Certificate PPQ Form 577.

(A) If the aggregate commercial value of the product inspected for certification is \$1,250.00 or more:

(i) ~~Seventy Seven Dollars (\$77.00) for 2010.~~

(ii) ~~One Hundred and Four Dollars (\$104.00) for 2011.~~

(iii) ~~One Hundred and Six Dollars (\$106.00) for 2012 and following years.~~

(B) If the aggregate commercial value of the product inspected for certification is less than \$1,250.00:

(i) ~~Forty Two Dollars (\$42.00) for 2010.~~

(ii) ~~Sixty Dollars (\$60.00) for 2011.~~

(iii) ~~Sixty One Dollars (\$61.00) for 2012 and following years.~~

(2) Federal Phytosanitary Certificate, Processed Plant Products PPQ Form 578.

(A) If the aggregate commercial value of the product inspected for certification is \$1,250.00 or more:

(i) ~~Seventy Seven Dollars (\$77.00) for 2010.~~

(ii) ~~One Hundred and Four Dollars (\$104.00) for 2011.~~

(iii) ~~One Hundred and Six Dollars (\$106.00) for 2012 and following years.~~

(B) If the aggregate commercial value of the product inspected for certification is less than \$1,250.00:

(i) ~~Forty Two Dollars (\$42.00) for 2010.~~

(ii) ~~Sixty Dollars (\$60.00) for 2011.~~

(iii) ~~Sixty One Dollars (\$61.00) for 2012 and following years.~~

(3) Federal Phytosanitary Certificate for Re-export PPQ Form 579.

(A) If the aggregate commercial value of the product inspected for certification is \$1,250.00 or more:

(i) ~~Seventy Seven Dollars (\$77.00) for 2010.~~

(ii) ~~One Hundred and Four Dollars (\$104.00) for 2011.~~

(iii) ~~One Hundred and Six Dollars (\$106.00) for 2012 and following years.~~

(B) If the aggregate commercial value of the product inspected for certification is less than \$1,250.00:

(i) ~~Forty Two Dollars (\$42.00) for 2010.~~

(ii) ~~Sixty Dollars (\$60.00) for 2011.~~

(iii) ~~Sixty One Dollars (\$61.00) for 2012 and following years.~~

(4C) Ten Dollars (\$10.00) for the re-issuance of a Federal Phytosanitary Certificate.

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(54) All Federal Phytosanitary Certificates shall require an administrative fee paid by the Department to USDA in the following amounts:

(A) ~~Three Dollars (\$3.00) if the certificate is issued in PCIT, or Six Dollars (\$6.00) if the certificate is issued outside of PCIT for 2010.~~

~~(B) Six Dollars (\$6.00) if the certificate is issued in PCIT, or,~~

(B) Twelve Dollars (\$12.00) if the certificate is issued outside of PCIT for 2011 and following years.

(b) The fee for each State Phytosanitary Certificate issued or renewed shall be as follows: ~~Twenty Dollars (\$20.00) except there shall be no charge for the issuance of a certificate required by the Japanese Beetle Harmonization Plan unless a treatment is monitored by an authorized agent of the Board.~~

(1) If the aggregate commercial value of the product inspected for certification is \$250.00 or more: Twenty Dollars (\$20.00).

(2) If the aggregate commercial value of the product inspected for certification is \$249.00 or less: Five dollars (\$5.00).

(3) The Phytosanitary Certificate fee if you do not have an Oklahoma nursery license shall be \$20.00 regardless of aggregate commercial value.

(4) There shall be no charge for the issuance of a Phytosanitary Certificate if it is required by the Japanese Beetle Harmonization Plan unless a treatment is monitored by an authorized agent of the Board.

(c) The fee for each grower, dealer, and landscaper license issued or renewed and inspection conducted shall be as follows:

(1) Growers license - Twenty-five Dollars (\$25.00) for each business location.

(2) Growers inspection fee - One Dollar (\$1.00) per acre and per 1,000 square feet of greenhouse area inspected.

(3) Dealers license fee - Thirty-eight Dollars (\$38.00) for each business location.

(4) Landscaper or Personal Use Only license fee - One Hundred Dollars (\$100.00) for each business location.

(5) No fee shall be charged for a license issued to any scientific, agricultural, or horticultural club, garden center, educational or eleemosynary institution, or any department or branch of the state or federal government.

(6) Failure to remit the license fee by the 15th day of the month following the expiration month shall result in a penalty fee equal to the cost of the license.

(d) A fee of Twenty-Five Dollars (\$25.00) shall be charged for any requested inspection or certification and shall be payable at the time of inspection and includes inspections and certificates issued for transporting plants.

(e) All fees and monies collected under this program shall be paid to the Oklahoma Department of Agriculture, Food, and Forestry.

35:2-3-29. General animal industry supply fees

(a) Certificates of Veterinary Inspection (Health Certificates) ~~\$25.00~~\$35.00 per pad of 25 with \$6 shipping for up to

first 10 pads and an additional \$6 shipping for each additional 10 pads.

(b) Poultry tester supplies:

(1) Large or small wing bands - \$12.00 per 100.

(2) Small wing band plier - \$11.00 each.

(3) Leg bands - \$8.50 per 100.

(4) Leg band pliers - \$25.00 each.

(5) Pullorum Test Plate - \$8.00 each.

(6) 1,000 tests Pullorum Typhoid Antigen - \$150.00 per 1,000 doses or \$35.00 per 200 doses.

(7) Shipping fee per order - \$6.00.

(8) Cash On Delivery (C.O.D.) shipping fee per order - actual cost.

(9) Large wing band plier - \$25.00 each.

(10) Bleeder loop - \$12.00 each.

(c) Contagious Equine Metritis Quarantine Monitoring:

(1) Stallions - \$500 each.

(2) Mares - \$500 first mare, \$200 for each additional mare in the same quarantine.

[OAR Docket #19-600; filed 6-14-19]

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

[OAR Docket #19-594]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

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

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

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); 2 O.S. § 6-1 et seq., 2 O.S. § 6-91 et seq., 2 O.S. § 6-121 et seq., 2 O.S. § 6-131 et seq., 2 O.S. § 6-141 et seq., 2 O.S. § 6-281 et seq., 2 O.S. § 6-501 et seq., 2 O.S. § 6-601 et seq., and 2 O.S. § 9-130 et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

December 7, 2018

COMMENT PERIOD:

January 2, 2019 through February 5, 2019

PUBLIC HEARING:

February 5, 2019

ADOPTION:

February 19, 2019

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 27, 2019

LEGISLATIVE APPROVAL:

Approved May 28, 2019 by HJR 1022

FINAL ADOPTION:

May 28, 2019

EFFECTIVE:

September 14, 2019

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated standards:

27 CFR Part 19.661 et seq. (2018 Revision) unless otherwise specified.

Incorporating rules:

35:13-1-1

35:13-1-2

Availability:

8:00 a.m. to 4:30 p.m., Monday through Friday at the Oklahoma Department of Agriculture, Food and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105, (405) 522-5803.

GIST/ANALYSIS:

The proposed rule amendments update citations to the Code of Federal Regulations.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.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 14, 2019:

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

The Distilled Spirits for Fuel Use regulations found in Title 27 of the Code of Federal Regulations (CFR) (~~2017~~2018 Revision), Part 19.661 et seq. for the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of the deleted regulations specified in 35:13-1-2.

35:13-1-2. Deleted regulations

The following sections of the Code of Federal Regulations governing distilled spirits for fuel use of the United States Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau incorporated by reference under 35:13-1-1 are deleted and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry: 27 CFR §§ 19.669, 19.670, 19.699, and 19.700 (~~2017~~2018 Revision).

[OAR Docket #19-594; filed 6-14-19]

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

[OAR Docket #19-601]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 3. Animal Health Reportable Diseases
- 35:15-3-2. Oklahoma reportable disease list [AMENDED]
- Subchapter 5. Biological Products and Laboratories
- 35:15-5-1 Biological products [AMENDED]
- 35:15-5-2. Laboratories [AMENDED]
- Subchapter 9. ~~Livestock Dealers and~~ Livestock Special Sales
- Part 3. Livestock Special Sales
- 35:15-9-8. Written records [AMENDED]
- Subchapter 14. Equine Viral Arteritis
- 35:15-14-3. Authority to require testing [NEW]
- Subchapter 19. Poultry Regulations
- 35:15-19-4. Import and exhibition poultry [AMENDED]
- Subchapter 44. Farmed Cervidae

35:15-44-19. Entry and export requirements [AMENDED]

Subchapter 45. Brucellosis in Cervidae

Part 11. Animal Movement

35:15-45-111. Interstate movement [AMENDED]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); 2 O.S. § 6-1 et seq., 2 O.S. § 6-91 et seq., 2 O.S. § 6-121 et seq., 2 O.S. § 6-131 et seq., 2 O.S. § 6-141 et seq., 2 O.S. § 6-281 et seq., 2 O.S. § 6-501 et seq., 2 O.S. § 6-601 et seq., and 2 O.S. § 9-130 et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

January 24, 2019

COMMENT PERIOD:

February 15, 2019 through March 19, 2019

PUBLIC HEARING:

March 19, 2019

ADOPTION:

March 27, 2019

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 28, 2019

LEGISLATIVE APPROVAL:

Approved May 28, 2019 by HJR 1022

FINAL ADOPTION:

May 28, 2019

EFFECTIVE:

September 14, 2019

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

The proposed rule amendments change method of access for reportable diseases list; make language corrections to biological rules; update language; revise recordkeeping requirements for livestock special sales; grant authority to require certain testing; revise rules related to miscellaneous animal diseases; and make grammatical corrections.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.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 14, 2019:

**SUBCHAPTER 3. ANIMAL HEALTH
REPORTABLE DISEASES**

35:15-3-2. Oklahoma reportable disease list

- (a) ~~Multiple species diseases~~
 - (1) ~~Anthrax~~
 - (2) ~~Bluetongue~~
 - (3) ~~Brucellosis (all species)~~
 - (4) ~~Echinococcosis/hydatidosis~~
 - (5) ~~Epizootic hemorrhagic disease~~
 - (6) ~~Foot and mouth disease~~
 - (7) ~~Heartwater~~
 - (8) ~~Influenza~~
 - (9) ~~Japanese encephalitis~~
 - (10) ~~Johne's disease (paratuberculosis)~~
 - (11) ~~Leptospirosis (canine)~~

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- (12) Malignant catarrhal fever
- (13) Pseudorabies
- (14) Q-fever
- (15) Rabies
- (16) Rift Valley fever
- (17) Screw worm (old and new world)
- (18) Surra (*trypanosoma evansi*)
- (19) Trichinellosis
- (20) Tuberculosis (all species)
- (21) Tularemia
- (22) Vesicular stomatitis
- (23) West Nile virus
- (b) Cattle diseases
 - (1) Bovine babesiosis (tick fever)
 - (2) Bovine spongiform encephalopathy
 - (3) Contagious bovine pleuropneumonia
 - (4) Lumpy skin disease
 - (5) Theileriosis
 - (6) Trichomonosis (bovine genital)
- (c) Sheep and goat diseases
 - (1) Peste des petits ruminants
 - (2) Scrapie
 - (3) Sheep pox and goat pox
- (d) Equine diseases
 - (1) African horse sickness
 - (2) Contagious equine metritis
 - (3) Dourine
 - (4) Equine Encephalomyelitis (eastern, western, and venezuelan)
 - (5) Equine herpes virus
 - (6) Equine infectious anemia
 - (7) Equine piroplasmiasis (theileria and babesia)
 - (8) Equine viral arteritis
 - (9) Glanders
 - (10) Strangles (*streptococcus equi*)
- (e) Swine diseases
 - (1) African swine fever
 - (2) Classical swine fever (hog cholera)
 - (3) Porcine cysticercosis
 - (4) Swine enteric coronavirus disease (PED)
 - (5) Swine vesicular disease
 - (6) Swine influenza
- (f) Avian diseases
 - (1) Avian influenza
 - (2) Fowl cholera
 - (3) Fowl typhoid (*salmonella gallinarum*)
 - (4) Infectious laryngotracheitis
 - (5) Marek's disease
 - (6) Mycoplasma (*M. gallisepticum* and *M. synoviae*)
 - (7) Newcastle disease
 - (8) Psittacosis
 - (9) Pullorum disease (*salmonella pullorum*)
- (g) Zoo, exotic, and wildlife diseases
 - (1) Camelpox
 - (2) Chronic wasting disease
 - (3) Leishmaniasis
 - (4) Rabbit hemorrhagic disease

(h) Other diseases—Persons that observe possible symptoms of disease shall report any highly unusual condition, unusual symptoms of any kind, and any instance of very high morbidity or mortality to the Department. Characteristics of reportable diseases include:

- (1) Hemorrhagic septicemia;
- (2) High morbidity or high mortality;
- (3) Neurologic symptoms;
- (4) Poor or no response to treatment when response is expected;
- (5) Pox or lumpy skin conditions;
- (6) The disease does not fit the classical picture;
- (7) Severe abortion storms of unknown etiology;
- (8) Severe respiratory conditions;
- (9) Suspicious necropsy findings; or
- (10) Vesicular lesions.

The State Veterinarian shall develop and maintain a list of reportable diseases which may be accessed at the internet address: www.ag.ok.gov/ais.

SUBCHAPTER 5. BIOLOGICAL PRODUCTS AND LABORATORIES

35:15-5-1. Biological products

(a) No biological product, including antigen, used to immunize, test, or treat livestock or any other species of animals shall be manufactured, produced, transported, distributed, sold, or offered for sale, or possessed in Oklahoma unless the biological product has been licensed or permitted by and produced in an establishment licensed by the United States Veterinary Biologics Division of the United States Department of Agriculture, and approved by the Oklahoma Department of Agriculture, Food, and Forestry. Exemption: Autogenous vaccines and/or bacterins when prepared for use on individual premises or animals may be prepared in laboratories approved by the Department.

(b) Johne's (Paratuberculosis) vaccine is expressly prohibited in Oklahoma without prior approval of the Department. This approval may be obtained only after a written agreement is developed between the producer, attending veterinarian, and state regulatory officials. A plan of herd management, vaccination, and any restrictions shall be a part of this agreement.

(c) Each biological product distributed, sold, offered for sale or used in Oklahoma or delivered for transportation or transported in intrastate or interstate commerce shall be registered with the Department on an annual basis.

(d) Each person registering biological products shall pay an annual registration fee of Two Hundred Dollars (\$200.00) for each biological product registered.

(1) The Department may require the submission of the complete formula of any biological product.

(2) Trade secrets and formulations submitted with the registration shall be kept confidential.

(e) A biological product initially registered between October 1 and March 20 shall be eligible for a reduced annual renewal fee of One Hundred and Fifty Dollars (\$150) for the first annual renewal following the initial registration.

(f) If it appears to the Department that the composition of the biological product is adequate to warrant the proposed claims and if the biological product, its labeling, and other material required to be submitted comply with the requirements of this section, then the biological product shall be registered.

(g) Additional registration of a biological product shall not be required in the case of a biological product shipped from one location within Oklahoma to another location within Oklahoma ~~so long as~~ if the location is operated by the same person.

(h) All biological product registrations shall expire on March 20 of each year but may be renewed by the Department. Any person who fails to renew a biological product by March 20 of each year shall pay a penalty of an additional Two Hundred Dollars (\$200.00).

(i) No person shall sell or offer for sale an unregistered biological product or an expired biological product.

(j) The term "~~Biological Product~~ biological product" shall mean all viruses, serums, toxins (excluding substances that are selectively toxic to microorganisms, including antibiotics), or analogous products at any stage of production, shipment, distribution, or sale, which are intended for use in the treatment of animals and which act primarily through the direct stimulation, supplementation, enhancement, or modulation of the immune system or immune response. The term biological products includes but is not limited to vaccines, bacterins, allergens, antibodies, antitoxins, toxoids, immunostimulants, certain cytokines, antigenic or immunizing components of live organisms, and diagnostic components that are of natural or synthetic origin, or that are derived from synthesizing or altering various substances or components of substances such as microorganisms, genes or genetic sequences, carbohydrates, proteins, antigens, allergens, or antibodies. The term shall not include any product identified and regulated as a pesticide by the Department.

(1) A product's intended use shall be determined through an objective standard ~~and not a subjective one, and would be dependent upon~~ factors such as representations, oral or written claims ~~(either oral or written)~~, packaging, labeling, or appearance.

(2) The term "analogous products" shall include the following:

(A) Substances, at any stage of production, shipment, distribution, or sale, which are intended for use in the treatment of animals and which are similar in function to biological products in that they act, or are intended to act, through the stimulation, supplementation, enhancement, or modulation of the immune system or immune response;

(B) Substances, at any stage of production, shipment, distribution, or sale, which are intended for use in the treatment of animals through the detection or measurement of antigens, antibodies, nucleic acids, or immunity; or

(C) Substances, at any stage of production, shipment, distribution, or sale, which resemble or are represented as biological products intended for use in the treatment of animals through appearance,

packaging, labeling, claims (either oral or written), representations, or through any other means.

(k) The term "unregistered biological product" shall mean a biological product that has not been registered with the Department or a biological product that has been previously registered with the Department but the registration has lapsed.

(l) The term "expired biological product" shall mean a biological product which exceeds the expiration date established by the manufacturer.

35:15-5-2. Laboratories

(a) **Privately owned laboratories requesting authority to perform certain procedures.** Privately owned laboratories requesting authority to perform certain official laboratory procedures must apply for said approval on an application provided by the Assistant Director (AD) of the United States Department of Agriculture (USDA) Animal Plant Health Inspections Service (APHIS) Veterinary Services (VS) Surveillance Preparedness Response Service (SPRS) which provides for a joint signature of recommendation for approval of the AD and the State Veterinarian or designee.

(b) **Initial request for laboratory approval.** All initial requests for laboratory approval shall be made to the ADAVIC or State Veterinarian or designee. Laboratories must specify those tests which they are requesting approval to perform. These tests include, but are not limited to, Bluetongue, Bovine Leukosis, Equine Infectious Anemia, John's Disease, Pseudorabies, Bovine Trichomoniasis, and those diseases that are reportable to the Department.

(c) **Requirements prior to approval of laboratory.** Prior to approval of any laboratory to conduct any official laboratory procedure, the following requirements must be met:

(1) An authorized representative of the Department or USDA will review with laboratory officials the responsibilities, regulatory and technical, inherent in conducting and reporting official tests.

(2) The physical facilities of the laboratory will be inspected by a Federal or State representative. Inspection results will be recorded on a laboratory inspection worksheet. This inspection must be determined as satisfactory before approval will be considered.

(d) **Procedures to be followed by approved laboratories.**

(1) Only antigen licensed by APHIS or supplied by National Veterinary Services Laboratories (NVSL) and accompanying antiserum will be used.

(2) All tests will be conducted according to protocol provided by NVSL.

(3) Official test results will be reported promptly to State or Federal regulatory officials and the veterinarian submitting the sample.

(4) Only samples submitted by a licensed veterinarian, state or federal animal health official, or military veterinarian will be accepted.

(5) Information with sample submission shall include:

- (A) Name and address of submitting veterinarian.
- (B) Name and address of owner.
- (C) Location (including county) or animal(s) at time of test.

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- (D) Age, breed, and sex of animal tested.
 - (E) Identification of animal(s) tested, which may include eartag, tattoo, registration number or physical description adequate to provide positive individual identification of animal(s) tested.
 - (6) Periodic proficiency testing will be required for continuous authority to conduct approved testing. NVSL will supply the samples and evaluate test results.
 - (7) If any proficiency test is failed, the approved laboratory shall immediately notify the Department and shall suspend further testing until recertified by NVSL.
 - (8) Incomplete tests charts shall not be accepted and the sample shall not be tested until the chart is completed.
- (e) **Training.**
- (1) Personnel who perform any approved official test must be recognized as qualified by Veterinary Services and the Department. The AD and the State Veterinarian or designee must recommend personnel for approval and training by NVSL.
 - (2) The person(s) responsible for conducting official tests for private laboratories will be trained by NVSL.
 - (3) With approval of the AD and the State Veterinarian or designee, personnel previously trained by NVSL for Federal, State, and University laboratories may train others in the laboratory to conduct official tests. Training will include regulatory responsibility.
 - (4) NVSL will certify training of personnel for Federal, State, and University laboratories by proficiency testing which must be completed in accordance with standards established by NVSL, and maintained by periodic proficiency testing.
- (f) **Evaluation of personnel.** The AD, State Veterinarian or designee, and NVSL will evaluate personnel who do not successfully complete proficiency testing in order to determine if additional training is necessary.
- (g) **Laboratories approved to conduct official tests.** Laboratories approved to conduct official tests must notify in writing the AD, State Veterinarian or designee and NVSL when any person trained by NVSL to conduct official tests is no longer employed. If no one with approved training is available to conduct these tests, approval of the laboratory will be cancelled.
- (h) **Recommendation for approval.** The AD and the State Veterinarian or designee must recommend approval of the laboratory prior to obtaining official status. A jointly signed memorandum and the originals of all completed documents of application and approval shall be mailed through the appropriate Regional Director of APHIS for his or her concurrence to the Director of NVSL.
- (i) **Approval of laboratories.** After the requirements of training have been satisfactorily completed, the laboratory will be approved by the Director of NVSL and will be so notified of approval by a telegram or a letter signed by the Director of NVSL.
- (j) **Removal or suspension of laboratory approval.**
- (1) Laboratory approval will be removed or suspended by the Director of NVSL or State Veterinarian or designee

when any criteria are not met. If the laboratory is approved to perform tests for more than one disease, removal or suspension will apply only to the disease for which proficiency is not maintained. The laboratory will be informed of removal or suspension by a telegram signed by the Director of NVSL, or by certified letter from the Department, or both.

(2) Failure to maintain competency or failure to perform within any established protocol, shall constitute a violation of this Section and shall submit the laboratory to actions outlined under the Administrative Procedures Act of the State of Oklahoma, above and beyond any action deemed appropriate by APHIS.

SUBCHAPTER 9. LIVESTOCK DEALERS AND LIVESTOCK SPECIAL SALES

PART 3. LIVESTOCK SPECIAL SALES

35:15-9-8. Written records

Each permit holder shall keep written records for not less than ~~twenty four (24) months~~ five (5) years after the special sale that are necessary and adequate to determine the sources and disposition of livestock sold at the sale, and shall at a minimum include the following:

- (1) Accounts of sales;
- (2) Accounts of purchases;
- (3) Bills and invoices to purchasers;
- (4) Documents certifying the health status of animals presented by consignors;
- (5) Records identifying each purchaser at the sale, including the name, mailing address, and telephone number of the purchaser or, if a minor, the representative of the purchaser; and
- (6) All other written correspondence pertaining to livestock advertised or sold in the sale.

SUBCHAPTER 14. EQUINE VIRAL ARTERITIS

35:15-14-3. Authority to require testing

(a) The State Veterinarian or any state or federal veterinarian acting under authority of the State Veterinarian may cause an official test to be conducted on any test eligible Equidae known or suspected to be infected with or exposed to Equine viral arteritis.

(b) If the owner refuses or neglects to comply with the testing requirements, the Equidae shall be quarantined and the movement of any Equidae from the premises shall be prohibited.

SUBCHAPTER 19. POULTRY REGULATIONS

35:15-19-4. Import and exhibition poultry

(a) Domesticated fowl including chickens, turkeys, game chickens, game birds, or waterfowl over four (4) months of age and intended for breeding, meat, or egg production purposes shall not be imported into the state unless they:

- (1) Have originated from a National Plan source which is U.S. pullorum-typhoid clean or equivalent, or
- (2) Have passed a negative agglutination test for reportable salmonella groups within ~~thirty (30)~~ninety (90) days prior to import. ~~Turkeys, in addition, shall have passed an M. Gallisepticum test within thirty (30) days prior to import.~~

(b) All poultry under four (4) months of age, including baby chicks, started chicks, turkey poults, started poults, other newly hatched domestic poultry, game chickens, game birds, and waterfowl, except those intended for immediate slaughter, and hatching eggs shipped, brought into, or offered for sale in Oklahoma, shall have originated from a hatchery or premise operating under the supervision of the poultry disease control authority of the state of origin, and their disease classification shall be negative or clean. Each container of products shall bear an official label showing the name and address of the shipper, the authority under which the testing for disease was done, and the disease control and eradication class and/or classes of the product. The use of this label shall be approved by the official state agency or livestock disease control official of the state of origin. In addition, an official form shall be properly executed showing the name and address of both the consignee and the consignor and the disease control authority for which the testing was done and classification of the product.

(c) Exhibition poultry are subject to the following:

- (1) Any poultry or other domestic fowl being exhibited in Oklahoma shall be free of visible evidence of disease, and
- (2) Have passed a negative test for reportable salmonella groups within ninety (90) days prior to exhibition, with the results recorded on an official form from the state of origin certifying that the testing was done by a permitted tester of that state, or
- (3) Have originated from negative or clean flocks authoritatively participating in the disease control and eradication phases of the National Poultry Improvement Plan or NPIP approved state plan, and
- (4) Be from flocks not known to be infected with reportable salmonella groups.
- (5) Poultry qualifying under 2 or 3 may be imported without an official health certificate if accompanied by an approved state or NPIP form.
- (6) All exhibition poultry shall be identified by an official leg or wing band unless they originate from a negative or clean flock authoritatively participating in the National Poultry Improvement Plan or NPIP approved state plan.
- (7) Application of official leg or wing bands shall not be required for birds tested on the exhibition premise for a specific event. Birds tested and not identified with an official leg or wing band shall be tested prior to entering any future exhibitions.

(d) All persons holding poultry exhibitions in Oklahoma shall obtain a permit from the State Veterinarian prior to the exhibition. Those persons holding multiple exhibitions at the same location may apply for a permit by listing the dates and times of all exhibitions scheduled during a fiscal year beginning July 1 and ending June 30. The permittee shall be responsible for maintaining a list of the names and addresses of all exhibitors for each exhibition. The permittee shall keep these records and make them available to any authorized agent for inspection or photocopying for at least one (1) year after the date of the exhibition.

SUBCHAPTER 44. FARMED CERVIDAE

35:15-44-19. Entry and export requirements

(a) Import of cervidae shall be accompanied by a Certificate of Veterinary Inspection and a Cervidae Import Permit approved or provided by the Department.

- (1) The import permit shall be valid for thirty (30) days from approval.
- (2) Cervidae Import Permit applications shall be submitted to the Department no less than three (3) working days prior to the scheduled shipment.

(b) Cervidae shall have two forms of identification. One (1) of these two (2) forms of identification shall be official identification.

(c) ~~All elk six (6) months or older shall test negative for brucellosis thirty (30) days prior to entry or originate from a certified brucellosis free herd.~~ The State Veterinarian or designee may require a brucellosis test of any cervidae subject to the provisions of this subchapter.

(d) All cervidae six (6) months or older shall meet one of the following criteria prior to entry:

- (1) Classified negative to two (2) official tuberculosis test that were conducted no less than ninety (90) days apart with the second test conducted no more than ninety (90) days prior to the date of movement and recorded on the Certificate of Veterinary Inspection.
- (2) Originate from a Qualified Herd and test negative to an official tuberculosis test conducted no more than ninety (90) days prior to the date of movement. The Qualified Herd number and date of the qualifying test shall be recorded on the Certificate of Veterinary Inspection.
- (3) Originate from an Accredited Free Herd provided the Accredited Free Herd number and date of last test are recorded on the Certificate of Veterinary Inspection.

(e) All cervidae, with the exception of fallow deer, shall originate from a chronic wasting disease certified herd from a county where no chronic wasting disease has been confirmed in native cervidae populations.

SUBCHAPTER 45. BRUCELLOSIS IN CERVIDAE

PART 11. ANIMAL MOVEMENT

Permanent Final Adoptions

35:15-45-111. Interstate movement

- (a) Intrastate and interstate movement may only occur from herds not under quarantine for brucellosis or herds not known to be affected with brucellosis.
- (b) A certificate shall accompany all animals moving interstate.
- (c) ~~No testing is required for movements from Certified Brucellosis Free cervid herds.~~
- (d) ~~All sexually intact test eligible animals from Brucellosis Monitored cervid herds shall test negative for brucellosis within ninety (90) days prior to interstate movement.~~
- (e) ~~All sexually intact test eligible animals from herds not known to be affected with brucellosis shall test negative for brucellosis within thirty (30) days prior to interstate movement.~~

[OAR Docket #19-601; filed 6-14-19]

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

[OAR Docket #19-595]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Registered Poultry Feeding Operations

35:17-5-2. Definitions [AMENDED]

35:17-5-3.1. Setbacks for new or expanding construction of poultry barns [NEW]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); 2 O.S. § 6-1 et seq., 2 O.S. § 6-91 et seq., 2 O.S. § 6-121 et seq., 2 O.S. § 6-131 et seq., 2 O.S. § 6-141 et seq., 2 O.S. § 6-281 et seq., 2 O.S. § 6-501 et seq., 2 O.S. § 6-601 et seq., and 2 O.S. § 9-130 et seq.

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May 28, 2019

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September 14, 2019

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

The proposed rules adopt setbacks for new or expanding construction of poultry barns.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.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 14, 2019:

SUBCHAPTER 5. REGISTERED POULTRY FEEDING OPERATIONS

35:17-5-2. Definitions

In addition to the terms contained and defined in the Oklahoma Registered Poultry Feeding Operations Act, the following words or terms when used in this subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Discharge" means any release by pumping, pouring, emptying, or dumping of poultry waste directly or through a manmade conveyance into waters of the State.

"Nutrient Management Plan" means a written plan that includes a combination of conservation and management practices designed to protect the natural resources of the state as required by the Oklahoma Department of Agriculture, Food and Forestry pursuant to the provisions of Section 10-9.7 of Title 2 of the Oklahoma Statutes and shall also include a certified nutrient management plan and animal waste management plan.

"Occupied residence" means a habitable structure designed and constructed for full-time occupancy in all weather conditions, and:

(A) Is not readily mobile.

(B) Is connected to a public or permanent source of electricity and a permanent waste disposal system or public waste disposal system, and

(C) Is occupied as a residence.

"Runoff" means any release by leaking, escaping, seeping, or leaching of poultry waste into waters of the State.

"USDA NRCS" means the United States Department of Agriculture Natural Resources Conservation Service.

"Waste facility" means any structure or combination of structures utilized to control poultry waste until it can be utilized in an authorized manner. These structures shall include all treatment and storage structures but not be limited to pits, burial sites, barns, or roof covered structures which house poultry, composters, poultry waste storage sites, or retention structures, and all appurtenances or additions.

35:17-5-3.1. Setbacks for new or expanding construction of poultry barns

(a) New or expanding poultry feeding operations, including, but not limited to, poultry barns, composters and other carcass disposal areas, litter sheds, and other buildings associated with the operation, but not to include land application sites, shall not be located within the following applicable distances:

(1) Occupied residence:

(A) Fewer than, and including, one hundred and fifty thousand (150,000) birds shall be five hundred (500) feet; and

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CHAPTER 30. CONSUMER PROTECTION**

[OAR Docket #19-602]

- (B) More than one hundred and fifty thousand (150,000) birds shall be one thousand (1,000) feet.
- (C) The distance between an occupied residence and a poultry waste facility shall be measured from the closest corner of the wall of the occupied residence to the closest point of the poultry waste facility:
 - (2) Public school shall be one thousand five hundred (1,500) feet;
 - (3) Incorporated city limits shall be one thousand five hundred (1,500) feet;
 - (4) Public roadway shall be one hundred and fifty (150) feet and such measurement shall be taken from the center line of the public road;
 - (5) Property line shall be one hundred and fifty (150) feet;
 - (6) Perennial or intermittent stream as identified on a current USGS 7.5 minute topographic map shall be two hundred (200) feet;
 - (7) Private well not owned or used for the poultry feeding operation shall be one hundred (100) feet; and
 - (8) Public well shall be five hundred (500) feet.
- (b) The setbacks contained in subsections (a)(1), (2) and (3) of this section shall not apply if the applicable property owner, city governing body, or school district executes a written waiver with the owner or operator of the poultry feeding operation, under the terms and conditions that the parties negotiate. The written waiver becomes effective upon recording of the waiver in the offices of the recorder of deeds in the county where the property is located. The filed waiver shall preclude enforcement of the setback requirements contained in subsections (a)(1), (2), and (3) of this section. A change in ownership of the applicable property or change in the ownership of the property on which the poultry feeding operation is located shall not affect the validity of the waiver.
- (c) As a part of the application for a new or expanding poultry feeding operation, the applicant shall provide the following in a detailed scaled map:
 - (1) Location of the poultry barns, composters and other carcass disposal areas, litter sheds, and other buildings associated with the operation; and
 - (2) Identification of all locations listed in subsection (a) within one (1) mile of the facility.
- (d) Prior to approval of any application for a new or expanding poultry feeding operation, the Department shall conduct a presite inspection and review and confirm compliance with all setback requirements contained in this section.
- (e) Any proposed poultry feeding operation that completed a bank closing on or before October 8, 2018, for the purpose of constructing a poultry feeding operation which has been affected by the State Board of Agriculture October 8, 2018, "Suspension on Acceptance and Processing of Applications for New or Expanding Poultry Operations" shall not be subject to the requirements contained in this section.
- (f) An application to register a poultry feeding operation shall be considered filed on the date the Department receives the registration and applicable fees.

[OAR Docket #19-595; filed 6-14-19]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 17. Combined Pesticide
 - Part 1. Commercial and Non-commercial Categories of Pesticide Application
 - 35:30-17-1. License Categories [AMENDED]
 - Part 3. Certification, Conduct of Examinations, and Recertification
 - 35:30-17-4. Examination of applicants for certification [AMENDED]
 - 35:30-17-6. Recertification [AMENDED]
 - Part 9. Minimum Standards for Contracts and Keeping of Records
 - 35:30-17-21. Records required for pesticide applications and restricted use pesticide sales [AMENDED]
- Subchapter 24. Oklahoma Industrial Hemp Agricultural Pilot Program [NEW]
 - 35:30-24-1. Purpose [NEW]
 - 35:30-24-2. Definitions [NEW]
 - 35:30-24-3. Application [NEW]
 - 35:30-24-4. Grounds for denial of application [NEW]
 - 35:30-24-5. License [NEW]
 - 35:30-24-6. Continuing obligation to provide information [NEW]
 - 35:30-24-7. Fees [NEW]
 - 35:30-24-8. Certified seed program [NEW]
 - 35:30-24-9. Harvest reports [NEW]
 - 35:30-24-10. Records [NEW]
 - 35:30-24-11. Inspection and testing [NEW]
 - 35:30-24-12. Violations [NEW]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); 2 O.S. § 6-1 et seq., 2 O.S. § 6-91 et seq., 2 O.S. § 6-121 et seq., 2 O.S. § 6-131 et seq., 2 O.S. § 6-141 et seq., 2 O.S. § 6-281 et seq., 2 O.S. § 6-501 et seq., 2 O.S. § 6-601 et seq., and 2 O.S. § 9-130 et seq.

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September 14, 2019

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

- Subchapter 24. Oklahoma Industrial Hemp Agricultural Pilot Program [NEW]
 - 35:30-24-1 [NEW]
 - 35:30-24-2 [NEW]
 - 35:30-24-3 [NEW]
 - 35:30-24-4 [NEW]
 - 35:30-24-5 [NEW]
 - 35:30-24-6 [NEW]
 - 35:30-24-7 [NEW]
 - 35:30-24-8 [NEW]
 - 35:30-24-9 [NEW]
 - 35:30-24-10 [NEW]
 - 35:30-24-11 [NEW]
 - 35:30-24-12 [NEW]
 - 35:30-24-13 [NEW]

Permanent Final Adoptions

35:30-24-14 [NEW]

Gubernatorial approval:

May 16, 2018

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35 Ok Reg 627

Docket number:

18-371

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

The proposed amendments add required number of continuing education units for private applicators, allow for computer licensure testing, establish record keeping requirements for private applicators and adopt previously established Emergency Hemp rules.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 250.3(5) AND 308(E) WITH AN EFFECTIVE DATE OF SEPTEMBER 14, 2019:

SUBCHAPTER 17. COMBINED PESTICIDE

PART 1. COMMERCIAL AND NON-COMMERCIAL CATEGORIES OF PESTICIDE APPLICATION

35:30-17-1. License Categories

License categories of pesticide application are as follows:

- (1) 1a: Agricultural Plant Category - Includes the application of pesticides to agricultural crops, agricultural grassland, and noncrop agricultural land. This category does not include the production of trees for any purpose.
- (2) 1b: Agricultural Animal Category - Includes the application of pesticides to animals, including those in feedlots, sales barns, egg production facilities and the animal holding facilities. This excludes Doctors of Veterinary Medicine applying pesticides as drugs or medication during the course of their normal practice.
- (3) 2: Forest Pest Control Category - Includes the application of pesticides in forest nurseries, forest seed production areas, trees grown for the production of forestry products, and other forest areas.
- (4) 3a: Ornamental and Turf Outdoor Pest Control Category - Includes the application of pesticides within residential or business areas to lawns, ornamental trees and shrubs, including park areas, golf courses, and other recreational areas, , except as defined under licensed categories 2, 3b-c, 7, and 8.
- (5) 3b: Intiorscape Category - Includes the application of pesticides to interior plantings inside structures (i.e. hospitals, buildings, shopping malls, etc.) excluding residential structures with the exception of common use areas of multiple residential structures (i.e. foyers, atriums, indoor swimming pools, management offices, meeting

rooms, etc.) except as defined under licensed categories 3c, 7, and 8.

(6) 3c: Nursery/Greenhouse Category - Includes the application of pesticides in nursery and greenhouse facilities and to fields except as defined under licensed categories 2 (Forest Pest Control).

(7) 4: Seed Treatment Category - Includes the application of pesticides to seed for any purpose.

(8) 5: Aquatic Pest Control Category - Includes the application of pesticides to standing or running water in man-made or natural impoundments, streams, etc. This excludes public health activities (e.g. mosquito control) and water in totally closed systems.

(9) 6: Right-of-Way Category - Includes the application of pesticides for public road maintenance, power line maintenance, railroad right-of-way, storage tank areas, and other similar areas.

(10) 7a: General Pest Control Category - Includes the application of pesticides within and immediately adjacent to a structure, except for fumigation activities, control of termites and other wood destroying organisms in or on a structure, and control of birds or predatory animals. "Immediately adjacent to a structure" means not further than three (3) feet from the structure. Applications to restaurants are permitted in this category.

(11) 7b: Structural Pest Control Category - The application of pesticides for the purpose of controlling termites and other wood destroying organisms in or on a structure, including wood borers and fungus.

(12) 7c: Fumigation Category - The use of liberated gas within a structure or storage area, to include railcars, ships, etc., or the application of fumigants to soil.

(13) 8: Public Health Pest Control Category - The application of pesticides by local, state, federal or other governmental employees or commercial pesticide applicators in public health programs, to include municipal and other areawide mosquito control programs.

(14) 9: Regulatory Pest Control Category - Includes the application of pesticides by state, federal or other government employees for the control of designated regulated pests.

(15) 10: Demonstration and Research Pest Control Category - Includes persons engaged in the application of pesticides for scientific research or for the purpose of demonstrating pesticide products or methods of application.

(16) 11a: Bird and Vertebrate Animal Pests Control Category - The application of pesticides for the control of birds or vertebrate animals pests and subject to the rules of the Oklahoma Department of Wildlife Conservation and the Wildlife Services Division of the Board.

(17) 11b: Predatory Animal Control Category - The application of pesticides for the control of predatory animals and subject to the rules of the Oklahoma Department of Wildlife Conservation, and the Wildlife Services Division of the Board.

(18) 12a: Pressure Facility Timber Treating Category - Includes the treatment of wood in a pressure treating facility by the impregnation or application of chemical

solutions for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.

(19) 12b: Ground Line Utility Pole Timber Treating Category - Includes the ground line treatment of utility poles with chemical solutions for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.

(20) 12c: Construction Industry Timber Treating Category - Includes the application of chemical solutions to wood members of structure which will be covered by paint, varnish, or similar covering for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.

(21) 12d: Home Owner Timber Treating Category - Includes the application of chemical solutions to wood constructions around the home, including decks, for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.

(22) 13: Antimicrobial Category - Includes applications of an antimicrobial pesticide intended to disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms or protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime.

(23) 14: Specialty Category - Includes any area of pesticide application not defined in Category 1 thru 12 when the pesticide to be used is classified as restricted.

PART 3. CERTIFICATION, CONDUCT OF EXAMINATIONS, AND RECERTIFICATION

35:30-17-4. Examination of applicants for certification

(a) The written examination for certification of commercial and noncommercial applicators shall include two (2) phases. Phase I shall consist of general knowledge common to all licensed categories and shall be successfully completed before examination is attempted in any license category. Phase II shall consist of specific knowledge for each licensed category. An applicant may test in as many different categories as desired.

(b) The written examination for certification of commercial and noncommercial applicators shall be computer based and conducted at a site determined by the board.

~~(bc)~~ A practical examination shall also be required for commercial and noncommercial applicators in the following categories: Structural Pest, General Pest, Fumigation, and Food Processing. An individual shall successfully complete the practical examination within twelve (12) months of passing the Phase II written examination in the above categories. Failure to meet the twelve (12) month deadline shall require an individual to re-take the Phase II written examination.

~~(ed)~~ The practical examination shall be conducted at the training facility at Oklahoma State University and includes the

successful completion of an approved training program which demonstrates a thorough knowledge in the handling of pesticides, labels and labeling requirements, storage, transportation, mixing, application, disposal, insect biology and safety. The facility at Oklahoma State University meets the following conditions for treatment in the Structural Pest Category: crawl space, voids, and a concrete floor, garage floor, or patio slab.

~~(de)~~ A service technician shall be certified upon successful completion of a written service technicians examination. An individual shall not act, do business, or advertise as a service technician unless a service technician identification has been issued by the Board. A service technicians' identification shall be issued in the name of the licensed entity. The licensee shall return the service technician identification to the Board upon termination of the employee. A service technician identification shall be valid for five (5) years unless suspended, canceled, revoked, or the service technician is no longer employed by the licensed entity. Recertification may be required at any time by the Board. The Department may issue a service technician identification upon completion of the following:

(1) A determination is made by the Department that the applicant has successfully completed the written examination;

(2) The licensed entity provides a completed service technician identification application form at the time of testing; and

(3) All appropriate fees are paid at the time of testing.

~~(ef)~~ The written examination for service technician shall be computer based and conducted at a site determined by the board.

~~(fg)~~ Private applicators shall complete a certification form and an education program or written examination as required by the Board. Private applicators in the Fumigation category shall be required to complete the certification form and a closed book written exam and successfully complete the Fumigation practical at the training facility at Oklahoma State University within twelve (12) months of passing the Fumigation written exam.

~~(gh)~~ The written examination for private applicator shall be computer based and conducted at a site determined by the board.

~~(hi)~~ An individual shall not act, do business, or advertise as a certified applicator unless all qualifications and standards required by the Board have been met. A certificate in any category shall be valid for five (5) years unless suspended, canceled, or revoked. Recertification may be required by the Board, but shall not exceed one recertification in a five (5) year period.

~~(ij)~~ Successful completion of any written examination shall be a score of 70% or greater.

~~(jk)~~ The Department may require that an individual seeking a certified applicator or service technician certification demonstrate the capability to read and write with sufficient proficiency to comprehend the content and instructions of a pesticide label.

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35:30-17-6. Recertification

(a) Each certified applicator shall seek recertification every five (5) years.

(b) A certified applicator shall either pass a written examination or earn a specified number of Continuing Education Units (CEU) approved by the Department to successfully complete recertification. Approximately one (1) hour of education shall be the equivalent of one (1) CEU. The CEU requirements for each category are as follows:

- (1) 1a - Agricultural Plant:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in any one year - 10 CEU
- (2) 1b - Agricultural Animal:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year - 2 CEU
- (3) 2 - Forest:
 - (A) Total in five years - 10 CEU
 - (B) Maximum in any one year - 5 CEU
- (4) 3a - Ornamental and Turf Outdoor:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in any one year - 10 CEU
- (5) 3b - Interiorscape:
 - (A) Total in five years - 10 CEU
 - (B) Maximum in any one year - 5 CEU
- (6) 3c - Nursery/Greenhouse:
 - (A) Total in five years - 15 CEU
 - (B) Maximum in any one year - 7 CEU
- (7) 4 - Seed Treatment:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year 2 CEU
- (8) 5 - Aquatic:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year 2 CEU
- (9) 6 - Right-of-Way:
 - (A) Total in five years - 15 CEU
 - (B) Maximum in any one year 7 CEU
- (10) 7a - General Pest:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in one year - 10 CEU
- (11) 7b - Structural Pest:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in one year - 10 CEU
- (12) 7c - Fumigation:
 - (A) Total in five years - 10 CEU
 - (B) Maximum in one year - 5 CEU
- (13) 7d - Food Processing:
 - (A) Total in five years - 15 CEU
 - (B) Maximum in one year - 7 CEU
- (14) 8 - Public Health:
 - (A) Total in five years - 15 CEU
 - (B) Maximum in one year - 7 CEU
- (15) 9 - Regulatory:
 - (A) Total in five years - 10 CEU
 - (B) Maximum in one year - 5 CEU
- (16) 10 - Demonstration & Research in app. Category:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in one year - 10 CEU
- (17) 11a - Bird & Vertebrate Animal Pest:

(A) Total in five years - 5 CEU

(B) Maximum in one year - 2 CEU

(18) 11b - Predatory Animal

(A) Total in five years - 5 CEU

(B) Maximum in one year - 2 CEU

(19) 12 - Timber Treating (all subcategories):

(A) Total in five years - 5 CEU

(B) Maximum in one year - 2 CEU

(20) 13 - Antimicrobial:

(A) Total in five years - 5 CEU

(B) Maximum in any one year - 2 CEU

(21) 14 - Specialty Category:

(A) Total in five years - 5 CEU

(B) Maximum in any one year - 2 CEU

(22) 15 - Aerial:

(A) Total in five years - 5 CEU

(B) Maximum in any one year - 2 CEU

(23) 16 - Private Applicator:

(A) Total in five years - 20 CEU

(B) Maximum in any one year - 10 CEU

(c) No more than one-half (1/2) of the total credit units shall be accepted for any one Calendar year.

(1) Credit units shall be obtained in at least three (3) of the five (5) years, in any

combination, so that the total number obtained equals or exceeds the five (5) year requirement.

(2) The continuing education units may be prorated for any applicator whose recertification period is less than five (5) years.

(3) The Department may allow a CEU to be credited to more than one category.

(d) The CEU shall be structured to provide the following information over the five (5) year period:

(1) Laws and rules;

(2) Pesticides (formulations, registration, labeling and label comprehension, handling and storage, toxicity, and hazards);

(3) Application equipment and calibration;

(4) Pests and IPM;

(5) Identification of hazardous areas;

(6) Drift prevention;

(7) Endangered species;

(8) Groundwater; and

(9) Worker protection.

(e) Any person may request approval of an education program as CEU.

(1) The request for approval shall include the following:

(A) A list of proposed topics including a description of the content and their relative value for meeting the standards of continuing certification;

(B) A list of speakers and their qualifications; and

(C) Method used to verify attendance and evaluate the progress of participants.

(2) The Department and the Oklahoma State University Pesticide Coordinator shall review the request for approval to determine if it meets the criteria of CEU.

(A) If the education program is approved for CEU, the person requesting approval shall be notified of the number of assigned CEU.

(B) Awarded CEUs shall not be valid for more than five (5) years after the date of approval. After five (5) years, courses shall be resubmitted for review and approval.

(C) The person requesting approval may appeal the number of assigned CEU to a three-person review committee with a representative from each of the following:

- (i) Oklahoma State University;
- (ii) the Department; and
- (iii) certified applicators.

(3) Individuals seeking course approval for CEUs shall electronically submit course information and other required information for CEU approval through a website.

PART 9. MINIMUM STANDARDS FOR CONTRACTS AND KEEPING OF RECORDS

35:30-17-21. Records required for pesticide applications and restricted use pesticide sales

(a) Commercial and non-commercial applicators shall keep ~~an~~ accurate ~~record~~records pertaining to pesticide activities, which, at a minimum, show:

- (1) Start and stop time of application.
- (2) Total amount of pesticide used.
- (3) Name and address of the commercial or non-commercial company.
- (4) Name and address of person for whom applied.
- (5) Legal description of the land where applied. The legal description may be a street address if properly marked, but shall not be a Post Office Box address.
- (6) Date of application.
- (7) Application rate.
- (8) Dilution rate for mixing.
- (9) Total quantity tank mix used.
- (10) Complete trade name of pesticide product used.
- (11) EPA registration number of pesticide product used.
- (12) Name of adjuvants used when the label requires specific adjuvants.
- (13) Name of drifting agents used when the label requires specific drifting agents.
- (14) Target pest for the application.
- (15) Site where the pesticide was applied.
- (16) Restricted Entry Interval as stated on the product label.
- (17) A copy of the pesticide product label or labeling that is attached to the container or included in the shipping case.
- (18) Copies of any contracts issued.
- (19) Copies of any wood infestation reports issued.
- (20) Other information as required by the Board.

(b) Private applicators of restricted use pesticides shall keep accurate records pertaining to applications, which, at a minimum, show:

- (1) Start and stop time of application.
- (2) Total amount of pesticide used.
- (3) Name and address of the private applicator.
- (4) Legal description of the land where applied. The legal description may be a street address if properly marked, but shall not be a Post Office Box address.
- (5) Date of application.
- (6) Application rate.
- (7) Dilution rate for mixing.
- (8) Total quantity tank mix used.
- (9) Complete trade name of pesticide product used.
- (10) EPA registration number of pesticide product used.
- (11) Name of adjuvants used when the label requires specific adjuvants.
- (12) Name of drifting agents used when the label requires specific drifting agents.
- (13) Target pest for the application.
- (14) Site where the pesticide was applied.
- (15) Restricted Entry Interval as stated on the product label.
- (16) A copy of the pesticide product label or labeling that is attached to the container or included in the shipping case.
- (17) Other information as required by the Board.

(c) ~~Restricted use pesticide dealers shall keep an accurate record~~records of restricted use pesticide sales, which, at a minimum show:

- (1) Complete brand name of the pesticide.
- (2) EPA registration number of the pesticide.
- (3) Date the pesticide was sold.
- (4) Total amount of restricted use pesticide sold.
- (5) Name of the person to whom sold.
- (6) Name and license or certification number of the certified or private applicator.
- (7) Other information as required by the Board.

(e) Failure to allow inspection of ~~these~~ records by the Board, to provide copies of records to the Board when requested in person, or to provide a summary of ~~these~~ records to the Board within seven (7) working days when requested by mail or in person shall be a violation of this section.

~~(d) The principle place of business where records are maintained~~

(e) Records retained pursuant to this section shall be easily accessible ~~to~~for inspection by authorized agents of the Board during reasonable business hours. ~~An~~

(f) Commercial and non-commercial applicators shall maintain records retained pursuant to this section at their principle place of business. A commercial or non-commercial applicator's principle place of business shall not be located in a closed gated community or at a residence unless the applicator submits a plan of access to the principle place of business and that plan is approved by the Board.

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SUBCHAPTER 24. OKLAHOMA INDUSTRIAL HEMP AGRICULTURAL PILOT PROGRAM

35:30-24-1. Purpose

The rules of this subchapter establish the licensing requirements and regulation of the Oklahoma Industrial Hemp Agricultural Pilot Program pursuant to the Oklahoma Agricultural Code, 2 O.S. § 3-401 et seq. The licensing requirements and regulation of the Oklahoma Industrial Hemp Agricultural Pilot Program shall be administered by the Department and shall conform to the Administrative Procedures Act, 75 O.S. § 250 et seq.; to the Oklahoma Agricultural Code, 2 O.S. § 1-1 et seq.; and to the procedural rules promulgated by the State Board of Agriculture in Title 35 of the Oklahoma Administrative Code.

35:30-24-2. Definitions

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

"Building" means any single standing structure with walls and a roof but shall not include separate structures connected by corridors or breezeways.

"Contiguous field" means any contiguous tract of land used for the cultivation of industrial hemp and may include contiguous tracts of land occasionally intersected by roads, streams, or other natural features but shall not include a tract or tracts of land intersected by property owned by a third party or gaps in the cultivation of industrial hemp exceeding one quarter of a mile.

"Cultivation" means the act of planting, growing, or harvesting industrial hemp and any related agricultural activities.

"Cultivation site" means the contiguous field, building, storage area, or processing area in which one or more varieties of industrial hemp may be lawfully cultivated, stored, or processed.

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry, its employees, officers, and divisions.

"Growing area" means the portion of a contiguous field or building in which a single variety of industrial hemp is planted, grown, and harvested.

"Industrial hemp" means any part of the plant, *Cannabis sativa* L., with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis, whether growing or not, and the seeds thereof.

"Institution of higher education" means any public or private college or university located in Oklahoma that is part of the Oklahoma State System of Higher Education.

"Institutional licensee" means any institution of higher education possessing a license to participate in the Oklahoma Industrial Hemp Agricultural Pilot Program.

"License" means a valid license issued by the Department allowing an institutional licensee to cultivate industrial hemp from low THC seed in Oklahoma.

"Listed low THC seed" means low THC seed that has been approved by the Department and listed on the Department's Low THC Seed List.

"Low THC seed" means industrial hemp seed having no more than three-tenths of one percent (0.3%) delta-9 tetrahydrocannabinol concentration on a dry-weight basis.

"Processing area" means any physical location in which entire harvested plants are altered by any manner of mechanical, chemical, or other processing techniques. The processing area need not be located on or near the contiguous field or building in which industrial hemp is cultivated but shall be considered as part of the cultivation site.

"Storage area" means any physical location in which harvested plants or plant parts are stored. The storage area need not be located on or near the contiguous field or building in which industrial hemp is cultivated but shall be considered as part of the cultivation site.

"Subcontractor" means a person or business entity that has contracted with an institutional licensee and provides supplies, labor, land, or expertise related to the institutional licensee's participation in the Oklahoma Industrial Hemp Agricultural Pilot Program.

35:30-24-3. Application

(a) Any institutional licensee with a plant science curriculum may participate in the Oklahoma Industrial Hemp Agricultural Pilot Program by filing an application with the Department for a license:

(1) Not less than thirty (30) days prior to the planting or cultivation of any industrial hemp crop; or

(2) No later than December 1 if a subsequent license is required to harvest industrial hemp crops planted before December 31 but scheduled for harvest after December 31.

(b) An institutional licensee shall submit a separate application, pay separate application and inspection fees, and obtain a separate license for each cultivation site licensed by the institutional licensee.

(c) The application shall be on a form provided by the Department and shall, at a minimum, contain the following information:

(1) The name and address of the institution of higher education;

(2) The contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees of the institution of higher education responsible for oversight of the Oklahoma Industrial Hemp Agricultural Pilot Program and communications with the Department relating to the cultivation of industrial hemp;

(3) If the institutional licensee intends to utilize subcontractors, the correct legal name of the subcontractors along with all aliases or trade names of the subcontractors;

(4) If the institutional licensee intends to utilize subcontractors, the address for the subcontractors' primary business locations and any satellite business offices located in Oklahoma;

(5) If the institutional licensee intends to utilize subcontractors, the contact information, including but not limited to, names, phone numbers, and email addresses, for

any officials or employees of the subcontractor responsible for oversight of the Oklahoma Industrial Hemp Agricultural Pilot Program and communications with the Department relating to the cultivation of industrial hemp;

(6) Proof of ownership for the cultivation site and the following information if the cultivation site is not wholly owned by the institutional licensee:

(A) The name, address, and contact information for all persons or entities having any ownership interest in the cultivation site; and

(B) An original signed, dated, and notarized letter of acknowledgement from each person having any ownership interest in the cultivation site indicating approval for the cultivation of industrial hemp at the cultivation site;

(C) If applicable, a copy of the property lease for the entire duration of the license;

(7) If the application identifies a contiguous field as the cultivation site:

(A) A legal description (Section, Township, Range) of the contiguous field;

(B) The global positioning location coordinates at the approximate center of the contiguous field; and

(C) An annotated map or aerial photograph with sufficient detail and clarity to define the boundaries and dimensions of the contiguous field in acres, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the contiguous field along with a description of the variety of industrial hemp corresponding to each growing area;

(8) If the application identifies a building as the cultivation site:

(A) The physical address of the building;

(B) The global positioning location coordinates of the building; and

(C) An annotated map or blueprint with sufficient detail and clarity to show the boundaries and dimensions of the building and growing area in square feet, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the building along with a description of the variety of industrial hemp corresponding to each growing area;

(9) A description of any areas used to store or process plants or plant parts, including but not limited to:

(A) The physical address or location of any storage areas or processing areas;

(B) The global positioning location coordinates of any storage areas or processing areas; and

(C) An annotated map or blueprint with sufficient detail and clarity to show the location, boundaries and dimensions of any storage areas or processing areas in square feet;

(10) A schedule identifying the intended dates of planting and intended dates of harvesting any industrial hemp crop or crops;

(11) A statement of intended use and disposition for the industrial hemp harvested from the cultivation site or any plant parts thereof;

(12) A notarized and sworn statement from an official or employee of the institutional licensee and from an official or employee of any associated subcontractor that only certified seed will be planted at the cultivation site; and

(13) Acknowledgement and agreement with the following terms and conditions:

(A) Any information provided by the institutional licensee or subcontractors is subject to public disclosure under the Open Records Act;

(B) Any information provided by the institutional licensee or subcontractors may be released by the Department to law enforcement agencies without notice to the institutional licensee or its subcontractors;

(C) The institutional licensee and subcontractors shall fully cooperate with the Department, grant the Department physical access to any part of the cultivation site and allow inspection and sampling that the Department deems necessary; and

(D) The institutional licensee and subcontractors shall submit all required reports by the dates specified by the Department.

(E) A subcontractor may submit applications, pay associated fees, and file reports required by the Department on the institutional licensee's behalf if authorized by the institutional licensee to do so. The institutional licensee's approval for the subcontractor to submit applications, pay fees, pay fines, and file reports shall be evidenced by an original, dated, signed, and notarized authorization letter from an official or employee of the institutional licensee identified in subsection (c)(2) of this section submitted with the application for a license. A unique original, dated, signed, and notarized authorization letter shall be required for each new application, for each subsequent application, or renewal of an existing license.

(F) Incomplete applications shall not be processed by the Department and any associated application fees shall be retained by the Department.

(G) Applications that are denied by the Department may be resubmitted within twelve (12) months of the original filing. The Department may waive application fees for resubmitted applications.

35:30-24-4. Grounds for denial of application

(a) The Department may consider a number of factors when deciding to grant or deny a license including, but not limited to, the location of the cultivation site; the criminal history of the institutional licensee, subcontractor, or employees thereof; and prior administrative actions taken by the Department against the institutional licensee, subcontractors, or employees thereof.

(b) The Department's denial of a license may be contested in the manner provided by this subchapter.

35:30-24-5. License

(a) A separate license shall be required for each cultivation site operated by the institutional licensee.

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(b) All licenses expire on December 31 of the year in which the license was issued. Any industrial hemp that is not harvested on or before December 31 must be declared for inclusion in a subsequent license or destroyed by the institutional licensee.

(c) Every license issued by the Department shall remain the property of the Department. Possession of a license does not confer any property right or exemption from criminal liability under the Uniform Controlled Dangerous Substances Act to the institutional licensee, subcontractor, or officials or employees thereof that is not expressly described in this subchapter.

(d) The Department may restrict, limit, or impose conditions on any license that are not similarly imposed on other institutional licensees or cultivation sites.

(e) Licenses shall not be assigned or transferred.

(f) Unless the context expressly indicates otherwise, a subcontractor's compliance with the Oklahoma Industrial Hemp Agricultural Pilot Program and the rules of this subchapter shall be sufficient to satisfy the obligations of the institutional licensee to comply with the Oklahoma Industrial Hemp Agricultural Pilot Program and the rules of this subchapter.

35:30-24-6. Continuing obligation to provide information

(a) Every institutional licensee shall have a continuing obligation to provide current information to the Department. The institutional licensee shall provide updated information if there is any material change to the information provided in the application within ten (10) days of the material change unless otherwise specified herein, including but not limited to, changes in personnel or contact information.

(b) The institutional licensee shall file an amendment to the institutional licensee's application not less than thirty (30) days prior to making any alteration to boundaries, dimensions, or growing areas of a cultivation site or a change in the variety of industrial hemp cultivated.

(c) The institutional licensee shall immediately notify the Department of any change to the planting and harvesting schedule exceeding five (5) days from the planting and harvesting schedule listed in the application.

(d) The employment of a new subcontractor or replacement of an existing subcontractor associated with a license for a particular cultivation site shall require the submission of a new application and the payment of new application and inspection fees by the institutional licensee.

35:30-24-7. Fees

(a) Each new, subsequent, or renewed application for a license to cultivate industrial hemp at a particular cultivation site shall require the payment of a nonrefundable application fee at the rate of Five Hundred Dollars (\$500.00).

(b) Each new, subsequent, or renewed application for a license cultivate industrial hemp at a particular cultivation site shall require the payment of a site inspection fee calculated at the rate of Five Dollars (\$5.00) per acre on a contiguous field or Thirty-Three Cents (\$0.33) per square foot in a building.

(c) An hourly inspection rate consisting of Thirty-Five Dollars (\$35.00) per hour per inspector for actual time devoted to the inspection of a cultivation site shall be charged following routine or unannounced inspections. The calculation of the hourly inspection rate shall include the inspectors' travel time from the inspectors' duty station to the cultivation site, the time devoted to inspection of the cultivation site, and the inspectors' travel time returning from the cultivation to the inspectors' duty station.

(d) Application amendments or notifications of material change to the information provided in an application shall not require the payment of additional application fees but may, at the discretion of the Department, require additional inspections and the payment of additional site inspection fees and fees assessed at the hourly inspection rate at the same rate charged for a new application.

(e) An annual nonrefundable registration fee of One Hundred Dollars (\$100.00) shall be paid for listing certified seed on the certified seed program list. A separate annual registration fee shall be required from each vendor for each variety of certified seed included on the certified seed program list.

35:30-24-8. Certified seed program

(a) An institutional licensee shall only plant, sell, or purchase certified seed listed on the certified seed program list.

(b) Institutional licensees may retain seeds cultivated from prior harvests for replanting without offering the retained seed for sale to third parties, however, seed retained in this manner shall be designated as certified seed and listed by the Department on the certified seed program list as specified herein prior to replanting.

(c) The Department shall approve certified seed for sale and use in Oklahoma by listing certified seed on the certified seed program list.

(d) The Department may rely on the legally constituted certification officials of a state, foreign country, or the United States to approve certified seed imported into Oklahoma.

(e) The Department may approve varieties of industrial hemp seed produced in Oklahoma as certified seed for planting, replanting, sale, or purchase. The Department shall rely on the Agricultural Experiment Station and the Agricultural Extension Service of Oklahoma State University, Division of Agricultural Sciences and Natural Resources, or by another appropriate state agency to designate seed produced in Oklahoma as certified seed. Designation of certified seed shall comply with the general requirements of state and federal law for certification of seed.

(f) The Department shall compile and publish on the Department's website an approved list of certified seed for the certified seed program. The certified seed program list shall identify vendors, varieties of certified seed, and a notation indicating whether the certified seed is commercially available for purchase or is retained for private use and replanting, as follows:

(1) The Department shall accept informational submissions and payment of annual registration fees by vendors or institutional licensees seeking to include varieties of certified seed on the certified seed program list; and

(2) Each variety of certified seed registered by a vendor or institutional licensee shall be registered and listed separately and shall require the payment of a separate registration fee.

(3) Each vendor selling certified seed or retaining certified seed for private use shall register each variety of certified seed that the vendor intends to sell or replant regardless of whether another vendor has registered the same variety of certified seed.

(g) Listings on certified seed program list shall expire on December 31 of each year. Vendors or institutional licensees may request that listings of certified seed be renewed by submitting a request for relisting on or before December 1 along with the payment of any necessary annual registration fees. Requests for relisting shall not require supplementary informational submissions unless requested by the Department.

35:30-24-9. Harvest reports

(a) Not less than thirty (30) days prior to harvest, the institutional licensee shall file a harvest report on a form provided by the Department and shall, at a minimum, contain the following information:

(1) The name of the institutional licensee and any associated subcontractors;

(2) The location of the cultivation site or parts thereof wherever situated;

(3) A description of each variety of industrial hemp growing at the cultivation site;

(4) The expected date or dates of harvest for each variety of industrial hemp growing at the cultivation site;

(5) The expected yield for each variety of industrial hemp planted at the cultivation site along with a description of the growing area in which each variety was planted sufficient to calculate the growing area in acres for outdoor cultivation or square feet for indoor cultivation;

(6) A description of the intended use and disposition of the industrial hemp product, including but not limited to:

(A) Whether the whole plant will be sold or otherwise transferred to a third party with sufficient additional information for the Department to identify the price for a specific quantity of industrial hemp;

(B) Whether individual plant parts rather than the whole plant will be sold or otherwise transferred to a third party with sufficient additional information for the Department identify the price for a specific quantity of plant parts along with a description of the plant parts sold or transferred;

(C) A general description of any mechanical, chemical, or other processing techniques applied to the whole plant before sale or transfer to a third party;

(D) The name and contact information of the person or business entity to which the whole plant or plant parts will be sold or transferred; and

(E) Whether the whole plant or any part thereof will be destroyed after harvest;

(7) A description of fertilizers, pesticides, or other chemicals applied to each variety of industrial hemp planted at the cultivation site;

(8) A description of irrigation or water management practices applied to each variety of industrial hemp planted at the cultivation site;

(9) A description of tillage or ground preparation practices applied to each variety of industrial hemp planted at the cultivation site; and

(10) A description of the environmental impacts and viability of each variety of industrial hemp planted along with any supporting documentation.

(b) Not less than thirty (30) days following the harvest, the institutional licensee shall supplement the harvest report and declare the actual yield for each variety of industrial hemp planted at the cultivation site and any material change to the information supplied in the harvest report.

35:30-24-10. Records

(a) The institutional licensee shall retain the following records for no less than five (5) years from the date the record is obtained or generated:

(1) All records relating to information supplied in the application for a license;

(2) All records relating to the use and disposition of industrial hemp harvested or any plant parts thereof;

(3) All records relating to the storage or processing of industrial hemp or any plant parts thereof;

(4) All records relating to the destruction of industrial hemp harvested or any plant parts thereof, including but not limited to, any affidavits, notifications, and electronic records required by this subchapter.

(b) The institutional licensee shall produce or allow inspection of records at the request of the Department.

(c) The institutional licensee's obligation to retain and produce records shall be satisfied if the subcontractor retains or produces records.

35:30-24-11. Inspection and testing

(a) The Department shall develop an evidence gathering methodology for the inspection of cultivation sites and the collection of industrial hemp test samples.

(b) The Department may develop laboratory testing methodologies to verify the concentration of delta-9 tetrahydrocannabinol in industrial hemp test samples or the Department may contract with another laboratory to conduct such testing using laboratory protocols approved by the Department.

(c) The Department may inspect and take samples from any cultivation site and mature Cannabis sativa L. plants located thereon, as follows:

(1) The Department shall send written notification of routine inspections to the institutional licensee and subcontractor, if applicable, describing the date, time, scope, and process of routine testing.

(2) The Department may conduct unannounced inspections and collect samples from any cultivation site during regular business hours without advance notice.

(d) Industrial hemp test samples collected by the Department during routine or unannounced inspections shall be tested

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to verify that the delta-9 tetrahydrocannabinol concentration of industrial hemp does not exceed 0.3% on dry weight basis.

(e) The institutional licensee shall pay the hourly inspection fees and laboratory analysis costs for any routine and unannounced inspections within thirty (30) days after receiving an invoice from the Department.

(f) The Department shall waive all hourly inspection fees and laboratory analysis costs for an unannounced inspection if no violations or inconsistencies are identified by the Department.

35:30-24-12. Violations

(a) The Department may deny, suspend, or revoke a license or fine an institutional licensee upon a finding by the Department that that the institutional licensee has violated the Oklahoma Industrial Hemp Agricultural Pilot Program and the rules of this subchapter.

(b) Violations committed by subcontractors or officials and employees thereof shall be considered violations of the institutional licensee.

(c) The fine for violating the Oklahoma Industrial Hemp Agricultural Pilot Program and the rules of this subchapter shall not exceed Ten Thousand Dollars (\$10,000) per violation per day or occurrence.

[OAR Docket #19-602; filed 6-14-19]

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

[OAR Docket #19-596]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 29. Fertilizer
- Part 1. General
- 35:30-29-22. General [AMENDED]
- Subchapter 30. Soil Amendment
- 35:30-30-2. Registration and fees [AMENDED]
- Subchapter 45. Scrap Metal Dealers
- 35:30-45-3. License required [AMENDED]
- 35:30-45-9. Purchases, sales and records [AMENDED]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); 2 O.S. § 6-1 et seq., 2 O.S. § 6-91 et seq., 2 O.S. § 6-121 et seq., 2 O.S. § 6-131 et seq., 2 O.S. § 6-141 et seq., 2 O.S. § 6-281 et seq., 2 O.S. § 6-501 et seq., 2 O.S. § 6-601 et seq., and 2 O.S. § 9-130 et seq.

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n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

The proposed amendments provide clean up language, establish electronic registrations for fertilizers and soil amendment products, designate a method for scrap metal dealers to track transactions, comply with record requirements for purchase of vehicles, and provide a penalty for late renewals.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.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 14, 2019:

SUBCHAPTER 29. FERTILIZER

PART 1. GENERAL

35:30-29-22. General

(a) **Registration and renewal.** Registrants shall register or renew fertilizer products using one of the following methods:

(1) Registrants may electronically register or renew the registration for fertilizer products at the website, www.kellysolutions.com/renovations, and pay any applicable fees online. Product labels, revised product labels, efficacy data when required, and uniform product codes when available shall be submitted during the electronic process.

(2) Registrants may register or renew the registration for fertilizer products by submitting a registration application or renewal application directly to the Department on a form approved by the Department. Any applicable fees shall accompany the applications. Product labels, revised product labels, efficacy data when required, and uniform product codes when available shall be submitted with the applications. Product labels, revised product labels, and efficacy data when required shall be submitted in pdf format.

(ab) **Guarantee requirements.** Other plant nutrients when mentioned in any form or manner shall be registered and shall be guaranteed. Guarantees shall be made on the elemental basis. Sources of the elements guaranteed and proof of availability shall be provided to the Board upon request. Except guarantees for those water soluble nutrients labeled for ready to use foliar fertilizer, ready to use specifically liquid fertilizer, hydroponic, or continuous liquid feed programs and guarantees for potting soils, the minimum percentages that shall be accepted for registration are as follows:

(1) Calcium (Ca) - 1.0000%

- (2) Magnesium (Mg) - 0.5000%
- (3) Sulfur (S) - 1.0000%
- (4) Boron (B) - 0.0200%
- (5) Chlorine (Cl) - 0.1000%
- (6) Cobalt (Co) - 0.0005%
- (7) Copper (Cu) - 0.0500%
- (8) Iron (Fe) - 0.1000%
- (9) Manganese (Mn) - 0.0500%
- (10) Molybdenum (Mo) - 0.0005%
- (11) Sodium (Na) - 0.1000%
- (12) Zinc (Zn) - 0.0500%

(bc) **Guarantees for plant nutrients.** Only guarantees or claims for the above listed plant nutrients recognized by AAF-PCO shall be accepted. Proposed labels and directions for the use of the fertilizer shall be furnished with the application for registration upon request. Any of the above listed elements that are guaranteed shall appear in the order listed and shall immediately follow guarantees for the primary nutrients of nitrogen, phosphate, and potash.

(ed) **Warning or caution statement.** A warning or caution statement may be required for any product which contains a nutrient in water soluble form when there is evidence that the micro-nutrient is present in excess of a guaranteed percentage that may be harmful to certain crops or where there are unusual environmental conditions.

(de) **Examples of warning or caution statements:**

- (1) Directions: Apply this fertilizer at a maximum rate of (number of pounds) per acre for (name of crop).
- (2) CAUTION: Do not use on other crops. The (name of micro-nutrient) may cause injury to them.
- (3) CAUTION: Apply this fertilizer at a maximum rate of (number of pounds) per acre for (name of crop). Do not use on other crops; the (name of micro-nutrient) may cause serious injury to them.
- (4) WARNING: This fertilizer carries added (name of micro-nutrient) and is intended for use only on (name of crop). Its use on any other crops or under conditions other than those recommended may result in serious injury to the crops.
- (5) CAUTION: This fertilizer is to be used only on soil which responds to (name of micro-nutrient). Crops high in (micro-nutrient) are toxic to grazing animals (ruminants).
- (6) CAUTION: (Name of micro-nutrient) is recommended for all crops where (name of micro-nutrient) may be deficient; however, excessive application to susceptible crops may cause damage.

(ef) **Fertilizer labels.** The following information, in the format presented in Appendix A of this Chapter, is the minimum required for all fertilizer labels. For packaged products, this information shall either (1) appear on the front or back of the package, (2) occupy at least the upper-third of a side of the package, or (3) be printed on a tag and attached to the package. This information shall be in a readable and conspicuous form. For bulk products, this same information in written or printed form shall accompany delivery and be supplied to the purchaser at time of delivery.

- (1) Net weight
- (2) Brand

- (3) Grade
- (4) Guaranteed Analysis
- (5) Sources of nutrients shall be listed below the completed guaranteed analysis statement.
- (6) Name and address of registrant or licensee.
- (7) Directions for use for fertilizer to the end user shall follow the guidelines established by the Association of American Plant Food Control Officials.

(fg) **Plant nutrients.** When a plant nutrient is broken down into the component forms, the percentage for each component shall be shown before the name of the form as illustrated in Appendix B of this Chapter. (Possible insert)

(gh) **Slowly released plant nutrients.**

- (1) No fertilizer label shall bear a statement that implies that certain plant nutrients contained in a fertilizer are released slowly over a period of time, unless the slow release components are identified and guaranteed at a level of at least 15% of the total guarantee for that nutrient.
- (2) Types of products with slow release properties recognized are (1) water insoluble, such as natural organics, ureaform materials, urea-formaldehyde products, isobutylidene diurea, oxamide, etc., (2) coated slow release, such as sulfur coated urea and other encapsulated soluble fertilizer, (3) occluded slow release, where fertilizer or fertilizer materials are mixed with waxes, resins, or other inert materials and formed into particles and (4) products containing water soluble nitrogen such as ureaform materials, urea formaldehyde products, methylenediurea (MDU), dimethylenetriurea (DMTU), dicyanodiamide (DCD), etc. The terms "water insoluble", coated slow release", "slow release", "controlled release", "slowly available water soluble", and "occluded slow release" are accepted as descriptive of these products, provided the manufacturer can show a testing program substantiating the claim (testing under guidance of Experiment Station personnel or a recognized reputable researcher acceptable to the Board.) A laboratory procedure, acceptable to the Board for evaluating the release characteristics of the product(s) shall also be provided by the manufacturer.
- (3) Until more appropriate methods are developed, AOAC International Method 970.04 (15th Edition) is to be used to confirm the coated slow release and occluded slow release nutrients and others whose slow release characteristics depend on particle size. AOAC International Method 945.01 (15th Edition) shall be used to determine the water insoluble nitrogen of organic materials.

(hi) **Definitions.** Except as the Board designates in specific cases, the names and definitions for commercial fertilizer shall be those adopted by the Association of American Plant Food Control Officials.

(ij) **Percentages.** The term of "percentage" by symbol or word, when used on a fertilizer label shall represent only the amount of individual plant nutrients in relation to the total product by weight.

(jk) **Penalties.** When the combined commercial value for total nitrogen, available phosphoric acid or phosphate P₂O₅, and soluble potash is found to be 4% or more deficient from the guarantee, or when any one of the above is found to be

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10% deficient from the guarantee, the penalty assessed the manufacturer, or custom blender shall be twice the commercial value of the nutrient deficiency. Penalties shall be assessed in accordance with the AAPFCO formula: a 4% penalty is calculated at twice the value of the deficiency times total tons (i.e., 5 tons of 34-0-0 found to be 30.97-0-0 is $2 \times \$12.12 \times 5$); a 10% penalty is calculated at twice the units deficient times the value per unit times total tons (i.e., 5 tons of 27-13-13 found to be 23.26-13-13 is $2 \times 3.76 \times \text{commercial value} \times 5$). When a fertilizer is subject to a penalty payment under both 4% and 10%, the larger penalty shall be assessed.

(1) A deficiency in an official sample of mixed fertilizer resulting from non-uniformity is not distinguishable from a deficiency due to actual plant nutrient shortage and is properly subject of official action.

(2) The commercial values of fertilizer shall be established by the Board for calculating penalties.

(3) Penalty assessment refunds shall be documented by receipts signed by the consumer acknowledging the refund or credit, and shall be furnished to the Board within forty-five (45) days after receiving notice of the penalty assessed. If the consumer(s) cannot be found, the penalty (or amount not refunded) shall be paid to the Board within forty-five (45) days after receiving notice of the penalty assessed.

~~(k)~~ **Organic nitrogen.** If an amount of nitrogen is designated as organic, then the water insoluble nitrogen or the slow release nitrogen guarantee shall not be less than 60% of the nitrogen so designated. Coated urea shall not be included in meeting the 60% requirement.

~~(l)~~ **Discharges.** For the purpose of protecting surface and groundwater, any discharge of two hundred (200) pounds of dry or fifty-five (55) gallons or more of liquid fertilizer shall be reported (telephone or fax) to the Board or its authorized agent within 24 hours if discharged outside the loading, transfer or application area.

~~(m)~~ **Accidental discharge response plan for dry, liquid, and anhydrous ammonia.** The operator of a commercial storage facility shall prepare a written "Discharge response plan" for the storage facility. The plan shall include:

(1) The identity and telephone number of the persons or agencies who are to be contacted in the event of a discharge, including persons responsible for the stored fertilizer; and,

(2) For each bulk fertilizer stored at the facility, a complete copy of the storage container labeling required by these rules and the labeling required under Oklahoma Fertilizer Law to accompany sale of the fertilizer; and,

(3) An identification, by location, of every storage container located at the storage facility, and the type of bulk fertilizer stored in each storage container; and,

(4) For each type of bulk fertilizer stored at the facility, the procedures to be used in controlling and recovering, or otherwise responding to a discharge; and,

(5) Procedures to be followed in using or disposing of a recovered discharge.

~~(n)~~ **Availability.** A copy of the discharge response plan shall be kept readily available at the storage facility and at the

nearest local office from which the storage facility is administered.

~~(o)~~ **Community awareness.** The operator of a commercial storage facility shall inform the local fire and police departments, and the appropriate state environmental agency, of the existence of the plan and shall provide a current copy of the plan to the local fire and police departments and the appropriate state environmental agency.

SUBCHAPTER 30. SOIL AMENDMENT

35:30-30-2. Registration and fees

(a) Each soil amendment product shall be registered with the Board prior to distribution on a registration document supplied by the Board. Registrants shall register or renew soil amendment products using one of the following methods:

(1) Registrants may electronically register or renew the registration for soil amendment products at the website, www.kellysolutions.com/erenewals, and pay any applicable fees online. Product labels, revised product labels, efficacy data, and uniform product codes when available shall be submitted during the electronic process.

(2) Registrants may register or renew the registration for soil amendment products by submitting a registration application or renewal application directly to the Department on a form approved by the Department. Any applicable fees shall accompany the applications. Product labels, revised product labels, efficacy data, and uniform product codes when available shall be submitted with the applications. Product labels, revised product labels, and efficacy data shall be submitted in pdf format.

(b) All registrations expire on December 31st of the year registered.

(c) No product name shall be registered that misrepresents the product's primary component or component formulation.

(d) Each product name shall refer to a specific formulation; different product names may refer to the same specific formulation. Products for which formulations change or are modified beyond the ranges reported in the registration document shall either be reregistered with a name that distinguishes them from the previous formulation, or production and distribution of the previous formulation shall cease.

(e) Reregistered products shall be accompanied by a new registration document for that formulation.

(f) Each product registration document shall be accompanied by a label or facsimile of a label for that product as named. If the same product is sold in more than one size, only one label sample shall submitted.

(g) The Board shall not issue and may revoke any soil amendment registration if the Board determines the registration is for the primary purpose of disposal of the product or substance.

(h) The registration fee shall be One Hundred Dollars (\$100.00) for each product.

(i) If the Board finds that any soil amendment product is not registered, a penalty of One Hundred Dollars (\$100.00) per product shall be assessed. The penalty shall be added to the

registration fee and payment shall be made within thirty (30) days after receipt of notice.

SUBCHAPTER 45. SCRAP METAL DEALERS

35:30-45-3. License required

- (a) No person or entity shall act, offer to act, or hold himself or herself out as a scrap metal dealer in this state unless the person holds a license obtained from the Department.
- (b) Any person or entity who intends to become a scrap metal dealer shall obtain a license prior to operation.
- (c) A separate license shall be required for each yard.
- (d) The license shall begin on November 1 or on the date of issuance and shall expire on October 31 of each calendar year.
- (e) Applicants submitting a renewal after October 31 shall be assessed late penalty of double the renewal fee.
- (ef) If the scrap metal dealer is a firm, corporation, or other legal entity; the scrap metal dealer shall designate a scrap metal dealer's representative to act as a contact person for the agency. The scrap metal dealer's representative shall be a natural person with the legal authority to bind the entity in a contract.
- (fg) Any person or entity who does not meet the definition of a scrap metal dealer but chooses to voluntarily obtain a license shall comply with all rules as though they do meet the definition of a scrap metal dealer.

35:30-45-9. Purchases, sales and records

- (a) A scrap metal dealer shall conduct business and maintain records of all business transactions in a manner consistent with the provisions of the Oklahoma Scrap Metal Dealers Act.
- (b) A scrap metal dealer purchasing a vehicle from any person shall be required to record the make, model, license tag number and vehicle identification number of the purchased vehicle. A person selling a vehicle to a scrap metal dealer shall be required to present to the dealer the title of the vehicle or a certificate of ownership form, as approved by the Oklahoma Tax Commission and available at the Oklahoma Tax Commission or through a motor license agent, in addition to signing a declaration of ownership as required by Section 11-92 of Title 2 of the Oklahoma Statutes. The provisions of this subsection shall not apply to sales, purchases or other transfer of vehicles between scrap metal dealers and licensed automotive dismantlers and parts recyclers.
- (c) Scrap Metal Dealers using an online recording method for all record keeping shall use Leads Online, www.leadsonline.com as the internet based reporting method.

[OAR Docket #19-596; filed 6-14-19]

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

[OAR Docket #19-597]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 3. Meat Inspection
 - Part 1. General Provisions
 - 35:37-3-1. Incorporation by reference of federal meat inspection regulations [AMENDED]
 - 35:37-3-3. Deleted regulations [AMENDED]
- Subchapter 5. Poultry Products Inspection
 - Part 1. General Provisions
 - 35:37-5-1. Definitions and incorporation by reference of federal poultry inspection regulations [AMENDED]
 - 35:37-5-2. Deleted regulations and exemptions [AMENDED]
- Subchapter 17. Produce Safety
 - 35:37-17-3. Incorporation by reference of federal produce safety regulations [AMENDED]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); 2 O.S. § 6-1 et seq., 2 O.S. § 6-91 et seq., 2 O.S. § 6-121 et seq., 2 O.S. § 6-131 et seq., 2 O.S. § 6-141 et seq., 2 O.S. § 6-281 et seq., 2 O.S. § 6-501 et seq., 2 O.S. § 6-601 et seq., and 2 O.S. § 9-130 et seq.

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Incorporating standards:

9 CFR Parts 301 to 391; 416; 417; 418; 424; 430; 441; 442 and 500 (2018 Revision) unless otherwise specified.
21 CFR Part 112 (2018 Revision)

Incorporating Rules:

- 35:37-3-1
- 35:37-3-3
- 35:37-5-1
- 35:37-5-2
- 35:37-17-3

Availability:

8:00 a.m. to 4:30 p.m., Monday through Friday at the Oklahoma Department of Agriculture, Food and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105, (405) 522-5803.

GIST/ANALYSIS:

The proposed amendments update citations to the Code of Federal Regulations and add rules implementing federal produce safety rules.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.ok.gov.

Permanent Final Adoptions

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 14, 2019:

SUBCHAPTER 3. MEAT INSPECTION

PART 1. GENERAL PROVISIONS

35:37-3-1. Incorporation by reference of federal meat inspection regulations

The Mandatory Meat Inspection Regulations found in Title 9 of the Code of Federal Regulations (CFR) (~~2017~~2018 Revision), Parts 301 to 391; 416; 417; 418; 424; 430; 441; 442 and 500 for the United States Department of Agriculture (USDA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of the deleted regulations specified in 35:37-3-3. Whenever an official mark, form, certificate or seal is designated by federal regulations, the appropriate Oklahoma Department of Agriculture, Food, and Forestry form, certificate or seal shall be substituted.

35:37-3-3. Deleted regulations

The following sections of the Federal regulations governing the mandatory meat inspection of the USDA incorporated by reference under 35:37-3-1 are deleted and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry: 9 CFR 302.2; 303.1(c); 304.1; 304.2(a); 304.2(c); 305.2(b); 307.4; 307.5; 307.6; 316.12; 316.13(c); 317.5; 317.7; 317.9; 317.13; 318.8; 318.12; 321; 322; 327; 329; 331; 335; 351; 352; 354; 355; 362; 381; 390; 391; 392; 439; and 590 (~~2014~~2018 Revision).

SUBCHAPTER 5. POULTRY PRODUCTS INSPECTION

PART 1. GENERAL PROVISIONS

35:37-5-1. Definitions and incorporation by reference of federal poultry inspection regulations

(a) The Mandatory Poultry Inspection Regulations found in Title 9 of the Code of Federal Regulations (CFR) (~~2017~~2018 Revision), Parts 381; 416; 417; 418; 424; 430; 441; 442; and 500 for the United States Department of Agriculture (USDA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of the deleted regulations specified in 35:37-5-2. Whenever an official mark, form, certificate or seal is designated by federal

regulations, the appropriate Oklahoma Department of Agriculture, Food, and Forestry mark, form, certificate or seal shall be substituted.

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

(c) The following terms, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise:

(1) **"Act"** means the Oklahoma Poultry Products Inspection Act.

(2) **"Director"** means the Director of Meat Inspection.

(3) **"Poultry"** means any domesticated bird, whether live or dead, including chickens, turkeys, ducks, geese, guineas, ratites, or squabs (also known as young pigeons from one to about thirty (30) days of age).

(4) **"Poultry product"** means any poultry carcass, part, or product made wholly or in part from any poultry carcass or part that can be used as human food, except those exempted from definition as a poultry product in Title 9 of the Code of Federal Regulations (CFR), Part 381.15. This term shall not include detached ova.

(5) **"Poultry byproduct"** means the skin, fat, gizzard, heart, or liver, or any combination of any poultry for cooked, smoked sausage.

35:37-5-2. Deleted regulations and exemptions

(a) The following sections of the Federal regulations governing the mandatory poultry inspection (9 CFR, Part 381; 416; 417; 418; 424; 441; 442; and 500), (~~2017~~2018 Revision) of the USDA incorporated by reference under 35:15-27-1 are deleted and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry: 381.6; 381.10(a)(2), (5), (6), and (7); 381.10(b); 381.10(d)(2)(i); 381.13(b); 381.16; 381.17; 381.20; 381.21; 381.37; 381.38; 381.39; 381.96; 381.101; 381.103 through 381.112; 381.123(b)(1) and (4); 381.132(c); 381.133; 381.179; 381.185; 381.186; and 381.195 through 381.225.

(b) The provisions of this Act and rules do not apply to poultry producers who slaughter their own poultry raised on their farm, and each of the following apply:

(1) The producers slaughter no more than two hundred and fifty (250) turkeys or their equivalent with a ratio of four (4) birds of other species, excluding ratites, to one (1) turkey during a calendar year;

(2) The producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms;

(3) The poultry and poultry products do not move in commerce. Poultry producers are prohibited from selling or donating uninspected poultry products to retail stores, brokers, meat markets, schools, orphanages, restaurants, nursing homes, and other similar establishments and are prohibited from sales or donation of uninspected poultry through any type of retail market or similar establishment owned or operated by the poultry producer;

(4) The producers submit a certificate of registration to the Board;

- (5) The poultry is healthy, the poultry is slaughtered and processed under sanitary standards, practices, and procedures that result in the preparation of poultry products that are sound, clean, and fit for human food, and each carcass, part, or poultry product bears a label that lists the customer's name, the producer's name, and the following statement, "This poultry product has not been inspected and passed";
- (6) The poultry is sold directly to the household consumer and transported by either the household consumer or the poultry producer without third-party intervention or intervening transfer or storage, and is maintained in a safe and unadulterated condition during transportation; and
- (7) The poultry producers, allow an authorized agent of the Board access to their facilities and an opportunity to examine records at all reasonable times upon notice.

SUBCHAPTER 17. PRODUCE SAFETY

35:37-17-3. Incorporation by reference of federal produce safety regulations

The Department incorporates by reference Title 21 of the Code of Federal Regulations, Part 112 (~~2017-2018~~ Revision) regarding standards for the growing, harvesting, packing, and holding of produce for human consumption.

[OAR Docket #19-597; filed 6-14-19]

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

[OAR Docket #19-603]

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PERMANENT final adoption

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

AUTHORITY:
Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); 2 O.S. § 6-1 et seq., 2 O.S. § 6-91 et seq., 2 O.S. § 6-121 et seq., 2 O.S. § 6-131 et seq., 2 O.S. § 6-141 et seq., 2 O.S. § 6-281 et seq., 2 O.S. § 6-501 et seq., 2 O.S. § 6-601 et seq., and 2 O.S. § 9-130 et seq.

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May 28, 2019

EFFECTIVE:
September 14, 2019

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
Incorporated standards:
40 CFR (2018 Revision) unless otherwise specified.

Incorporating rules:
35:44-1-3
35:44-3-3

Availability:
8:00 a.m. to 4:30 p.m., Monday through Friday at the Oklahoma Department of Agriculture, Food and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105, (405) 522-5803.

GIST/ANALYSIS:
The proposed rule amendments are needed to update the Code of Federal Regulations for the Agriculture Pollutant Discharge Elimination System program.

CONTACT PERSON:
Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.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 14, 2019:

SUBCHAPTER 1. AGRICULTURE ENVIRONMENTAL PERMITTING AND AGPDES

PART 1. GENERAL PROVISIONS

35:44-1-3. Date of federal regulations incorporated
When reference is made to 40 CFR it means, unless otherwise specified, Title 40 of the Code of Federal Regulations (~~2017-2018~~ Revision).

SUBCHAPTER 3. PERMIT CONDITIONS AND REQUIREMENTS

35:44-3-3. Date of federal regulations incorporated
When reference is made to 40 CFR it means, unless otherwise specified, Title 40 of the Code of Federal Regulations (~~2017-2018~~ Revision).

[OAR Docket #19-603; filed 6-14-19]

Permanent Final Adoptions

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 48. WILDLIFE SERVICES

[OAR Docket #19-598]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Aerial Management of Depredating Animals
35:48-3-14. Prohibited activities [AMENDED]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); 2 O.S. § 6-1 et seq., 2 O.S. § 6-91 et seq., 2 O.S. § 6-121 et seq., 2 O.S. § 6-131 et seq., 2 O.S. § 6-141 et seq., 2 O.S. § 6-281 et seq., 2 O.S. § 6-501 et seq., 2 O.S. § 6-601 et seq., and 2 O.S. § 9-130 et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

December 7, 2018

COMMENT PERIOD:

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PUBLIC HEARING:

February 5, 2019

ADOPTION:

February 19, 2019

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 27, 2019

LEGISLATIVE APPROVAL:

Approved May 28, 2019 by HJR 1022

FINAL ADOPTION:

May 28, 2019

EFFECTIVE:

September 14, 2019

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

The proposed rule changes provide clean up language regarding dates contained in rule governing aerial hunting regulation.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.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 14, 2019:

SUBCHAPTER 3. AERIAL MANAGEMENT OF DEPREDATING ANIMALS

35:48-3-14. Prohibited activities

(a) A permit holder or pilot shall not:

- (1) Hunt, shoot, shoot at, kill, or attempt to kill any wildlife, domesticated animal, or livestock from an aircraft other than the animals authorized by the aerial management permit;
- (2) Intentionally disturb, haze, or buzz any wildlife, domesticated animal, or livestock from an aircraft other than the animals authorized by the aerial management permit;

(3) Take or attempt to take any depredating animal for any purpose other than is necessary for the protection of land, water, wildlife, livestock, domesticated animals, human life, or crops;

(4) Manage depredating animals from an unsuitable aircraft;

(5) Manage depredating animals from an unmanned aerial vehicle;

(6) Manage depredating animals with a firearm using pellet ammunition or soft point or hollow ammunition;

(7) Manage depredating animals using incendiary ammunition or any similar hunting method that poses a substantial wildfire risk;

(8) Manage depredating animals during hazardous weather, low visibility or nighttime hours;

(9) Manage depredating animals during designated deer hunting seasons ~~from the dates of October 1 through January 15 without first obtaining a special permit from the local game warden or other authorized employee of the~~ as designated by Department of Agriculture, Food, and Forestry and Department of Wildlife Conservation; or

(10) Herd animals from one property to another without the permission of all landowners or lessees affected.

(b) A permit holder may engage in trial flights allowing pilots and passengers to practice the aerial management activity, however, trial flights shall be subject to all the restrictions and notification requirements as an actual aerial management flight.

[OAR Docket #19-598; filed 6-14-19]

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

[OAR Docket #19-599]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Standards of Care
35:55-3-1. Incorporation by reference [AMENDED]
35:55-3-6.1. Canine brucellosis [AMENDED]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); 2 O.S. § 6-1 et seq., 2 O.S. § 6-91 et seq., 2 O.S. § 6-121 et seq., 2 O.S. § 6-131 et seq., 2 O.S. § 6-141 et seq., 2 O.S. § 6-281 et seq., 2 O.S. § 6-501 et seq., 2 O.S. § 6-601 et seq., and 2 O.S. § 9-130 et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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Approved May 28, 2019 by HJR 1022

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May 28, 2019

EFFECTIVE:

September 14, 2019

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated standards:

9 CFR Part 3 et seq. (2018 Revision) unless otherwise specified.

Incorporating rules:

35:55-3-1

Availability:

8:00 a.m. to 4:30 p.m., Monday through Friday at the Oklahoma Department of Agriculture, Food and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73105, (405) 522-5803.

GIST/ANALYSIS:

The proposed rule amendments update citations to the Code of Federal Regulations date of incorporation and provide amendments to the Canine Brucellosis rules.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.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 14, 2019:

SUBCHAPTER 3. STANDARDS OF CARE

35:55-3-1. Incorporation by reference

(a) The following provisions of Title 9 of the Code of Federal Regulations and the requirements contained therein pertaining to Animal Welfare, Part 3 (Standards) are, unless otherwise specified, adopted and incorporated by reference in their entirety:

- (1) 3.1 (housing facilities, general)
- (2) 3.2 (indoor housing facilities)
- (3) 3.3 (sheltered housing facilities)
- (4) 3.4 (outdoor housing facilities)
- (5) 3.5 (mobile or traveling housing facilities)
- (6) 3.6 (primary enclosures), except for 3.6 (c)(1)(ii) and (c)(2)
- (7) 3.7 (compatible grouping)
- (8) 3.8 (exercise for dogs)
- (9) 3.9 (feeding)
- (10) 3.11 (cleaning, sanitization, housekeeping, and pest control)
- (11) 3.12 (employees)
- (12) 3.13 (consignments to carriers and intermediate handlers)
- (13) 3.14 (primary enclosures used to transport live dogs and cats)
- (14) 3.15 (primary conveyances [motor vehicle, rail, air, and marine])
- (15) 3.16 (food and water requirements)
- (16) 3.17 (care in transit)
- (17) 3.18 (terminal facilities)

- (18) 3.19 (handling)
- (b) When reference is made to a federal entity, it shall mean the state counterpart.
- (c) When reference is made to 9 C.F.R. it means, unless otherwise specified, the volume of 9 C.F.R. as published on July 1 ~~(2017)~~(2018).

35:55-3-6.1. Canine brucellosis

(a) A commercial pet breeder shall have a biosecurity plan in place for the detection and eradication of canine brucellosis. The biosecurity plan shall be developed in consultation with the commercial pet breeder's attending veterinarian and shall include, but not be limited to, the following:

- (1) New breeding stock shall be initially quarantined prior to release into the general facility population.
- (2) New breeding stock shall test negative on two consecutive brucellosis tests conducted four to six weeks apart prior to exiting the initial quarantine.

(b) If canine brucellosis is confirmed in any dog on the premises of a commercial pet breeder, the premises shall be quarantined by the State Veterinarian. The parameters of the quarantine shall be determined by the State Veterinarian in consultation with the commercial pet breeder's attending veterinarian, and may include, but not be limited to, the following:

- (1) Any dog that is confirmed positive for canine brucellosis shall be humanely euthanized.
- (2) All dogs six weeks of age or older shall test negative on two consecutive brucellosis tests conducted four to six weeks apart.
- (3) Records of each sampling event, including identification of each euthanized dog, identification of each animal tested, laboratory sample results from an approved laboratory, and any other pertinent information, shall be provided to the Department upon request.

(4) Each dog six weeks of age or older that is tested for canine brucellosis shall be identified with an electronic form of identification.

(45) The State Veterinarian may, upon consultation with the commercial pet breeder's attending veterinarian, may modify the quarantine to allow for testing of fewer animals and quarantine of only a portion of the premises.

[OAR Docket #19-599; filed 6-14-19]

**TITLE 75. ATTORNEY GENERAL
CHAPTER 15. STANDARDS AND CRITERIA
FOR DOMESTIC VIOLENCE AND SEXUAL
ASSAULT PROGRAMS**

[OAR Docket #19-590]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

75:15-1-1.1 [AMENDED]

75:15-1-2 [AMENDED]

Subchapter 2. Domestic Violence and Sexual Assault Programs

75:15-2-1 [AMENDED]

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Subchapter 5. Client Records and Confidentiality
75:15-5-4 [AMENDED]
75:15-5-6 [AMENDED]
Subchapter 9. Program Management and Performance Improvement
75:15-9-8 [AMENDED]
Subchapter 13. Personnel and Volunteers
Part 1. Personnel
75:15-13-1 [AMENDED]
Part 2. Volunteers
75:15-13-12 [AMENDED]
Subchapter 15. Governing Authority
75:15-15-3 [AMENDED]

AUTHORITY:

Office of Attorney General; Title 74 O.S. § 18p-1 et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

January 25, 2019

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March 20, 2019

ADOPTION:

March 29, 2019

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

April 1, 2019

LEGISLATIVE APPROVAL:

Approved May 28, 2019 by HJR 1022

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September 13, 2019

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

These rules are promulgated pursuant to the requirements of the Administrative Procedures Act, 75 O.S. § 250, et seq. The purpose of these rules is to effectively implement and enforce the provisions of Title 74 § 18p-1 et seq. of the Oklahoma Statutes with regard to the certification of programs in the state that provide services to victims of domestic violence and sexual assault. Amendments clarify core services and strengthen the maintenance and confidentiality of client records; improve safety measures by increasing screening and training for program personnel and volunteers; and correct grammatical errors, statutory citations and formatting.

CONTACT PERSON:

Melissa Blanton, Chief, Victim Services Unit, Office of the Attorney General, 313 NE 21st Street, Oklahoma City, OK 73105, 405-522-0042, melissa.blanton@oag.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 13, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

75:15-1-1.1. Mission and underlying philosophy

(a) The mission of the standards and criteria for domestic violence and sexual assault programs is to eliminate domestic violence, sexual assault, and stalking in the State of Oklahoma.

(b) The philosophy underlying the standards and criteria for domestic violence and sexual assault programs is that:

(1) All persons have the right to live without fear, abuse, oppression and violence;

(2) There should be equality in relationships and survivors of domestic violence, sexual assault and stalking should be helped to assume power over their own lives;

(3) No one deserves to be victimized by assaultive or abusive behavior;

(4) Survivors should be treated with dignity and respect;

(5) All people involved in violent crimes are affected victims, children, families, partners, friends, the community, and perpetrators;

(6) Offending is a choice, and perpetrators of domestic violence, sexual assault and stalking are solely responsible for their behavior;

(7) These perpetrators must be held accountable for their behavior;

(8) A coordinated community response is the best approach to eliminating domestic violence, sexual assault, sex trafficking and stalking in Oklahoma;

(9) Safety for the victims/survivors and their dependents is the primary focus of intervention and services;

(10) Intervention and services shall be based upon the safety and well-being of individuals and communities. Services to victims are provided in a non-judgmental, non-coercive, trauma-informed environment; and

(11) Participation in ~~victims~~—services is voluntary and based on self-determined needs, preferences and values.

75:15-1-2. Definitions

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

"**Admission**" means to accept a client for services or treatment.

"**Advocacy**" means the assistance provided that supports, supplements, intervenes and/or links clients and their dependents with the appropriate service components to encourage self-determination, autonomy, physical and emotional safety, and to offer information that will enable independence. This can be viewed as a combination of active listening and facilitating personal problem solving, along with researching options of action, safety planning, community outreach and education; it may include medical, dental, financial, employment, legal and housing assistance.

"**Advocate**" means a trained staff or volunteer who offers clients appropriate services.

"**Assessment**" means an appropriate course of assistance based on a face-to-face formal screening.

"**Behavioral Health Professional**" means either licensed or under supervision for licensure as a Licensed Professional Counselor, Licensed Marriage and Family Therapist, Licensed Behavioral Practitioner, Licensed Clinical Social Worker, psychiatrist, or psychologist with clients in individual, group or family settings to promote positive emotional or behavioral change. A practicum student or intern in an accredited graduate program in preparation for one of the above licenses may provide counseling to victims of domestic violence, sexual assault or stalking and their dependents.

"Business day" shall mean a calendar day other than a Saturday, Sunday, or state holiday. In computing any period of time where the last day would fall on a Saturday, Sunday, or state holiday, the period shall run until 5:00 p.m. of the next business day.

"Case consultation" means review of a client's case by the primary service provider and other program personnel, consultants or both.

"Case management" means the process of supporting and helping victims/survivors and their dependents as they cope with and overcome the effects of domestic violence, sexual assault and stalking. Actions may include activities such as: 1) developing, reviewing, and updating the service plan that is designed to solve specific problems in the current life situation; 2) supporting adult/child survivors' skills in making desired life changes through activities such as introducing new skills, modifying previous ways of coping with their situations and linking to resources to address immediate needs and secondary issues, and/or 3) exit planning as part of individual supportive services. The service provider must be a Certified Domestic and Sexual Violence Response Professional (CDSVRP) certified by the Oklahoma Coalition Against Domestic Violence and Sexual Assault.

"Certified Domestic and Sexual Violence Response Professional" means a professional certified by the Oklahoma Coalition Against Domestic Violence and Sexual Assault.

"Certified domestic violence and sexual assault program" or **"Certified DVSA program"** means a status which is granted to an entity by the Oklahoma Attorney General, and indicates approval to offer domestic violence, sexual assault and stalking services pursuant to 74 O.S. § 18p-6. In accordance with the Administrative Procedures Act, 75 O.S. § 250.3(8), certification is defined as a "license."

"Child" or **"Children"** means any unmarried individual from birth to eighteen years of age.

"Children's Activities" means direct child contact that is temporary in nature and is not intended to address the effects of domestic violence, sexual assault/abuse and trauma on children; i.e., ~~child care~~, special events such as Christmas parties, Easter egg hunts, that are supervised by program personnel or volunteers.

"Children's Services" means direct child contact that is intended to address the effects of domestic violence, sexual assault/abuse and trauma on children including but not limited to intake, needs assessment, groups, advocacy, and any other service related to domestic violence, sexual assault/abuse and trauma.

"Client" means an individual, adult or child, who has applied for, is receiving or has received assistance or services from a DVSA program.

"Client record" includes but is not limited to all communication, records and information about an individual client.

"Community" means people, groups, agencies or other facilities within the locality served by the program.

"Contract" means a formal document adopted by the governing authority of the program and any other organization, agency or individual that specifies services, personnel or space

to be provided to the program and the monies to be expended in exchange.

"Core Services" means services outlined in 75:15-2-1 that are required to be offered by all certified programs.

"Counseling" means a face-to-face therapeutic session with one-on-one interaction between a behavioral health professional and an individual to promote emotional and/or behavioral change focused on victim safety and perpetrator accountability. Those individuals providing professional therapy to adult and child victims of domestic violence, sexual assault or stalking must be prepared to offer education and information about:

- (A) Physical and emotional safety;
- (B) How perpetrators maintain control and dominance over their victims;
- (C) The need to hold perpetrators accountable for their actions; and
- (D) The recognition that individuals victimized are not responsible for a perpetrator's violent behavior.

"Court advocate" means a qualified, trained staff or volunteer whose duties are to offer assistance to victims and any dependents in legal matters relevant to their situation. A Court Advocate provides court advocacy through support, information, assistance, safety planning, accompaniment, and intervention with any aspect of the civil or criminal legal system on behalf of a victim of domestic violence, sexual assault or stalking. Court advocates shall not act as licensed attorneys and are not permitted to give legal advice, unless such person is a licensed attorney in the state of Oklahoma.

"Crisis intervention" means short-term, immediate assistance and advocacy given by phone or in person to victims of domestic violence, sexual assault or stalking. Crisis intervention services include but are not limited to assessing dangerousness, safety planning, information about available legal remedies, establishing rapport and communication, identifying major problems, exploring feelings and providing support, exploring possible alternatives, and/or formulating an action plan and follow-up measures.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a client. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to clients, personnel, volunteers and visitors; incidents involving medication; neglect or abuse of a client; fire; unauthorized disclosure of information; damage to or theft of property belonging to a client or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"Cultural diversity" means the spectrum of differences that exist among groups of people with definable and unique cultural backgrounds.

"Direct services" means services delivered by a qualified staff member or volunteer in direct contact with a client or client's child, including ~~child care~~ childcare and telephone contact.

"DVSA" means domestic violence and sexual assault.

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"Documentation" means the provision of written, dated and authenticated evidence to substantiate compliance with standards, e.g., minutes of meetings, memoranda, schedules, notices, logs, records, policies, procedures, announcements, correspondence, and photographs.

"Domestic violence" means a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over a current or former partner or family member. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

"Education" means the dissemination of relevant information specifically focused on increasing the awareness of the community and the receptivity and sensitivity of the community concerning domestic violence, sexual assault, stalking or batterer's intervention and other related problems and services and may include a systematic presentation of selected information to impart knowledge or instructions to increase understanding of specific issues or programs, to examine attitude or behaviors and to stimulate social action or community support of the program and its clients.

"Emergency services" or **"crisis services"** mean a twenty-four (24) hour capability for danger assessment, intervention and resolution of a client crisis or emergency that is provided in response to unanticipated, unscheduled emergencies requiring prompt intervention.

"Emergency transportation" means transportation for a victim of DVSA to a secure identified location at which emergency services or crisis services can be offered.

"Executive director" means the person hired by the governing authority to direct all the activities of the organization. May also be referred to as "Chief Executive Officer".

"Facility" means the physical location(s) of a certified program governed by this chapter of Title 75.

"Family" means the children, spouses, parents, brothers, sisters, other relatives, foster parents, guardians, and others who perform the roles and functions of family members in the lives of clients.

"Governing authority" means a group of persons having the legal authority, and final responsibility for the operations and functions of the entire DVSA program, or shelter, in and of all geographical locations and administrative divisions.

"Group counseling" means a face-to face therapeutic session with a group of adult/child victims/survivors to promote emotional or behavioral change. Those individuals providing professional therapy to victims/survivors of domestic violence must be prepared to provide education and information about:

- (A) Physical and emotional safety;
- (B) How perpetrators maintain control and dominance over their victims;
- (C) The need to hold perpetrators accountable for their actions; and
- (D) The recognition that individuals victimized are not responsible for a perpetrator's violent behavior.

"Guardian" means an individual who has been given the legal authority to manage the affairs of another individual.

"Indirect services" means services delivered by a staff member or volunteer, that do not involve direct services with a client or client's child.

"Initial contact" means a person's first contact with the program or facility requesting information or service by telephone or in person.

"Intake" means an interaction intended to discover what has happened, determine what the crisis is, assess dangerousness indicators, do safety planning, and/or establish the immediate needs of domestic violence, sexual assault, and stalking victims and any dependents to determine appropriate services and referrals. This includes interaction with an individual determined to be appropriate for ongoing service in order to obtain basic demographic information, gather vital information on adults and/or children, and/or orient the victims to the program, program rules, and if applicable, the facilities. Cultural needs should also be identified at this time.

"Language Interpretation" means activities that involve a client who is deaf or hearing impaired or has limited English proficiency requiring an interpreter for a staff member or volunteers to offer services.

"Licensure" means the official or legal permission to persons or health facilities meeting qualifications to engage in a given occupation or use a particular title.

"Medical care" means those diagnostic and treatment services that can only be provided or supervised by a licensed physician.

"Medication" means any drug that is legally in the possession of clients, their children, or persons seeking admittance to the shelter or their children; this definition includes prescription medications and medications available for legal purchase without a prescription.

"Mental health services" means a range of diagnostic, therapeutic and rehabilitative services used in treating mental illness or emotional disorders.

"Neglect" means failing to offer adequate personal care or maintenance, or access to medical care that results or may result in physical or mental injury or harm to a client.

"OAG" means the Office of the Attorney General.

"Objectives" means a specific statement of planned accomplishments or results that are quantitative, qualitative, time-limited, and realistic.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256 (A)(1)(a) and maintained in the Office of Administrative Rules.

"Operation" means that clients are receiving services offered by the program.

"Personnel record" means a file containing the employment history and actions relevant to individual personnel and volunteer activities within an organization such as application, evaluation, salary data, job description, citations, credentials, etc.

"Persons with special needs" means persons with a condition which is considered a disability or impairment under

the "American with Disabilities Act of 1990" including but not limited to the deaf and hard of hearing, blind, physically disabled, developmentally disabled, persons with disabling illness, and persons with mental illness. See "Americans with Disabilities Handbook," published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.

"Policies" means statements of program intent, strategy, principle, or rules for providing effective and ethical services.

"Primary Victim" means a client who has experienced domestic violence, sexual assault, stalking, or the consequences of these crimes first hand.

"Procedures" means the standard methods by which policies are implemented.

"Program" means a set of activities designed and structured to achieve specific objectives relative to the needs of the clients.

"Program evaluation" means the documented assessment activities, performed internally or externally, of a program or a service and its staff, volunteers, activities, and planning process to determine whether program goals are met, staff, volunteers and activities are effective, and what effect, if any, a program or service has on the problem it was created to address or on the population it was created to serve.

"Program goals" means broad general statements of purpose or intent.

"Qualified staff" means someone who has met the criteria for provision of direct services as defined in 75:15-13-20.1.

"Rape crisis response services" means "sexual assault services" as defined in this section.

"Release" or **"Waiver"** means consent that is informed, written and reasonably time-limited. The terms may be used interchangeably to mean the same thing. "Release" implies that confidential information is released (despite confidentiality or privilege protection), and "Waiver" implies waiving a right (to maintain privilege). If release of information is compelled by statutory or court mandate, the program shall make reasonable attempts to provide notice to victims affected by the disclosure of information and take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

"Referral" means information disseminated and/or coordinated access to agency and community services to meet victims'/survivors' and their dependents' identified needs.

"Safe Home" means private dwellings available for the temporary housing of victims of domestic violence, sexual assault and stalking to ensure safety of victims and any dependents until other housing arrangements can be made.

"Safe Home Provider" means an individual or family providing Safe Home services through a formal agreement with a Certified DVSA Program.

"Safety Planning" means the process of working with adult and child victims to develop tools in advance of potential abuse or violence for the immediate and long term safety of victims. Plans should be based on dangerousness and lethality indicators and should include the safety needs of dependents.

"Screening" means the process of determining, preliminarily the nature and extent of a person's problem in order to establish service needs. At a minimum, a screening shall

include a brief personal history related to abuse, a review of the individual's strengths and resources, risk factors and referral needs.

"Secondary Victim" means a person who has a relationship with the primary victim.

"Self Determination" means the right to make one's own choices.

"Service Agreement" means a written agreement between two or more service agencies or service agencies and individual service providers that defines the roles and responsibilities of each party. The purpose of service agreements is to promote coordination and integration of service programs for the purpose of curbing fragmentation and unnecessary service duplication in order to assure a continuation of services.

"Service Note" means documentation of the time, date, location, and description of services offered or provided, and signature, including electronic signature, of staff or volunteer offering or providing the services.

"Service Plan" means a plan of action developed and agreed upon by the client and service provider that contains service appropriate goals and objectives for the client.

"Sexual Assault" means a range of behaviors, including but not limited to rape, attempted rape, sexual battery, sex trafficking, sexual abuse of children, sodomy, and sexual harassment.

"Sexual Assault Services" means personal advocacy and support services provided to primary and secondary victims of rape and sexual assault.

"Shelter Services" means a certified residential living arrangement in a secure setting with support and advocacy services provided by qualified staff for victims of domestic violence, sexual assault and stalking and their dependents.

"Staff" means personnel who function with a defined role in the program whether full-time, part-time or contracted.

"Stalking" means a course of conduct directed at a specific person that would cause a reasonable person to feel fear.

"Substance Abuse Services" means the assessment and treatment of diagnosable substance abuse and dependence disorders, as defined by current DSM criteria, by qualified alcohol and drug treatment professionals.

"Support" or **"Supportive Services"** means the provision of direct services to primary and secondary victims and their dependents for the purposes of preventing further violence, helping such victims to gain access to civil and criminal courts and other community services, facilitating the efforts of such victims to make decisions concerning their lives in the interest of safety, and assisting such victims in healing from the effects of violence.

"Transitional Living Services" means temporary, independent living programs with support services provided by the staff or volunteers of the sponsoring domestic violence, sexual assault and stalking program. These services are extensions of domestic violence shelter services to victims of domestic violence, sexual assault or stalking and their dependents. These services permit victims to develop their financial capacity and other means to live independently.

"Trauma-informed services" means a service approach that recognizes the impact of trauma and acknowledges its

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role in the lives of primary and secondary victims and their dependents.

"Universal precautions for transmission of infectious diseases" means those guidelines promulgated by the U.S. Occupational Health and Safety Administration that are designed to prevent the transmission of Human Immunodeficiency Virus, hepatitis and other infectious diseases.

"Update" means a dated and signed review of a report, plan or program with or without revision.

"Voluntary Services" means a program shall not mandate participation in supportive services as a condition of shelter residency or emergency services (Family Violence Prevention and Services Act, 42 U.S.C. 10401-8 ~~et seq.~~)

"Volunteer" means any person who is not on the program's payroll, but provides either indirect or direct services and fulfills a defined role within the program, including interns and practicum students.

SUBCHAPTER 2. DOMESTIC VIOLENCE AND SEXUAL ASSAULT PROGRAMS

75:15-2-1. Service programs core services

(a) All certified programs shall serve residential and non-residential victims of domestic violence, sexual assault and stalking and their dependents or family members.

(b) All certified programs shall provide safe, accessible, and trauma-informed services for victims of domestic violence, sexual assault and stalking and their dependents or family members.

(c) The program shall develop a philosophy of service provision based upon voluntary services and individual self-determination. The written statement of the philosophy of services shall be approved by the governing authority and made available to the community, staff, volunteers, and clients.

(d) The program shall have policies and procedures to maintain facilities, staffing, and operational methods, including a policy for recruitment of board members, staff and volunteers who are representative of diversity in the local community and diversity of clients.

(e) All certified programs shall provide sexual assault services as outlined in 75:15-2-6.

(f) All certified programs shall offer crisis intervention services as outlined in 75:15-2-5.

(g) All certified programs shall offer danger assessment, safety planning, counseling or support, support groups, and advocacy in a trauma-informed environment.

(h) All certified programs shall offer services that are free from all forms of unlawful discrimination based on race, gender, religion, color, age, national origin, and/or disability (i.e., physical, mental illness, and substance abuse), including a policy stating that services to immigrant women will not be denied or diminished on the basis of immigration status.

(i) All certified programs shall provide public education to increase the community's awareness and understanding of domestic violence, sexual assault and stalking, available and needed resources, and to identify the role community can play in eliminating domestic violence, sexual assault, and stalking.

(j) Compliance with 75:15-2-1 shall be determined by a review of the program's policies and procedures, service agreements, on-site observations, client and staff or volunteer interviews and/or other supporting documentation.

SUBCHAPTER 5. CLIENT RECORDS AND CONFIDENTIALITY

75:15-5-4. Client confidentiality

(a) The DVSA program must comply with both state and federal laws governing confidentiality and any exceptions to those laws.

(1) State Law: Case or client records, files or notes, of a DVSA program shall be confidential and shall only be released under certain prescribed conditions (74 O.S. § 18p-3):

(A) The case records, case files, case notes, client records, or similar records of a domestic violence or sexual assault program certified by the Attorney General or of any employee or trained volunteer of a program regarding an individual who is residing or has resided in such program or who has otherwise utilized or is utilizing the services of any domestic violence or sexual assault program or counselor shall be confidential and shall not be disclosed;

(B) For purposes of this subsection, the term "client records" shall include, but not be limited to, all communications, records, and information regarding clients of domestic violence and sexual assault programs; and

(C) The case records, case files, or case notes of programs specified in paragraph 1 of this subsection shall be confidential and shall not be disclosed except with the written consent of the individual, or in the case of the individual's death or disability, of the individual's personal representative or other person authorized to sue on the individual's behalf or by court order for good cause shown by the judge in camera.

(2) Federal Law:

(A) ~~VAWA 42 U.S.C. § 13925 (b)(2). Federally,~~ The U.S. Violence Against Women Act (VAWA) at 42 U.S.C. § 13925 (b)(2) January, 2006, mandates programs that receive VAWA funds ~~may shall~~ not reveal personally identifying information about victims without "reasonably time-limited," written, and informed consent. Under this provision, VAWA-funded programs are prohibited from disclosing personally identifying victim information to any third party, including to any database operated by any party outside of the domestic violence program. "Reasonably time-limited" is not defined in the statute, but it is determined by the circumstances and the purposes for which the client is requesting the release of information. It could be a few minutes, a few hours, or a few days. In no event should it be for more than 60 days;

(B) ~~FVPSA U.S. The Family Violence Prevention and Services Act (FVPSA) at 42 U.S.C. 10406(c)(5).~~

~~each have~~ mandates specific confidentiality protections that apply to many ~~domestic violence and sexual assault programs.~~ (42 U.S.C. 10402(a)(2)(E)). In order to ensure the safety of adult, youth and child victims of family violence, domestic violence or dating violence, and their families, Grantees FVPSA grantees and subgrantees under this title chapter shall protect the confidentiality and privacy of persons receiving services such victims and their families. Grantees and Subgrantees subgrantees shall not:

- (i) ~~Disclose any personally identifying information or individual information~~ collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs; or
- (ii) ~~Reveal individual client~~ personally identifying information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of ~~persons with disabilities~~ an individual with a guardian, the individual's guardian) about whom information is sought, whether for this program or any other Federal, or State, tribal, or territorial grant program, except that consent for release may not be given by the abuser or suspected abuser of the minor or individual with a guardian, person with disabilities or the abuser or suspected abuser of the other parent of the minor.

(C) ~~Housing Assistance Emergency Shelter Solutions Grants, at 42 U.S.C. § 11375 (c)(5)-Grant, require recipients are required to develop and implement procedures to ensure confidentiality of records pertaining to any individual who is provided family violence prevention or treatment services under this part and. All grant recipients must also certify that the address or location of the family violence shelter project assisted under this part will not be made public without permission~~ written authorization of the agency person or persons responsible for the operation of such shelter; and

(D) ~~Stewart B. McKinney Homeless Assistance Act, at 42 U.S.C. § 1130463, mandates that any victim service provider that is a recipient or subgrantee shall not disclose for purposes of the Homeless Management Information System (HMIS) any personally identifying information about any client. Subgrantees may be required to disclose for purposes of HMIS non-personally identifying information that has been de-identified, encrypted, or otherwise encoded. The Violence Against Women Act also specifically added~~ contains a provision that specifies a domestic violence program provider shall not disclose any personally identifying information about any client to the Homeless Management Information System (HMIS).

(b) Compliance with 75:15-5-4 shall be determined by a review of the program's policies and procedures; and on-site observation of the handling and review of client records.

75:15-5-6. Client record, handling, retention, and disposal

- (a) A program shall have written policies and procedures addressing the storage, retention period, and method of disposal of client records. These policies and procedures shall be compatible with protecting clients' rights against unauthorized confidential information disclosures.
- (b) Client records shall not be maintained and/or stored at a location other than the certified locations without the prior written authorization of the Office of the Attorney General.
- (c) Client records shall be easily retrieved by staff or volunteer as needed for providing and documenting services.
- (d) Compliance with 75:15-5-6 shall be determined by a review of the program's policies and procedures, and a review of office and files.

SUBCHAPTER 9. PROGRAM MANAGEMENT AND PERFORMANCE IMPROVEMENT

75:15-9-8. Annual program evaluation

- (a) On or before December 31 each year, The ~~the~~ agency shall ~~conduct~~ submit an annual evaluation of the program's services, facilities and policies and procedures, covering the period between July 1 - June 30. This evaluation shall be carried out according to a written plan established in policies and procedures to include the plan of evaluation, data to be reviewed, and the persons to conduct the evaluation, e.g., governing body members, staff, volunteers or other persons. The evaluation shall include an assessment to identify special populations of victims of sexual assault, domestic violence and stalking who are underserved or who have special needs.
- (b) Upon completion, this evaluation shall be submitted and reviewed by the governing body, and made available to staff and volunteers.
- (c) Compliance with 75:15-9-8 shall be determined by a review of the program evaluation, policies and procedures, staff meeting minutes, and/or any other supporting documentation.

SUBCHAPTER 13. PERSONNEL AND VOLUNTEERS

PART 1. PERSONNEL

75:15-13-1. Personnel policies and procedures

- (a) The program shall have written policies and procedures governing the conditions of agency employment to include appropriate screening and background inquiries to ensure client safety and confidentiality. Prior to employment ~~and at least annually,~~ all certified programs are required to ~~conduct~~ obtain an Oklahoma State Bureau of Investigation (OSBI)

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criminal history name search of employees against to also include a search of the registries maintained pursuant to the Oklahoma Sex Offenders Registration Act and the Mary Rippy Violent Crime Offenders Registration Act. At least annually thereafter, all programs are required to conduct a name search of employees against the registries maintained pursuant to the Oklahoma Sex Offenders Registration Act and the Mary Rippy Violent Crime Offenders Registration Act.

(b) The agency's policies and procedures shall be accessible to all personnel and each shall be informed of personnel policies and procedures, and any other materials regulating or governing the conditions of their employment.

(c) Written policies and procedures shall ensure personnel are informed of any changes to these afore stated materials.

(d) Compliance with 75:15-13-1 shall be determined by a review of the program's personnel policies and procedures, interviews with staff and volunteers, review of staff meeting minutes and/or other supporting documentation.

PART 2. VOLUNTEERS

75:15-13-12. Volunteer policies and procedures

(a) The program shall have written policies and procedures governing volunteer utilization to include appropriate screening and background inquiries to ensure client safety and confidentiality. Prior to direct services volunteering, all programs are required to obtain an Oklahoma State Bureau of Investigation (OSBI) criminal history name search of volunteers to also include a search of the registries maintained pursuant to the Oklahoma Sex Offenders Registration Act and the Mary Rippy Violent Crime Offenders Registration Act. At least annually thereafter, all programs are required to conduct a name search of direct services volunteers against the registries maintained pursuant to the Oklahoma Sex Offender Registration Act and the Mary Rippy Violent Crime Offenders Registration Act.

(b) The agency's policies and procedures shall include provisions for non-discrimination with regard to the agency's relationship with volunteers in accordance with applicable state and federal laws.

(c) Compliance with 75:15-13-12 shall be determined by a review of the program's written policies and procedures, and volunteer interviews.

SUBCHAPTER 15. GOVERNING AUTHORITY

75:15-15-3. Duties of the governing authority

(a) The duties of the governing authority shall include, but are not limited to:

- (1) Approving all policies for the operation of the agency, and ensuring procedures for the implementation of policies are in place and enforced;
- (2) Ensuring the agency operates in compliance with established agency policy, applicable state and federal law and administrative rules;

(3) Compliance with the by-laws of the governing authority;

(4) Ensuring all financial transactions and events requiring the approval of the governing authority are reviewed and authorized by the governing authority prior to any commitment by agency personnel;

(5) The selection, annual evaluation and continuance of retention of the executive director;

(6) Review and approve all contractual agreements;

(7) Review the program audit and certification reports from the VSU and approve any plans of correction; and

(8) Oversee the financial administration of the program, including review and approval of financial audits.

(b) Compliance with 75:15-15-3 shall be determined by a review of:

(1) By-laws and minutes of the meetings of the governing authority;

(2) Posted or otherwise distributed written materials regarding decisions and other notifications of the governing authority;

(3) Personnel meeting minutes of the program and its various divisions or geographical locations where applicable; and

(4) Written evaluation and any other documentation regarding the retention or selection or hiring of the executive director.

[OAR Docket #19-590; filed 6-13-19]

TITLE 75. ATTORNEY GENERAL CHAPTER 20. ADDRESS CONFIDENTIALITY PROGRAM

[OAR Docket #19-591]

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75:20-1-4 [AMENDED]

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These rules are promulgated pursuant to the requirements of the Administrative Procedures Act, 75 O.S. § 250, et seq. The purpose of these rules is to effectively implement and enforce the provisions of Title 22 § 60.14 of the Oklahoma Statutes. These rules supplement existing state laws, and being duly promulgated, have the force and effect of law. Amendments are necessary due to updated forms and changes to administrative process, to increase the time frame for application assistant designation from one to two years, to ease the notification of a participant by allowing for more modern means of communication. Amendments are also necessary to allow victims of human sex trafficking to participate in the program.

CONTACT PERSON:

Melissa Blanton, Chief, Victim Services Unit, Office of the Attorney General, 313 NE 21st Street, Oklahoma City, OK 73105, 405-522-0042, melissa.blanton@oag.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 13, 2019:

75:20-1-3. Forms and informational material

The Attorney General has prepared the following forms and informational materials related to this Chapter:

- (1) Application Assistant Agreement Form
- (2) Application Assistant Training Manual
- (3) Application Assistant Guide
- (4) Address Confidentiality Program Application
- (5) ~~Checklist for Application Program Agreement~~
- (6) Authorization Card Form
- (7) Change of Address Form
- (8) Address Confidentiality Program Brochure
- (9) ACP Implementation in Public Schools
- (10) Participant Verification Form

75:20-1-4. Application assistants

(a) Prior to being designated as an application assistant, an individual must:

- (1) Attend required training sessions provided by the ACP;
- (2) Agree to adhere to the policies, procedures and directions provided by the ACP for rendering assistance to program applicants; and
- (3) Complete and sign an application assistant agreement form.

(b) Upon completion of the registration process, the ACP will notify the application assistant of such designation.

(c) Designation as an application assistant is valid for ~~one~~ two year years.

(d) The application assistant agrees not to discriminate against any client, or potential program participant, because of race, creed, color, national origin, gender, sexual orientation, age, or mental, physical or sensory disability.

(e) An application assistant is not deemed to be an employee of the Office of Attorney General nor an agent of the Office of Attorney General in any manner whatsoever. An application

assistant shall not hold himself/herself out as, nor claim to be an officer or employee of the Office of Attorney General ~~nor~~ for the State of Oklahoma and shall not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the Office of Attorney General or of the State of Oklahoma.

(f) In the event an application assistant no longer wishes to be designated as such or leaves his or her present ~~the~~ position, the application assistant shall provide written notification to the ACP Program Manager.

(g) An application assistant's designation may be canceled by the Office of Attorney General for failing to abide by the requirements set forth in this Section or for failing to act in accordance with the requirements of the Address Confidentiality Program.

75:20-1-5. Criteria for program participation

To participate in the Address Confidentiality Program, an individual must meet the following criteria:

- (1) A person attempting to escape from actual or threatened domestic violence, sexual assault, human sex trafficking, or stalking, or a person residing with another person who is attempting to escape from actual or threatened domestic violence, sexual assault, human sex trafficking, or stalking;
- (2) ~~Fear~~ Fears for personal his or her safety and/or the safety of other family members;
- (3) Recently established a residence address in Oklahoma unknown to the ~~offender~~ abuser or is planning to move in the near future, and
- (4) Is eighteen (18) years of age or older or a parent or guardian acting on behalf of a minor or incapacitated person.

75:20-1-6. Applying for participation

(a) Any person meeting the criteria to be a program participant who wishes to apply to the Address Confidentiality Program shall complete the required application packet. The application packet consists of an Address Confidentiality Program Application and a Program Agreement.

(b) The application packet shall be obtained from an Application Assistant at a designated agency to assist persons in the application process.

(c) The completed and signed application packet shall be filed with the ACP.

(d) *Any assistance or counseling rendered to applicants shall in no way be construed as legal advice.* [22 O.S., § 60.14(H)]

75:20-1-9. Certification withdrawal and cancellation

(a) A program participant may withdraw from participating in the ACP program by submitting to the ACP written notice of withdrawal and ~~the participant's~~ his or her current authorization card. The withdrawal ~~shall~~ will be effective on the day of receipt of the ACP ~~receives~~ notification of ~~withdrawal by the ACP.~~

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(b) The ACP Program Manager shall cancel a program participant's certification and invalidate ~~the participant's~~ his or her authorization card if:

- (1) A program participant's certification term has expired and a renewal application has not been filed.
- (2) A program participant knowingly provided false or incorrect information when applying for certification.
- (3) A program participant obtains a name change.

(c) ~~The ACP~~ Program Manager may cancel a program participant's certification for any of the following reasons:

- (1) The program participant no longer resides at the residential address listed on the application and has not provided written notice after the change in address has occurred.
- (2) Mail forwarded to the participant is returned non-deliverable or unclaimed.

(d) The ACP shall attempt to ~~send written notification notify~~ the participant of the cancellation ~~to the participant by mail~~ at the last known mailing or residential address, by phone or by email.

[OAR Docket #19-591; filed 6-13-19]

TITLE 75. ATTORNEY GENERAL CHAPTER 25. STANDARDS AND CRITERIA FOR BATTERERS INTERVENTION PROGRAMS

[OAR Docket #19-592]

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Subchapter 3. Batterers Intervention
75:25-3-6 [AMENDED]
75:25-3-13 [AMENDED]
Subchapter 5. Personnel and Volunteers
Part 1. Personnel
75:25-5-1 [AMENDED]
Part 3. Volunteers
75:25-5-12 [AMENDED]
Part 5. Training
75:25-5-21 [AMENDED]

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These rules are promulgated pursuant to the requirements of the Administrative Procedures Act, 75 O.S. § 250, et seq. The purpose of these rules is to effectively implement and enforce the provisions of Title 74 § 18p-1 et seq. of the Oklahoma Statutes with regard to the certification of batterers intervention programs in the state. Amendments to the rules are necessary to strengthen requirements for maintenance and storage of client records to ensure confidentiality. Additional amendments are necessary to improve safety measures for program clients by increasing screening and training for program personnel and volunteers.

CONTACT PERSON:

Melissa Blanton, Chief, Victim Services Unit, Office of the Attorney General, 313 NE 21st Street, Oklahoma City, OK 73105, 405-522-0042, melissa.blanton@oag.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 13, 2019:

SUBCHAPTER 3. BATTERERS INTERVENTION

75:25-3-6. Client record, handling, retention, and disposal

(a) A program shall have written policy and procedures addressing the storage, retention period, and method of disposal of BIP records.

(b) Client records shall not be maintained and/or stored at a location other than the certified locations without the prior written authorization of the Office of the Attorney General.

(~~bc~~) Client records shall be easily retrieved by staff as needed for providing and documenting services.

(~~ed~~) Compliance with 75:25-3-6 shall be determined by a review of the program's policy and procedures, and a review of office and files.

75:25-3-13. Annual program evaluation

(a) On or before December 31 each year, the agency shall conduct submit an annual evaluation of the program's services, facilities and policy and procedures, covering the period between July 1 - June 30. This evaluation shall be carried out according to a written plan established in policy and procedures to include the plan of evaluation, data to be reviewed, and the persons to conduct the evaluation. Annual reports shall include at a minimum: screened, admitted, rejected, terminated, and completed.

(b) Upon completion, this evaluation shall be made available to the OAG, local district attorney, court, personnel and volunteers.

(c) Compliance with 75:25-3-13 shall be determined by a review of the program evaluation, policy and procedures, staff meeting minutes, and/or any other supporting documentation provided by the program.

SUBCHAPTER 5. PERSONNEL AND VOLUNTEERS

PART 5. TRAINING

PART 1. PERSONNEL

75:25-5-1. Personnel policies and procedures

(a) The program shall have written policies and procedures governing the conditions of agency employment to include appropriate screening and background inquiries to ensure client safety and confidentiality. Prior to employment, all certified programs are required to obtain an Oklahoma State Bureau of Investigation (OSBI) criminal history name search of employees to also include a search of the registries maintained pursuant to the Oklahoma Sex Offenders Registration Act and the Mary Rippy Violent Crime Offenders Registration Act. At least annually thereafter, all certified programs are required to conduct a name search of employees against the registries maintained pursuant to the Oklahoma Sex Offenders Registration Act and the Mary Rippy Violent Crime Offenders Registration Act.

(b) The agency's policy and procedures shall be accessible to all personnel and each shall be informed of personnel policies and procedures, and any other materials regulating or governing the conditions of their employment.

(c) Written policies and procedures shall ensure personnel are informed of any changes to these a fore stated materials.

(d) Compliance with 75:25-5-1 shall be determined by a review of the program's personnel policies and procedures, interviews with staff, review of staff meeting minutes and/or other supporting documentation.

PART 3. VOLUNTEERS

75:25-5-12. Volunteer policies and procedures

(a) The program shall have written policies and procedures governing volunteer utilization to include appropriate screening and background inquiries to ensure client safety and confidentiality. Prior to direct services volunteering, all certified programs are required to obtain an Oklahoma State Bureau of Investigation (OSBI) criminal history name search of volunteers to also include a search of the registries maintained pursuant to the Oklahoma Sex Offenders Registration Act and the Mary Rippy Violent Crime Offenders Registration Act. At least annually thereafter, all certified programs are required to conduct a name search of direct services volunteers against the registries maintained pursuant to the Oklahoma Sex Offenders Registration Act and the Mary Rippy Violent Crime Offenders Registration Act.

(b) The agency's policies and procedures shall include provisions for non-discrimination with regard to the agency's relationship with volunteers in accordance with applicable state and federal laws.

(c) Compliance with 75:25-5-12 shall be determined by a review of the program's written policy and procedure, and volunteer interviews.

75:25-5-21. Personnel training, batterers intervention services

(a) Personnel facilitating batterers intervention groups shall minimally have a graduate degree in a behavioral health or criminal justice related field and one-year related work experience, have a Bachelor's degree in a behavioral health or criminal justice related field and two years related work experience, or have been employed as a facilitator in a certified batterers intervention program prior to July 1, 2008.

(b) A certified batterers intervention program shall contract with or employ a qualified licensed professional as defined in 75:25-1-3 under "Counseling" for purposes of providing case consultation to personnel facilitating batterers intervention groups for client mental health and substance abuse issues. All BIP staff, BIP volunteers, BIP contractors, and BIP program supervisors shall complete batterers intervention facilitator orientation training sponsored by the Oklahoma Office of the Attorney General within six months of employment or volunteer service.

(c) Prior to providing any direct services, personnel facilitating batterers intervention services shall observe a minimum of 12 batterers intervention group sessions from an OAG certified program, and must complete 20 hours of training that includes, but is not limited to:

- (1) causes and dynamics of domestic violence;
- (2) identification of cultural and social influences that contribute to violence;
- (3) identification of coercive behavior;
- (4) coercive sexual behavior;
- (5) impact of domestic violence on children and the dynamics of the batterer as a parent;
- (6) basic defense mechanisms of batterers that promote deception, distortion and misrepresentation of the facts of the domestic abuse and the experience of the victim; and
- (7) Lethality indicators and assessment procedures such as:
 - (A) perceived loss of control over the victim through separation, divorce, victim fleeing,
 - (B) extreme jealousy,
 - (C) escalation of abuse,
 - (D) acts of abuse,
 - (E) suicide/homicide threats, plan to carry out either of above,
 - (F) use of, or threat to use weapon (especially a gun),
 - (G) strangulation,
 - (H) stalking,
 - (I) history of mental health problems, substance abuse,
 - (J) history of sexual abuse of victim or children,
 - (K) kidnapping of partner,
 - (L) unemployment; and
 - (M) abuse or cruelty to animals
- (8) the effects of alcohol and drug use/abuse and domestic violence;

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- (9) exploring myths and beliefs about domestic violence, including myths about provocation;
 - (10) impact of domestic violence on victims;
 - (11) batterers who re-offend;
 - (12) group dynamics and group structure;
 - (13) planning for non-violence and victim and dependent safety;
 - (14) power and control;
 - (15) facilitator boundaries and collusion with the batterer; ~~and~~
 - (16) providing safe victim and/or partner contact; and
- (d) Personnel who provide batterers intervention service may not provide services for the victim that may result in a conflict of interest.
- (e) Personnel who provide batterers intervention must declare in writing that they are:
- (1) violence free in their own lives,
 - (2) not abusing drugs or alcohol, and
 - (3) seeking to rid themselves of sexist attitudes.
- (f) Compliance with 75:25-3-21 shall be determined by:
- (1) Review of program's policy and procedures.
 - (2) Review of program's training records and other provided documentation of staff training.
 - (3) Review of personnel records.

[OAR Docket #19-592; filed 6-13-19]

TITLE 75. ATTORNEY GENERAL CHAPTER 30. STANDARDS AND CRITERIA FOR ADULT VICTIMS OF HUMAN SEX TRAFFICKING PROGRAMS

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- Subchapter 1. General Provisions
- 75:30-1-2 [AMENDED]
- Subchapter 3. Sexual Assault Programs for Adult Victims/Survivors of Sexual Violence as a Result of Human Sex Trafficking
- 75:30-3-1 [AMENDED]
- 75:30-3-2 [AMENDED]
- 75:30-3-5 [AMENDED]
- Subchapter 5. Client Records and Confidentiality
- 75:30-5-4 [AMENDED]
- 75:30-5-6 [AMENDED]
- Subchapter 9. Program Management and Performance Improvement
- 75:30-9-4 [AMENDED]
- Subchapter 11. Personnel and Volunteers
- Part 1. Personnel
- 75:30-11-1 [AMENDED]
- Part 3. Volunteers
- 75:30-11-8 [AMENDED]
- Subchapter 13. Governing Authority
- 75:30-13-2 [AMENDED]
- Subchapter 15. Client Rights, for Adult Victims of Human Sex Trafficking Programs
- 75:30-15-2 [AMENDED]

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n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

These rules are promulgated pursuant to the requirements of the Administrative Procedures Act, 75 O.S. § 250, et seq. The purpose of these rules is to effectively implement and enforce the provisions of Title 74 § 18p-1 et seq. of the Oklahoma Statutes. Amendments to the rules are necessary to clarify core services and to strengthen the maintenance and confidentiality of client records; to improve safety measures by increasing screening and training for program personnel and volunteers; and to correct grammatical errors, statutory citations and formatting.

CONTACT PERSON:

Melissa Blanton, Chief, Victim Services Unit, Office of the Attorney General, 313 NE 21st Street, Oklahoma City, OK 73105, 405-522-0042, melissa.blanton@oag.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 13, 2019:**

SUBCHAPTER 1. GENERAL PROVISIONS

75:30-1-2. Definitions

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

"**Admission**" means to accept a client for services or treatment.

"**Advocacy**" means the assistance provided which supports, supplements, intervenes and/or links the client and their dependents with the appropriate service components to encourage self-determination, autonomy, physical and emotional safety, and to offer information that will support independence. This can be viewed as a combination of active listening and facilitating personal problem solving along with researching options of action, safety planning, community outreach and education; it may include medical, dental, financial, employment, legal and housing assistance.

"**Advocate**" means a person, who offers clients appropriate services.

"**Assessment**" means an appropriate course of assistance based on a face-to-face formal screening.

"**Behavioral Health Professional**" means either licensed or under supervision for licensure as a Licensed Professional

Counselor, Licensed Marriage and Family Therapist, Licensed Behavioral Practitioner, Licensed Clinical Social Worker, psychiatrist or psychologist with clients in individual, group or family settings to promote positive emotional or behavioral change. A practicum student or intern in an accredited graduate program in preparation for one of the above licenses may provide counseling to victims of domestic violence, sexual assault, human sex trafficking or stalking and their dependents.

"Business day" shall mean a calendar day other than a Saturday, Sunday, or state holiday. In computing any period of time where the last day would fall on a Saturday, Sunday, or state holiday, the period shall run until 5:00 P.M. of the next business day.

"Case consultation" means review of a client's case by the primary service provider and other program personnel, consultants or both.

"Case management" means a professional practice in which the service recipient is a partner, to the greatest extent possible, in assessing needs, defining desired outcomes, obtaining services, treatments, and supports, and in preventing and managing crisis. Case management is a central service that includes: explanation of social services, service system advocacy, basic case coordination, assessments, and service plan development. It may also include transportation, translation, emotional support and counseling depending upon the training and resources of the case manager.

"Case manager" means someone with experience serving victims of crime, human sex trafficking victims, refugees, immigrants, crime victims or other related populations. Ideally, they will have received specific training to serve trafficking victims. The Case Manager will ensure that victims receive the services they need and facilitate access to community services.

"Certification" means a process that the Department of Health and Human Services, Office of Refugee Resettlement (HHS or ORR) uses to officially say that a person is a victim of a severe form of human sex trafficking. Advocates assisting victims of human sex trafficking can assist in the certification process by informing victims of their rights generally, and working with law enforcement and attorneys to ensure that they understand and advocate for the victim's individual needs once certified.

"Certified Domestic and Sexual Violence Response Professional" means a professional certified by the Oklahoma Coalition Against Domestic Violence and Sexual Assault.

"Certified adult victims of human sex trafficking program" means a status which is granted to an entity by the Oklahoma Attorney General, and indicates approval to offer shelter and services pursuant to 74 O.S. § 18p-6. In accordance with the Administrative Procedures Act, 75 O.S. § 250.3(8), certification is defined as a "license."

"Child" or **"Children"** means any unmarried individual from birth to eighteen years of age.

"Children's Activities" means direct child contact that is temporary in nature and is not intended to address the effects of human sex trafficking, sexual assault/abuse and trauma on

children i.e., ~~child care~~, special events such as Christmas parties, Easter egg hunts, that is supervised by program personnel or volunteers.

"Children's Services" means direct child contact that is intended to address the effects of human sex trafficking, sexual assault/abuse and trauma on children including but not limited to intake, needs assessment, groups, advocacy and any other service related to human sex trafficking, sexual assault/abuse and trauma.

"Client" means an adult individual who has applied for, is receiving or has received assistance or services of a certified sexual assault program for adult victims of human sex trafficking.

"Client record" includes, but is not limited to, all communication, records and information on an individual client.

"Commercial sex" means any form of commercial sexual activity such as sexually explicit performances, prostitution, participation in the production of pornography, performance in a strip club, or exotic dancing or display.

"Community" means the people, groups, agencies or other facilities within the locality served by the program.

"Contract" means a formal document adopted by the governing authority of the program and any other organization, agency, or individual that specifies services, personnel or space to be provided to the program and the monies to be expended in exchange.

"Court advocate" means a qualified, trained staff or volunteer whose duties are to offer assistance to victims and any dependents in legal matters relevant to their situation. A Court Advocate provides court advocacy through support, information, assistance, safety planning, accompaniment and intervention with any aspect of the civil or criminal legal system on behalf of a victim of human sex trafficking. Court Advocates shall not act as licensed attorneys and are not permitted to give legal advice, unless such person is a licensed attorney in the state of Oklahoma.

"Counseling" means face-to-face therapeutic session with one-on-one interaction between a licensed behavioral health professional and an individual to promote emotional and/or behavioral change focused on victim safety and perpetrator accountability. Those individuals providing professional therapy to adult/child victims/survivors of human sex trafficking as a result of sexual violence understand that victims of trafficking may exhibit depression, post-traumatic stress disorder, memory problems, fear, suspicion, rape trauma syndrome and physical distress as a result of the psychological stress, such as headaches, ~~stomachaches~~ stomach aches, chest pain and numbing of parts of the body. Interviews requiring them to recount their experiences can trigger these behaviors. Initially, many victims may be more comfortable with less formal, supportive counseling or "conversations" (not counseling) geared toward immediate problem solving, adjusting to life at the center and coping with loneliness and isolation from their communities.

"Crisis intervention" means short-term, immediate assistance and advocacy given by phone or in person to adult victims of human sex trafficking. Crisis intervention services include but are not limited to assessing dangerousness,

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safety planning, information about available legal remedies, establishing rapport and communication, identifying major problems, exploring feelings and providing support, exploring possible alternatives, and/or formulating an action plan and follow-up measures.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the facility, or the routine care of a client. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to clients, personnel, volunteers and visitors; incidents involving medication; neglect or abuse of a client; fire; unauthorized disclosure of information; damage to or theft of property belonging to a client or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"Cultural diversity" means the spectrum of differences that exists among groups of people with definable and unique cultural backgrounds.

"Direct services" means services delivered by a qualified staff member or volunteer, in direct contact with a client including telephone or other electronic contact.

"Director" means the person hired by the governing authority to direct all the activities of the organization.

"Documentation" means the provision of written, dated and authenticated evidence to substantiate compliance with standards, e.g., minutes of meetings, memoranda, schedules, notices, logs, records, policies, procedures, announcements, correspondence, services, and photographs.

"Education" means the dissemination of relevant information specifically focused on increasing the awareness of the community and the receptivity and sensitivity ~~of~~ human sex trafficking problems and services and may include a systematic presentation of selected information to impart knowledge or instructions, to increase understanding of specific issues or programs, to examine attitude or behaviors and stimulate social action or community support of the program and its clients.

"Emergency services" or **"crisis services"** means a twenty-four (24) hour capability for danger assessment, intervention and resolution of a client crisis or emergency that is provided in response to unanticipated, unscheduled emergencies requiring prompt intervention.

"Emergency transportation" means transportation for a victim of human sex trafficking to a secured identified location at which emergency services or crisis services can be offered.

"Executive director" means the person in charge of a facility as defined in this section.

"Facility" means the physical location(s) of a certified program governed by this chapter of Title 75.

"Family" means the children, spouse, parents, brothers, sisters, other relatives, foster parents, guardians and others who perform the roles and functions of family members in the lives of clients.

"Governing authority" means a group of persons having the legal authority, and final responsibility for the operations and functions of the entire certified adult victims of human sex trafficking program, or shelter, in and of all geographical locations and administrative divisions.

"Group counseling" means a face-to-face therapeutic session with a group of adult/child victims/survivors to promote emotional or behavioral change. Those individuals providing professional therapy to victims/survivors of human sex trafficking must be prepared to provide education and information about:

- (A) Physical and emotional safety;
- (B) How perpetrators maintain control and dominance over their victims;
- (C) The need to hold perpetrators accountable for their actions; and
- (D) The recognition that individuals victimized are not responsible for a perpetrator's violent behavior, and the role of society in perpetuating violence against women and the social change necessary to eliminate violence against women, including the elimination of discrimination based on race, color, gender, sexual orientation, age, disabilities, economic or educational status, religion or national origin.

"Guardian" means an individual who has been given the legal authority for managing the affairs of another individual.

"Indirect services" means services delivered by a staff member or volunteer, that does not involve direct services with a client or client's child.

"Initial contact" means a person's first contact with the program or facility requesting information or service by telephone or in person.

"Intake" means an interaction intended to discover what has happened, determine what the crisis is, assess dangerousness indicators, do safety planning, and/or establish the immediate needs of adult victims and any dependents of human sex trafficking to determine appropriate services and referrals. This includes interaction with an individual determined to be appropriate for ongoing service in order to obtain basic demographic information, gather vital information on the adult and the children, orient the victim/survivor to the program, program rules, and, if applicable, the facilities. Cultural needs should also be identified at this time.

"Language Interpretation" means activities that involve a client who is deaf or hearing impaired or has limited English proficiency requiring an interpreter for a staff member or volunteers to offer services.

"Licensure" means the official or legal permission to persons or health facilities meeting qualifications to engage in a given occupation or use a particular title.

"Medical care" means those diagnostic and treatment services which can only be provided or supervised by a licensed physician.

"Medication" means any drug that is legally in the possession of the client, his/her children, or a person seeking admittance to the shelter or his/her children; this definition includes prescription medications and medications available for legal purchase without a prescription.

"Mental health services" means a range of diagnostic, therapeutic, and rehabilitative services used in treating mental illness or emotional disorders, including substance abuse.

"Neglect" means failing to provide adequate personal care or maintenance, or access to medical care which results or may result in physical or mental injury or harm to a client.

"OAG" means the Office of the Oklahoma Attorney General.

"Objectives" means a specific statement of planned accomplishments or results which are quantitative, qualitative, time-limited and realistic.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1)(a) and maintained in the Office of Administrative Rules.

"Operation" means that clients are receiving services offered by the program.

"Personnel record" means a file containing the employment history and actions relevant to individual personnel and volunteer activities within an organization such as application, evaluation, salary data, job description, citations, credentials, etc.

"Persons with special needs" means persons with a condition which is considered a disability or impairment under the "American with Disabilities Act of 1990" including, but not limited to the deaf and hard of hearing, blind, physically disabled, developmentally disabled, persons with disabling illness, persons with mental illness. See "Americans with Disabilities Handbook," published by U.S. Equal Employment Opportunity Commission and U.S. Department of Justice.

"Policies" means statements of program intent, strategy, principle, or rules for providing effective and ethical services.

"Primary Victim" means a client who has experienced human sex trafficking or the consequences of the crimes first hand.

"Procedures" means the standard methods by which policies are implemented.

"Program" means a set of activities designed and structured to achieve specific objectives relative to the needs of the clients.

"Program evaluation" means the documented assessment activities, performed internally or externally, of a program or a service and its governing authority, staff, volunteers, activities and planning process to determine whether program goals are met, staff, volunteers, and activities are effective, and what effect, if any a program or service has on the problem which it was created to address or on the population which it was created to serve.

"Program goals" means broad general statements of purpose or intent.

"Qualified staff" means someone who has met the criteria for provision of direct services as defined in 75:30-11-12.

"Release" or **"Waiver"** means consent that is informed, written and reasonably time-limited. The terms may be used interchangeably to mean the same thing. 'Release' implies that confidential information is released (despite confidentiality or privilege protection), and 'Waiver' implies waiving the right (to maintain privilege). If release of information is compelled by statutory or court mandate, the program shall make reasonable

attempts to provide notice to victims affected by the disclosure of information and take steps necessary to protect the privacy and safety of the persons affected by the release of the information.

"Referral" means information disseminated and/or coordinated access to agency and community services to meet victim's/survivor's and their dependents identified needs.

"Safety Planning" means the process of working with the victim/survivor to develop tools in advance of potential abuse or violence for the immediate and long term safety of the victim/survivor. The plans should be based on the individual's dangerousness indicators and should include the safety needs of dependents. Human sex trafficking victims face danger from organized crime, and the levels of danger depend on a host of factors including how much a victim's testimony can harm the perpetrators and how violent and extensive a human sex trafficking organization may be. Additional risks may include isolation due to inability to speak English and distrust of law enforcement and the criminal justice system and unfamiliarity with ways to seek help and safety.

"Screening" means the process of determining, preliminarily, the nature and extent of ~~a person's individual's~~ an individual's problem in order to establish the service needs ~~of an individual~~. At a minimum, a screening shall include a brief personal history related to abuse, a review of the individual's strengths and resources, risk factors and referral needs.

"Secondary Victim" means a person with a relationship with the primary victim.

"Self Determination" means the right to make one's own choices.

"Service agreement" means a written agreement between two or more service agencies and individual service providers defining the roles and responsibilities of each party. The purpose of service agreements is to promote coordination and integration of service programs for the purpose of curbing fragmentation and unnecessary service duplication in order to assure a continuation of services.

"Service note" means the documentation of the time, date, location and description of services offered or provided, and signature, including electronic signature of staff or volunteer offering or providing the services.

"Service plan" means a plan of action developed and agreed upon by the client and service provider that contains service appropriate goals and objectives for the client.

"Sexual Assault" means a range of behaviors, including but not limited to rape, attempted rape, sexual battery, human sex trafficking, sexual abuse of children, sodomy and sexual harassment.

"Sexual assault services" means personal advocacy and support services provided to adult victims of human sex trafficking in settings such as law enforcement, medical settings or program offices.

"Sex trafficking" also known as **"Human Sex Trafficking for Commercial Sex"** means recruiting, enticing, harboring, maintaining, transporting, providing or obtaining, by any means, another person through deception, force, fraud, threat or coercion for purposes of engaging the person in a commercial sex act, or benefiting, financially or by receiving

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anything of value, from participating in a venture that has engaged in an act of human sex trafficking for commercial sex.

"Shelter services" means a certified residential living arrangement in a secure setting with support and advocacy services provided by qualified staff, for adult victims of sexual assault as a result of human sex trafficking and their dependents.

"Staff" means personnel who function with a defined role within the program whether full-time, part-time or contracted.

"Substance Abuse Services" means the assessment and treatment of diagnosable substance abuse and dependence disorders, as defined by current DSM criteria, by qualified alcohol and drug treatment professionals.

"Support" or **"Supportive Services"** means the provision of direct services to victims and their dependents for the purposes of preventing further violence, helping such victims to gain access to civil and criminal courts and other community services, facilitating the efforts of such victims to make decisions concerning their lives in the interest of safety, and assisting such victims in healing from the effects of human sex trafficking.

"Transitional living services" means temporary, independent living programs with support services provided by the staff or volunteers of the sponsoring human sex trafficking program. These services are extensions of human sex trafficking shelter services to victims of human sex trafficking and their dependents. These services permit victims to develop their financial capacity and other means to live independently.

"Trauma-informed services" means a service approach that recognizes the impact of trauma and acknowledges the role of trauma in the lives of victims/survivors and their dependents.

"Universal precautions for transmission of infectious diseases" means those guidelines promulgated by the U.S. Occupational Health and Safety Administration which are designed to prevent the transmission of Human Immunodeficiency Virus, hepatitis and other infectious diseases.

"Update" means a dated and signed review of a report, plan or program with or without revision.

"Voluntary Services" means a program shall not mandate participation in supportive services as a condition of shelter residency or emergency services (Family Violence Prevention and Services Act (426 U.S.C. 104018 et seq.))

"Volunteer" means any person who is not on the program's payroll, but provides either indirect or direct services and fulfills a defined role within the program and includes interns and practicum students.

SUBCHAPTER 3. SEXUAL ASSAULT PROGRAMS FOR ADULT VICTIMS/ SURVIVORS OF SEXUAL VIOLENCE AS A RESULT OF HUMAN SEX TRAFFICKING

75:30-3-1. Service programs core services

(a) Programs serving victims of sexual violence as a result of human sex trafficking and their dependents or family members should consider special service needs when developing a plan to offer services.

(b) Programs shall serve residential and non-residential victims of human sex trafficking.

(c) All certified programs shall provide safe, accessible, and trauma-informed services for victims of human sex trafficking and their dependents or non-offending family members.

(d) The program shall develop a philosophy of trauma-informed service provision based upon voluntary, ~~trauma-informed~~ services and individual self-determination. The written statement of the philosophy of services shall be approved by the governing authority and made available to the community, staff, volunteers and clients.

(e) The program shall have policies and protocols for accepting victims of human sex trafficking and develop procedures to maintain facilities, staffing, and operational methods, including a policy on the recruitment of board members, staff and volunteers who are representative of the diversity in the local community and the diversity of their clients.

(f) All certified programs shall ensure shelter is provided and be able to respond to special needs which may include:

(1) Length of stay shall be ~~determined by staff~~ based on the needs of the client.

(2) Safety planning should be designed to meet individual, unique needs. Safety planning can be complex due to danger created by an extensive human sex trafficking organization. Perpetrators often threaten the trafficked person's family in the country of origin as well, and such threats impact decisions made by a human sex trafficking victims.

(3) Human sex trafficking victims may never have assimilated into the local community or U.S. culture. Such lack of assimilation, in addition to language barriers and lack of family or community support may make it difficult to meet shelter requirements such as communal meals, support groups and roommates of different ethnic, cultural or religious backgrounds.

(4) Human sex trafficking victims may have language interpretation needs. The program shall provide access to an interpreter. It may be necessary for the program to provide translations of written consent forms and other documents.

(5) Human sex trafficking victims ~~often may~~ need intensive case management and advocacy for long extended periods of time. ~~Human sex trafficking victims may need to see a case manager daily. Because their goals are often obtained in incremental steps, human sex trafficking victims may need to be accompanied by staff or volunteers to access outside services.~~

(6) A victim of human sex trafficking may feel that she has to babysit for free, cook meals or do more than her fair share of the chores. Programs should be aware of this dynamic and ensure that staff, volunteers and other residents do not unwittingly allow this dynamic to occur.

(7) Programs should ensure victims are educated about the value of participating in the legal prosecution of offenders and that an appropriate release or waiver may be necessary. It is the human sex trafficking victim's choice to cooperate with law enforcement. Programs may have to

educate law enforcement about certain policies, confidentiality and privilege laws, victim issues, including safety concerns, and whether or not law enforcement may enter the shelter. Programs shall also inform law enforcement that victims cannot be restricted from leaving the shelter. Programs shall provide alternate, secure locations for interviews.

(8) Victims of human sex trafficking may be charged with federal or state crimes. Shelters should develop relationships with qualified criminal defense lawyers, including the federal and state public defender offices that can assist them.

(9) Establishing networks with additional service providers: Because of the unique needs of human sex trafficking victims, shelters may have to identify and establish relationships with service providers such as those who do refugee settlement, with whom they have no previous relationship, and assess the providers as potential referral sources.

(g) All certified programs shall provide services free from all forms of unlawful discrimination based on race, color, gender, sexual orientation, age; disabilities (i.e., physical, mental illness and substance abuse), economic or educational status, religion and national origin, including a policy that services to immigrant women will not be denied or diminished on the basis of immigration status.

(h) Compliance with 75:30-3-1 shall be determined by a review of the program's policies and procedures, service agreements, on-site observation, client and staff interviews and/or other supporting documentation.

75:30-3-2. Shelter program

(a) All shelters shall comply with section 75:30-3-1. Each shelter program shall provide long-term shelter services and staffing twenty-four (24) hours per day, seven (7) days per week and offer the following services:

- (1) Shelter programs shall provide room, food, bathing and laundry facilities, necessary clothing and toiletries for victims and their children free of charge. Programs shall not ask clients to use their nutrition assistance benefits to supplement food for the facility;
- (2) Shelters shall be staffed at all times when clients are in residence. When there are no clients in residence, each shelter program must assure availability for immediate contact or services;
- (3) Shelter programs shall offer screening, referral and linkage to clients and callers to appropriate community resources, to include assistance in making initial contact;
- (4) Each shelter program must ensure to the best of its ability the physical and emotional safety, security, and confidentiality of clients and the location of the shelter;
- (5) The shelter shall established and maintain involuntary exit criteria;
- (6) The shelter's policy shall have written procedures regarding the supervision of children; and
- (7) ~~In the event the shelter does not~~The shelter shall offer services to clients with dependent boys over the age of twelve, ~~the shelter shall have written policies regarding~~

~~linkage to alternative provision of services including emergency shelter;~~

(b) Compliance with 75:30-3-2 shall be determined by a review of policies and procedures, service agreements, on-site observation, and/or other supporting documentation.

75:30-3-5. Children's services

(a) Client records for both residential and non-residential children shall contain, at a minimum, the following information:

- (1) Intake and screening information:
 - (A) Client's name;
 - (B) Date of initial contact/intake;
 - (C) Age;
 - (D) Pertinent medical information;
 - (E) Mother's name;
 - (F) Father's name; and
 - (G) Name of adult client's abuser.
 - (2) Custody
 - (A) ~~Legal custody of the child~~Has the court entered a custody order? If yes, what does the order provide?;
 - (B) ~~Physical custody of the child~~With whom does the child physically reside?;
 - (C) Does the child have contact with ~~his or her biological father~~the adult client's abuser?; and
 - (D) Is visitation court ordered with the ~~perpetrator~~abuser?
 - (3) Safety, including but not limited to:
 - (A) History of child abuse or neglect;
 - (B) Exposure or witnessing violence;
 - (C) Child's response to witnessing violence; and
 - (D) History of involvement in the child welfare system; including the presence of current child welfare involvement.
 - (4) Service notes, which shall minimally include: the date, location, start time, duration and description of services provided delineated by time spent and service code, if applicable, or documentation of referral to other services or case management.
- (b) Within five (5) business days of entry into residential services (excluding advocacy or children's activities or crisis intervention), all certified programs shall offer to assess the risk and needs, including culturally specific needs, of the children accompanying primary victims and offer children's services to address the impact of violence and trauma in their lives and to facilitate healing. A risk and needs screening and assessment on each child, when accepted, shall minimally include information on his or her:
- (1) Brief trauma screening to assess the impact of trauma;
 - (2) Developmental history to include speech and language, hearing and visual;
 - (3) Medical or physical health history;
 - (4) Social history to include interactions with peers;
 - (5) History of use of tobacco, alcohol or other drugs;
 - (6) Parent/guardian custodial status; and
 - (7) Community referral needs.

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(c) Services provided to each child shall be culturally sensitive while addressing identified risks and needs, and shall minimally include:

- (1) Safety planning that is appropriate with respect to the child or adolescent's age, development, and education;
- (2) A specific safe, protected play area for children;
- (3) Advocacy with community systems;
- (4) Referral to community resources for needed services;
- (5) Linkage and advocacy with the local school system to provide for educational needs;
- (6) Parenting support for clients, if applicable; and
- (7) Children's groups using age appropriate topics and based on established best practices.

(d) Pursuant to Title 10A O.S. § 1-2-101, any person having reason to believe that a child under the age of eighteen (18) years is a victim of abuse or neglect shall report the matter promptly to the Department of Human Services.

(e) Compliance with this 75:30-3-5 shall be determined by a review of client records, program policies and procedures, on-site observation, written agreements, and/or other program supporting documentation.

SUBCHAPTER 5. CLIENT RECORDS AND CONFIDENTIALITY

75:30-5-4. Client confidentiality

(a) Protecting the confidentiality of human sex trafficking victims is critical to protecting their safety and establishing trust. Case or client records, files or notes, of a certified sexual assault program for adult victims of human sex trafficking program shall be confidential and shall only be released under certain prescribed conditions pursuant to Oklahoma law (74 O.S. § 18p-3).

(b) The program shall have written policies and procedures to ensure confidentiality of client information and identity the shelter location and govern the disclosure of information including verbal disclosure contained in client records. When a client record is established, the program shall discuss the confidentiality requirements and limitations with each client and maintain documentation in the client record that they have reviewed the circumstances under which confidential information may be revealed. Assisting human sex trafficking victims requires the release of confidential information more often, and to more organizations, than when assisting non-trafficked victims. This is particularly true if the victim is seeking certification from HHS or ORR. Staff or volunteers should always obtain the informed, written consent of the victim when relaying confidential information to any person, including law enforcement, federal prosecutors, state attorneys, victim advocates and social services agencies. The written consent forms must be translated into the victim's native language, state the name of the person or organization receiving the information, and contain an expiration date.

(c) The human sex trafficking program must comply with both the state and federal laws that govern confidentiality and any exceptions to those laws.

(1) **State Law:** Case or client records, files or notes, of a human sex trafficking program shall be confidential and shall only be released under certain prescribed conditions (74 O.S. § 18p-3):

(A) The case records, case files, case notes, client records, or similar records of a human sex trafficking program certified by the Attorney General or of any employee or trained volunteer of a program regarding an individual who is residing or has resided in such program or who has otherwise utilized or is utilizing the services of any human sex trafficking program or counselor shall be confidential and shall not be disclosed;

(B) For purposes of this subsection, the term "client records" shall include, but not be limited to, all communications, records, and information regarding clients of human sex trafficking programs; and

(C) The case records, case files, or case notes of programs specified in paragraph 1 of this subsection shall be confidential and shall not be disclosed except with the written consent of the individual, or in the case of the individual's death or disability, of the individual's personal representative or other person authorized to sue on the individual's behalf or by court order for good cause shown by the judge in camera.

(2) **Federal Law:**

(A) ~~VAWA 42 U.S.C. § 13925 (b)(2). Federally,~~ The U.S. Violence Against Women Act (VAWA) at 42 U.S.C. § 13925 (b)(2) January, 2006, mandates programs that receive VAWA funds ~~may shall~~ not reveal personally identifying information about victims without "reasonably time-limited," written, and informed consent. Under this provision, VAWA-funded programs are prohibited from disclosing personally identifying victim information to any third party, including to any database operated by any party outside of the domestic violence program. "Reasonably time-limited" is not defined in the statute, but it is determined by the circumstances and the purposes for which the client is requesting the release of information. It could be a few minutes, a few hours, or a few days. In no event should it be for more than 60 days;

(B) ~~FVPSA U.S. The~~ Family Violence Prevention and Services Act (FVPSA) at 42 U.S.C. 10406(c)(5), each have mandates specific confidentiality protections that apply to many ~~domestic violence and sexual assault programs. (42 U.S.C. 10402(a)(2)(E)).~~ In order to ensure the safety of adult, youth and child victims of family violence, domestic violence or dating violence, and their families, Grantees FVPSA grantees and subgrantees under this ~~title chapter~~ shall protect the confidentiality and privacy of ~~persons receiving services such victims and their families.~~ Grantees and subgrantees shall not:

(i) Disclose any personally identifying information ~~or individual information~~ collected in

connection with services requested, utilized, or denied through grantees' and subgrantees' programs; or

(ii) ~~Reveal individual client personally identifying information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of persons with disabilities, an individual with a guardian, the individual's guardian) about whom information is sought, whether for this program or any other Federal, or State, tribal, or territorial grant program, except that consent for release may not be given by the abuser or suspected abuser of the minor or individual with a guardian, person with disabilities or the abuser or suspected abuser of the other parent of the minor.~~

(C) ~~Housing Assistance Emergency Shelter Solutions Grants, at 42 U.S.C. § 11375 (c)(5) Grant, require recipients are required to develop and implement procedures to ensure confidentiality of records pertaining to any individual who is provided family violence prevention or treatment services under this part and. All grant recipients must also certify that the address or location of the family violence shelter project assisted under this part will not be made public without permission written authorization of the agency person or persons responsible for the operation of such shelter; and~~

(D) ~~Stewart B. McKinney Homeless Assistance Act, at 42 U.S.C. § 1130463, mandates that any victim service provider that is a recipient or subgrantee shall not disclose for purposes of the Homeless Management Information System (HMIS) any personally identifying information about any client. Subgrantees may be required to disclose for purposes of HMIS non-personally identifying information that has been de-identified, encrypted, or otherwise encoded. The Violence Against Women Act also specifically added contains a provision that specifies a domestic violence program provider shall not disclose any personally identifying information about any client to the Homeless Management Information System (HMIS).~~

(d) Compliance with 75:30-5-4 shall be determined by a review of the program's policies and procedures; and on-site observation of the handling and review of client records.

75:30-5-6. Client record, handling, retention, and disposal

(a) A program shall have written policies and procedures addressing the storage, retention period, and method of disposal of client records. This policy and procedures shall be compatible with protecting clients' rights against unauthorized confidential information disclosures.

(b) Client records shall not be maintained and/or stored at a location other than the certified locations without the prior written authorization of the Office of Attorney General.

(bc) Client records shall be easily retrieved by staff as needed for providing and documenting services.

(ed) Compliance with 75:30-5-6 shall be determined by a review of the program's policies and procedures, and a review of office and files.

SUBCHAPTER 9. PROGRAM MANAGEMENT AND PERFORMANCE IMPROVEMENT

75:30-9-4. Annual program evaluation

(a) On or before December 31 each year, the agency shall conduct submit an annual evaluation of the program's services, facilities and policies and procedures, covering the period between July 1 - June 30. This evaluation shall be carried out according to a written plan established in policies and procedures to include the plan of evaluation, data to be reviewed, and the persons to conduct the evaluation, e.g., governing body members, staff, volunteers or other persons. The evaluation shall include an assessment to identify special populations of victims of human sex trafficking who are underserved or who have special needs including culturally or specific needs.

(b) Upon completion, this evaluation shall be submitted and reviewed by the governing body, and made available to personnel and volunteers.

(c) Compliance with 75:30-9-4 shall be determined by a review of the program evaluation, policies and procedures, staff meeting minutes and/or any other supporting documentation.

SUBCHAPTER 11. PERSONNEL AND VOLUNTEERS

PART 1. PERSONNEL

75:30-11-1. Personnel policies and procedures

(a) The program shall have written policies and procedures governing the conditions of agency employment to include appropriate screening and background inquiries to ensure client safety and confidentiality. ~~Prior to employment and at least annually, all certified programs are required to conduct a obtain an Oklahoma State Bureau of Investigation (OSBI) criminal history name search of employees against to also include a search of the registries maintained pursuant to the Oklahoma Sex Offenders Registration Act and the Mary Rippy Violent Crime Offenders Registration Act while such persons are working with or serving children. At least annually thereafter, all certified programs are required to conduct a name search of employees against the registries maintained pursuant to the Oklahoma Sex Offenders Registration Act and the Mary Rippy Violent Crime Offenders Registration Act.~~

(c) Written policies and procedures shall ensure personnel are informed of any changes to these afore stated materials.

(d) Compliance with 75:30-11-1 shall be determined by a review of the program's personnel policies and procedures,

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interviews with staff and volunteers, review of staff meeting minutes and/or other supporting documentation.

PART 3. VOLUNTEERS

75:30-11-8. Volunteer policies and procedures

(a) The program shall have written policies and procedures governing volunteer utilization to include appropriate screening and background inquiries to ensure client safety and confidentiality. Prior to direct services volunteering, all certified programs are required to obtain an Oklahoma State Bureau of Investigation (OSBI) criminal history name search of volunteers to also include a search of the registries maintained pursuant to the Oklahoma Sex Offenders Registration Act and the Mary Rippy Violent Crime Offenders Registration Act. At least annually thereafter, all certified programs are required to conduct a name search of direct services volunteers against the registries maintained pursuant to the Oklahoma Sex Offenders Registration Act and the Mary Rippy Violent Crime Offenders Registration Act.

(b) The agency's policies and procedures shall include provisions for non-discrimination with regard to the agency's relationship with volunteers in accordance with applicable state and federal laws.

(c) Compliance with 75:30-11-8 shall be determined by a review of the program's written policies and procedures, and volunteer interviews.

SUBCHAPTER 13. GOVERNING AUTHORITY

75:30-13-2. Duties of the governing authority

(a) The duties of the governing authority shall include, but are not limited to:

- (1) Approving all policies for the operation of the agency, and ensuring procedures for the implementation of policies are in place and enforced;
- (2) Ensuring the agency operates in compliance with established agency policy, applicable state and federal law and administrative rules;
- (3) Compliance with the by-laws of the governing authority;
- (4) Ensuring all financial transactions and events requiring the approval of the governing authority are reviewed and authorized by the governing authority prior to any commitment by agency personnel;
- (5) The selection, annual evaluation and continuance of retention of the Executive Director;
- (6) Review and approve all contractual agreements;
- (7) Review the program audit and certification reports from the VSU and approve all plans of correction; and
- (8) Oversee the financial administration of the program, including review and approval of financial audits.

(b) Compliance with 75:30-13-2 shall be determined by a review of:

- (1) By-laws and minutes of the meetings of the governing authority;

(2) Posted, or otherwise distributed written materials regarding decisions, and other notifications of the governing authority;

(3) Personnel meeting minutes of the program and its various divisions or geographical locations where applicable; and

(4) Written evaluation and any other documentation regarding the retention or selection or hiring, of the Executive Director.

SUBCHAPTER 15. CLIENT RIGHTS, FOR ADULT VICTIMS OF HUMAN SEX TRAFFICKING PROGRAMS

75:30-15-2. Client rights

(a) Each client shall be afforded all constitutional and statutory rights of all citizens of the State of Oklahoma and the United States, unless abridged through due process of law by a court of competent jurisdiction. Each program shall ensure each client has the rights which are listed below:

(1) Each client has the right to be treated with respect and dignity. This shall be construed to protect and promote human dignity and respect for individual dignity;

(2) Each client has the right to a safe, sanitary, and humane living environment;

(3) Each client has the right to a humane psychological environment protecting the client from harm, abuse, and neglect;

(4) Each client has the right to an environment which provides reasonable privacy, promotes personal dignity, and provides physical and emotional safety;

(5) Each client has the right to receive services suited to the client's needs without regard to race, religion, gender, ethnic origin, age, degree of disability, handicapping condition, or legal status;

(6) Each client, on admission, has the absolute right to communicate with a relative, friend, clergy, or attorney, by telephone or mail, at the expense of the program if the client is indigent;

(7) Each client shall have and retain the right to confidential communication with an attorney, personal physician, or clergy;

(8) Each client has the right to uncensored, private communications including, but not limited to, letters and telephone calls. Copies of any personal letter, sent or received, by a client shall not be kept in the client's record without the written consent of the client;

(9) No client shall be neglected or sexually, physically, verbally, or otherwise abused;

(10) Each client shall have the right to practice free exercise of religious beliefs, and be afforded the opportunity for religious worship that does not infringe on the health or safety of others. No client shall be coerced into engaging in, or refraining from, any personal religious activity, practice, or belief;

(11) Each client has the right to be offered prompt, competent, appropriate services and an individualized service

plan. The client shall be afforded the opportunity to participate in the creation of the client's service plan. The client may consent or refuse to consent to the proposed services; (12) The records of each client shall be treated as confidential. This confidentiality remains intact even after the client's death;

(13) Each client has the right to refuse to participate in any research project or medical experiment without informed consent of the client, as defined by law. A refusal to participate shall not affect the services available to the client;

(14) Each client has the right to assert grievances with respect to any alleged infringement of these stated rights of clients, or any other subsequently statutorily granted rights;

(15) No client shall ever be retaliated against, or be subject to, any adverse conditions or services solely or partially because of having asserted her or his rights as stated in this section;

(16) Upon request, each client has the right to review the client's own records and Upon written request, each client has the right to receive a copy of the client's records or authorize an attorney or other person to do so. The program must provide a copy within a reasonable amount of time. However, The portion of the client's records regarding mental health or substance abuse treatment, shall be released pursuant to the provisions of 43A O.S. § 1-109 and 42 CFR shall apply;

(17) Each client has the right to know why services are refused and can expect an explanation concerning the reason why the client was refused particular services;

(18) Each client has the right to voluntary services which are self-determined; and

(19) Each client has the right to decide whether or not to participate in supportive services offered by the program.

(b) Each client shall be given a copy of these rights and the provision of such shall be documented in the client record.

(c) Programs shall have written policy to ensure each client is afforded, and has explained to him or her, these rights.

(d) Client rights shall be visibly posted in client areas of the facility.

(e) The OAG, in any investigation or program monitoring regarding client rights, shall have unimpeded access to clients, program records and program staff or volunteers.

(f) Compliance with 75:30-15-2 and applicable federal laws and regulations shall be determined by a review of program policies and procedures, client records, on-site observation, written agreements, and/or other program documentation.

[OAR Docket #19-593; filed 6-13-19]

**TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS
CHAPTER 10. LICENSURE OF CHIROPRACTIC PHYSICIANS**

[OAR Docket #19-588]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 3. Application, Examination and Licensing
140:10-3-1 [AMENDED]
140:10-3-2 [AMENDED]
140:10-3-6 [AMENDED]
Subchapter 5. Procedures for Renewal Licenses
140:10-5-1 [AMENDED]
140:10-5-3 [AMENDED]
Subchapter 8. Administrative Fees and Penalties
140:10-8-1 [AMENDED]

AUTHORITY:
Oklahoma Board of Chiropractic Examiners; 59 O.S. 2001 Section 161.7, 161.8 and 161.9

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n/a

GIST/ANALYSIS:
The proposed amendments are necessary in order to come in line with current statutory amendments in Title 59 O.S. 161.7, 161.8 and 161.9 which were amended during the 2018 legislative session.

CONTACT PERSON:
Beth Kidd, Executive Director, 421 NW 13th Street, Suite 180, Oklahoma City, Oklahoma 73103, 405-522-3400.

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 25, 2019:

SUBCHAPTER 3. APPLICATION, EXAMINATION AND LICENSING

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140:10-3-1. Application for an original license by examination

(a) An application to the Board for an original license to practice chiropractic shall be made on forms created and approved by the Board and shall be signed and verified under oath by the applicant. The application shall include:

- (1) A passport photo;
- (2) the affidavits of two (2) chiropractic physicians who are not related to or under financial obligation to the applicant and which state that the applicant is of good moral character;
- ~~(3) a copy of the applicant's high school diploma or transcripts, certified as being a true and correct copy~~
- ~~(4) a copy of the applicant's pre-chiropractic college or university transcript or transcripts, certified:~~
 - ~~(A) by an official of the issuing college or university as being true and correct; and~~
 - ~~(B) by an official of the University of Oklahoma as containing at least ninety (90) hours of college credit accepted by the University of Oklahoma;~~
- ~~(35) a copy of the applicant's diploma from chiropractic school college, or program accredited by an accrediting agency either recognized by the U.S. Secretary of Education or a Board approved chiropractic school, college or program, certified by an official of the issuing school, college or program as being true and correct, except as provided in (b) and (c) of this Section;~~
- ~~(46) A money order, certified check or cashier's check payable to the Board in the amount of One Hundred Seventy-Five Fifty Dollars (\$175.00) as payment of the application fee. Such fee is not refundable under any circumstances.~~

(b) An applicant who has graduated from a chiropractic program outside the United States must have completed an educational program leading to a degree in chiropractic from an institution authorized to operate by the government having jurisdiction in which it is domiciled. The applicant must submit a diploma or equivalent documentation of successful completion of the program as certified by an official of the institution or the government having jurisdiction. All credentials, diplomas, and other documentation submitted to the Board in a foreign language shall be accompanied by a notarized English translation. The applicant shall provide satisfactory evidence of meeting the requirements for permanent residence or temporary nonimmigrant status as set forth by the United States Citizenship and Immigration Services.

(c) A senior student at an accredited chiropractic college may, prior to graduation, make application for an original license by examination. In such event, the application shall be accompanied by a statement on a form approved by the Board containing certification by an official of such college that the applicant is a senior at the college and is expected to graduate within one (1) year from the date of the certificate. An original license shall not, however, be issued to such an applicant until the applicant has submitted to the Board a copy of the applicant's diploma from said accredited chiropractic college, certified as true and correct.

(d) Applicants shall submit documentary evidence of completion of Parts I, II, III, IV and physiotherapy as administered by the National Board of Chiropractic Examiners with a passing score.

(e) An application and all accompanying documents must be completed and received by the Board no later than thirty (30) days prior to the date of the next scheduled examination in order to be eligible to take the examination.

(f) A fee of One Hundred Seventy-Five Fifty Dollars (\$175.00) as payment for the examination if approved by the Board of Chiropractic Examiners. Such fee is not refundable under any circumstances.

140:10-3-2. Review of application

(a) Prior to each scheduled examination, the Executive Director shall report to the Board the number of completed applications received by the Board. Board members shall review each application for an original license by examination, determine if the applicant has satisfied all requirements of the Act and of this Title, and approve or disapprove each application.

(b) If an application is approved by the Board, the applicant shall be notified by the Executive Director of such approval and the time, date, and place of the next scheduled examination.

(c) If an application is disapproved by the Board, the applicant shall be notified by the Executive Director of the Board of such disapproval by the return of the application to him together with the reason therefore fully stated in writing.

(d) A fraudulent or false statement as to any material fact which is contained in any application for an original license, or the failure to provide any requested information, shall constitute sufficient cause for the disapproval of the application.

(e) The Board may disapprove an application on any grounds applicable to denial of licensure as provided for in the Act or the rules promulgated under this Title.

140:10-3-6. Additional educational requirements; re-examination; denial of license

(a) The Board shall not issue an original license, by examination or relocation of practice to an applicant until the applicant has completed all requirements of the Act and of this Title.

(b) If an applicant fails any part of any examination conducted or accepted by the Board three (3) times, the Board may, at its discretion, require proof of additional education or training in those subjects failed by the applicant before the applicant is allowed to be re-examined.

(c) An applicant who fails any part of any examination conducted or accepted by the Board may be required to retake all portions of the examination or only those parts which the applicant failed, at the discretion of the Board.

(d) No later than one (1) year after receiving a license to practice in Oklahoma, chiropractic physicians shall complete an orientation course of training approved by the Board. The orientation course hours shall count as continuing education credits for the year in which they were earned. The course shall consist of no less than eight (8) hours. Subjects covered in the orientation course shall include but not be limited to:

- (1) Documentation including HIPAA compliance
- (2) Sexual Boundaries
- (3) Advertising
- (4) Ethics

(e) The Board may deny an original license on any of the grounds provided for in the Act or the rules promulgated under this Title.

SUBCHAPTER 5. PROCEDURES FOR RENEWAL LICENSES

140:10-5-1. Renewal license requirements

(a) Except as provided in 140:10-5-4, related to senior inactive licenses, and 140:10-5-5, related to nonresident licenses, each licensee holding an original license to practice chiropractic in this state shall pay to the Board, on or before the first day of July of each year hereinafter, an annual renewal fee of Two Hundred Seventy-Five (\$275.00)~~Two Hundred Twenty Five Dollars (\$225.00)~~, which shall be accompanied by:

- (1) Evidence that the licensee has satisfied Board approved chiropractic continuing education requirements; or
- (2) A statement on a form created and approved by the Board, containing:
 - (A) An affidavit from the licensee which states:
 - (i) the licensee was unavoidably prevented from satisfying the continuing education requirements;
 - (ii) the reason or reasons therefore; and
 - (iii) that the licensee is not attempting to circumvent or abrogate the intent of such continuing education requirements; and
 - (B) the affidavits of two (2) licensed chiropractic physicians who personally know the licensee, vouch for the licensee's good standing in the chiropractic profession, and recommend that the licensee be issued a renewal license.

(b) The Board shall, upon receipt of the renewal license fee, and upon determination of compliance with the requirements of ~~subsection A of Section 161.11~~ of the Act, issue a Chiropractic renewal license, which shall entitle the holder to practice chiropractic in this state during the succeeding calendar year.

(c) Attendance by a licensee at a license renewal program shall be certified by an officer of the sponsoring or administering association, which officer shall have been previously approved by the Board for the purpose of providing such certification. The list of attendees from the continuing education seminar, shall be submitted no later than forty-five (45) days after the approved continuing education seminar. The list shall be submitted by the certified officer of the association, and sent to the Board after all signatures and/or time cards have been verified by the individual certified to report to the Board of Chiropractic Examiners on all seminar attendees. If there are any missing signatures and/or any other missing documentation the licensee will not be able to renew his/her license for the renewal year.

(d) Individuals who take the allowable eight (8) hours of an approved out of state educational seminar shall be responsible for obtaining proof of attendance. The doctor shall submit proof of attendance with renewal application.

(e) Distance learning whether offered in-state or out-of-state, online or correspondence from program approved by the Board may also satisfy eight (8) hours of out-of-state continuing education

(f) Subject to the provisions of section 140:10-5-2 the Board of Chiropractic Examiners hereby recognizes the requirements adopted from time to time by the Federation of Chiropractic Licensing Boards Providers of Approved Continuing Education (FCLB PACE) as the requirements of the Board. The Board recognizes FCLB PACE Recognized Providers as satisfying the requirements of the Board for purposes of the licensure renewal process. The Board, however, reserves the approval authority for all programs based on furtherance of professional development and related areas, and in the interest of the public protection.

(g) Licensee on active duty as a member of the Armed Forces of the United States.

(1) In accordance with Title 59, O.S., Section 4100.6 of the Post-Military Service Occupation, Education and Credentialing Act, while a licensee is on active duty the license may be renewed without payment of the renewal fee and without showing completion of the continuing education requirement. Such waiver shall be requested in writing to the Board prior to license expiration along with evidence of the order for active duty. The license issued pursuant to this rule may be continued as long as the licensee is a member of the Armed Forces of the United States on active duty and for a period of at least one (1) year after discharge from active duty. Upon discharge from active duty and a request for license activation, the licensee shall submit to the Board evidence of successful completion of the continuing education requirement for the current license renewal term.

(2) If a licensee on active duty does not request such a waiver in writing and the license is suspended by operation of law, the applicant may provide the Board the documentation as required in subparagraph (1) of this subsection no later than one (1) year after discharge from active duty in order to remove the suspension and reactivate the license.

140:10-5-3. Revocation or suspension of license; reinstatement

(a) In the event that a licensee fails to obtain a renewal license on or before the first day of July of each year, the original license of such licensee shall lapse or be suspended as provided for at Section 161.11 of title 59 of the Oklahoma Statutes. The Board may reinstate the original license of such person upon the payment of all fees due, plus a penalty fee in the amount provided for in the Board's fee schedule, and upon presentation to the Board of satisfactory evidence of compliance with the continuing education requirements and any other education or training which the Board, in its discretion, deems necessary.

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(b) If the Board receives notice from the Oklahoma Tax Commission that a licensee is not compliant with the Oklahoma income tax law pursuant to Section 238.1 of Title 68 of the Oklahoma Statutes, the license of that physician shall not be renewed but shall be automatically suspended pursuant to Section 161.11 of the Act. The suspension shall begin on July 1 of the renewal year and shall not be lifted until:

- (1) the Board receives notice from the Oklahoma Tax Commission that the licensee has come into compliance with Oklahoma income tax law; and
- (2) the licensee has paid a reinstatement fee of \$400.00.

SUBCHAPTER 8. ADMINISTRATIVE FEES AND PENALTIES

140:10-8-1. Fees

Fee Schedule.

- (1) **Examination.** The following fees shall be assessed for licensure and examination of Chiropractors:
 - (A) Original license: \$175.00
 - (B) Relocation of Practice: \$175.00
 - (C) Examination Fee: \$175.00
- (2) **Licensure.** The following fees shall be assessed for licensure of Chiropractors:
 - (A) Renewal fee active license ~~\$225.00~~-\$275.00
 - (B) Renewal fee inactive license \$175.00
 - (C) Retired license fee \$50.00
 - (D) Reinstatement fee not exceed \$400.00
 - (E) Penalty fee for late renewal \$150.00
- (3) **Duplication or modification of license.** A fee of \$75.00 shall be assessed for duplication or modification of original license.
- (4) **Miscellaneous fees:** the following fees shall be assessed by the Board
 - (A) Letter of good standing and/or verifications for other licensing Boards with seal: \$35.00
 - (B) Verification of licensure: \$10.00 per license
 - (C) Duplication of proof of license renewal: \$10.00
 - (D) Duplication of Public Records: per page: \$0.25
 - (E) Returned check processing fee: \$20.00
 - (F) Duplication of certificates issued by the Board: \$20.00
 - (G) Directory \$35.00 hard copy and/or diskette
 - (H) Search fee for records requested for commercial purposes: \$30.00
 - (I) Continuing education application fee: \$300.00
 - (J) Post Doctoral Diplomate Chiropractic Specialties registration/re-registration Fee: \$50.00
 - (K) Copy of tape of a board meeting and or an administrative hearing \$20.00
 - (L) Labels of addresses of all licensed chiropractors \$50.00
 - (M) Travel-to-Treat registration \$50.00
 - (N) Non-attendance application request \$100.00

- (O) Certified chiropractic assistant fees:
 - (i) Initial Application fee: \$50.00
 - (ii) Examination fee: \$50.00
 - (iii) Certification Renewal: \$50.00 every two years
 - (iv) Failure to renew penalty: \$25.00

[OAR Docket #19-588; filed 6-13-19]

TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 15. SPECIAL CERTIFICATES AND MISCELLANEOUS PROVISIONS

[OAR Docket #19-589]

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PERMANENT final adoption

RULES:

Subchapter 8. Animal Chiropractic Diagnosis and Treatment

140:15-8-1 [AMENDED]

140:15-8-2 [AMENDED]

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n/a

GIST/ANALYSIS:

The proposed amendments are necessary in order to be in line with current national standards.

CONTACT PERSON:

Beth Kidd, Executive Director, 421 NW 13th Street, Suite 180, Oklahoma City, Oklahoma 73103, 405-522-3400.

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 25, 2019:

SUBCHAPTER 8. ANIMAL CHIROPRACTIC DIAGNOSIS AND TREATMENT

140:15-8-1. Certificate of a chiropractor and animal chiropractic diagnosis and treatment

(a) A chiropractic physician may engage in practice of animal chiropractic diagnosis and treatment if certified to do so by the Board. A licensed chiropractic physician may provide chiropractic treatment to an animal without being certified in animal chiropractic diagnosis and treatment if the animal has been referred to the chiropractic physician by a licensed veterinarian.

(b) "Animal chiropractic diagnosis and treatment" means treatment that includes vertebral subluxation complex (vcs) and spinal manipulation of nonhuman vertebrates. The term "animal chiropractic diagnosis and treatment" shall not be construed to allow the:

- (1) use of x-rays
- (2) performing surgery
- (3) dispensing or administering of medications, or
- (4) performance of tradition veterinary care.

(c) The Board is charged by statute to establish educational criteria for certification standards in animal chiropractic diagnosis and treatment. According, the Board states that the following educational criteria will be applied to any licensed chiropractic physician who requests certification in animal chiropractic diagnosis and treatment, The criteria shall include education and training in:

- (1) Anatomy, including sacropelvic, thoracolumbar, cervical and extremity;
- (2) Equine and canine adjustments;
- (3) Topographical laboratory;
- (4) Chiropractic basis, including history and systems review, subluxation, and vertebral subluxation complex;
- (5) Veterinary basics, including anatomy as it relates to restraint and positioning, physiology, and pharmacology, metabolic and contagious diseases and lameness;
- (6) Chiropractic and neurological diagnosis;
- (7) Radiology and biomechanics;
- (8) Proficiency in basic technique;
- (9) Pathology;
- (10) Podiatry, including lower limb dissection;
- (11) Chiropractic and veterinary philosophy;
- (12) Professional ethics and legalities; and
- (13) Identification of animals.

(d) Any licensed chiropractic physician requesting certification in animal chiropractic diagnosis and treatment shall have completed no less than ~~210-150~~ hours of education and training education as set forth above.

(e) Any chiropractic physician engaged in the practice of animal chiropractic shall maintain complete and accurate records and/or patient files in their office for a minimum of three years.

140:15-8-2. Continuing education hours

(a) Each doctor of chiropractic in the State of Oklahoma who is registered with the Board pronouncing that said chiropractic physician is engaged in the practice of animal chiropractic diagnosis and treatment must ~~re-register and submit a sworn statement of their~~ hours of continuing education completed with an AVCA (American Veterinarian Chiropractic Association) certified course during the concluding licensing period.

Every three (3) years after original registration, each applicant shall submit documentation of completion of a total of 20 hours of continuing education during the three (3) year period. These hours are in addition to the annually required 16 hours to renew a license as a chiropractic physician.

(b) Upon successful demonstration of these requirements, the Board shall continue the applicant's name on the registry of chiropractic physicians who are certified to engage in the practice of animal chiropractic diagnosis and treatment.

[OAR Docket #19-589; filed 6-13-19]

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

[OAR Docket #19-616]

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RULES:

- Subchapter 1. Description of Organization
158:1-1-2 [AMENDED]
- Subchapter 3. General Operation and Procedures
158:1-3-13 [NEW]
- Subchapter 5. Procedure in Individual Proceedings
158:1-5-1 [AMENDED]
158:1-5-2 [AMENDED]
158:1-5-3 [AMENDED]
158:1-5-4 [AMENDED]
158:1-5-13.1 [AMENDED]
- Subchapter 9. Actions to Improve Workforce Development and Skilled Trade Education [NEW]
158:1-9-1 [NEW]
158:1-9-2 [NEW]
158:1-9-3 [NEW]

AUTHORITY:

Construction Industries Board; 59 O.S. §§ 858-627, 1000.4, 1000.5, 1002, 1032, 1681, 1850.3, 1151.2a, and 1151.4

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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October 1, 2019

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

Gist: The proposed changes provide a new definition and clarify both statutory and administrative procedures for the public.

Analysis: No fees are established or changed by the proposed rules. The proposed amendments to 158:1-1-2 clarify the definition of Administrative

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Law Judge and provide a definition for petition. The proposed amendments for 158:1-3-13 add procedures for reciprocity and portability of licensure and registration. The proposed amendment to 158:1-5-1 clarifies procedures for serving petition and notice of hearing in individual proceedings. The proposed amendment to 158:1-5-2 clarifies the notice of individual hearing as it relates to the Oklahoma Inspector's Act. The proposed amendment to 158:1-5-3 clarifies service of paper and documents. The proposed amendments to 158:1-5-13.1 clarifies how appeals are to be filed. The proposed addition of 158:1-9-1, 158:1-9-2 and 158:1-9-3 is to add procedures and duties for a skilled trade education and workforce development fund.

CONTACT PERSON:

Stephanie Brown, Board Secretary/Executive Assistant, 405-521-6550.

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 OCTOBER 1, 2019:

SUBCHAPTER 1. DESCRIPTION OF ORGANIZATION

158:1-1-2. Definitions

Unless the context otherwise requires, singular words shall be deemed to include the plural, and masculine words to include the feminine, and vice versa. The following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

"**Act**" means the Construction Industries Board Act as found at 59 O.S. § 1000.1, *et seq.*

"**Administrator**" means the Administrator of the Board as described in the Act.

"**Administrative Law Judge**" means a person appointed by the Construction Industries Board to conduct an individual hearing under the Administrative Procedures Act and may be an employee or a private attorney with whom the Construction Industries Board has a contract for services, who may also be referred to as a hearing examiner or a hearing officer.

"**Board**" means the Oklahoma Constructions Industries Board.

"**Employees**" means the administrative staff of the Board referenced in 59 O.S. 2011 § 1000.4(B)(5) who were previously codified as unclassified employees in Senate Bill 354, effective July 1, 2001.

"**Petition**" means a pleading initiating an individual proceeding under the Administrative Procedures Act and may be in the form of an individual petition or a citation.

"**Respondent**" means the person(s) or legal entity(ies) named in a petition for an individual proceeding, against whom relief is sought.

SUBCHAPTER 3. GENERAL OPERATION AND PROCEDURES

158:1-3-13. Reciprocity, exam equivalency and portability of licensure and registration

(a) **Reciprocity.** Pursuant to the Construction Industries Board Act and trade licensing and registration acts administered by the Board, the Board may enter into reciprocity agreements with another state or jurisdiction, upon a satisfactory showing that the requirements for obtaining a license by examination in Oklahoma are deemed by the Board to be substantially the same or equivalent to the requirements of the other jurisdiction's original license by examination. A current Oklahoma reciprocity agreement allows Oklahoma and another jurisdiction, to reciprocate by license type and category, without the Oklahoma licensee or the in-coming applicant being required to meet any additional requirement in either jurisdiction.

(b) **Exam equivalency.** To allow licensees to have more portability of their license, one who is seeking Oklahoma licensure may be eligible for exam equivalency in the category of their home jurisdiction license by examination. The Board may enter into exam equivalency agreements with another state or jurisdiction concerning an examination requirement of a license upon a satisfactory showing that the examination in Oklahoma and the other jurisdiction is deemed by the Board to be an equivalent examination. After there is an approved exam equivalency agreement with the jurisdiction, applications may be accepted from that jurisdiction showing proof of successfully passing the exam. Proof of continuous licensing in good standing from time of examination is required. A current examination equivalency agreement allows another jurisdiction's exam, that is evaluated by a trade Committee to be equivalent to Oklahoma's exam for the same license type and category, to be approved by the Board and accepted for the exam requirement in Oklahoma. Exam equivalency only applies to the examination requirement of a license, therefore all other requirements for that license type and category must still be completed to obtain a license in Oklahoma.

SUBCHAPTER 5. PROCEDURE IN INDIVIDUAL PROCEEDINGS

158:1-5-1. Petition and notice

(a) Individual proceedings may be initiated by filing a petition with the hearing clerk and by serving the petition on all Respondents. Each petition shall name the Respondent and shall contain a reference to the statutes and rules involved, a brief statement of the facts giving a right to relief and of the relief requested. The petition may allege facts without stating specific facts if the specific violations are included in a document which is incorporated by reference and attached to the petition. The petition shall meet the requirements of "notice" under the APA.

(b) For matters pursuant to the Oklahoma Inspectors Act, notice of an individual proceeding will be served upon an individual licensee or for political subdivisions the mayor, city manager, or city attorney for the Respondent jurisdiction according to the Procedures of the Construction Industries Board's administrative rules in Title 158, Ch 1.

158:1-5-2. Notice of hearing

(a) The Administrator, his or her designee, or the Administrative Law Judge shall schedule the date, time and place of the hearing. The hearing clerk shall notify both parties. The hearing shall be scheduled at least fifteen (15) days after the date of service of the petition. Both parties may agree to an earlier date. If a specific law requires a hearing in fewer days, that statute shall be followed. If an emergency exists, a hearing may be conducted without the filing of a petition and without the fifteen (15) day notice.

(b) For matters pursuant to the Oklahoma Inspectors Act, notice of an individual hearing will be served upon an individual licensee or for political subdivisions the mayor, city manager, or city attorney for Respondent jurisdiction according to the Procedures of the Construction Industries Board's administrative rules in Title 158, Ch 1.

158:1-5-3. Service of petition and notice of hearing

(a) **Service.** The Petition and notice of hearing shall be served on the Respondent by personal service or by mail or other lawful means.

(b) **Personal service.** Personal service of the petition and the notice of hearing upon an individual shall be made by delivering the Petition personally on the Respondent or by leaving a copy of the Petition at the individual's dwelling place or the usual place of abode with some person residing therein who is fifteen (15) years of age or older.

(c) **Board as petitioner.** Where the Board is the petitioner, personal service of the petition and notice of hearing may be made by a person designated by the Administrator to make such service for the Board.

(d) **Service by mail.** Service of the petition and the notice of hearing may be made by certified mail, return receipt requested, restricted delivery.

(e) **Proof of service.** The person serving the petition and the notice of hearing shall file proof of service with the hearing clerk within twenty (20) days of service or before the date of the hearing whichever is sooner. Acknowledgement in writing by the Respondent or appearing at the hearing without objection to service is equivalent to service.

(f) **Substitute service.** Substitute service in a matter against a licensee may be completed after personal and mail service are attempted with the filing of an affirmation of the attempted service and that the petition and notice of hearing were mailed first class mail to the last known address of the licensee.

(g) **Service of Proposed Order and Notice of Appeal.** A person shall file an entry of appearance and agreement to allow use of regular mail for proposed orders. Issuance of proposed orders and the notice of appeal may then be sent by regular mail. If an entry of appearance or agreement is not filed, then the proposed order and notice of appeal will be sent using a certificate of mailing indicating the date of mailing and the name and address of the addressee.

(h) Oklahoma Inspector's Act. For matters pursuant to the Oklahoma Inspectors Act, notice of an individual hearing will

be served upon an individual licensee or for political subdivisions the mayor, city manager, or city attorney for the Respondent jurisdiction according to the Procedures of the Construction Industries Board's administrative rules in Title 158, Ch 1.

158:1-5-4. Service of other papers and documents

(a) Service of all other documents and papers connected with an individual proceeding shall be served on the parties or their counsel by delivering a copy or mailing a copy by regular mail.

(b) For matters pursuant to the Oklahoma Inspectors Act, service of all other documents and papers connected with an individual proceeding will be served upon an individual licensee or for political subdivisions the mayor, city manager or city attorney for the Respondent jurisdiction according to the Procedures of the Construction Industries Board's administrative rules in Title 158, Ch 1.

158:1-5-13.1. Appeals

(a) Any person subject to an administrative fine, penalty or fee shall have all rights to appeal according to the Administrative Procedures Act once a final order is authorized by the Board. A person may appeal a proposed order to the Board, and any final order by the Board may be appealed to the district court of Oklahoma County.

(b) In order to appeal the Administrative Law Judge's proposed order, the person must file with the Board a written Request for Appeal and brief within ten (10) business days of the issuance of the Administrative Law Judge's proposed order by delivering or mailing the written request and brief to the principal office of the Board during regular office hours as provided in this chapter. The request and brief must be legible, on standard paper size of 8.5" x 11", and contain the Respondent's full name, citation number, mailing address, telephone number, and a complete detailed description of the reason for the appeal. The Request for Appeal and brief shall be no more than fifteen (15) pages and the person shall set forth a summary of the exceptions with the Administrative Law Judge's proposed order. The attorney for the Board may issue a brief in response no less than two (2) weeks before the Board meeting to consider the appeal. The person will then be notified of the date and time of the appropriate Board meeting regarding the appeal.

(c) A request for oral arguments shall be made at the time the Request for Appeal is filed with the Board. Oral arguments will be limited to no more than ten minutes (10) for each side. Briefs and oral arguments shall not include any new factual information.

(d) The Board may affirm the proposed order, deny the proposed order, or remand the case to the hearing officer, with or without instructions.

**SUBCHAPTER 9. ACTIONS TO IMPROVE
WORKFORCE DEVELOPMENT AND SKILLED
TRADE EDUCATION**

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158:1-9-1. Skilled Trade Education and Workforce Development Fund

The available funds, based upon statutory limitations, of the Skilled Trade Education and Workforce Development Fund shall be used only for the advancement of the trade-related education and workforce development. The Skilled Trade Education and Workforce Development Fund was created for the following purposes:

- (1) To develop instructional materials on Oklahoma laws, statutes and rules, as they relate to the plumbing, mechanical, electrical and roofing trades and state licensing standards;
- (2) To cover the cost of equipment, materials, personnel and any other costs of developing and implementing the trade curriculum; and
- (3) To cover the cost of equipment, materials, personnel and any other costs of developing and implementing the workforce development program used to promote the plumbing, mechanical, electrical and roofing trades as a career in Oklahoma.

158:1-9-2. Additional powers and duties of the Board-workforce development and education

The Construction Industries Board shall have the additional powers to:

- (1) Receive and convey information relating to the skilled trades regulated by the Construction Industries Board; and
- (2) Enter into contracts with the Oklahoma Department of Career and Technology Education for any accredited vocational or technical school or system of education institution in the State of Oklahoma receiving state appropriations and offering programs in secondary and post-secondary instruction that provide electrical, mechanical, plumbing or roofing trade coursework for any of the following purposes, or combination thereof:
 - (A) developing and implementing instructional courses on Oklahoma Statutes and rules that govern the electrical, mechanical, plumbing and roofing trades, which courses can be in conjunction with instruction in performing trade work or instruction on statewide-adopted trade codes, or both, for the advancement of the electrical, mechanical, plumbing and roofing trades, or
 - (B) developing and implementing a workforce development program that will create interest in the pursuit of a skilled trade career. The workforce development program may consist of, but is not limited to, use of the internet, community and school presentations, and research and instruction on the electrical, mechanical, plumbing and roofing trades.

158:1-9-3. Contracts with Oklahoma Department of Career and Technology Education

(a) All contracts with the Oklahoma Department of Career and Technology Education pursuant to this section shall be

approved by the Construction Industries Board in accordance with the Oklahoma Open Meeting Act. Cost of the contracts with the Oklahoma Department of Career and Technology Education for education and workforce development programs shall be paid from the Skilled Trade Education and Workforce Development Fund.

(b) All contracts with the Oklahoma Department of Career and Technology Education entered into and approved pursuant to this section shall include the following:

- (1) The time period for the contract.
- (2) The amount of available funds of the previous fiscal year determined by statutory limitations transferred to the Skilled Trade Education and Workforce Development Fund for expenditure according to the terms of the contract.
- (3) A description of the services to be provided under the terms of the contract pursuant to this subchapter that may include, but not be limited to:
 - (A) Career awareness programs that will create interest in the pursuit of a skilled trade career in the electrical, mechanical, plumbing and roofing trades;
 - (B) Education in regulatory and trade requirements, performing trade work, and the related state adopted building codes governing the electrical, mechanical, plumbing and roofing trades, and assisting with existing classes, courses and programs; or
 - (C) Assistance with developing and implementing lesson plans, curriculum and information for school teachers, counselors and others assisting with career awareness in the related trades.
- (4) A requirement for the Oklahoma Department of Career and Technology Education to provide a report at the end of the contract terms describing how the funds of the contract were used, what was the return to the Construction Industries Board, and the benefits of the use of the funds to the State of Oklahoma, the development and education of the Oklahoma skilled workforce in the related trades, and the health, safety and welfare of the public.

[OAR Docket #19-616; filed 6-14-19]

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

[OAR Docket #19-617]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
- 158:30-1-2 [AMENDED]
- Subchapter 5. License Types, Bond Requirements, and Display of License Number and Firm Name
- 158:30-5-2 [AMENDED]
- Subchapter 9. Examination Procedures, License and Registration Fees and Duration of Licenses
- 158:30-9-1.4 [NEW]
- 158:30-9-4 [AMENDED]

AUTHORITY:

Construction Industries Board; 59 O.S. §§ 1000.4(A)(1), 1000.5 and 1002.

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

Gist: The proposed changes to the Plumbing Industry Regulations amend and add language clarifying existing rules and authority; remove obsolete language; provide additional clarification regarding bonds and insurance; establishes exam equivalency requirements; and allows for an additional method of obtaining continuing education credit accrual.

Analysis: The proposed amendment to 158:30-1-2 further clarifies the definition of "direct supervision"; the proposed amendment to 158:30-5-2 adds clarification to the rule regarding failure to meet requirements for bonds and insurance; the addition of 158:30-9-1.4 establishes exam equivalency requirements and the proposed amendment to 158:30-9-4 allows for an additional method for obtaining alternate continuing education credit accrual.

CONTACT PERSON:

Stephanie Brown, Board Secretary/Executive Assistant, 405-521-6550.

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 OCTOBER 1, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

158:30-1-2. Definitions

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

"Act" means the Plumbing License Law of 1955 as found at 59 O.S. § 1001, *et seq.*, as amended.

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

"Applicant" means any person applying for an examination, for a license or registration, for continuing education approval, for review of plans and specifications or for a plumbing code variance from the standard of installation as described in OAC 158:30-1-4 by the Construction Industries Board under the Act.

"Board" means the Oklahoma Construction Industries Board.

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

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

"Committee" means the Committee of Plumbing Examiners.

"Contracting" means engaging or offering to engage in, on behalf of oneself or on behalf of another, any plumbing work which requires a valid and appropriate license from the Construction Industries Board as required by the Plumbing License Law of 1955, regardless if said work is in exchange for monetary payment or otherwise.

"Credit Hour" or "Hour" means at least fifty (50) minutes of classroom instruction with a ten (10) minute break.

"Direct supervision" means the on-the-job physical presence by the supervisor who must be in the work area where the plumbing work is being performed and who also must be a licensed plumbing contractor or plumbing journeyman- in the appropriate category for any plumbing work supervised.

"Farm Operations"

(A) For purposes of the Plumbing License Law, "farm" means land devoted primarily to production for sale of livestock or agricultural commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(B) For purposes of the Plumbing License Law, "farm building" means all homes (i.e., domiciles, residences), or buildings therewith designed and used primarily for and in conjunction with conducting farming operations, provided that said buildings are not connected to a public water and/or sewage system. A "farm building" shall not include other structures such as stores, service stations, schools, motels, or any other building having public access, whether connected to private or public water or sewer systems.

"Hearing Board" means the Plumbing Hearing Board.

"Maintenance of state owned or operated facilities" means maintenance of state institutions and school districts and will be construed as all repair and/or upkeep of existing plumbing or plumbing fixtures within existing state owned buildings or local school district owned buildings. This term shall not include the installation of plumbing in a new building or new additions to existing structures or replacement of plumbing systems in existing buildings.

"Oklahoma Uniform Building Code Commission" or "OUBCC" means the state agency created under 59 O.S. § 1000.20, *et seq.*, and authorized to adopt all building codes and standards for residential and commercial construction to be used as minimum standards by all entities within this State.

"Plumbing" means and includes:

(A) all piping, fixtures, appurtenances and appliances for, and in connection with, a supply of water

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within or adjacent to any building, structure, or conveyance, on the premises and to the connection with a water main or other source of supply;

(B) all piping, fixtures, appurtenances and appliances for sanitary drainage or storm drainage facilities, including venting systems for such facilities, within or adjacent to any building, structure, or conveyance, on the premises and to the connection with a public disposal system or other acceptable terminal;

(C) the installation, repair, maintenance and renovation of all piping, fixtures, appurtenances and appliances for a supply of water, or for the disposal of waste water, liquid waste, or sewage within or adjacent to any building, structure, or conveyance, on the premises and to the source of supply of water or point of disposal of wastes;

(D) the original installation of a water softener but not the exchanging of the units whereby only unions are disturbed in the replacement;

(E) the installation of water services and building sewers; and

(F) sewer cleaning-house sewer maintenance.

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

"Property of Residence" means permanently constructed residential property that is an existing single-family dwelling occupied by the individual owner as a primary dwelling where the individual owner's habitation is fixed.

"Reciprocity agreement" means an agreement whereby a person holding a plumber's license or registration who is licensed in another state with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

"Variance" means the use of an alternative material or method of construction from that prescribed in the standard of installation as described in OAC 158:30-1-4 for use at a particular location or project specified in the variance application; and

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

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

158:30-5-2. Insurance and bond requirements

(a) Unless as otherwise provided in (b) of this Section: Each active plumbing contractor must maintain a five thousand dollar (\$5,000.00) corporate surety bond, payable to the Board, and must cause the surety to deposit a copy of such bond with the Plumbing Licensing Unit.

(b) An active plumbing contractor may satisfy the requirements of (a) of this Section by depositing with the Plumbing Licensing Unit, either the sum of \$5,000 cash, or a certificate

of deposit in the sum of \$5,000 payable to the order of the Plumbing Licensing Revolving Fund.

(c) Failure to maintain a corporate surety bond in effect shall constitute an inactive contractor status of a bonded plumbing contractor license immediately upon the expiration of such bond.

(d) A corporate surety bond may be accepted from any surety authorized to do business in the State of Oklahoma. It shall continue in effect until thirty (30) days have elapsed after the Bond and Insurance Unit is notified by the surety of the cancellation of such bond, unless the bond expired on a date certain on its face.

(e) A bond or other surety filed in accordance with (a) of this Section shall be in lieu of filing a bond with each municipality where the plumbing contractor works, and shall be conditioned upon all the following terms:

(1) Plumbing contractors shall faithfully and properly conduct business in compliance with applicable statutes, rules of the Oklahoma Construction Industries Board, and with all the applicable ordinances of the municipality in which plumbing work is performed.

(2) Plumbing contractors shall pay all fines and penalties imposed by penalty orders of the Board and fines and penalties imposed by courts of competent jurisdiction for the violation of municipal ordinances. The Board may seek payment through the surety bond of any fines or penalties, which the licensee fails to pay.

(3) In lieu of a corporate surety, an active plumbing contractor may deposit with the Bonds and Insurance Unit the required amount in lawful money or negotiable bonds of the United States, accompanied by a written instrument, to be approved by the Construction Industries Board, executed and acknowledged by the active plumbing contractor, and setting forth the conditions upon which the deposit is made. When the true owner is other than the active plumbing contractor making the deposit, the instrument shall so state and shall also be executed and acknowledged by the true owner. Upon exoneration, the instrument and deposit may be returned by the Bonds and Insurance Unit to the depositor or the true owner, if the depositor is other than the named true owner, after application of the deposit to claims made pursuant to this Section.

(4) Notwithstanding any provision of a security instrument to the contrary, every surety or depositor of security subjects himself or herself to the jurisdiction of the Construction Industries Board and irrevocably appoints the Administrator as his or her agent upon whom any papers affecting his or her liability may be served. Every surety or depositor of security consents to his or her liability being joint and several. Consequently, judgment may be entered against the surety, or depositor of security, in accordance with his or her obligation simultaneously with judgment against the principal, and execution may thereupon issue.

(5) Plumbing contractors shall protect, save harmless and indemnify the State and municipalities against any liability imposed by law against the State and municipalities for the negligence of said contractor arising from any

act or omission while engaged in work pursuant to the Plumbing License Law.

(6) Any aggrieved person may bring an action upon the bond for the recovery of penalty thereof to the same extent and with equal rights as though such aggrieved person had been named as the obligee in the bond.

(7) For purposes of this Section, the term plumbing contractor also includes the agents, servants, and employees of a plumbing contractor.

(f) Exceptions. The bond and insurance requirement will be waived if:

(1) The plumbing contractor wishes to be inactive. A contractor may choose to place his or her license on inactive status and may practice as a journeyman but shall not practice as an active contractor. The inactive contractor can obtain an active license at any time if his or her license is valid and the bond and insurance requirements are met; or

(2) The plumbing contractor is employed by a corporation, partnership, public entity, or political subdivision and said corporation, partnership, public entity or political subdivision submits an affidavit on behalf of the contractor that the employee will only perform plumbing work on property owned by said corporation, partnership, public entity, or political subdivision and the employer assumes all financial responsibility in lieu of the contractor providing bond and insurance. The affidavit must include a statement by the employer that the Board will be notified if the contractor is no longer employed by said employer, or if the employer no longer wishes to assume financial responsibility for the contractor.

(g) Insurance. A plumbing contractor shall provide proof of financial responsibility by providing a certificate of insurance, which indicates a minimum general liability policy of \$50,000. The Construction Industries Board must be notified in the event such liability policy is cancelled for any reason or expires for non-payment of premiums. Plumbing contractors are to add the Construction Industries Board to the certificate as a certificate holder but not as an additional insured and with no additional cost to ensure required notification.

(h) Failure to provide the complete information with current bond and insurance certificate or failure to maintain bond and insurance will result in an inactive plumbing contractor's license being temporarily issued until such time as the requirements are met.

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

158:30-9-1.4. Exam equivalency

(a) A plumbing journeyman or contractor from a state without an Oklahoma reciprocal agreement or statewide licensing who is seeking Oklahoma licensure may be eligible for exam equivalency in the category of the home state license or local jurisdiction license. If exam equivalency is approved by the

Board, an applicant for a journeyman license will not be required to take the Oklahoma journeyman license exam and the applicant for a contractor license will not be required to take the technical trade section of the Oklahoma contractor license exam. The applicant for the contractor exam will still be required to take and pass the Oklahoma business and law section of the contractor exam and all applicants will need to meet all other licensure requirements under Oklahoma law.

(b) Prior to an individual applying for exam equivalency, the Board must have previously approved the jurisdiction's exam for equivalency. An exam will be reviewed by the Committee and recommended to the Board if the exam is deemed to be substantially similar. Upon approval of exam equivalency by the Board, the individual applicant must:

- (1) Complete the application form.
- (2) Provide a certified letter from the current jurisdiction in which he or she is license through examination stating:
 - (A) he or she is currently licensed and in good standing.
 - (B) the category name of the license.
 - (C) he or she passed the licensing exam with a 70% or higher, and
 - (D) no disciplinary actions are pending.
- (3) Meet all other requirements under Oklahoma law for licensure.

158:30-9-4. Continuing Education

(a) **Continuing education requirements.**

(1) No contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) hours of continuing education ("CE") every three (3) years or thirty-six (36) months preceding the license expiration date. The continuing education course and instructor shall be approved in advance by the Committee. Exceptions to advance approval, or post-course approval, may be allowed by the Committee, or its designee, for substitute instructors in emergency situations when written notice of the emergency is provided to the Committee or its designee within seven (7) days of the course. The continuing education material shall cover codes and revisions adopted by the OUBCC and/or other trade related subject matters appropriate for topics of continuing education for licensees and approved by the Committee including: examination materials, manufacturers' installation of equipment or parts, the licensing Act, the trade regulations as set forth in this Chapter as well as the rules of the Construction Industries Board in OAC 158:10, and other trade or safety related subject matters approved by the Committee.

(2) If a license expires before the licensee completes the CE requirement, any CE that is completed while the license is expired will be applied to the CE requirement for the thirty-six (36) months preceding the date the license expired. Six (6) hours of CE will still have to be completed in order to meet the CE requirement for the subsequent thirty-six (36) month period.

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- (3) Credit will be given for CE programs including correspondence and online courses approved by the Plumbing Examiners Committee or its designee.
- (4) Except as provided herein this Section shall apply to every journeyman or contractor licensed by the Construction Industries Board.
- (5) A licensee is exempt from the educational requirements of this Section for three (3) years from the date he or she passed their current licensing exam.
- (b) The following standards will govern the approval of continuing education programs by the Committee.
- (1) The program must be offered by a provider having substantial, recent experience in offering continuing education or demonstrated ability to organize and present effectively continuing education. Demonstrated ability arises partly from the extent to which individuals with trade training or educational experience are involved in the planning, instruction and supervision of the program.
- (2) If written materials are provided, the materials must be thorough, high quality, readable, and must be made available to all participants at or before the time the course is presented.
- (3) The program must be conducted in a comfortable physical setting which is conducive to learning.
- (4) The program itself must be conducted by an individual or group qualified by practical or academic experience. The program including the named advertised participants must be conducted substantially as approved, including lunch and breaks shown on the approved agenda, subject to emergency withdrawals and alterations.
- (5) Changes including but not limited to location, date, instructors, or cancellations must be requested from the Committee or its designee in writing prior to the start of class. All requests for change must include the Course ID number.
- (6) The training location shall be outside the regular work place or after regular working hours.
- (7) A credit hour is at least fifty (50) minutes of instruction with a ten (10) minute break.
- (8) CE courses shall be presented in one of the following formats:
- (A) Six (6) credit hours presented on one (1) day
- (B) Two sessions of three (3) credit hours each presented within a seven (7) day period
- (C) One (1) session of two (2) credit hours for the purposes of presenting a manufacturers' installation course,
- (D) An approved correspondence or online course, or
- (E) Another format approved by the Committee.
- (9) Verification of Credit.
- (A) The Course Provider shall verify the total number of continuing education hours completed by each attendee.
- (B) Continuing education providers shall require attendees to present a photo I.D. prior to the attendee signing the sign-in sheet provided by the Construction Industries Board. Sign-in sheets shall include the name and license number of each licensee in attendance.
- (C) As soon as practicable but in any event on or before seven (7) days following an approved education program, the provider shall furnish to the Plumbing License Unit the original sign-in sheets from the course.
- (D) Providers must maintain copies of all sign-in sheets for a period of two (2) years following the conclusion of the course.
- (10) Course providers or instructors may not advertise or promote the sale of any goods, products or services between the opening and closing of any Continuing Education Course.
- (c) Any organization desiring approval of a course shall apply to the Plumbing Examiners Committee by submitting an application on a form to be obtained from the Construction Industries Board and supporting documentation at least fifteen (15) days prior to the date of the Regular meeting of the Committee from which the organization wants the course to be considered for approval, and at least thirty (30) days prior to the date for which the course is scheduled. An application is to be submitted for each date or set of dates that constitute a single class. Each class must be included on a separate application. The Committee or its designee will review each application for completeness of form and supporting documentation as well as course content. The applicant will be notified in writing by mail whether the program is approved or disapproved. Applicants denied approval of a course may appeal such a decision by submitting a letter of appeal to the Committee within fifteen (15) days of the receipt of the notice of disapproval. All appeals will be heard by the Committee at its next regularly scheduled meeting.
- (1) Supporting documentation includes:
- (A) resumes or a brief summary of qualifications for all instructors providing instruction for the class,
- (B) a class agenda designating beginning and ending of actual instructional times, sign-in times, breaks, lunches and evaluation time, and
- (C) A class curriculum indicating the subject or code areas to be taught with sufficient detail to determine which code revisions are to be addressed or the product for which the installation education is being provided.
- (2) The Committee or its designee may refuse to accept any application for approval if the supporting documentation is insufficient or incomplete. The Committee may deny or revoke approval of an application for any of the following reasons:
- (A) Failure to comply with the continuing education provisions;
- (B) Inadequate application or supporting documentation;
- (C) Failure to instruct on the topic approved, or
- (D) Unsatisfactory assessments of the course, instructor, or materials from previous classes.

- (3) If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant.
- (4) The Committee may at any time reconsider and grant or revoke approval of an application or course.
- (A) The Committee may at any time review courses for quality in instruction. The Committee shall also investigate and take appropriate action, up to and including revocation of authority to provide CE, regarding complaints involving approved courses.
- (B) A provider's failure to comply with the provisions of this Section constitutes grounds for disciplinary action, up to and including revocation of authority to provide CE, against the provider or for denial of future applications for coursework.
- (5) Approval of any course, including a correspondence or online course, is rescinded upon the adoption of a different statewide code and a new application showing updated course subject matter and materials is necessary in order to obtain updated course approval.
- (d) **Course advertisement.**
- (1) All advertising must include the course identification number.
- (2) Approved program courses may be advertised.
- (3) The provider of an approved continuing education program may announce or indicate as follows: Course # _____ has been approved by the Construction Industries Board Plumbing Examiners Committee for _____ hours of CE credit.
- (e) **Correspondence or online course approval.**
- (1) Entities seeking to offer correspondence courses for continuing education shall submit a course curriculum and study material for review and approval by the Committee prior to the courses being offered as continuing education. Approved correspondence courses shall be required to comply with all requirements for other continuing education courses except for sign-in sheets. Providers shall provide a student with a document of completion which certifies completion of approved correspondence courses.
- (2) Providers seeking to offer online courses for continuing education shall submit a course curriculum and study material for review and approval by the Committee prior to the courses being offered as continuing education. An access code and password shall be provided to the Committee, or its designee, for an online course for the purpose of review and approval. Providers of an on-line course shall submit verification of six (6) hours of real time on-line instruction. Correspondence or online courses shall have sufficient explanation and or graphics to expound the concepts being taught. The format of the online course shall be constructed so as to elicit interaction between the student and the material presented. Each page of text shall be designed with a question that must be answered before advancing to the next page or a test at the end of a subject matter before the course is considered complete. Providers shall provide a student with a document of completion that shall certify completion of an approved online course.
- (3) Applications for correspondence or online courses shall be resubmitted annually, from date of approval, for review and approval.
- (f) **Alternate Credit accrual.**
- (1) Credit may be earned through teaching in an approved continuing education class. The Committee may award up to six (6) hours of CE credit not to exceed the number of approved hours for that CE class.
- (2) Credit may also be earned through teaching a course in an accredited trade school or a trade-specific program approved by the Committee. The Committee may award up to six (6) hours of CE credit for each semester of academic credit awarded by the academic institution for the course.
- (3) Credit may also be earned through participating as a designate of a technical committee appointed by the OUBCC to review and recommend adoption of building codes. The Committee may award up to six (6) hours of continuing education for completing a code review as designee in the code listed as the standard for the license held and upon completion of the code review receiving a certificate of completion from the OUBCC. A copy of the certificate will be required to be provided to CIB to receive continuing education credits.
- (g) **Complaint procedure.**
- (1) A person, government, or private organization may submit a written complaint to the Committee, or its designee, charging a provider of continuing education with a violation of this Section, and specifying the grounds for the complaint.
- (2) Complaints must be in writing and include contact information, and shall be filed on the proper complaint form prescribed by the Construction Industries Board, or its designee.
- (3) The Committee may consider an unsigned or anonymous complaint for further investigation.
- (4) Upon receipt of a signed complaint form, a copy shall be sent to the continuing education provider addressed in the complaint. The continuing education provider shall provide a written response within fifteen (15) days. Upon receipt of the continuing education provider's written response, both complaint and response shall be considered by the Committee, or its designee, for appropriate action including dismissal of the complaint, further investigation, or a finding of violation of the Act or this Chapter. The Committee, or its designee, shall notify both complainant and continuing education provider of the determination made by the Committee. Failure of the continuing education provider to respond will be considered as a violation of this Section.
- (5) If a reasonable cause violation determination is made by the Committee, the Oklahoma Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken.

[OAR Docket #19-617; filed 6-14-19]

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

[OAR Docket #19-618]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
158:40-1-2 [AMENDED]
Subchapter 5. Licensing Requirements, Display of License, and Firm Name, and Bond Requirements
158:40-5-1 [AMENDED]
158:40-5-2 [AMENDED]
158:40-5-3 [AMENDED]
Subchapter 7. License Classifications
158:40-7-2 [AMENDED]
Subchapter 9. Examination Applications, Examinations and License and Registration Fees and Renewals
158:40-9-2.4 [NEW]
158:40-9-4 [AMENDED]
Subchapter 11. License Revocation or Suspension and Prohibited Acts
158:40-11-2 [AMENDED]

AUTHORITY:

Construction Industries Board; 59 O.S. §§ 1000.4(A)(1), 1000.5, and 1681.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

November 19, 2018

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December 17, 2018, through January 16, 2019

PUBLIC HEARING:

January 23, 2019

ADOPTION:

January 23, 2019

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

January 31, 2019

LEGISLATIVE APPROVAL:

Approved May 28, 2019 by HJR 1022

FINAL ADOPTION:

May 28, 2019

EFFECTIVE:

October 1, 2019

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

Gist: The proposed changes to the Electrical Industry Regulations add language clarifying existing rules and authority; remove obsolete language, and clarify statutory changes.

Analysis: The proposed amendment to 158:40-1-2 is to clean up definitions and provide the public better clarity. The proposed amendments to 158:40-5-1 are due to statutory changes and to clarify how documentation of apprenticeships should be obtained and maintained for future license applications. The proposed amendments to 158:40-5-2 are to clarify how documentation of journeyman should be obtained and maintained for future license applications and for cleanup purposes. The proposed amendments to 158:40-5-3 are for clarification related to contractor requirements. The proposed amendment to 158:40-7-2 is for clarification related to residential electrical work. The addition of 158:40-9-2.4 is to provide exam equivalency for a journeyman or contractor seeking Oklahoma licensure from a state or local jurisdiction that does not have a reciprocity agreement. The proposed amendment to 158:40-9-4 is to add an additional method of alternate continuing education credit accrual. The proposed amendment to 158:40-11-2 is due to statutory change.

CONTACT PERSON:

Stephanie Brown, Board Secretary/Executive Assistant, 405-521-6550.

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 OCTOBER 1, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

158:40-1-2. Definitions

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

"Act" means the Electrical License Act as found at 59 O.S. § 1680, *et seq.*

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

"Alarm Endorsement" or "Alarm Endorsement registration" means a licensed electrician or registered electrical apprentice who has met the endorsement registration requirements may install, service, or repair alarm or security systems or electronic security devices such as residential or commercial burglar alarms or security systems, electronic access control, closed circuit television, nurse call systems and the like.

"Applicant" means any person applying for an examination, for a license or registration, for continuing education approval, for review of plans and specifications, or for an electrical code variance from the standard of installation as described in OAC 158:40-1-4 by the Board under the Act.

"Apprentice" means an electrical worker registered pursuant to OAC 158:40-5-1 who is limited to working for a contractor and is directly supervised by a licensed contractor or journeyman with the appropriate license classification for the work being performed.

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

"Board" means the Oklahoma Construction Industries Board.

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

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

"Committee" means the Committee of Electrical Examiners.

"Contracting" means engaging or offering to engage in, on behalf of oneself or on behalf of another, any electrical work which requires a valid and appropriate license from the

Construction Industries Board as required by the Electrical License Act, regardless if said work is in exchange for monetary payment or otherwise.

"Contractor" means a person who meets the definition of 59 O.S. § 1682(5) and is licensed in the appropriate category for any electrical work performed.

"Continuing Education Credit Hour" means at least sixty (60) minutes of classroom instruction.

"Direct supervision" means the on-the-job physical presence by the supervisor who must be in the work area where the electrical work is being performed and who also must be a licensed electrical contractor or electrical journeyman in the appropriate category for any electrical work supervised.

"Electrical facility" means wiring, fixtures, appurtenances and appliances used for and in connection with a supply of electricity, but excludes the connection with a power meter or other utility supply source.

"Electrical firm" means any firm, corporation, partnership, sole proprietorship, joint venture or any other business entity engaged in the business of planning, contracting, supervising or furnishing labor or labor and materials for the installation, repair, maintenance or renovation of electrical facilities according to the Act.

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

"Electrical maintenance" means electrical work limited to maintaining existing electrical systems, facilities or equipment by an employee of a person, company, corporation or entity owning the electrical systems, facilities or equipment. Maintenance shall not include any alterations or additions to existing systems, facilities or equipment.

"Electrical work" means work on ~~electrical facilities~~ as that term is defined in 59 O.S. § 1682.

"Hearing Board" means the Electrical Hearing Board created by the Act.

"Inactive contractor" means any class of licensed electrical contractor who ~~has formally and voluntarily placed their contractor's license in an inactive status does not have current bond and insurance to be able to be contracting for electrical work pursuant to the act. An inactive contractor works as a journeyman electrician.~~

"Journeyman electrician" or **"journeyman"** means any person, other than a contractor or apprentice, who engages in the installation, repair, maintenance or renovation of electrical facilities according to the Act, in the category in which the person is licensed.

"Limited electrical contractor" means any person who has qualified and become licensed in accordance with OAC 158:40-7-4. Such person is prohibited from engaging in the work of a journeyman electrician.

"Military electrical experience" means verifiable military experience in electrical work which is the same as or similar to electrical construction work as defined in the Act.

"Oklahoma Uniform Building Code Commission" or **"OUBCC"** means the state agency created under 59 O.S. § 1000.20, *et. seq.*, and authorized to adopt all building codes

and standards for residential and commercial construction to be used as minimum standards by all entities within this State.

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

"Refinery Electrical Journeyman" means an electrician licensed as a refinery electrical journeyman electrician pursuant to OAC 158:40-7-6 and is limited to performing electrical work only in refinery facilities.

"Residential contractor" means an electrician licensed as a residential contractor pursuant to OAC 158:40-7-2 and is limited to performing residential electrical construction work.

"Residential journeyman" means an electrician licensed as residential journeyman electrician pursuant to OAC 158:40-7-2 and limited to performing residential electrical construction work.

"Temporary electrical journeyman" means an electrician temporarily licensed by the Oklahoma Construction Industries Board as a journeyman electrician and is limited to electrical construction per the equivalent temporary journeyman classification determined by the Board.

"Variance" means the use of an alternative material or method of construction from that prescribed in the standard of installation as described in OAC 158:40-1-4 for use at a particular location or project specified in the variance application; and

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

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

158:40-5-1. Apprentice requirements

(a) Apprentice electricians shall be registered with the Construction Industries Board and must be under the direct "on-the-job" supervision of a licensed journeyman or contractor of the appropriate category of the work performed when engaged in the work of an apprentice.

(b) No more than ~~two~~ ~~(2)~~ three (3) apprentice electricians shall work under the supervision of a single journeyman or contractor.

(c) Apprentice electricians shall work only under a licensed electrician who shall be responsible for the direct supervision of no more than ~~two~~ ~~three~~ electrical apprentices.

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

(1) The apprentice will be registered for a one (1) year period if a completed application form with the apprentice application and registration fee listed in OAC 158:40-9-3(b) is submitted to the Electrical License Unit along with verification of enrollment in an approved

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school or training course or a statement of employment by the licensed electrical contractor who arranged for employment of the apprentice.

(2) When re-registering, the application fee is only required with the registration fee when the registration application is not filed within thirty (30) days of expiration of previous registration.

(e) Since evidence of hours worked and type of hours worked would be required if an Apprentice makes an application for licensure anytime in the future, each Apprentice is responsible for obtaining and maintaining documentation of hours and type of hours worked (commercial, industrial, and residential) under a particular contractor when employed or upon separation of employment.

(ef) Prior to engaging in any activity described in ~~(f)~~(g) of this Section, a registered electrical apprentice shall obtain an alarm endorsement registration from the Construction Industries Board. Such alarm endorsement registration may only be issued to an applicant upon the completion of a satisfactory national criminal history record check. An application for an alarm endorsement registration shall require an additional fee in accordance with OAC 158:40-9-3. To obtain an alarm endorsement registration, a registered apprentice electrician shall provide the following:

- (1) A recent passport style and quality photograph;
- (2) Two classifiable sets of fingerprints taken by a local, state or federal law enforcement agency;
- (3) A disclosure of convictions of all crimes of applicant, both felony and misdemeanor; and,
- (4) Other such information as required by 74 O.S. §150.9 for a national criminal history record check.

(fg) A registered apprentice electrician shall not install, service, or repair alarm or security systems or electronic security devices such as residential or commercial burglar alarms or security systems, electronic access control, closed circuit television, nurse call systems and the like when the registered apprentice electrician has disclosed or a national criminal history record check reveals a conviction of applicant for a disqualifying crime, as described in ~~(h)~~(i) or (j) of this Section.

(gh) A satisfactory "national criminal history record check" means a national criminal history record check which reveals no disqualifying crime, as described in ~~(h)~~(i) or (j) of this Section.

(hi) "Disqualifying crime" includes any conviction by any state or the United States of any of the following:

- (1) Murder in any degree;
- (2) Voluntary manslaughter;
- (3) Rape;
- (4) Lewd conduct with a minor;
- (5) Sexual abuse or exploitation of a child, including offenses involving child pornography;
- (6) Kidnapping;
- (7) Robbery;
- (8) Burglary;
- (9) Possession of stolen property;
- (10) Aggravated assault;
- (11) Aggravated battery;
- (12) Arson;

(13) Any felony punishable by death or life imprisonment;

(14) Any felony determined by the Construction Industries Board Administrator to be an offense which constitutes the theft, damage or destruction of property or the infliction of physical harm on another person committed while unlawfully present on the property of another;

(15) Attempt, conspiracy or accessory after the fact or aiding and abetting to commit any disqualifying crime; or ~~(16) A disqualifying five year crime as set forth in (i) of this Section.~~

(ij) A "disqualifying five year crime" shall mean a conviction within five years of the date of application for alarm endorsement registration by any state or the United States of any of the following:

- (1) Felony theft or grand theft;
- (2) Felony passing of a bogus, stolen, fraudulent or counterfeit check;
- (3) A felony involving a controlled substance;
- (4) A felony involving a firearm;
- (5) Forgery or counterfeiting;
- (6) Forgery of or fraudulent use of a credit card;
- (7) A felony involving the theft of the identity of another;
- (8) A felony involving fraud or embezzlement;
- (9) Insurance or public assistance fraud;
- (10) Any felony other than a "disqualifying crime" determined by the Construction Industries Board Administrator to be an offense which constitutes the theft, damage or destruction of property of another;
- (11) Any felony other than a "disqualifying crime" determined by the Construction Industries Board Administrator to be an offense which constitutes the infliction of physical harm on another person;
- (12) Attempt, conspiracy, accessory after the fact or aiding and abetting to commit any disqualifying five-year crime.

(jk) An individual who has been convicted of a disqualifying crime as set forth in ~~(h)~~(i) or (j) of this Section shall be denied an alarm endorsement registration. Written notice of said denial shall be issued by the Construction Industries Board Administrator after completion and review of the individual's national criminal history record check. An individual has ten (10) business days after receipt of the denial to appeal said denial in writing to the Construction Industries Board Administrator. The Construction Industries Board Administrator shall issue a written decision to said appeal within ten (10) business days after receiving same. The Administrator's decision may be appealed to the Electrical Hearing Board within ten (10) business days after receipt of the Administrator's written decision. An appeal of a denial of an alarm endorsement registration to the Electrical Hearing Board shall be governed by Article II of the Administrative Procedures Act, 75 O.S. § 308a, *et seq.*

(l) Work performed under alarm endorsement shall continue to meet the ratio requirement as set forth in OAC 158:40-5-1 (b) and (c).

158:40-5-2. Journeyman requirements

(a) Each journeyman must be licensed and employed by a licensed contractor before engaging in the work of a journeyman electrician.

(b) No journeyman shall contract to furnish labor or labor and materials.

(c) Since evidence of hours worked and type of work would be required if a Journeyman makes application for licensure anytime in the future, each Journeyman is responsible for obtaining and maintaining documentation of hours and type of hours worked (commercial, industrial, and residential) under a particular contractor when employed or upon separation of employment.

(ed) Prior to engaging in any activity described in ~~(d)~~(e) of this Section, a licensed electrical journeyman shall obtain an electrical license alarm endorsement from the Construction Industries Board. Such alarm endorsement may only be issued to an applicant upon the completion of a satisfactory national criminal history record check. An application for an electrical license alarm endorsement shall require an additional fee in accordance with OAC 158:40-9-3. To obtain an electrical license alarm endorsement, a licensed electrical journeyman shall provide the following:

- (1) A recent passport style and quality photograph;
- (2) Two classifiable sets of fingerprints taken by a local, state or federal law enforcement agency;
- (3) A disclosure of convictions of all crimes of applicant, both felony and misdemeanor; and,
- (4) Other such information as required by 74 O.S. § 150.9 for a national criminal history record check.

(de) A licensed journeyman electrician shall not sell, install, service, or repair alarm or security systems or electronic security devices such as residential or commercial burglar alarms or security systems, electronic access control, closed circuit television, nurse call systems and the like when the licensed journeyman electrician has disclosed or a national criminal history record check reveals a conviction of applicant for a disqualifying crime, as described in ~~(f)~~(g) or (h) of this Section.

(ef) A satisfactory "national criminal history record check" means a national criminal history record check which reveals no disqualifying crime, as described in ~~(f)~~(g) or (h) of this Section.

(fg) "Disqualifying crime" includes any conviction by any state or the United States of any of the following:

- (1) Murder in any degree;
- (2) Voluntary manslaughter;
- (3) Rape;
- (4) Lewd conduct with a minor;
- (5) Sexual abuse or exploitation of a child, including offenses involving child pornography;
- (6) Kidnapping;
- (7) Robbery;
- (8) Burglary;
- (9) Possession of stolen property;
- (10) Aggravated assault;
- (11) Aggravated battery;
- (12) Arson;

(13) Any felony punishable by death or life imprisonment;

(14) Any felony determined by the Construction Industries Board Administrator to be an offense which constitutes the theft, damage or destruction of property or the infliction of physical harm on another person committed while unlawfully present on the property of another;

(15) Attempt, conspiracy or accessory after the fact or aiding and abetting to commit any disqualifying crime; or

~~(16) A disqualifying five year crime as set forth in (g) of this Section.~~

(gh) A "disqualifying five year crime" shall mean a conviction within five years of the date of application for electrical license alarm endorsement by any state or the United States of any of the following:

- (1) Felony theft or grand theft;
- (2) Felony passing of a bogus, stolen, fraudulent or counterfeit check;
- (3) A felony involving a controlled substance;
- (4) A felony involving a firearm;
- (5) Forgery or counterfeiting;
- (6) Forgery of or fraudulent use of a credit card;
- (7) A felony involving the theft of the identity of another;
- (8) A felony involving fraud or embezzlement;
- (9) Insurance or public assistance fraud;
- (10) Any felony other than a "disqualifying crime" determined by the Construction Industries Board Administrator to be an offense which constitutes the theft, damage or destruction of property of another;
- (11) Any felony other than a "disqualifying crime" determined by the Construction Industries Board Administrator to be an offense which constitutes the infliction of physical harm on another person; or
- (12) Attempt, conspiracy, accessory after the fact or aiding and abetting to commit any disqualifying five-year crime.

(hi) An individual who has been convicted of a disqualifying crime as set forth in ~~(f)~~(g) or (h) of this Section shall be denied an electrical license alarm endorsement. Written notice of said denial shall be issued by the Construction Industries Board Administrator after completion and review of the individual's national criminal history record check. An individual has ten (10) business days after receipt of the denial to appeal said denial in writing to the Construction Industries Board Administrator. The Construction Industries Board Administrator shall issue a written decision to said appeal within ten (10) business days after receiving same. The Administrator's decision may be appealed to the Electrical Hearing Board within ten (10) business days after receipt of the Administrator's written decision. An appeal of a denial of an electrical license alarm endorsement to the Electrical Hearing Board shall be governed by Article II of the Administrative Procedures Act, 75 O.S. § 308a, *et seq.*

(j) Work performed under alarm endorsement shall continue to meet the ratio requirement as set forth in OAC 158:40-5-1 (b) and (c).

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158:40-5-3. Contractor requirements

(a) Each electrical firm must have a person who is currently licensed as an electrical contractor employed full time, and who shall give full time to the supervision and control of operations necessary to secure full compliance with the provisions of the Act and this Chapter. Such contractor shall be an officer, partner or owner of that electrical firm, and shall be responsible for the work of and licensed on behalf of that electrical firm.

(b) An electrical contractor ~~may choose to place his or her~~ license may be placed on inactive status and not be required to provide a bond and insurance. An inactive electrical contractor is a person who, because of the nature of his or her ~~business position~~, does not hold out or offer to provide services to the public as an electrical contractor. The inactive electrical contractor's license may be used to perform work as a journeyman electrician.

(c) Each electrical contractor shall advise the Electrical License Unit by mail within thirty (30) days of any change in address or business relationship, structure or affiliation. Failure to so notify shall be cause for administrative sanction.

(d) An electrical contractor shall only be permitted to represent one electrical firm.

(e) When two or more electrical firms desire to associate on a job or project as electrical contractors, each person or electrical firm shall have an electrical contractor licensed by the Board, and each shall register with the city or town in whose jurisdiction they intend to operate where registration is required.

(f) Each person on initial application and upon receiving an active contractor's license, prior to engaging in electrical work, and all active electrical contractors submitting renewal applications, shall provide proof of compliance with bond and insurance requirements as set forth in OAC 158:40-5-5 and proof of compliance with 68 O.S. §§ 1701 through 1707, by providing the following:

- (1) Address of business;
- (2) Phone number of business;
- (3) Number of employees;
- (4) Federal Tax Number;
- (5) Employer's Social Security Numbers;
- (6) Employer's account number assigned by the Oklahoma Employment Security Commission;
- (7) Nonresident electrical contractor bond on file with the Oklahoma Tax Commission, if applicable; and
- (8) Proof of workers' compensation policy in compliance with the provisions of Titles 85 and 85A of the Oklahoma Statutes.

(g) Each active electrical contractor shall document the hours worked by each apprentice electrician and the hours worked in commercial, industrial and residential electrical work. In order for an apprentice or journeyman to make future licensure application, this documentation should be made available upon request to any current employee or departing employee at the time of separation of employment.

(h) Prior to engaging in any activity described in (i) of this Section, a licensed electrical contractor shall obtain an electrical license alarm endorsement from the Construction Industries Board. Such alarm endorsement may only be issued

to an applicant upon the completion of a satisfactory national criminal history record check. An application for an electrical license alarm endorsement shall require an additional fee in accordance with OAC 158:40-9-3. To obtain an electrical license alarm endorsement, a licensed electrical contractor shall provide the following:

- (1) A recent passport style and quality photograph;
 - (2) Two classifiable sets of fingerprints taken by a local, state or federal law enforcement agency;
 - (3) A disclosure of convictions of all crimes of applicant, both felony and misdemeanor; and,
 - (4) Other such information as required by 74 O.S. § 150.9 for a national criminal history record check.
- (i) A licensed electrical contractor shall not sell, install, service, or repair alarm or security systems or electronic security devices such as residential or commercial burglar alarms or security systems, electronic access control, closed circuit television, nurse call systems and the like when the licensed contractor electrician has disclosed or a national criminal history record check reveals a conviction of applicant for a disqualifying crime, as described in (k) or (l) of this Section.
- (j) A satisfactory "national criminal history record check" means a national criminal history record check which reveals no disqualifying crime, as described in (k) or (l) of this Section.
- (k) "Disqualifying crime" includes any conviction by any state or the United States of any of the following:

- (1) Murder in any degree;
- (2) Voluntary manslaughter;
- (3) Rape;
- (4) Lewd conduct with a minor;
- (5) Sexual abuse or exploitation of a child, including offenses involving child pornography;
- (6) Kidnapping;
- (7) Robbery;
- (8) Burglary;
- (9) Possession of stolen property;
- (10) Aggravated assault;
- (11) Aggravated battery;
- (12) Arson;
- (13) Any felony punishable by death or life imprisonment;
- (14) Any felony determined by the Construction Industries Board Administrator to be an offense which constitutes the theft, damage or destruction of property or the infliction of physical harm on another person committed while unlawfully present on the property of another;
- (15) Attempt, conspiracy or accessory after the fact or aiding and abetting to commit any disqualifying crime; or
- ~~(16) A disqualifying five year crime as set forth in (l) of this Section.~~

(l) A "disqualifying five year crime" shall mean a conviction within five years of the date of application for electrical license alarm endorsement by any state or the United States of any of the following:

- (1) Felony theft or grand theft;
- (2) Felony passing of a bogus, stolen, fraudulent or counterfeit check;
- (3) A felony involving a controlled substance;

- (4) A felony involving a firearm;
- (5) Forgery or counterfeiting;
- (6) Forgery of or fraudulent use of a credit card;
- (7) A felony involving the theft of the identity of another;
- (8) A felony involving fraud or embezzlement;
- (9) Insurance or public assistance fraud;
- (10) Any felony other than a "disqualifying crime" determined by the Construction Industries Board Administrator to be an offense which constitutes the theft, damage or destruction of property of another;
- (11) Any felony other than a "disqualifying crime" determined by the Construction Industries Board Administrator to be an offense which constitutes the infliction of physical harm on another person; or
- (12) Attempt, conspiracy, accessory after the fact or aiding and abetting to commit any disqualifying five-year crime.

(m) An individual who has been convicted of a disqualifying crime as set forth in (k) or (l) of this Section shall be denied an electrical license alarm endorsement. Written notice of said denial shall be issued by the Construction Industries Board Administrator after completion and review of the individual's national criminal history record check. An individual has ten (10) business days after receipt of the denial to appeal said denial in writing to the Construction Industries Board Administrator. The Construction Industries Board Administrator shall issue a written decision to said appeal within ten (10) business days after receiving same. The Administrator's decision may be appealed to the Electrical Hearing Board within ten (10) business days after receipt of the Administrator's written decision. An appeal of a denial of an electrical license alarm endorsement to the Electrical Hearing Board shall be governed by Article II of the Administrative Procedures Act, 75 O.S. § 308a, *et seq.*

(n) Work performed under alarm endorsement shall continue to meet the ratio requirement as set forth in OAC 158:40-5-1 (b) and (c).

SUBCHAPTER 7. LICENSE CLASSIFICATIONS

158:40-7-2. Residential electrical license

(a) Residential electrical licenses are limited to ~~wiring buildings as defined in the National Electrical Code for one and two family dwellings~~ one and two family dwelling units in a singularly constructed structure with a maximum of two dwelling units and having a minimum of five feet separation of construction to any other dwelling unit or structure regardless and independent of fire walls, such as a single independent residential home or duplex, and does not include occupancies with more than two dwelling units such as apartments, motels, and multi-family townhomes.

(b) Applicants for residential electrical contractor examination must:

- (1) be eighteen (18) years of age or older,
- (2) have passed the residential or unlimited journeyman examination, and

(3) submit proof of two (2) years experience as a licensed electrical journeyman and have at least four thousand (4,000) hours of experience as a residential or unlimited journeyman electrician under the employment and supervision of an unlimited or residential electrical contractor.

(c) Applicants for residential electrical journeyman examination must:

- (1) be eighteen (18) years of age or older, and
- (2) verify at least four thousand (4,000) hours (2 years) experience in the electrical construction trade as an apprentice under the direct supervision of an unlimited or residential journeyman electrician or unlimited or residential electrical contractor, with no more than one thousand (1,000) of verified actual classroom hours of formal electrical education being counted toward the experience requirement.

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

158:40-9-2.4. Exam equivalency

(a) An electrical journeyman or contractor from a state without an Oklahoma reciprocal agreement or statewide licensing who is seeking Oklahoma licensure may be eligible for exam equivalency in the category of the home state license or local jurisdiction license. If exam equivalency is approved by the Board, an applicant for a journeyman license will not be required to take the Oklahoma journeyman license exam and the applicant for a contractor license will not be required to take the technical trade section of the Oklahoma contractor license exam. The applicant for the contractor exam will still be required to take and pass the Oklahoma business law section of the contractor exam and all applicants will need to meet all other licensure requirements under Oklahoma law.

(b) Prior to an individual applying for exam equivalency, the Board must have previously approved the jurisdiction's exam for equivalency. An exam will be reviewed by the Committee and recommended to the Board if the exam is deemed to be substantially similar. Upon approval of exam equivalency by the Board, the individual applicant must:

- (1) Complete the application form.
- (2) Provide a certified letter from the current jurisdiction in which he or she is license through examination stating:
 - (A) he or she is currently licensed and in good standing,
 - (B) the category name of the license,
 - (C) he or she passed the licensing exam with a 70% or higher, and
 - (D) no disciplinary actions are pending.
- (3) Meet all other requirements under Oklahoma law of licensure.

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158:40-9-4. Continuing education

(a) Continuing Education Requirements.

(1) No contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) hours of continuing education (CE) every three (3) years or thirty-six (36) months preceding the license expiration date. The continuing education course and instructor shall be approved in advance by the Committee. Exceptions to advance approval, or post-course approval, may be allowed by the Committee, or its designee, for substitute instructors in emergency situations when written notice of the emergency is provided to the Committee or its designee within seven (7) days of the course. The continuing education material shall cover codes and revisions adopted by the OUBCC and/or other trade related subject matters appropriate for topics of continuing education for licensees and approved by the Committee including: examination materials, manufacturers' installation of equipment or parts, the licensing Act, the trade regulations as set forth in this Chapter as well as the rules of the Construction Industries Board in OAC 158:10, and other trade or safety related subject matters approved by the Committee.

(2) If a license expires before the licensee completes the CE requirement, any CE that is completed while the license is expired will be applied to the CE requirement for the thirty-six (36) months preceding the date the license expired. Six (6) hours of CE will still have to be completed in order to meet the CE requirement for the subsequent thirty-six (36) month period.

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

(4) Except as provided herein this Section shall apply to every journeyman or contractor licensed by the Construction Industries Board.

(5) A licensee is exempt from the educational requirements of this Section for three (3) years from the date he or she passed their current licensing exam.

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

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

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

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

(4) The program itself must be conducted by an individual or group qualified by practical or academic experience. The program including the named advertised participants must be conducted substantially as approved,

including lunch and breaks shown on the approved agenda, subject to emergency withdrawals and alterations.

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

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

(7) Each attendee of a continuing education course shall have, or otherwise be provided with, a copy of the OUBCC's most recently adopted edition of the National Electrical Code and revisions for use during the duration of the course.

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

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

(A) Six instructional hours presented on one day

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

(C) An approved correspondence or online course, or

(D) Another format approved by the Committee.

(10) Verification of Credit.

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

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

(C) As soon as practicable but in any event on or before seven (7) days following an approved education program, the provider shall furnish to the Electrical License Unit the original sign-in sheets.

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

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

(12) Approval of any course, including a correspondence or online course, is rescinded upon the adoption of a different statewide code and a new application showing updated course subject matter and materials is necessary in order to obtain updated course approval.

(c) **Submission of application for course approval.** Any organization desiring approval of a course shall apply to the Committee by submitting an application on a form to be obtained from the Construction Industries Board and supporting documentation at least fifteen (15) days prior to the date of the Regular meeting of the Committee from which the provider wants the course to be considered for approval, and at least

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

- (1) Supporting documentation includes:
 - (A) resumes or a brief summary of qualifications for all instructors providing instruction for the class,
 - (B) a class agenda designating beginning and ending of actual instructional times, sign-in times, breaks, lunch time, and
 - (C) A class curriculum indicating the subject or code areas to be taught with sufficient detail to determine which code revisions are to be addressed.
 - (2) The Committee or its designee may refuse to accept any application for approval if the supporting documentation is insufficient or incomplete. The Committee may deny or revoke approval of an application for any of the following reasons:
 - (A) Failure to comply with the continuing education provisions;
 - (B) Inadequate application or supporting documentation;
 - (C) Failure to instruct on the topic approved; or
 - (D) Unsatisfactory evaluations of the course, instructor, or materials from previous classes.
 - (3) If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant.
 - (4) The Committee may at any time re-evaluate and grant or revoke approval of an application or course.
 - (A) The Committee or its designee shall be granted access to attend, observe and audit any continuing education course approved by the Committee.
 - (B) The Committee may at any time review courses for quality in instruction. The Committee shall also investigate and take appropriate action, up to and including revocation of authority to provide CE, regarding complaints involving approved courses.
 - (C) A provider's failure to comply with this Section constitutes grounds for disciplinary action, up to and including revocation of authority to provide CE, against the provider or for denial of future applications for coursework.
- (d) **Course Advertisement.**
- (1) All advertising must include the course identification number.
 - (2) Approved program courses may be advertised.
 - (3) The provider of an approved continuing education program may announce or indicate as follows: Course

_____ has been approved by the Construction Industries Board Electrical Examiners Committee for _____ hours of CE credit.

- (e) **Correspondence or Online course approval.**
- (1) Providers seeking to offer correspondence or online courses for continuing education shall submit a course curriculum and study material for review and approval by the Committee, or its designee, prior to the courses being offered as continuing education. An access code and password shall be provided to the Committee, or its designee, for an online course for the purpose of review and approval. Correspondence or online courses shall have sufficient explanation and or graphics to expound the concepts and changes being taught. The format of the online course shall be constructed so as to elicit interaction between the student and the material presented. Each page of text shall be designed with a question that must be answered before advancing to the next page or a test at the end of a subject matter before the course is considered complete. Approved correspondence and online courses shall be required to comply with all requirements for other continuing education courses except for sign-in sheets. Providers shall provide a student with a document of completion that shall certify completion of an approved correspondence or online course.
 - (2) Applications for correspondence or online courses shall be resubmitted annually, from date of approval, for review and approval.
- (f) **Alternate Credit accrual.**
- (1) Credit may be earned through teaching in an approved continuing education class. The Committee may award up to six (6) hours of CE credit not to exceed the number of approved hours for that CE class.
 - (2) Credit may also be earned through teaching a course in an accredited trade school or a trade-specific program approved by the Committee. The Committee may award up to six (6) hours of CE credit for each semester of academic credit awarded by the academic institution for the course.
 - (3) Credit may also be earned through participating as a designate of a technical committee appointed by OUBCC to review and recommend adoption of building codes. The Committee may award up to six (6) hours of continuing education for completing a code review as designee in the code listed as the standard for the license help and upon completion of the code review receiving a certificate of completion from the OUBCC. A copy of the certificate will be required to be provided to CIB to receive continuing education credits.
- (g) **Complaint procedure.**
- (1) A person, government, or private organization may submit a written complaint to the Committee, or its designee, charging a provider of continuing education with a violation of this Section, and specifying the grounds for the complaint.
 - (2) Complaints must be in writing and include contact information, and shall be filed on the proper complaint

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form prescribed by the Construction Industries Board, or its designee.

(3) The Committee may consider an unsigned or anonymous complaint for further investigation.

(4) Upon receipt of a signed complaint form, a copy shall be sent to the continuing education provider addressed in the complaint. The continuing education provider shall provide a written response within fifteen (15) days. Upon receipt of the continuing education provider's written response, both complaint and response shall be considered by the Committee, or its designee, for appropriate action including dismissal of the complaint, further investigation, or a finding of violation of the Act or this Chapter. The Committee, or its designee, shall notify both complainant and continuing education provider of the determination made by the Committee. Failure of the continuing education provider to respond will be considered as a violation of this Section.

(5) If a reasonable cause violation determination is made by the Committee, the Oklahoma Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken.

(10) No person may engage in cheating or any act involving the fraudulent misrepresentation of an applicant by an examinee.

(11) No person or entity shall deny access to the Construction Industries Board or its representative on a job site.

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

(1) No licensee shall allow more than ~~two (2)~~three (3) apprentices per journeyman at a job site.

(2) No licensee shall fail to maintain a bond and insurance as provided for in OAC 158:40-5-5.

(3) No licensee shall be associated with and responsible for more than one firm.

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

(1) No licensee shall perform work except under the employment or supervision of a contractor.

(2) No licensee shall engage in the planning, contracting, or furnishing of labor and/or materials used for work.

[OAR Docket #19-618; filed 6-14-19]

SUBCHAPTER 11. LICENSE REVOCATION OR SUSPENSION AND PROHIBITED ACTS

158:40-11-2. Prohibited acts

(a) The following acts are prohibited:

(1) No person, entity, or firm may perform work without first obtaining the appropriate license or registration pursuant to this Chapter.

(2) No licensee shall perform work contrary to any provision of the standard of installation in OAC 158:40-1-4, except as otherwise provided by law or rule. Each violation of the standard of installation in OAC 158:40-1-4 can be treated as a separate violation of this Chapter.

(3) No person shall offer to engage in work during the period his or her license is suspended or revoked.

(4) No employing firm shall employ or use an unlicensed or unregistered individual or entity to perform work.

(5) No person, entity, or firm may transfer a license or registration.

(6) No individual or entity, licensed pursuant to this Chapter, shall enter into an agreement for the use of his or her license with any firm or person which is, or has been adjudicated to be, in violation of any provision of the Act, or whose license is currently suspended or has within the last year been revoked, unless or until otherwise approved by the Board.

(7) No person shall make a materially false or fraudulent statement in an application for license.

(8) No person may alter a license.

(9) No licensee shall perform work without keeping their license on their person or in close proximity while performing work.

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

[OAR Docket #19-619]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

158:50-1-2 [AMENDED]

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

158:50-5-3 [AMENDED]

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

158:50-9-4.1 [NEW]

158:50-9-7 [AMENDED]

AUTHORITY:

Construction Industries Board; 59 O.S. §§ 1000.4, 1000.5 and 1850.3.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

November 19, 2018

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ADOPTION:

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October 1, 2019

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

Gist: The proposed changes to the Mechanical Industry Regulations add definitions; add language clarifying existing rules and authority; remove obsolete language; and provide exam equivalency and requirements and an additional method for alternate continuing education credit accrual.

Analysis: The amendments to 158:50-1-2 is to clarify the definition for "direct supervision". The proposed amendment to 158:50-5-3 adds clarification to the rule regarding failure to meet requirements for bonds and insurance. The addition of 158:50-9-4.1 provides exam equivalency and requirements. The proposed amendment to 158:50-9-7 provides an additional method for alternate continuing education credit accrual.

CONTACT PERSON:

Stephanie Brown, Board Secretary/Executive Assistant, 405-521-6550.

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 OCTOBER 1, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

158:50-1-2. Definitions

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

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

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

"Applicant" means any person applying for an examination, for a license or registration, for continuing education approval, for review of plans and specifications or for a mechanical code variance from the standard of installation described in OAC 158:50-1-4 by the Construction Industries Board under the Act.

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

"Board" means the Oklahoma Construction Industries Board.

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

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

"Chemical plant" means a chemical plant within the context of 59 O.S. § 1850.10(D) including a fertilizer plant engaged

in formulating chemicals ultimately used generally in the agricultural fertilizer industry.

"Committee" means the Committee of Mechanical Examiners.

"Contracting" means engaging or offering to engage in, on behalf of oneself or on behalf of another, any mechanical work which requires a valid and appropriate license from the Construction Industries Board as required by the Mechanical Licensing Act, regardless if said work is in exchange for monetary payment or otherwise.

"Credit Hour" or "Hour" means at least 50 minutes of classroom instruction with a 10 minute break.

"Direct supervision" means the on-the-job physical presence by the supervisor who must be in the work area where the mechanical work is being performed and who also must be a licensed mechanical contractor or mechanical journeyman in the appropriate category for which he or she is providing supervision on any mechanical work supervised.

"Endorsed apprentice" means a registered apprentice who met the qualifications, pursuant to OAC 158:50-9-5(i), to sit for the journeyman examination in the HVAC limited category and received a passing score on the examination, but who is working to complete the required one (1) year of verifiable experience as a registered apprentice prior to being issued the journeyman license.

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

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

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

"Hearing Board" means the Mechanical Hearing Board.

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

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

"ICC" means the International Code Council.

"Limited residential installer" means a type and category of mechanical license that is restricted to new installations in new construction for detached one or two family dwellings

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and multiple single family dwellings (townhouses) not more than three stories in height with a separate means of egress as regulated by this Chapter.

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

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

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

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

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

"Minor repairs and maintenance" means minor repairs or maintenance as each are prescribed in the manufacturer's operating instructions to be performed by the equipment owner or his authorized agent, and shall not include replacement and repairs of any nature on natural gas piping, natural gas controls, the manufacturer installed controls and components, the vent system of fuel burning appliances, a breach of the integrity of a refrigeration system or any repair or maintenance which would violate the safe operation of the equipment.

"Oklahoma Uniform Building Code Commission" or **"OUBCC"** means the state agency created under 59 O.S. § 1000.20, *et seq.*, and authorized to adopt all building codes and standards for residential and commercial construction to be used as minimum standards by all entities within this State.

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

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

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

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

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

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

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

"Variance" means the use of an alternative material or method of construction from that prescribed in the standard of installation as described in OAC 158:50-1-4 and/or other approved documents by the OUBCC for use at a particular location or project specified in the variance application; and

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

"Verifiable experience" means mechanical experience obtained while employed by a licensed Mechanical contractor, or by other means approved by the Committee of Mechanical Examiners including equivalent experience earned while serving in the U.S. Military, for which one (1) year of verifiable experience equals two thousand (2,000) hours.

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

158:50-5-3. Bond and insurance requirements

(a) **Bond.**

(1) A corporate surety bond, (the "bond") in the sum of five thousand dollars (\$5,000.00) payable to the Oklahoma Construction Industries Board and approved by the Administrator shall be permanently deposited with the Bonds and Insurance Unit prior to the issuance of the mechanical contractor's license.

(2) Said bond shall be executed by the applicant for the contractor's license and by a surety authorized to do

business in the State of Oklahoma, and shall be a continuous bond with a thirty (30) day cancellation notice to the Board.

(3) Said bond shall be in lieu of filing a bond with each municipality where the contractor works and shall be conditioned upon all of the following terms:

(A) The mechanical contractor, his or her agents and employees shall faithfully and properly conduct business in compliance with all the applicable provisions of ordinances and provisions of the municipality in which he is performing mechanical work;

(B) The mechanical contractor shall pay all fines and penalties imposed by courts of competent jurisdiction for the violation of said ordinances or provisions. The Board may seek payment through the surety bond of any fines or penalties, which the licensee fails to pay.

(C) The mechanical contractor shall protect, save harmless and indemnify the municipality and the State against any liability imposed by law against said municipality or State for the negligence of said contractor, his or her agents or employees, which arises from any act or omission of said individuals engaged in work pursuant to the Mechanical Licensing Act;

(D) Any person aggrieved may bring an action upon the bond for the recovery of the penalty thereof to the same extent and with equal rights as though such aggrieved person had been named as the obligee in the bond.

(b) **Insurance.** A mechanical contractor shall provide proof of financial responsibility by providing a certificate of insurance, which indicates a minimum general liability policy of \$50,000. The Construction Industries Board must be notified in the event such liability policy is cancelled for any reason or expires for non-payment of premiums. Mechanical contractors are to add the Construction Industries Board to the certificate of insurance as a certificate holder but not as an additional insured and with no additional cost to ensure required notification.

(c) **Exceptions.** The bond and insurance requirement will be waived if:

(1) The mechanical contractor wishes to be inactive. A contractor may choose to place his or her license on inactive status and may practice as a journeyman but shall not practice as an active contractor. The inactive contractor can obtain an active license at any time if his or her license is valid and the bond and insurance requirements are met; or

(2) The mechanical contractor is employed by a corporation, partnership, public entity, or political subdivision and said corporation, partnership, public entity or political subdivision submits an affidavit on behalf of the contractor that the employee will only perform mechanical work on property owned by said corporation, partnership, public entity, or political subdivision and the employer assumes all financial responsibility in lieu of the contractor providing bond and insurance. The affidavit must include a statement by the employer that the Board will be notified if the contractor is no longer employed by said employer,

or if the employer no longer wishes to assume financial responsibility for the contractor.

(d) **Requirements.** Failure to provide the complete information with current bond and insurance certificate or failure to maintain bond and insurance will result in an inactive mechanical contractor's license being temporarily issued until such time as the requirements are met.

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

158:50-9-4.1. Exam equivalency

(a) A mechanical journeyman or contractor from a state without an Oklahoma reciprocal agreement or statewide licensing who is seeking Oklahoma licensure may be eligible for exam equivalency in the category of the home state license or local jurisdiction license. If exam equivalency is approved by the Board, an applicant for journeyman license will not be required to take the Oklahoma journeyman license exam and the applicant for a contractor license will not be required to take the technical trade section of the Oklahoma contractor license exam. The applicant for the contractor exam will still be required to take and pass the Oklahoma business and law section of the contractor exam and all applicants will need to meet all other licensure requirements under Oklahoma law.

(b) Prior to an individual applying for exam equivalency, the Board must have previously approved the jurisdiction's exam for equivalency. An exam will be reviewed by the Committee and recommended to the Board if the exam is deemed to be substantially similar. Upon approval of exam equivalency by the Board, the individual applicant must:

(1) Complete the application form.

(2) Provide a certified letter from the current jurisdiction in which he or she is licensed through examination stating:

(A) he or she is currently licensed and in good standing.

(B) the category name of the license.

(C) he or she passed the licensing exam with a 70% or higher, and

(D) no disciplinary actions are pending.

(3) Meet all other requirements under Oklahoma law for licensure.

158:50-9-7. Continuing Education

(a) **Continuing Education Requirements:**

(1) No contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) hours of continuing education ("CE") every three (3) years or thirty-six (36) months preceding the license expiration date. The continuing education course and instructor shall be approved in advance by the Committee. Exceptions to advance approval, or post-course approval, may be

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allowed by the Committee, or its designee, for substitute instructors in emergency situations when written notice of the emergency is provided to the Committee or its designee within seven (7) days of the course. The continuing education material shall cover codes and revisions adopted by the OUBCC and/or other trade related subject matters appropriate for topics of continuing education for licensees and approved by the Committee including: examination materials, manufacturers' installation of equipment or parts, the licensing Act, the trade regulations as set forth in this Chapter as well as the rules of the Construction Industries Board in OAC 158:10, and other trade or safety related subject matters approved by the Committee.

(2) If a license expires before the licensee completes the CE requirement, any CE that is completed while the license is expired will be applied to the CE requirement for the thirty-six (36) months preceding the date the license expired. Six (6) hours of CE will still have to be completed in order to meet the CE requirement for the subsequent thirty-six (36) month period.

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

(4) Except as provided herein, this Section shall apply to every licensed mechanical journeyman or contractor.

(5) A licensee is exempt from the education requirements of this Section for three (3) years from the date he or she passed their current licensing exam.

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

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

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

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

(4) The training session shall be presented outside the regular workplace or after regular working hours. An on-site conference room, that meets standards imposed by (3) of this subsection, shall be considered outside the regular workplace.

(5) A credit hour means at least fifty (50) minutes of classroom instruction with a ten (10) minute break.

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

(A) Six (6) credit hours presented in one (1) day.

(B) Two (2) sessions of three (3) credit hours each presented within a seven (7) day period.

(C) One (1) session of two (2) credit hours of trade related instruction, Mechanical Licensing Act and/or Mechanical Industry Regulations.

(D) An approved correspondence course.

(E) Another format approved by the Committee.

(7) Verification of Credit.

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

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

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

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

(E) Complaint Procedure.

(i) A person, government, or private organization may submit a written complaint to the Committee, or its designee, charging a provider of continuing education with a violation of this Section, and specifying the grounds for the complaint.

(ii) Complaints must be in writing and include contact information, and shall be filed on the proper complaint form prescribed by the Construction Industries Board, or its designee.

(iii) The Committee may consider an unsigned or anonymous complaint for further investigation.

(iv) Upon receipt of a signed complaint form, a copy shall be sent to the continuing education provider addressed in the complaint. The continuing education provider shall provide a written response within fifteen (15) days. Upon receipt of the continuing education provider's written response, both complaint and response shall be considered by the Committee, or its designee, for appropriate action including dismissal of the complaint, further investigation, or a finding of violation of the Act or this Chapter. The Committee, or its designee, shall notify both complainant and continuing education provider of the determination made by the Committee. Failure of the continuing education provider to respond will be considered as a violation of this Section.

(v) If a reasonable cause violation determination is made by the Committee, the Oklahoma Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken.

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

(c) **Application Procedures.**

(1) A completed application form, with all supporting documentation, shall be submitted to the Construction

Industries Board at least fifteen (15) days prior to the date of the Regular meeting of the Committee from which the provider wants the course to be considered for approval, and at least thirty (30) days prior to the scheduled start date. Supporting documents shall include the following:

- (A) A resume or brief summary of qualifications of all course developers and instructors.
 - (B) A course agenda designating the beginning and ending of actual instruction times, sign-in times, breaks, lunches and evaluation time.
 - (C) A course curriculum indicating the subject or code areas to be taught with sufficient detail to determine which code revisions are to be addressed or the trade related instruction being provided.
- (2) An application is to be submitted for each date, or dates, that constitute a single course.
- (3) Each course must be included on a separate application.
- (d) **Mechanical Examiners Committee Acceptance.**
- (1) The Committee, or its designee, will review each application for completeness of form and supporting documentation, as well as course content.
 - (2) The approval of any course will be made by a majority vote of the Committee at a regularly scheduled meeting of the Mechanical Examiners Committee.
 - (3) The Committee's designee may approve additional dates and locations after the course has been approved by Committee vote. Substantive change to course content must be brought before the Committee.
 - (4) The applicant will be notified in writing whether the program is approved or disapproved, detailing the basis of the decision if disapproved.
 - (5) Approval is rescinded upon the adoption of a different statewide code and a new application showing updates of new code is necessary.
- (e) **Committee Rejection and Reevaluation of a Course.**
- (1) The Committee, or its designee, may refuse to accept any application for approval if the supporting documentation is insufficient or incomplete. The Committee may deny or revoke approval of an application for any of the following reasons.
 - (A) Failure to comply with the continuing education provisions.
 - (B) Inadequate application or supporting documentation.
 - (C) Failure to instruct on topic approved.
 - (D) Inadequate experience of program developer or instructor.
 - (E) Unsatisfactory evaluation of the course instructor or materials from previous classes.
 - (2) The Committee may, at any time, re-evaluate and grant or revoke approval of application or course.
 - (A) The Committee may, at any time, review courses for quality of instruction. The Committee may also investigate complaints regarding approved courses. The Committee may then take appropriate action, up to and including revocation of authority to provide CE courses.

(B) A provider's failure to comply with this Section constitutes grounds for disciplinary action, up to and including revocation of authority to provide CE, against the provider or for denial of future applications for course work.

- (3) The Committee, or its designee, will notify the provider, in writing, of any changes in approval status.
- (f) **Appeals.**
- (1) Applicants denied approval of a course may appeal such a decision by submitting a written letter of appeal to the Committee within fifteen (15) days of the receipt of the notice.
 - (2) All appeals will be heard by the Committee at its next regularly scheduled meeting.
- (g) **Course Presentation.**
- (1) The program, including the named advertised participants, shall be conducted as approved, including lunch and breaks shown on the approved agenda, subject to emergency withdrawals and minor alterations.
 - (2) Changes including but not limited to location, date, instructors, or cancellations must be requested from the Committee, or its designee, in writing prior to start of class. All requests for change must include the course ID number.
- (h) **Course Advertisement.**
- (1) All advertising must include the course ID number.
 - (2) Approved program courses may be advertised.
 - (3) The provider of an approved continuing education program may announce or indicate as follows: Course # ___ has been approved by the Construction Industries Board Mechanical Examiners Committee for ___ hours of CE credit.
- (i) **Correspondence and Online Courses.**
- (1) Applications, approvals and rejections, and appeals of all correspondence and online courses shall be the same as for classroom-based courses.
 - (2) Correspondence courses shall be required to comply with all requirements of continuing education courses, except sign-in sheets.
 - (3) Providers of an on-line course shall submit verification of six (6) hours of real time on-line instruction.
 - (4) Course providers shall provide a student with a document of completion which certifies completion of approved correspondence course.
 - (5) Applications shall be resubmitted annually, from date of approval, for review and approval.
- (j) **Alternate Credit Accrual.**
- (1) Credit may be earned through teaching an approved continuing education course. The Committee may award up to six (6) hours of CE credit, not to exceed the number of approved hours for that CE course.
 - (2) Credit may also be earned through teaching a course in an accredited trade school or a trade-specific program approved by the Committee. The Committee may award up to six (6) hours of CE credit for each semester of academic credit awarded by the academic institution for the course.

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(3) Credit may also be earned through participating as a designate of a technical committee appointed by the OUBCC to review and recommend adoption of building codes. The Committee may award up to six (6) hours of continuing education for completing a code review as designee in the code listed as the standard for the license held and upon completion of the code review receiving a certificate of completion from the OUBCC. A copy of the certificate will be required to be provided to CIB to receive continuing education credits.

(k) **Continuing Education Not Required for Petroleum Refinery Journeyman.** Subsections (a) through (j) of this Section shall not apply to the license category of Petroleum Refinery Journeyman. The Petroleum Refinery Journeyman license may be renewed without continuing education.

(l) **Continuing Education Not Required for Ground Source Piping.** Subsections (a) through (j) of this Section shall not apply to the license category of Ground Source Piping. The Ground Source Piping category license may be renewed without continuing education provided that a current approved certification is submitted.

(m) **Continuing Education Not Required for Medical Gas.** Subsections (a) through (j) of this Section shall not apply to the license category of Medical Gas. The Medical Gas category may be renewed without continuing education provided that a current approved certification is submitted.

[OAR Docket #19-619; filed 6-14-19]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 60. INSPECTORS REGULATIONS

[OAR Docket #19-620]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 3. Procedures of the Committee
158:60-3-2 [NEW]
Subchapter 5. Categories and Classifications of Inspector Licenses, Qualifications for Inspector Licensure, License Requirements for Inspectors, Fees, Certification and Continuing Education for Inspectors, and Continuing Education Courses
158:60-5-3 [AMENDED]
158:60-5-5 [AMENDED]

AUTHORITY:
Construction Industries Board; 59 O.S. §§ 1000.4, 1000.5 and 1032.

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:

Gist: The proposed changes to the Inspectors Regulations provides language clarifying existing rules and authority; establishes a hearing process; removes limitations and clarifies standards for continuing education related to online courses; clarifies approval procedures, and allows for an alternate method for continuing education credit accrual.

Analysis: The addition of 158:60-3-2 is for the purpose of establishing a hearing process for the Oklahoma Inspector Examiners Committee. The proposed amendments to 158:60-5-3 are to clarify license requirements for inspectors. The proposed amendments to 158:60-5-5 are to remove limitations and to clarify standards for continuing education as they relate to online courses; clarify approval procedures; allow for an alternate method for continuing education credit accrual.

CONTACT PERSON:

Stephanie Brown, Board Secretary/Executive Assistant, 405-521-6550.

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 OCTOBER 1, 2019:

SUBCHAPTER 3. PROCEDURES OF THE COMMITTEE

158:60-3-2. Hearings

(a) The Committee may, upon its own motion or upon receipt of written complaint about a licensee or political subdivision, request an investigation be conducted regarding an alleged violation of the Oklahoma Inspectors Act or the related administrative rules. All Inspector investigations must be approved by the Committee. Complaints must:

(1) Be in writing;

(2) Provide adequate information, including but not limited to, the date when the alleged violation occurred, facts surrounding the event, name of the person(s) and/or political subdivision being complained against; and

(3) Provide any documented evidence to substantiate the complaint.

(b) Upon completion of an investigation by the Committee's designee, the results of the investigation will be presented to the Committee for them to determine if an individual proceeding is to be conducted. If the Committee approves a matter to be set for individual proceeding, the CIB Administrator will contact a hearing examiner to conduct the individual proceeding according to the Procedures of the Construction Industries Board's administrative rules in Title 158, Ch. 1.

(c) Notice of an individual proceeding will be served upon an individual licensee or for political subdivisions the mayor, city manager or city attorney according to the Procedures of the Construction Industries Board's administrative rules in Title 158, Ch. 1.

(d) Pursuant to the Construction Industries Board Act, the Oklahoma Inspectors Act, and Administrative Rules hearings shall occur as often as is necessary to enforce the requirements of the Inspectors Act and this Chapter. Hearings shall be conducted by an administrative hearing examiner who will render a proposed order on any fine, penalty or fee which will then be submitted to the Construction Industries Board to become a final order.

(e) After a proposed order by the impartial hearing examiner finding whether a violation occurred pursuant to the Oklahoma Inspectors Act with a recommendation of action as provided by the Oklahoma Inspectors Act, Construction Industries Board Act and/or the administrative rules is completed, it will be provided to the Administrator and then submitted to the Construction Industries Board pursuant to the Procedures of the Construction Industries Board administrative rules in Title 158, Ch. 1.

SUBCHAPTER 5. CATEGORIES AND CLASSIFICATIONS OF INSPECTOR LICENSES, QUALIFICATIONS FOR INSPECTOR LICENSURE, LICENSE REQUIREMENTS FOR INSPECTORS, FEES, CERTIFICATION AND CONTINUING EDUCATION FOR INSPECTORS, AND CONTINUING EDUCATION COURSES

158:60-5-3. License requirements for inspectors

- (a) The licensee shall notify the Construction Industries Board in writing within fifteen (15) days of any change in address or change in employment status related to the license.
- (b) ~~The licensee~~ All licensees shall, in addition to any local procedures or requirements, notify the Administrator as to persons suspected of performing building, electrical, mechanical, ~~or plumbing, or roofing~~ work within their jurisdiction who are not properly licensed or registered by the State. All ~~licensed~~ licensees performing building and construction ~~inspections~~ shall require all persons doing work in his/her jurisdiction to meet all requirements for licensing and code standards.
- (c) Any person who voluntarily surrenders their license during an investigation by the licensing authority shall be treated as if their license had been revoked by the Administrator on the day of surrender.
- (d) The licensee shall not attempt to retain licensure by making false statements concerning C.E.U.'s.
- (e) In political subdivisions where licensing is required by the Act, no person may perform building and construction inspections in a classification and category in which he or she is not licensed.
- (f) To receive an unlimited inspector license in a given category, one must take and pass both the residential certification examination and the commercial certification examination for that category.
- (g) Any person conducting inspections as an Inspector or Building Official is required to be licensed if working for a Political Subdivision of over ten thousand. An Authorized Agent conducting inspections for a Political Subdivision regardless

of the population must be licensed by passing both residential and commercial exams.

(h) No license is currently required for a Report Writer whose report is subject to review and accepted by one of the following licensees: Inspector, designated code official, or Building Official of the Political Subdivision.

158:60-5-5. Continuing education

- (a) **Continuing education requirements:**
 - (1) No license shall be renewed unless the licensee has completed at least six (6) hours of continuing education within twelve (12) months preceding the application for renewal.
 - (2) Credit will only be given for continuing education programs approved by the Committee.
 - (3) A licensee is exempt from the continuing education requirements of this Chapter for one (1) year from the date he or she passed their current licensing exam.
- (b) **Application procedures for continuing education course approval.** Any provider or instructor which desires to sponsor education to licensees in compliance with the continuing education requirements of OAC 158:60-5-4 shall file an application for approval on the form prescribed by the Committee, or its designee at least fifteen (15) days prior to the date of the Regular meeting of the Committee from which the organization wants the course to be considered for approval, and at least thirty (30) days prior to the date for which the course is scheduled. The application shall include a list of the course instructors and their qualifications, an agenda detailing the material to be presented, the location of the training, the program objectives, and the number of credit hours of classroom and supervised instruction. Licensees shall not receive continuing education credit for attending classes that are not approved by the Committee. Within seven (7) days of the completion of the course, the provider or instructor shall submit the original sign-in sheets for all sessions to the Inspector Examiners Unit of the Construction Industries Board. The sign-in sheets shall include the signature and state inspector license number of each person in attendance. The provider or instructor shall verify the total number of continuing education hours completed by each attendee. All programs shall be presented as submitted and approved, including lunch and breaks shown on the approved agenda, unless changes have been approved. Changes to the program shall be submitted to the Committee, or its designee, within ten (10) days of the training session for review by the Committee. Failure to obtain approval of changes may result in loss of CEU approval.
- (c) **Standards for continuing education.** The following standards will govern the approval of continuing education programs by the Inspector Examiners Committee:
 - (1) The program provider shall submit evidence that the provider and instructional staff are qualified by reason of education, experience or training.
 - (2) All material and information presented shall pertain to the discipline in which the person is licensed.
 - (3) All courses must be of at least two (2) credit hours in length.

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(4) The training location must be outside the regular work place or after hours.

(5) Correspondence or online course approval standards:

(A) Providers or instructors seeking to offer correspondence courses for continuing education shall submit a course curriculum and study material for review and approval by the Committee prior to the courses being offered as continuing education. An access code and password shall be provided to the Committee, or its designee, for an online course for the purpose of review and approval. Approved correspondence courses shall be required to comply with all requirements for other continuing education courses except for sign-in sheets. Providers shall provide a student with a document of completion which certifies completion of approved correspondence courses.

~~(B) Only licensees meeting one or more of the following requirements may receive CEU credit for taking a correspondence or online course;~~

~~(i) Any licensee residing outside of Oklahoma;~~

~~(ii) Any licensee that has an expired license which requires a continuing education course that is no longer available in the classroom;~~

~~(iii) Any licensee who is currently incarcerated;~~

~~(iv) Any licensee who submits written proof to the Committee from a physician stating the medical reason that the licensee is unable to attend a continuing education class.~~

Providers of an on-line course shall submit verification of six (6) hours of real time on-line instruction. Correspondence or online courses shall have sufficient explanation and or graphics to expound the concepts being taught. The format of the online course shall be constructed so as to elicit interaction between the student and the material presented. Each page of text shall be designed with a question that must be answered before advancing to the next page or a test at the end of a subject matter before the course is considered complete. Providers shall provide a student with a document of completion that shall certify completion of an approved online course.

(C) Applications for correspondence or online courses shall be resubmitted annually, from date of approval, for review and approval.

(6) Along with a course application, a video presentation may be submitted for course material and instructor approval by the Committee if the video presentation is closely related to the subject matter of the course and meets the following:

(A) All video presentations must be submitted in electronic format at least thirty (30) days in advance of the Committee meeting reviewing the course application, except for manufacturer's videos generally accepted in the industry covering accepted industry

practices or standards. If the electronic format does not allow forwarding by email, then seven (7) copies of a portable storage format are required.

(B) Video segments shall be no more than thirty (30) minutes, followed by a discussion and no more than fifty percent (50%) of the total course time.

(C) The required copies of each individual video presentation training segment must be submitted with the CEU class approval request for review and approval by the Committee of the course material and instructor. However, if the video is a manufacturer's video, the Committee is not required to approve of the instructor in the video as long as the video course material and video presentation is approved by the Committee.

(D) An approved instructor will be present during the viewing of any video and will monitor the class for questions. Prior to any video presentation, class participants shall be instructed to raise their hand if they have a question or comment during the video presentation. When a class participant has a question or comment during the video presentation, the instructor must be able to stop or pause the video to accommodate live interactive discussion.

(E) Audio and video equipment shall be arranged in advance or otherwise provided to assure that class participants are able to see and hear all portions of any video presentation. In the case of audio or video failure, the time of the video presentation may be presented by the approved instructor over subject matter previously approved for that instructor.

(d) **Course Advertisement.**

(1) All advertising must include the course ID number.

(2) The provider of an approved continuing education program may announce or indicate as follows: Course # ___ has been approved by the Construction Industries Board Inspector Examiners Committee for ___ hours of CE credit.

(e) **Approval Limitations.**

(1) The Committee's designee may approve additional course dates and locations after the course has been approved by Committee vote. Substantive change to course content must be brought before the Committee.

(2) Approval of all courses, including correspondence and online courses, is rescinded upon the adoption of a different statewide code by OUBCC, and a new application showing updates of new code is necessary.

(3) The Committee or its designee may refuse to accept any application for approval if the supporting documentation is insufficient or incomplete. The Committee may deny or revoke approval of an application for any of the following reasons:

(A) failure to comply with the continuing education provisions;

(B) inadequate application or supporting documentation;

(C) failure to instruct on the topic approved; or

(D) unsatisfactory evaluations of the course, instructor, or materials from previous classes.

(4) If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant.

(5) The Committee may at an time re-evaluate and grant or revoke approval of an application or course.

(A) The Committee or its designee shall be granted access to attend, observe and audit any continuing education course approved by the Committee.

(B) The Committee may at any time review courses for quality in instruction. The Committee shall also investigate and take appropriate action, up to and including revocation of authority to provide CE, regarding complaints involving approved courses.

(C) A provider's failure to comply with this Section constitutes grounds for disciplinary action, up to and including revocation of authority to provide CE, against the provider or for denial of future applications for coursework.

(6) The applicant will be notified in writing by mail whether the program is approved or disapproved.

(f) Alternate Credit accrual:

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

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

(3) Credit may also be earned through participating as a designate of a technical committee appointed by the OUBCC to review and recommend adoption of building codes. The Committee may award up to six (6) hours of continuing education for completing a code review as designee in the code listed as the standard for the license held and upon completion of the code review receiving a certificate to be provided to CIB to receive continuing education credits.

(fg) Complaint procedure:

(1) A person, government, or private organization may submit a written complaint to the Committee, or its designee, charging a provider of continuing education with a violation of the rules, and specifying the grounds for the complaint.

(2) Complaints must be in writing and include contact information, and shall be filed on the proper complaint form prescribed by the Construction Industries Board, or its designee.

(3) The Committee may consider an unsigned or anonymous complaint for further investigation.

(4) Upon receipt of a signed complaint form, a copy shall be sent to the continuing education provider addressed in the complaint. The continuing education provider shall provide a written response within fifteen (15) days. Upon receipt of the continuing education provider's written response, both complaint and response shall be considered by the Committee, or its designee, for appropriate action including dismissal of the complaint, further investigation, or a finding of violation of a statute or rule. The Committee, or its designee, shall notify both complainant and continuing education provider of the determination made by the Committee. Failure of the continuing education provider to respond will be considered as a violation of this rule.

(5) If a reasonable cause violation determination is made by the Committee, the Oklahoma Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken including but not limited to all parts of this subsection.

[OAR Docket #19-620; filed 6-14-19]

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 85. ROOFING CONTRACTOR REGISTRATION REGULATIONS**

[OAR Docket #19-621]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

158:85-1-2 [AMENDED]

Subchapter 2. Registration and Endorsement Application and Renewal Requirements, Procedures, Fees, Duration, Military and Reciprocity

158:85-2-1 [AMENDED]

Subchapter 5. Registration and Endorsement Requirements and Limitations, Display of Registration Number, Endorsement, Firm Name and Contact Information, Exclusions

158:85-5-1 [AMENDED]

158:85-5-5 [AMENDED]

AUTHORITY:

Construction Industries Board; 59 O.S. §§ 1000.4, 1000.5, 1151.2a, and 1151.4

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

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SUPERSEDED EMERGENCY ACTIONS:

n/a

Permanent Final Adoptions

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

Gist: The proposed amendments to the Roofing Contractor Registration Regulations add language clarifying existing rules and authority; remove outdated, obsolete language; and add provisions in accordance with HB 1535.

Analysis: Many of the proposed amendments to OAC 158:85 are for the purpose of administration of the provisions of the Roofing Contractor Registration Act in accordance with HB 1535. The proposed amendments to 158:85-1-2 add definitions for "comparable material," "labor-only crews," clarifies the definition for "Residential roofing contractor work" and adds a definition for "stand-by". The amendments to 158:85-2-1 provide clarification related to installing shingles to a building for commercial purposes and provide requirements for "labor-only crews". The amendment to 158:85-5-1 sets forth guidelines on allowing a party designated by a roofing firm to sit for the commercial roofing exam. The proposed amendments to 158:85-5-5 are related to metal building erectors and prefabricated or pre-engineered metal building packages.

CONTACT PERSON:

Stephanie Brown, Board Secretary/Executive Assistant, 405-521-6550.

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 OCTOBER 1, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

158:85-1-2. Definitions

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

"Act" means Roofing Contractor Registration Act as found at 59 O.S. § 1151, *et seq.*

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

"Advertise" means any written publication, dissemination, solicitation, contract, bid, promotional item, or circulation which is intended to directly or indirectly induce any person to contract for roofing construction services with the advertiser, including, but not limited to, business cards, telephone directory display advertisements, vehicle signage, radio, television and electronic solicitations.

"Applicant" means the qualifying party, or if no qualifying party, any person applying under the Roofing Contractor Registration Act for a roofing contractor registration to be issued by the Construction Industries Board. Applicant also means any person making application under the Act for endorsement, examination, roofing code variance, or continuing education program and instructor approval.

"Board" means the Oklahoma Construction Industries Board.

"Bonds and Insurance Unit" means the staff unit that processes bonds and insurance for all trades, under the direction of the Construction Industries Board.

"Business entity" means a person as defined in this Subchapter.

"Certificate of insurance" means a general liability policy in the amounts specified in 59 O.S. Section 1151.5(C)(4)

for roofing contractor work for which the general liability policy includes the registration number, if any, the roofing firm name, and that the policy specifically covers roofing work, with the Construction Industries Board added as a certificate holder to be immediately provided notice in the event such liability policy is cancelled for any reason or expires for non-payment of premiums.

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

"Commercial roofing contractor work" means work done on roofing systems or structures as defined as commercial in the International Building Code, as adopted by the Oklahoma Uniform Building Code Commission; except it does not mean buildings used for commercial purposes having equivalent or substantially the same roofing requirements as a "residence" defined herein, including but not limited to business offices converted from a structure that formerly was a residence.

"Committee" means the Committee of Roofing Examiners.

"Comparable material" means for shingles and shakes - any comparable material to shingles in the application and connection to the roof and to other pieces in an interlocking, stair step, alternating fashion consisting of individual overlapping elements that are laid in a method from the bottom edge of the roof up, with each successive layer overlapping the joints below.

"Contract laborer" means any person employed on a temporary or leased basis who is performing the labor of roofing work and does not provide either direct supervision, does not employ or terminate the employment of others, does not pay others, or does not act in any way in a supervisory or managing capacity.

"Contracting" means engaging or offering to engage in any roofing work which requires a valid and appropriate registration or endorsement from the Construction Industries Board as required by the Roofing Contractor Registration Act. Also, evidence of securing a permit, including roofing work from a governmental agency or the employment of a person on a roofing project, shall be accepted in any court, including administrative hearings, as prima facie evidence of the existence of a contract.

"Credit Hour" or **"Hour"** means at least fifty (50) minutes of classroom instruction with a ten (10) minute break.

"Direct Supervision" means when an employer is responsible for, authorizes, or determines the type and extent of work assigned, reviews and approves the quality of an employee's work performed before being considered completed, provides close supervision, direction or guidance, and determines when the work is completed in fulfillment of a contract or subcontract for the construction, alteration, repair or improvement of a new or existing roof. The employer providing direct supervision is one responsible for the details of the work, the locality of the work, instrumentality and tools to be used to complete the work, the length of time for which an employee

is employed, or the method, manner, means, and/or amount of payment to an employee.

"Employee" means any person, whether lawfully or unlawfully employed, in the service of another and who does not follow his or her own judgment and discretion as to the means, mode, or manner and details in the performance of the work but is hired to do the work and is subject to the control of the employer as to the means, mode, or manner and details in the performance of the work.

"Excluded from registration" means those for whom no registration or endorsement is required pursuant to 59 O.S. § 1151.2(18)(a) through (d) and 59 O.S. § 1151.9(B).

"Handyman" means, a person who is receiving compensation from the owner in an amount less than \$10,000.00 or a repair area covering less than 25% of the roofing surface and who is performing roofing work in conjunction with other repairs to the property and who does not perform more than two roofing repair jobs per calendar year. Any roofing repair jobs performed by a handyman in excess of two per calendar year are not excluded from the provisions of the Act. Roofing repair jobs estimated at \$10,000.00 or more or repair of an area covering 25% or more of the roofing surface and paid out at less than \$10,000.00 are not excluded.

"Hearing Board" means the Roofing Hearing Board created by the Act.

"Homeowner" means one who owns and resides in, or who resides in, or who contracts for the purchase, construction, remodeling or repairing of a residence.

"ICC" means the International Code Council.

"Labor-only crews" means a crew that is to perform the installation of asphalt shingles, tile shingles, synthetic shakes, wood shakes or other comparable materials to a sloped roof, as defined by the standards of installation set forth in this Chapter.

"Nonresident contractor" means any contractor who has not established and maintained a place of business as a roofing contractor in this state within the preceding year, or who claims residency in another state, or who has not submitted an income tax return as an Oklahoma resident within the preceding year.

"Oklahoma Uniform Building Code Commission" or **"OUBCC"** means the state agency created under 59 O.S. § 1000.20, *et seq.*, and authorized to adopt all building codes and standards for residential and commercial construction to be used as minimum standards by all entities within this State.

"Owner" means the person who owns the property or is a lessee of the property.

"Person" means any natural person, firm, limited or general partnership, corporation, association, limited liability company, trust, association, other legal entity and any organization capable of conducting business, or any combination thereof acting as a unit, unless the intent to give a more limited meaning is disclosed clearly by the Roofing Contractor Registration Act.

"Prime contractor" means a general contractor, commercial contractor, or other contractor who contracts directly with the owner for construction trade work in multiple trade areas.

"Project manager" means one who manages construction projects consisting of work involving multiple trades.

"Public contract" means a contract with the State of Oklahoma, its political subdivisions, or any board, commission, or department thereof, or with any board of county commissioners, or with any city council, school board, or with any state or municipal agency, or with any other public board, body, commission, or agency authorized to award contracts for the construction or reconstruction of public works and includes subcontracts undertaken to perform works covered by the original contract or any part thereof.

"Qualifying party" means a natural person who is an officer or owner of the corporation, a member of the limited liability company, or a general partner of the limited liability partnership, and who is actively engaged in the work undertaken by the registrant for which a registration is required pursuant to the Roofing Contractor Registration Act who meets the experience and ability requirements for registration on behalf of the registrant.

"Reciprocity agreement" means a written agreement between states whereby a person holding a roofing registration, endorsement or license in another state with substantially similar or greater requirements than Oklahoma may be registered and endorsed for commercial roofing work, if any, in this State after application and payment of a fee for registration and endorsement by reciprocity.

"Registrar" means the Construction Industries Board or any person designated by the Board to administer the provisions of the Roofing Contractor Registration Act.

"Registration" means the process of applying for an initial or renewal registration which upon approval is exhibited by a registration number and card issued pursuant to the Roofing Contractor Registration Act.

"Registration number" means the roofing registration number issued by the registrar to the registrant's qualifying party.

"Registrant" means a holder of a registration issued pursuant to the Roofing Contractor Registration Act.

"Residence" means a single structure for residential occupancy or use which is a detached one- to four-family dwelling or a multiple single-family dwelling (townhouse) not more than three (3) stories/floors above grade plane in height with a separate means of egress, and which is intended for use as a primary habitation, and any appurtenances thereto shall be in compliance with the International Residential Code, as adopted by the Oklahoma Uniform Building Code Commission.

"Residential roofing contractor work" means work done on roofing systems as defined in the International Residential Code, as adopted by the Oklahoma Uniform Building Code Commission, or as defined as a "residence" herein; ~~except for including buildings used for commercial purposes having equivalent or substantially~~ asphalt shingles, tile shingles, synthetic shakes, wood shakes or other comparable materials applied to a sloped roof equal to the same roofing requirements as a "residence" defined herein, including but not limited to business offices converted from a structure that formerly was a residence.

"Roofing contractor" means any person, including a subcontractor and nonresident contractor, engaged in the business of commercial or residential roofing contractor work as that term is defined and exclusions listed in 59 O.S. § 1151.2 and this Chapter.

"Roofing contractor work" means the installation, fabrication or assembly of equipment or systems included in commercial or residential roofing systems as defined in the International Building Code and the International Residential Code, as adopted by the Oklahoma Uniform Building Code Commission, and roofing construction work including, but not limited to, installation, renovation, remodeling, reroofing, reconstructing, repair, maintenance, improvement, alteration, and waterproofing, unless specifically excluded in the Roofing Contractor Registration Act.

"Roofing firm" means any person, as defined by the Act, offering to engage or engaging in roofing contractor work.

"Roofing Hearing Board" means the Hearing Board enacted pursuant to 59 O.S. § 1151.28 which shall consist of a designee of the Construction Industries Board, as chair, and the members of the Committee of Roofing Examiners acting in compliance with the provisions of the Construction Industries Board Act, rules and Article II of the Administrative Procedures Act

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

"Stand-by" means the file number for a commercial endorsement examination for a person other than the one designated by the roofing firm as the commercially endorsed qualifying party. This is not an endorsement or registration to be a commercially endorsed qualifying party but allows a person to apply and take the commercial endorsed examination for the purpose of standing by to be designated by the roofing firm as its qualifying party if all other requirements for a qualifying party are met. A passing exam score for commercial endorsement for a stand-by file number shall be valid for three (3) years or until the standards of installation per this Chapter change, whichever comes first. Then a person will need to re-take the commercial endorsement exam unless already having become registered and commercially endorsed.

"Subcontractor" means one who contracts with a prime contractor, general contractor, residential contractor, project manager, property manager, another subcontractor, or another entity for roofing contractor work.

"Variance" means the use of an alternative material or method of construction from that prescribed in the International Building Code or the International Residential Code or other approved documents by the Oklahoma Uniform Building Code Commission, described as the standard of installation at OAC 158:85-1-4, for use at a particular location or project specified in the variance application.

"Variance and Appeals Board" means the Oklahoma State Roofing Installation Code Variance and Appeals Board enacted pursuant to 59 O.S. § 1151.29.

SUBCHAPTER 2. REGISTRATION AND ENDORSEMENT APPLICATION AND RENEWAL REQUIREMENTS, PROCEDURES, FEES, DURATION, MILITARY AND RECIPROCITY

158:85-2-1. Registration, insurance, and workers' compensation coverage

(a) Registration Requirement.

(1) All persons performing roofing contractor work are required to apply and obtain from the Board a roofing registration number before advertising or engaging in the performance of roofing contractor work unless excluded under the Act. All persons performing commercial roofing contractor work as defined in this Chapter are required to apply and obtain from the Board a commercial endorsement to a roofing registration before advertising or engaging in the performance of commercial roofing contractor work unless performing work of installing shingles to building for commercial purposes as provided in the Act or otherwise excluded under the Act. The commercial endorsement is in addition to the registration. Roofing contractors who do not perform commercial roofing contractor work and only perform residential roofing contractor work do not need to obtain a commercial endorsement.

(2) Each roofing firm must have a person who is currently registered as a roofing contractor, and employed, full time, and who shall give full time to the supervision and control of operations necessary to ensure full compliance with the provisions of the Act and these Rules. Such contractor shall be an officer, partner or owner of that roofing firm, and shall be responsible for the work, registered, and endorsed if applicable, on behalf of that roofing firm.

(3) Applications for registration and commercial endorsement for any commercial roofing work shall be made to the Construction Industries Board in writing and under oath on forms approved and provided by the Board and shall be accompanied by the proper fee. If the registrar deems it appropriate or necessary, the registrar may also require other information to be included on the application form to assist the registrar in registering the person as a contractor.

(4) Labor-only crews performing the installation of asphalt shingles, tile shingles, synthetic shakes or wood shakes to a sloped roof, as defined by the standards of installation set forth in this Chapter, must make application as provided in this Section and have a qualifying party who is registered; however, there is no requirement for a commercial endorsement when performing installation of shingles pursuant to the Act.

(b) Insurance.

(1) Prior to engaging in roofing work, each person on an initial application process, and all roofing contractors submitting renewal applications, shall provide proof of financial responsibility by providing a certificate of insurance which indicates a minimum general liability policy of \$500,000.00 for residential roofing contractor work and \$1,000,000.00 for endorsement of commercial roofing

contractor work. Proof that the general liability policy specifically includes coverage of roofing work must be provided by the insurance policy carrier to the registrar.

(2) Any insurance company issuing a liability policy to a roofing contractor pursuant to the provisions of the Roofing Contractor Registration Act shall include the registration number, if any, the roofing firm name, and sufficient information to demonstrate the policy specifically covers roofing work; shall add the Construction Industries Board as a certificate holder which should be at no additional cost, not as an additional insured; and shall be required to notify the Construction Industries Board in the event such liability policy is cancelled for any reason or expires for non-payment of premiums.

(c) **Workers Compensation.** The residential roofing contractor shall submit proof that the residential roofing contractor has secured workers' compensation coverage satisfactory under the Workers' Compensation Act, or satisfactory proof of exemption or self-insurance as authorized pursuant to the Workers' Compensation Act which shall be maintained during all times of engaging in and performing residential roofing contractor work. All commercial roofing contractors shall maintain workers' compensation insurance coverage satisfactory under the Workers' Compensation Act and pursuant to Title 59 § 1151.22. The roofing contractor is responsible for having the insurance company issuing a workers' compensation coverage policy to a roofing contractor pursuant to the provisions of the Roofing Contractor Registration Act shall include the registration number, if any, the roofing firm name, and sufficient information to demonstrate the policy specifically covers roofing work, and add the Construction Industries Board as a certificate holder and shall be required to notify the Construction Industries Board in the event such liability policy is cancelled for any reason or expires for nonpayment of premiums.

(d) **Failure to Provide.** Any person failing to provide certificate of insurance or workers' compensation information at the time of initial application may be refused registration or endorsement for incomplete information, and all current registrations and endorsements under the Roofing Contractor Registration Act shall be placed not in good standing on the date of the failure to provide current certificate of insurance or workers' compensation information after policy cancellation, expiration, or failure to notify. The registrar must receive proof of insurance and workers' compensation prior to restoring the registration and endorsement. Any registrations and endorsements remaining in not good standing may be suspended or revoked according to the Act.

SUBCHAPTER 5. REGISTRATION AND ENDORSEMENT REQUIREMENTS AND LIMITATIONS, DISPLAY OF REGISTRATION NUMBER, ENDORSEMENT, FIRM NAME AND CONTACT INFORMATION, EXCLUSIONS

158:85-5-1. Registration requirements

(a) A valid and current registration issued pursuant to the Roofing Contractor Registration Act is required before a person may advertise or act as a roofing contractor, including but not limited to when a person may be a subcontractor providing Direct Supervision for Roofing Contractor Work as those terms are defined by the Roofing Contractor Registration Act and OAC 158:85-1-2, unless the person is exempt under the Roofing Contractor Registration Act. A roofing contractor's registration and required liability insurance shall be valid and in good standing at the time of soliciting a project and during subsequent job performance.

(b) A roofing contractor's registration certificate cannot be shared or used by any other individual or business entity; provided, however, a combination of contractors may be collectively registered for use by designated contractors acting as agents for a business entity so long as the application for registration contains sufficient information on each member of the business entity, each member individually meets all of the requirements for registration set forth in the Act and these rules, and the business entity is registered listing all designated contractor members of the business entity.

(c) A roofing firm shall only have one (1) qualifying party associated with and responsible for each roofing firm.

(1) A roofing firm with a currently registered and commercially endorsed qualifying party may make application to hold a commercial endorsement exam and file number in stand-by status allowing a designated person to sit for the commercial endorsement exam and to be eligible to be designated in the future by their roofing firm as the commercially endorsed qualifying party for the roofing firm when there is no qualifying party associated with the roofing firm and all other requirements for qualifying party are met.

(2) The commercial endorsement file number stand-by status allows a person to apply for and take the commercial endorsement examination for the purpose of standing by until designated by the roofing firm as the firm's commercially endorsed qualifying party.

(3) A roofing firm shall have only one (1) stand-by application on file at a time.

(4) The commercial endorsement passing exam scores are valid for three (3) years or until the OUBCC changes the standards of installation set forth in this Chapter, whichever comes first. A person with stand-by status who has not been designated as the qualifying party by the roofing firm after three (3) years of passing the commercial exam or when the OUBCC changes the standards of installation per this Chapter, must retest before being appointed as the qualifying party, then apply and meet all other requirements.

158:85-5-5. Exclusions to requirements of registration and endorsement

Unless exempt under the Roofing Contractor Registration Act, a person must be a registered roofing contractor, and endorsed if required, pursuant to the Roofing Contractor

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Registration Act before advertising or acting as a roofing contractor. Persons excluded from registration, and accompanying endorsement, are:

- (1) a person engaged in the demolition of a structure or the cleanup of construction waste and debris that contains roofing material,
- (2) a person working under the direct supervision of the roofing contractor who is hired either as an employee, day laborer, or contract laborer whose payment, received in any form, from the roofing contractor is subject to self-employment tax,
- (3) a person working on his or her own property or that of an immediate relative and such person is not receiving any compensation, or
- (4) a person acting as a handyman, as defined in this Chapter, who does not perform more than two roofing repair jobs per calendar year. Roofing repair jobs performed by a handyman per calendar year in excess of two per year do not fall under the exclusions from the provisions of the Act. Roofing repair jobs by a handyman in excess of two per year require registration. Roofing repair jobs estimated at \$10,000.00 or more or repair area covering 25% or more of the roofing surface and paid out at less than \$10,000.00 are not excluded;
- (5) an actual owner of residential or farm property who physically performs, or has family member, employee or employees who perform with or without remuneration, roofing services including, construction, installation, renovation, repair, maintenance, alteration, waterproofing, or removal of materials or structures on property owned by such person;
- (6) any authorized employee, representative or representatives of the United States Government, the State of Oklahoma, or any county, municipality, or other political subdivision of this state doing roofing work on their own facility that does not violate manufacturer specifications, applicable codes, nor compromise health or safety standards and practices;
- (7) any person who furnishes any fabricated or finished product, material, or article of merchandise which is not incorporated into or attached to real property by such person so as to become affixed thereto;
- (8) any person, including churches, or other charitable entities that provide roof repairs or replacements at no charge using volunteer labor;
- (9) any employee of a registrant who does not hold himself or herself out for hire, advertise, or engage in contracting, except as an employee of a registrant;
- (10) licensed engineers, licensed architects, licensed HVAC and any other person licensed by the jurisdiction, operating under the purview and within the scope of their respective license;
- (11) a person who only furnishes roofing materials, roofing supplies or equipment and does not, nor do the person's employees, install or fabricate them into or consume them in the performance of the work of the roofing contractor;

(12) prime contractors, general contractors, property managers and project managers who bid on construction trade work in areas additional to roofing contractor work, and subcontract the roofing contractor work as long as they subcontract the roofing work to a currently registered roofing contractor who is in good standing; if the bid is solely for roofing contractor work, then a registration is required;

(13) owners of commercial properties including residential rental properties consisting of four (4) dwelling units or less, when acting as their own roofing contractor and providing all material supervision themselves, lessees of residential properties with the consent of the owner, who, whether themselves or with their own employees, perform roofing construction in or upon the properties, all installing roofing materials according to the International Building Code, as adopted by the Oklahoma Uniform Building Code Commission, or the manufacturer's installation instructions; ~~or,~~

(14) owners of property when acting as their own roofing contractor, providing all material supervision themselves, and installing roofing materials according to the International Residential Code, as adopted by the Oklahoma Uniform Building Code Commission, or the manufacturer's installation instructions when building or improving a single family dwelling residence on such property for the occupancy of such owners and not intended for sale or rent. In any action brought under the Roofing Contractor Registration Act, proof of the sale or offering for sale of such structure or the renting or offering to rent of such structure by the owners of property within one (1) year after substantial completion of the structure when the structure can be occupied and used as intended but punch list items may remain, is presumptive evidence that the construction was undertaken with the intent of sale or rent; ~~or;~~

(15) metal building erectors who install prefabricated-or pre-engineered-metal-building packages, that may be known as PEMBs.

(A) Proof of metal building erector labor necessary to construct the components of a prefabricated-or pre-engineered-metal-building package must be demonstrated;

(i) proof of the labor necessary to construct the components may be demonstrated by providing documentation from a manufacturer for a previously erected prefabricated metal building and documentation of engineered plans with an engineer's stamp for a previously erected pre-engineered-metal-building package; and

(ii) proof of the labor necessary to construct components must include all the components necessary to complete the package, from the ground through to completion.

(B) Documentation from a manufacturer for a pre-fabricated-metal-building and documentation of engineered plans with an engineer's stamp for a pre-engineered-metal-building package will be made available to the board and staff upon request.

[OAR Docket #19-621; filed 6-14-19]

**TITLE 175. STATE BOARD OF COSMETOLOGY AND BARBERING
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #19-585]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
175:1-1-2. Definitions [AMENDED]

AUTHORITY:

Oklahoma State Board of Cosmetology and Barbering; 75 O.S. § 502(1)

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

March 29, 2019

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FINAL ADOPTION:

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

The proposed rules clarify that cosmetologists may engage in the non-permanent removal of hair, update the definition of hairbraiding technician to include a certificate rather than a license in accordance with changes made to the Oklahoma Cosmetology and Barbering Act last session (2018 Okla. Session Laws Ch. 62), and otherwise contain clean-up language.

CONTACT PERSON:

John Funderburk, Administrative Liaison, OSBCB, 2400 NW 23rd Street, Suite 84, Oklahoma City, OK 73107, 405-521-2441, John.Funderburk@cosmo.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 25, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

175:1-1-2. Definitions

The terms and phrases defined in the Oklahoma Cosmetology Act shall have the same meaning when applied in the rules which are herein set forth in this Chapter to substantiate the Cosmetology and Barbering Law. The following rules and terms shall have the same meaning, unless the context clearly indicates otherwise:

"**Act**" means the Oklahoma Cosmetology and Barbering Act.

"**Apprentice**" means a person who is engaged in learning the practice of cosmetology or barbering in a cosmetology or barber establishment. [Title 59 O.S. Section 199.1]

"**Assigned practice or clinic work**" means demonstrations and lesson practice in which services may be performed on patron, student or model on clinic floor in classroom for the benefit of student observation, notes, etc. The practice or demonstration shall be assigned by or with approval of the instructor in charge and materials/supplies used for the education demonstration are the responsibility of the school.

"**Barber/Barber Stylist**" means any person who engages in the practice of barbering.

"**Barber Establishment**" means an Establishment or place of business where one or more persons are engaged in the practice of barbering but shall not include barber schools or colleges.

"**Barbering**" means any one or combination of practices done upon the upper part of the human body for cosmetic purposes and when done for payment either directly or indirectly for the general public, constitutes the practice of barbering, to wit: shaving or trimming the beard or cutting the hair; giving facial or scalp massages or treatment with oils, creams, lotions or other preparations, either by hand or mechanical appliances; singeing, shampooing or applying lighteners or color to the hair, applying hair tonics; applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to scalp, face, neck or upper part of the body; and removing superfluous hair from the face, neck or upper part of the body.

"**Barber school or college**" means an Establishment operated for the purpose of teaching barbering.

"**Board**" means the State Board of Cosmetology and Barbering.

"**Clock hour**" means a measure of time determined to be sixty (60) minutes that a student spends in an educational or training activity.

"**Cosmetic studio**" means any place or premises where demonstrators give demonstrations, without compensation, for the purpose only of advertising and selling cosmetics.

"**Cosmetician**" means a person licensed by the Board to perform patron services limited to hair arranging and application of make-up, including, but not limited to using hairstyling tools and products. Services must be performed in a licensed establishment.

"**Cosmetologist**" means any person who engages in, follows or performs any of the practices of cosmetology.

"**Cosmetology**" means any one or combination of practices generally and usually performed by and known as the occupation of beauticians, beauty culturists, beauty operators,

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cosmeticians, cosmetologists, or hairdressers, or any other person holding himself or herself out as practicing cosmetology by whatever designation and within the meaning of the Oklahoma Cosmetology and Barbering Act and in or upon whatever place or premises. Cosmetology shall include, but not limited to, any one or combination of the following practices: bleaching, cleansing, curling, cutting, coloring, dressing, removing, singeing, styling, waving or similar work upon the hair of any person by any means, whether with hands or mechanical or electrical apparatus or appliances. Nothing in the Oklahoma Cosmetology and Barbering Act shall be construed to prohibit the use of hands or mechanical or electrical apparatus or appliances for the ~~non-permanent~~non-permanent removal of hair from the human body without puncturing of the skin or the use of stimulating exercising, beautifying or similarly working the scalp, face, neck, arms or the manicuring of the nails of any person, exclusive of such of the foregoing practice as are within the scope of practice of the healing arts as provided by law.

"Cosmetology Establishment" means an Establishment or place of business where one or more persons are engaged in the practice of cosmetology but shall not include barber schools and colleges.

"Cosmetology or Barber school" means a school or department that is approved by the Board to conduct and provide cosmetology and/or barber training and education in Oklahoma. It means any place or premises where instruction in any or all the practices of cosmetology and or barbering are given. Any person, firm, institution or corporation, who holds himself, firm, institution or corporation who shall teach and train any other person or persons in any of the practices of cosmetology and/or barbering is hereby declared to be engaged in operating a cosmetology and/or barbering school, and shall be operating a cosmetology and/or barbering school, and shall be subject to the provisions of the Oklahoma Cosmetology and Barbering Act. Licensed cosmetology and barbering schools may offer education to secondary and post secondary students in this state.

"Credit hour" means a unit of value awarded to a student for successful completion of a program, course or course lesson and credit to clock ~~rationation~~rationation as recognized by the United States Department of Education or a regional or national accreditation entity recognized by the United States Department of Education.

"Demonstrator" means a person who is not licensed in this state as a Cosmetologist, Barber or Instructor and who demonstrates any cosmetic preparation. The person shall be required to obtain a Demonstrator license from the Board before making any such demonstrations.

"Dry sanitizer" means a clean, dry, closed (covered) cabinet, drawer, chest or other type container used in a cosmetology/barber ~~Establishment~~establishment or school for the purpose of storing clean, dry disinfected combs, brushes and other implements without fumigant after the articles have been cleaned and disinfected in a wet sanitizer (or by other approved method in the case of metal implements).

"Emergency circumstances" means a serious injury, illness or death in the immediate family of applicant for registration, examination, licensure, etc.

"Establishment" means a place or premises, cosmetology salon or barber shop, cosmetic or other specialty shop/salon where any one or combination of cosmetology or barbering practices are performed on the public except that the term shall not include a cosmetology or barbering school.

"Esthetician/Facialist/Facial Operator" means a person licensed by the Board to perform skin care, make-up and hair removal services to the public provided the hair removal services shall not include electrolysis.

"Facial/Esthetics Instructor" means a person licensed by the Board as a qualified teacher of the art and science of skin care theory and practice.

"Hairbraiding Technician" means a person ~~certified~~licensed by the Board to perform hairbraiding, hairweaving techniques, and hair extensions in a licensed cosmetology establishment.

"Hybrid learning" means courses that combine face-to-face classroom instruction with on-line computer based learning.

"Manicurist/Nail Technician" means a person licensed by the Board to perform nail care services to the public in a place licensed by the Board where nail care/manicuring/pedicuring services may be performed.

"Manicurist/Nail Technician Instructor" means a person licensed by the Board as a qualified teacher of the art and science of nail technology theory and practice.

"Master Barber Instructor" means a person licensed by the Board who gives instruction in barbering or any practices thereof and trained in a school after November 1, 2014.

"Master Cosmetology Instructor" means a person licensed by the Board as a qualified teacher of cosmetology theory and practice.

"Mobile Establishment" means a specialty Establishment that is operated in a self-contained, self-supporting, enclosed mobile unit.

"Post secondary institution" means a school licensed to teach students according to prescribed curriculum as in Title 59 O.S. § 199.7 (F) 1 Board rule 175:10-3-34(a).

"Secondary institution" means a school licensed to teach students eligible for credit for 500 hours of related subjects as prescribed in Title 59 O.S. § 199.7 (f)2 and in Board rule 175:10-3-34(b).

"Student" means a person who is enrolled in a cosmetology or barber school and appropriately registered with the Board for the purpose of being educated and trained in the practice of cosmetology or barbering.

"Unassigned practice or clinic work" means a personal service of cosmetology or barber practice (on student on another etc.); which shall be elective practice which one student chooses to perform or to receive (routine shampoo not included); and in which school supplies may be used (i.e. bleach/color/perm, etc.); and which practice and service is not assigned by the instructor and/or performed for the benefit of a group of students who have been scheduled to observe as a classroom or clinic demonstration; and for which a reasonable cost for supplies used in the practice may be charged to the student receiving the unassigned services.

"Wet sanitizer" means a large, pan-type covered container which shall contain a liquid chemical disinfecting agent used in a school or Establishment for the purpose of disinfecting combs, brushes and other non-metal tools and implements used in training and practice.

[OAR Docket #19-585; filed 6-12-19]

TITLE 175. STATE BOARD OF COSMETOLOGY AND BARBERING CHAPTER 10. LICENSURE OF COSMETOLOGISTS, BARBERS, SCHOOLS AND RELATED ESTABLISHMENTS

[OAR Docket #19-586]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 3. Licensure of Schools Part 1. Initial School Licensing 175:10-3-2. Initial inspection [AMENDED] Part 3. Student Registration and Entrance Requirements 175:10-3-16. Student entrance requirements [AMENDED] Part 5. Equipment and Curriculum Requirements 175:10-3-30. Required library copies of cosmetology law/rules [AMENDED] 175:10-3-34. Basic Cosmetologist course curriculum for privately owned and public schools [AMENDED] 175:10-3-43. Hairbraiding Technician course entrance and curriculum requirements [REVOKED] Part 7. General Operations and Licensing Requirements 175:10-3-56. Student training; approved credits; credit limits [AMENDED] 175:10-3-60. Attendance and other records and requirements [AMENDED] 175:10-3-61. School affidavit; hours accumulated [AMENDED] 175:10-3-71. Review hours [AMENDED] Subchapter 7. Sanitation and Safety Standards for Cosmetology and Barber Establishments, Salons and Schools 175:10-7-1. Cosmetology and Barber/Barber Establishment separate from residence or other business [AMENDED] 175:10-7-5. Disinfectants required for use in schools and related establishments [AMENDED] 175:10-7-13. Work/styling station and shampoo area condition and safety [AMENDED] 175:10-7-17. License and other posting requirements [AMENDED] Subchapter 9. Licensure of Cosmetologists, Barbers and Related Occupations Part 1. Apprenticeship 175:10-9-1. Apprentice training [AMENDED] 175:10-9-2. Number of clock hours credited for apprentice training [AMENDED] Part 3. State Board Examination 175:10-9-25. Examination form; administration and content of Board examination passing score; disability accommodations; grade release reports [AMENDED] 175:10-9-33. Review of hours required after failure to timely register for examination or to apply for license [AMENDED] 175:10-9-36. Examination for hairbraiding technician certification [NEW] Part 5. Demonstrators; Cosmetic Studios; Trade Shows; Guest Artists; Wig Dressing; Other Practices of Cosmetology and Barbering 175:10-9-50. Demonstrator and cosmetic studio license requirements [AMENDED] Subchapter 11. License Renewal, Fees and Penalties 175:10-11-1. Application for renewal of license [AMENDED] 175:10-11-2. Cosmetology and Barber license and penalty fees [AMENDED] Subchapter 13. Reciprocal and Crossover Licensing

175:10-13-1. Reciprocal license requirements [AMENDED]

AUTHORITY:

Oklahoma State Board of Cosmetology and Barbering; 75 O.S. § 502(1)

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 rules specify the size of photos submitted with licensure applications and prohibit any embellishments to the photos; change hairbraiding licensure to hairbraiding certification in compliance with H.B. 2772 enacted in the 2018 legislative session (2018 Oklahoma Session Laws Ch. 62); modify curriculum and training tools for hairbraiding; change school submission of student hours from quarterly to a monthly basis; remove requirement that hours are only submitted if tuition is paid in full; clarify that accumulated hours with an unpaid tuition balance do not constitute completed hours for the purpose of sitting for licensure examination; remove requirement for proof of hardship in order to qualify for apprenticeship; remove requirement that school libraries contain certain hardcopy dictionaries; replace requirement that stations be maintained in a neat and orderly manner with requirement that stations be maintained in a sanitary manner; remove prohibition on consuming food or beverage in station area or classroom; provide fee waiver for low-income individuals in compliance with 59 O.S. §4003A; contain clean-up language.

CONTACT PERSON:

John Funderburk, Administrative Liaison, OSBCB, 2400 NW 23rd Street, Suite 84, Oklahoma City, OK 73107, 405-521-2441, John.Funderburk@cosmo.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 25, 2019:

SUBCHAPTER 3. LICENSURE OF SCHOOLS

PART 1. INTIAL SCHOOL LICENSING

175:10-3-2. Initial inspection

(a) Request for initial inspection. Applicant must submit a written request for an initial Board consultation and inspection for approval of the location, building, parking, electrical facilities, plumbing facilities, construction and building codes for the proposed school. Applicant must provide city inspection certificate, fire department, electrical and plumbing certificates as applicable for the city or county where proposed school is

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located and other applicable zoning or construction documents the Board may require for approval.

(b) **Space/building requirements.** At the initial inspection, the Board's representative will consult with the proposed owner(s), instructor(s) and other person(s) designated by the license applicant as responsible for the proposed school regarding the requirements necessary to the physical arrangements of the proposed building and space.

(1) **Lighting, ventilation, floors, available parking requirements.** Adequate lighting and ventilation; cleanable floor surfaces; parking facilities, and other building appointments as applicable in the specific plans and location, will be addressed in the initial consultation.

(2) **State and federal fire and safety codes compliance.** The proposed school space must meet federal, state and local construction, electrical, plumbing, fire and safety codes. Proposed owner must show the Inspector proof of certification of compliance with applicable codes upon request. At least two point of ingress/egress for the building are required. In the event of multiple stories or building levels, fire escape(s) must be approved and appropriate exit signs must be posted for safe exit from the building.

(3) **Minimum building and student work space.**

(A) The proposed school building space must contain a minimum of twenty-two hundred (2,200) square feet of floor space. The Board considers a working ~~area~~ area of 5' X 8' (40 square feet) per student as necessary and adequate for the safe operation of the required minimum equipment approved for the conducting of cosmetology or barber courses of training. Space allotted to reception area, restrooms, lockers, vending machines, cosmetic and wig displays, supply and storage and break room(s) are not included in the 5' X 8' work area required for each student.

(B) The proposed building space plans shall contain separate classroom setting large enough to accommodate at least fifteen (15) students in one group, one (1) mannequin table, one (1) chalk or marker board, three (3) manicure tables or one (1) narrow (18 inch) folding table satisfactory for manicure practice.

(C) The proposed school plans shall contain a facial and skin care room designed to provide maximum sanitation methods and privacy to patrons.

(D) The space plans must include break area and locker space (one locker per student) and separate restroom facilities for male and female students.

(4) **Dispensary, drinking fountain, school reception area, wall and floor covering requirements.**

(A) A sanitary drinking fountain or water cooler shall be provided, maintained and in good repair at all times.

(B) Each school shall have a dispensary room equipped with a sink plumbed with hot and cold water.

(C) A school shall provide space for a reception area with seating capacity of no less than ten (10) persons.

(D) Interiors of schools shall be maintained in a clean, sanitary condition, and in good repair.

(i) Floors in work areas (shampoo and styling areas) shall be covered with hard, cleanable surface of vinyl, linoleum or other impervious floor covering. Carpet is prohibited for use in school work areas.

(ii) Walls and woodwork to a height of five (5) feet shall be painted or covered with easily cleaned and washable material.

PART 3. STUDENT REGISTRATION AND ENTRANCE REQUIREMENTS

175:10-3-16. Student entrance requirements

Student entrance requirements for the Basic Cosmetologist, Manicurist/Nail Technician, Cosmetician, ~~Hairbraiding Technician~~, Esthetician/Facialist/Facial Operator, Barber and Barber Instructor courses are as follows:

(1) The student must:

(A) be at least 16 years of age by November 1st of the current year.

(B) submit completed student registration application accompanied by a fee of \$5.00 before attending classes.

(C) submit a copy of the completed student/school contract with the student registration application.

(D) submit proof of at least eighth grade education or equivalency or submit proof of having satisfactorily passed an ability to benefit exam.

(E) submit, if under 18 years of age, a photocopy of birth certificate or other legal proof of age.

(F) submit 2"X3"2" X 2" current full-face photograph of the applicant as requested on registration form. A current photograph is one taken within the last six months. No embellishments or filters of any kind that alter the face of the applicant.

(2) Each student shall be registered with the Board before attending school.

(3) Each student shall be provided with an approved textbook or manual upon commencing training.

(4) Each student must be provided a kit with minimum content requirements before commencing clinic training.

(5) All applicants who register with the Board as students or who apply for a license will be considered without regard to race, sex, creed, color, religion, or national origin provided they have met all requirements of cosmetology and barber law and rules of the Board. All students shall be considered for enrollment in a school. Admission to public schools is governed by applicable state and federal laws.

PART 5. EQUIPMENT AND CURRICULUM REQUIREMENTS

175:10-3-30. Required library copies of cosmetology law/rules

(a) At least six (6) copies of the Oklahoma Cosmetology/Barbering Law and Board rule book must be maintained in library of each school and available to students. The books will be provided by the Board at a current cost of printing and delivery to each school.

(b) Reference manuals or other material shall be kept current by replacement or supplement as pertains to all areas of the curriculum. ~~Other library and reference books shall include a Collegiate Dictionary and an American Medical Dictionary.~~ Each school shall maintain a quality reference library addressing various major subjects as pertain to the total field of cosmetology or barbering.

175:10-3-34. Basic Cosmetologist course curriculum for privately owned and public schools

(a) **Privately owned cosmetology school.** The 1500 clock hour curriculum (pure cosmetology) is prescribed as follows: (Note: Hours may be measured in credits and ratio as recognized by the United States Department of Education or by a regional or national accreditation entity recognized by the United States Department of Education.)

- (1) Theory (must be coordinated with each practical practice subject as is appropriate throughout the course of training) 150 clock hours
- (2) Manicuring and pedicuring (including sculptured nails and tips and other artificial nail application procedures and care) 90 clock hours
- (3) Facials (skin care training includes make-up, arching, waxing and/or other methods for non-permanent hair removal) 160 clock hours
- (4) Scalp treatments and shampooing/conditioning rinses 30 clock hours
- (5) Hairstyling, including finger waving, the dressing of wigs, thermal and blow drying 300 clock hours
- (6) Hair color tints and bleaching and other color treatments 170 clock hours
- (7) Hair cutting and hair shaping with shears and thinning shears (scissors) razor and ~~clipper~~Clipper (includes beard) 180 clock hours
- (8) Professional development, Establishment management and unassigned hours for review, examinations, etc. 180 clock hours
- (9) Hair restructuring/permanent waving and chemical hair relaxing 240 clock hours
- (10) Total cosmetology hours 1500 hours

(b) **Public cosmetology school.** The 1500 clock hour curriculum (1000 hours pure cosmetology plus 500 hours of cosmetology related high school subjects) is prescribed for public school, parochial school, private school or home schooled students in the following situations:

- (1) Cosmetology students that are currently attending high school, parochial, private school or a home school.
- (2) Persons that did not otherwise complete their cosmetology training while registered as a cosmetology student in high school, parochial school, or a home school.

(A) Students who shall qualify for training in this matter must complete 1000 clock hours in a Basic cosmetology course and 500 hours of approved related subjects. The official parochial, private school or home school high school transcript shall serve as documentation for the 500 hours of related instruction. The transcript must show passing grades in related subjects and completion of at least the first semester of the twelfth (12th) grade. Related subjects shall run concurrently with and shall be in no instance older than three (3) years at time of enrollment in a cosmetology school course. The curriculum as follows has a recommended completion time of two (2) school years.

(B) Adult students registered in a cosmetology school are not eligible to train under the 1000 hours pure cosmetology plus 500 hours of cosmetology related high school subjects unless qualified under (b) (1) and (2) of this rule.

- (3) Theory (must be coordinated with each practical practice subject as is appropriate throughout the course of training) 150 clock hours
- (4) Manicuring and pedicuring (including sculptured nails and tips and other artificial nail application procedures and care) 60 clock hours
- (5) Facials (skin care training includes make-up, arching, waxing and/or other methods for non-permanent hair removal) (60) clock hours
- (6) Scalp treatments, shampooing/conditioning rinses 30 clock hours
- (7) Hairstyling, including finger waving, the dressing of wigs, thermal and blow drying 180 clock hours
- (8) Hair color tints and bleaching and other color treatments 120 clock hours
- (9) Hair cutting and hair shaping with shears and thinning shears (scissors) razor and clipper (includes beard) 120 clock hours
- (10) Professional development, Establishment management and unassigned hours for review, examinations, etc. 100 clock hours
- (11) Hair restructuring/permanent waving and chemical hair relaxing 180 clock hours
- (12) Cosmetology related subjects 500 clock hours
- (13) Total cosmetology hours 1500 hours

(c) **Minimum training supplies for private and public schools.** A Basic Cosmetology student minimum training supplies are required as follows:

- (1) one (1) approved text on theory of cosmetology
- (2) one (1) razor-type hair shaper and shaper blades
- (3) one (1) pair each hair cutting shears and thinning shears
- (4) one (1) cuticle nipper for finger nails and one (1) nipper for toe nails
- (5) one (1) cuticle scissors
- (6) one (1) nail brush
- (7) one (1) nail file or package of emery boards
- (8) one (1) tweezers
- (9) six (6) assorted hair brushes

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- (10) twelve (12) combs (including tail, all purpose and/or barber-type)
- (11) one (1) curling iron
- (12) one (1) shampoo cape
- (13) appropriately disinfected set of manicuring implements for student training use on each patron
- (14) toe nail clipper
- (15) permanent wave rods
- (16) other hair restructuring supplies
- (17) an adequate supply of applicator bottles and chemical bowl and brush
- (18) an adequate supply of protective gloves (disposable)
- (19) an adequate supply of neck strips
- (20) an adequate supply of hair clippers
- (21) an adequately supplied products dispensary to appropriately train students in cosmetology classes
- (22) visual aid equipment in addition to the chalk or marker board

175:10-3-43. Hairbraiding Technician course entrance and curriculum requirements [REVOKED]

(a) ~~Entrance requirements.~~ Hairbraiding Technician course entrance requirements are the same as for a Basic course pursuant to OAC 175:10-3-16.

- (1) ~~Each student shall be provided an approved textbook or manual before commencing classroom training.~~
- (2) ~~A Hairbraiding Technician student shall not be allowed to perform patron services until such time as he/she has been training trained in safety and disinfection procedures on the clinic services performed instruction under the direct supervision of a licensed Instructor.~~

(b) ~~Curriculum requirements.~~ The 40 clock hour or curriculum is prescribed as follows: (Note: Hours may be measured in credits and ratio as recognized by the United States Department of Education or by a regional or national accreditation entity recognized by the United States Department of Education.)

- (1) ~~Bacteriology, chemistry, shampooing, disinfection and sanitation (includes hair and scalp disorders) 10 clock hours~~
- (2) ~~Hairbraiding/hairweaving skills (includes purpose and effect, procedures, repair, removal of weft, sizing and finishing, extension and maintenance/care of braids/weaves) 10 clock hours~~
- (3) ~~Board rules, regulations and statutes 20 clock hours~~
- (4) ~~Total hours 40 hours~~

(c) ~~Minimum training supplies.~~ A Hairbraiding Technician minimum training supplies are required as follows:

- (1) ~~textbook or manual~~
- (2) ~~four (4) hair brushes~~
- (3) ~~four (4) hard rubber combs or other good quality combs (shall include rat tail, color, regular and/or barber type)~~
- (4) ~~hair extension material~~
- (5) ~~one (1) comb out cape~~
- (6) ~~one (1) box of curl clips (100 per box)~~

- (7) ~~an adequate supply of protective gloves (disposable)~~
 - (8) ~~an adequate supply of neck strips~~
 - (9) ~~visual aid equipment in addition to the chalk, marker board or acceptable alternative.~~
- (d) ~~Upon completion of the 40 hours of training, a passing score of 75% is required on the Board's written sanitation and safety examination to be eligible for licensure.~~

PART 7. GENERAL OPERATIONS AND LICENSING REQUIREMENTS

175:10-3-56. Student training; approved credits; credit limits

(a) **Commencement of student training.** Student training shall be counted from the date on the student registration receipt. ~~The postmark will determine the issuance date on the student registration receipt.~~ The postmark will determine the issuance date on the registration receipt provided that all forms and affidavits required by the Board are complete and accurate in accordance with Board rules. A student registration for any course in a specific school is valid two (2) years.

(b) If a school has an articulation agreement with a college or university, then the school shall notify a student prior to the student's registration of the following:

- (1) the identity of the college or university with which the school has the agreement; and
- (2) the number of credit hours that the college or university will accept pursuant to the articulation agreement.

(c) The notice shall also include a disclaimer informing the student that there is no guarantee that colleges or universities that do not have an articulation agreement with the school will accept the credit hours. The notice to the student shall be prominently displayed in the student handbook.

(d) **Direct instructor supervision required.** A student must train under the direct supervision of an instructor employed by the school at all times in order to be credited for hours by the Board.

(e) **Credit for field of study related field trip.** A student may be given credit for hours spent in a Board approved cosmetology/barber related field trip provided:

- (1) the student is accompanied and observed by an instructor licensed by the Oklahoma State Board of Cosmetology and Barbering.
- (2) credit for cosmetology/barber related field trips shall not exceed seventy-two (72) total clock hours of the Basic Cosmetology/Barber course or more than sixteen clock hours in a given week.
- (3) credit for cosmetology related field trips shall not exceed twenty-four (24) total clock hours of the Manicurist, Facial/Esthetics ~~or Hairbraiding Technician~~ course or more than sixteen clock hours in a given week.
- (4) credit for cosmetology related field trips shall not exceed forty (40) total clock hours of the Master Instructor, Manicurist/Nail Technician Instructor or Facial/Esthetics Instructor course, Barber or Barber Instructor or more than sixteen (16) clock hours in a given week.

(f) **Credit for model participation in a State Board practical examination.** A student may be given eight (8) clock hours for participation as a student model in a State Board practical examination.

(g) **Credit limit per day.** No student is permitted to receive more than eight (8) clock hours per day.

175:10-3-60. Attendance and other records and requirements

(a) **Minimum attendance per week.** A part time schedule shall be submitted and approved by the Board. Student shall attend a clock hour school at least three (3) hours per day, five (5) days per week or a total of fifteen (15) hours per week.

(b) **Daily sign-in/time clock or other records maintained in a clock hour school.** In addition to maintaining a current record of student hours, clock hour schools shall keep a record of daily attendance Students registered in a clock hour school shall sign or clock in and out of each class daily.

(c) **Credit hour records maintained in a credit hour school.** Credit hour schools shall maintain a current record of credit hours earned by each student and turned in at the end of each term.

(d) **Practical practice records.** Clock and credit hour schools shall maintain a record of clinic practical practices and theory credit or clock hours earned by each student.

(e) **Student hour retention.** School shall retain records of students for three (3) years.

(f) **Record availability.** All attendance and educational records shall be available during inspection or upon request of the Board as allowed under the Cosmetology and Barbering Act.

(g) ~~Monthly~~**Quarterly submission of hour reports.** ~~All schools shall be required to submit a report of student hours earned to the Board quarterly no later than January 10th, April 10th, July 10th, October 10th.~~ All clock hour schools shall be required to submit a report of all student hours earned to the board monthly and will be due by the 10th of the following month. All hours shall be submitted as follows: Private school hours must reflect day and evening classes, student's name, file/registration number, and accumulated hours received. Public school hours must reflect the instructor who teaches the program and program taught, whether day or evening class, student name, file/registration number, and hours received by student.

175:10-3-61. School Affidavit; hours accumulated

(a) **School Affidavit upon completion, withdrawal or termination.** School Affidavit shall be submitted within five (5) business days upon completion of a course (~~provided tuition is paid in full according to contractual agreement~~), withdrawal, or other termination of a student for any reason (excused absence is an exception). The School Affidavit shall reflect the total number of clock or credit hours accumulated.

(b) **School Affidavit or hours completed to be submitted with examination registration.** The School Affidavit of completed hours of training must be submitted with examination registration.

(c) **Hours submitted upon course completion.** Accumulated student hours shall be submitted to the Board within five (5) business days of the completion of course hours by a student ~~if tuition is paid in full to the school according to contractual agreement.~~ The school owner or instructor shall submit accumulated hours to the Board on Board approved School Affidavit to allow the student to be registered for examination and be issued a student work permit by the Board.

(d) **Refusal to submit student hours.** No school owner or instructor shall ever refuse to submit accumulated student hours if hours are completed ~~and tuition is paid in full according to contractual agreement.~~ School will notify the board of any unpaid balance on student affidavit. Accumulated hours with an unpaid balance shall not constitute completed hours for the purpose of sitting for the examination.

(e) **Hours not to be adjusted as penalty for absence or rule infraction.** No school owner or instructor shall penalize a student by deducting hours from accumulated hours earned, nor shall hours be added to the total hours required for course completion as penalty for excessive student absence or other school infraction.

(f) **Student copies of School Affidavit of completion.** A student who completes a specific course must be provided the School Affidavit of completion dated on the day of completion provided the tuition is paid in full according to contractual agreement.

175:10-3-71. Review hours

After a student registers for examination, he may register for non-required review hours not to exceed five hundred (500) clock or equivalent number of credit hours. The non-required review hours remain on file but shall not be credited toward an examination. Review hours that are required for the applicant whose license has expired may be credited toward the appropriate examination as in Rule 175:10-9-33.

SUBCHAPTER 7. SANITATION AND SAFETY STANDARDS FOR COSMETOLOGY AND BARBER ESTABLISHMENTS, SALONS AND SCHOOLS

175:10-7-1. Cosmetology and Barber barber Establishment separate from residence or other business

No Establishment shall operate in a residence or beauty/barber supply house or other business unless a room or rooms are provided separate and apart from the residence/supply house business and with a separate entrance. Establishment must be separate from beauty supply house/business. Establishment area shall have separate entrance and must be identified/signed in order for the Board and consumers to determine specific area of inspection authority and responsibility. Establishment area shall be separated by a solid divider, partition, wall, display counter or shelves. Divider wall must measure at least six (6) feet from floor to top in such manner as to assure compliance with Board standards of sanitation and

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safety for Establishment operation. All doors and windows between residence/living quarters shall be kept closed during Establishment hours.

175:10-7-5. Disinfectants required for use in schools and related establishments

- (a) Every precaution shall be taken to prevent infection by disinfecting all tools.
- (b) All items shall be cleaned and disinfected by removing all visible debris from an item or surface by using soap/water or a cleaning agent.
- (c) Items shall be rinsed thoroughly in plain water.
- (d) Items shall be placed in a wet sanitizer, which is a large, pan-type container which may be of plastic, enamel, stainless steel, or rubber and shall be fully immersed in an EPA approved disinfectant prepared according to manufacturer's directions. The items must stay immersed for full contact time according to manufacturer's instructions in order that item or surface stays moist with disinfection for all pathogens listed on the label to be effectively destroyed.
- (e) Combs may be disinfected in a cylinder jar by immersing in an EPA approved disinfectant prepared according to manufacturer's directions. The combs must stay immersed for full contact time according to manufacturer's directions. ~~The combs must stay immersed for full contact time according to manufacturer's instruction in order that item or surface stays moist with disinfection for all pathogens listed on the label to be effectively destroyed.~~
- (f) If an autoclave is used to sterilize items after disinfection, in order to destroy all microbial life (including spores), periodic testing and maintenance must be performed on system according to manufacturer's instructions.
- (g) All disinfected items must be stored in a dry/closed cabinet, drawer, or other closed/covered/light type container without fumes.

175:10-7-13. Work/styling station and shampoo area condition and safety

- (a) Work/styling station and shampoo area shall be maintained in a ~~neat and orderly manner at all times~~ sanitary manner. Instruments, which have been used, shall not be placed on work station or on the floor. Loose/cut hair must be removed from styling/work station/chair and floor immediately after patron service is complete.
- ~~(b) Consuming of food and/or beverage shall not be permitted at work/styling station or in classroom.~~
- ~~(eb)~~ Student, instructor or other school personnel shall be not permitted to smoke in classroom or at work/styling station.
- ~~(dc)~~ Light fixtures shall be appropriately installed in order to provide adequate lighting in work areas.

175:10-7-17. License and other posting requirements

- (a) Licenses shall be posted in a place easily viewed by the public.
 - (1) Current ~~2" X 3" 2" X 2"~~ photo of licensee is required to be posted with each license or work permit.

- (2) Student and apprentice registration receipts and student permits to work shall be posted conspicuously.
- (3) Posting at individual work/styling station in an Establishment may be required for inspection and identification purposes.

- (b) Board Sanitation and Disinfection Rules shall be posted in each Establishment.
- (c) Code of Ethics shall be posted in each school.
- (d) Current inspection reports shall be posted in a place easily viewed by the public.
- (e) All persons practicing in a salon shall be required to have a current form of photo ID on their person and be prepared to produce it to the Inspector at time of inspection.

SUBCHAPTER 9. LICENSURE OF COSMETOLOGISTS, BARBERS AND RELATED OCCUPATIONS

PART 1. APPRENTICESHIP

175:10-9-1. Apprentice training

- (a) An apprentice must train under the direct supervision of a currently licensed instructor or an instructor that is licensed in the particular field of practice. Only one (1) apprentice per Establishment shall be approved to be trained at any given time.
- (b) A currently licensed instructor who wishes to train an apprentice shall make written application to the Board. The application shall include: apprenticeship inspection fee of \$20.00 (includes purchase of Rules, Regulations and Law book, apprentice registration and inspection fee).
 - ~~(1) Proof of need affidavit from the proposed apprentice. Proof of need is considered by the Board to be proof of dire financial circumstances of the apprenticeship applicant or proof of lack of training available within a reasonable distance of residence of apprentice applicant.~~
 - ~~(2) Apprenticeship inspection fee of \$20.00 (includes purchase of Rules, Regulations and Law book, apprentice registration and inspection fee) is required.~~
- (c) An inspection will be made by the Board for approval of required equipment, textbooks, and theory tests.
- (d) An interview will be conducted with the instructor and the proposed apprentice to assure that both parties fully understand the apprenticeship program.
- (e) When all requirements are met, an equipment affidavit will be signed by the inspector and the instructor. Apprentice registration forms will be completed at time of inspection.
- (f) Equipment required to train an apprentice is based on course of study as follows:
 - (1) One (1) facial chair (reclining styling or shampoo chairs are acceptable).
 - (2) One (1) facial supply cabinet.
 - (3) One (1) work/styling station.
 - (4) One (1) mannequin.
 - (5) Other Establishment equipment as shall be required for course of training.

(g) Textbooks must be approved by the Board that adequately cover the prescribed curricula and prepares students for State Board testing. Other textbooks and reference material may be used to enhance the apprentice course.

(h) Reference and other library equipment include:

- (1) Standard Dictionary
- (2) American Medical Dictionary
- (3) Subscription to at least one (1) professional magazine

(ih) Entrance requirements for apprentice training:

- (1) Apprenticeship must be approved by the Board before apprentice attends class.
- (2) Apprentice must be at least sixteen (16) years of age.
- (3) Apprentice must show proof of at least 8th grade education or equivalency (8th grade diploma or transcript). The Board may accept a statement from a school official who states, upon interview with applicant, that applicant has the equivalency of at least 8th grade potential and ability to learn.
- (4) Apprentice must be able to benefit from instruction.
- (5) Apprentice must submit copy of birth certificate or other legal proof of age if under the age of 18 years of age.

(ji) Minimum content requirements for an apprentice kit are the same as for students registered in a school.

(kj) In addition to requirements of a kit, the apprentice shall have available for apprentice training:

- (1) At least one set of appropriately disinfected manicuring implements immediately available for use on each patron (not required for barber or esthetician apprentices)
- (2) Adequately supplied dispensary to appropriately train apprentice in cosmetology practices, barber, esthetician, manicuring, hairbraiding practices depending on program; and
- (3) Visual aid equipment in addition to the chalk or marker board.

(hk) Apprentice training may be approved for all courses except Instructor. Apprentice training may be approved for courses of review when required for expired license.

(ml) The instructor shall not charge the apprentice for training. The instructor may charge for services rendered by the apprentice while in apprentice training.

(nm) If the apprentice performs extra-curricular work for the shop owner for compensation, the work shall in no way interfere with the eight (8) hours per day of training for an apprentice.

(on) The instructor shall instruct the apprentice in all subjects as outlined in the curricula prescribed by the Board to be taught in a school. The instructor shall give the apprentice weekly tests and a final examination in both the practical skills and theory work.

(po) Apprenticeship training shall be under the direct supervision of the approved licensed instructor at all times.

175:10-9-2. Number of clock hours credited for apprentice training

(a) Apprentice course clock hours are as follows:

- (1) Basic ~~cosmetology~~ Cosmetology - 3000 hours

(2) Manicurist/Nail Technician - 1200 hours

(3) Facial/Esthetics - 1200 hours

(4) Cosmetician - 1200 hours

~~(5) Hairbraiding Technician - 1200 hours~~

~~(6) Barber - 3000 hours~~

(b) An apprentice who transfers to a school shall be given 50% credit of the hours completed as an apprentice.

PART 3. STATE BOARD EXAMINATION

175:10-9-25. Examination form; administration and content of Board examination passing score; disability accommodations; grade release reports

(a) The examination application shall be completed to include the School Affidavit of completion of hours and the examination fee.

(b) The Board shall conduct examinations for license at such times as the Board shall consider necessary to reasonably accommodate applicants for the examination.

(c) Each applicant shall be required to take both written and practical portion of the State Board examination.

(d) The written exam will test general knowledge. Textbooks approved by the Board will contain the subjects and examination questions and answers.

(e) The test for all instructor license examination candidates must include completion of lesson plan preparation, class presentation and a written theory test and other cognate areas of teacher training. The instructor tests shall include questions pertaining to Oklahoma Cosmetology and Barber law and Board rules and regulations.

(f) When a live model is used, model must be at least sixteen (16) years of age.

(g) Minimum passing grades, on each portion of the examination, are as follows:

- (1) Cosmetology - 75%
- (2) Master Instructor - 75%
- (3) Manicurist - 75%
- (4) Esthetician - 75%
- (5) Cosmetician - 75%
- ~~(6) Hairbraiding Technician - 75%~~
- ~~(7) Barber - 75%~~
- ~~(8) Manicurist/Nail Technician Instructor - 75%~~
- ~~(9) Facial/Esthetics Instructor - 75%~~
- ~~(10) Master Barber Instructor 75%~~

(h) A Cosmetologist, Manicurist, Esthetician, Cosmetician, Barber or Hairbraiding Technician, declaring a disability, defined by the American Disabilities Act (ADA) shall submit a written statement when requesting an oral examination or other special testing accommodation. Such needs identification and request for special accommodation must be made at time of student enrollment with the Board or at the earliest time possible during course of training.

(i) Validity of disability must be established by the submission of a statement from a licensed health care professional qualified to diagnose the disability.

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(j) Instructor license examination candidate declaring a disability shall be provided a distraction free space, test schedule variation and/or extended time to complete the test.

(k) State Board examination grades/scores will be provided to schools at least twice a year. The reports will be provided more frequently only as time and staff allows.

175:10-9-33. Review of hours required after failure to timely register for examination or to apply for license

(a) After one (1) year and up to five (5) years from date of the completion of a course of training, any applicant who fails to register for the examination or who fails to apply for ~~his~~a license after notice to apply, shall be required to show proof of no less than the following review hours in an approved Oklahoma cosmetology or barber school before being eligible to sit for the examination (Note: Hours may be measured in credits and ratio is as recognized by the United States Department of Education as recognized by a national accreditation entity recognized by the United States Department of Education):

- (1) Cosmetologist 120 clock hours
- (2) Manicurist 40 clock hours
- (3) Facialist 40 clock hours
- (4) ~~Hairbraiding Technician 40 hours~~
- (54) Cosmetician 40 clock hours
- (65) Barber 120 clock hours
- (76) Master Cosmetologist Instructor 120 clock hours
- (87) Manicurist/Nail Technician Instructor 120 clock hours
- (98) Facial/Esthetics Instructor 120 clock hours
- (109) Master Barber Instructor 120 clock hours

(b) After five (5) years from date of the completion of a course or training, any applicant who shall fail to register for the examination or who shall fail to apply for ~~his~~a license after notice to apply, shall be required to first register for the appropriate examination. He shall be required to show proof of a specific number of current review hours, the same as is required for the renewal of an expired license which is expired for the same length of time as required in Title 59 O.S. Section 199.10 (D).

175:10-9-36. Examination for hairbraiding technician certification

In order to be eligible for a hairbraiding technician certificate, a person shall:

- (1) be at least seventeen (17) years of age;
- (2) submit a completed application;
- (3) submit 2" X 2" current full-face photograph of the applicant as requested on registration form. A current photograph is one taken within the last six months. No embellishments or filters of any kind that alter the face of the applicant;
- (4) complete a safety and sanitation examination with a passing score of at least seventy-five percent (75%).
- (5) An applicant declaring a disability as defined by the American Disabilities Act (ADA) shall submit a written

statement when requesting an oral examination or other special testing accommodation.

PART 5. DEMONSTRATORS; COSMETIC STUDIOS; TRADE SHOWS; GUEST ARTISTS; WIG DRESSING; OTHER PRACTICES OF COSMETOLOGY AND BARBERING

175:10-9-50. Demonstrator and cosmetic studio license requirements

(a) Any person who is not a cosmetology or barber licensee in this state, and who demonstrates any cosmetic preparation for the public from open tester, sampler or other open container, is hereby declared to be a demonstrator and shall be required to obtain a license from the Board before making the demonstrations.

(b) While the Board does not interfere with door-to-door individual one-on-one type cosmetic retails sales, any person who establishes a cosmetology or barber business or represents himself to be providing facials or other cosmetology or barber services to the general public in a place other than an Establishment or school shall be required to obtain a license as is appropriate to the practice performed. Providing or performing a facial is a practice which shall require a Facialist, Cosmetologist, Barber, Facial/Esthetics Instructor, Barber, Master Barber Instructor or Master Instructor license.

(c) A person who provides a demonstration of the proper use and application of specific make-up and cosmetic technique and product information to students enrolled in modeling, charm or other self-improvement programs, shall be a licensed Cosmetologist, Cosmetician, Facial/Esthetics Instructor, Manicurist, Facialist, Barber, Master Barber Instructor, Master Instructor, Barber Instructor or Demonstrator as applies to a specific license held and demonstration performed by the person. Techniques and products demonstration shall be restricted to personal self-improvement and individual modeling students and shall not be training to provide services to others.

(d) A Cosmetic Studio is considered by the Board to be a place where licensed demonstrators give demonstrations for the sole purpose of advertising and selling cosmetics.

(e) Any Cosmetic Studio shall be required to be licensed by the Board and license shall expire and subject to renewal annually.

(f) Each Cosmetic Studio must prominently display an identifying sign in plain letters at least three (3) inches tall and one (1) inch wide. Failure to display such a sign will be considered as evidence of attempt to avoid inspection.

(g) A cosmetic counter or other Establishment where cosmetic preparations may be sold but where cosmetics are in sealed containers and where no open containers (testers, samplers, applications etc.) are used to demonstrate, the cosmetics may be exempt from cosmetology licensing requirements.

(h) Requirements for the issuance of a Demonstrators license are:

- (1) One (1) current, 2" X 2" "2" x 3", full-face photo
- (2) Notarized application and affidavit
- (3) Fee of \$20.00

- (4) Register and pass the Board's sanitation and safety examination
- (i) Demonstrator license requirements shall be met before the demonstrator begins a demonstration. These requirements are established and must be met to ensure the identification of persons, products and locations where demonstrations are performed to the consuming public.
- (j) The demonstration of eye lash and brow tints, hair tints and color rinses, permanent waves and hair relaxants, facial preparations or other preparations considered by the Board to require extensive knowledge, skill and training to ensure safe and proper usage, is hereby prohibited.
- (k) Applicators are single use items and are to be disposed of after each use.
- (l) Disposable items must be stored in a closed container, drawer or cabinet except for those used for the days use.
- (m) Brushes shall be disinfected after each client use.
- (n) Disinfection and safety standards must be followed at all times.
- (o) Disinfectants must be used only if registered with the Environmental Protection Agency (EPA) for use as a disinfectant to achieve its intended purpose in accordance with the product label.
- (p) All customer contact items and work area must be cleaned and disinfected between clients.
- (q) Creams and other semi-solid preparations shall be removed from containers with a disposable spatula.
- (r) The hands of the licensee shall be washed and the integrity of the skin carefully examined before and after a demonstration.
- (s) Hand sanitizer must be available for use.

SUBCHAPTER 11. LICENSE RENEWAL, FEES AND PENALTIES

175:10-11-1. Application for renewal of license

- (a) All practitioner licenses issued under the provisions of the Cosmetology and Barbering Act shall be issued for a period of one (1) year. The expiration date of the license shall be the last day of the applicants birthday month.
- (b) An Establishment license issued to a licensee shall expire on the last day of applicants birthday month each year.
- (c) An Establishment license issued to a non-Board licensee owner and a school license, shall expire by June 30th each year.
- (d) Application for renewal must be made on or before the last day of the applicants birthday month or by June 30th as applicable and shall be accompanied by appropriate fees.
- (e) One day following the expiration date of a license is considered to be the day a license becomes void, and a person practicing with the invalid license shall be considered to be practicing without the appropriate license.
- (f) Each person holding a license shall notify the Board of any change in name and/or address within thirty (30) days after the change. Any name change shall require court or other legal documentation of the change before the change may be recognized and recorded in files of the Board.

(g) The provisions of this section applicable to licenses shall also apply to hairbraiding certificates.

175:10-11-2. Cosmetology and Barber license and penalty fees

- (a) The Board is authorized the following license and penalty fees:
 - (1) Student/apprentice registration - \$5.00
 - (2) Examination registration - \$35.00
 - (3) Cosmetology and barber school license (initial) - \$400.00
 - (4) Cosmetology and barber school license (renewal) - \$125.00
 - (5) Master Cosmetology Instructor license - \$50.00
 - (6) Master Barber Instructor license - \$50.00
 - (7) Facial/Esthetics Instructor license - \$30.00
 - (8) Manicurist/Nail Technician Instructor license - \$30.00
 - (9) Cosmetology license - \$25.00
 - (10) Barber license - \$25.00
 - (11) Manicurist license - \$25.00
 - (12) Esthetician license - \$25.00
 - (13) Cosmetician license - \$25.00
 - (14) ~~Hairbraiding Technician license - \$25.00~~
 - ~~(15) Demonstrator license - \$20.00~~
 - ~~(16) Advanced Operator license (renewal only) - \$25.00~~
 - ~~(17) Establishment license (initial) - \$45.00~~
 - ~~(18) Establishment license (renewal) - \$30.00~~
 - ~~(19) Cosmetic studio license (initial) - \$50.00~~
 - ~~(20) Cosmetic studio license (renewal) - \$30.00~~
 - ~~(21) Nail salon license (initial) - \$45.00~~
 - ~~(22) Nail salon license (renewal) - \$30.00~~
 - ~~(23) Reciprocity license - \$30.00~~
 - ~~(24) Reciprocity transfer of hours processing fee from out-of-state - \$30.00~~
 - ~~(25) Duplicate license (in case of loss or destruction of original license and/or renewal application) - \$5.00~~
 - ~~(26) Notary Fee - \$1.00~~
 - ~~(27) Certification of Records - \$10.00~~
- (b) The Board shall charge a penalty fee of ten dollars (\$10.00) for the renewal of any license delinquent after two (2) months of expiration. This sub section also applies to any delinquent initial license application.
- (c) All fees shall be submitted to the Board in the form of a cashier's check, money order or business check. Personal checks are not accepted by the Board.
- (d) Waiver of fee for low-income individuals; pursuant to the provisions of 59 O.S. § 4003A, upon presentation of satisfactory evidence that an applicant for initial licensure or certification, or that a licensee or certificate-holder seeking renewal, is a low-income individual, the Board shall grant a one-time one-year waiver of the fee for licensure, certification or renewal. A low-income individual is a person 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.

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or whose household adjusted gross income is below one hundred forty percent (140%) of the federal poverty line. An applicant for licensure must provide documentation showing participation in one of the afore-mentioned programs or submit income tax returns showing income below the established threshold. The documentation must be current and must be issued by the federal or state entity administering the program. Copies of income tax returns must be from the most recent tax year prior to the date of licensure application.

SUBCHAPTER 13. RECIPROCAL AND CROSSOVER LICENSING

175:10-13-1. Reciprocal license requirements

The Board, in accordance with the Oklahoma Cosmetology and Barbering Statutes 59 O.S. Section 199.13, has ruled to accept any applicant for applicants from other states in accordance with the following requirements:

- (1) The applicant for license as a cosmetologist, manicurist, facialist, ~~hairbraiding technician~~ or barber:
 - (A) must have met the requirements for the same licensure in another state
 - (B) must hold a current license from another state as verified by a valid certification
 - (C) must have successfully passed Oklahoma's state rules, regulations and law test administered by the Board
- (2) If an applicant for a license as a cosmetologist, manicurist, facialist, ~~hairbraiding technician~~ or barber is from another territory, province, or foreign county that does not issue a license after required occupational training, but can provide sufficient proof that he or she has continuously engaged in the practices or occupation at issue in the reciprocity license application for at least three years immediately prior to such application, the Board may approve the reciprocity license if there is sufficient proof that applicant has at least an eighth grade education, and the applicant has passed Oklahoma's state rules, regulations and law test administered by the Board.
- (3) If an applicant for a license as an instructor is from another territory, province, or foreign county, that does not issue a license after required occupational training, but can provide sufficient proof that he or she has continuously engaged in the practices or occupation at issue in the reciprocity license application for at least three years immediately prior to such application, the Board may approve the reciprocity license if there is sufficient proof that applicant has at least a high school education, and the applicant has passed Oklahoma's state rules, regulations and law test administered by the Board.
- (4) Any non-English speaking reciprocity licensee or transfer of hours applicant, and transfer of hours applicant must contact the Board's office concerning requirements for licensing and transfer of hours.
- (5) After the application is complete, all required documents are attached, and the application is filed, each applicant for reciprocity license must make an appointment and

appear personally in the Board's office for an interview before the reciprocity license may be considered.

(6) The applicant from a foreign country, territory or providence may be required to provide evidence that documents have been certified as valid by a creditable agency as recognized by the Board. Validation of documents is at applicant's expense.

(7) No temporary permit shall be issued to an out-of-state or foreign reciprocity applicant.

[OAR Docket #19-586; filed 6-12-19]

TITLE 175. STATE BOARD OF COSMETOLOGY AND BARBERING CHAPTER 20. MASSAGE THERAPY

[OAR Docket #19-587]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 3. Advisory Board on Massage Therapy
- 175:20-3-1. Composition, powers and duties of Advisory Board [AMENDED]
- Subchapter 5. Licensure of Massage Therapists
- 175:20-5-1. Original Licensure [AMENDED]
- 175:20-5-6. Report of criminal plea or conviction [AMENDED]
- Subchapter 7. Continuing Education
- 175:20-7-1. Continuing education requirement [AMENDED]
- Subchapter 9. Standards of Professional Conduct
- 175:20-9-1. Professional conduct [AMENDED]
- Subchapter 11. Grounds for Discipline
- 175:20-11-1. Grounds for discipline [AMENDED]
- Subchapter 15. Fee schedule
- 175:20-15-1. Massage Therapy Practice Act license and penalty fees [AMENDED]

AUTHORITY:

Oklahoma State Board of Cosmetology and Barbering; 75 O.S. § 502(1)

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n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

The proposed rules specify that Advisory Board officers shall be elected at the first meeting of the fiscal year; require licensure applicants to disclose misdemeanors involving acts of violence; modify standards of professional conduct; provide fee waiver for low-income individuals in compliance with 59 O.S. §4003A; and contain clean-up language.

CONTACT PERSON:

John Funderburk, Administrative Liaison, OSBCB, 2400 NW 23rd Street, Suite 84, Oklahoma City, OK 73107, 405-521-2441, John.Funderburk@cosmo.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 25, 2019:

SUBCHAPTER 3. ADVISORY BOARD ON MASSAGE THERAPY

175:20-3-1. Composition, powers and duties of Advisory Board

(a) Title 59 O.S. § 4200.4(C) creates the Advisory Board on Massage Therapy. The Advisory Board shall consist of five (5) members appointed by the Governor for four-year terms. The composition of the Advisory Board shall be as follows:

- (1) three members shall be licensed massage therapists and have practiced in Oklahoma for not less than three (3) years prior to their appointment;
- (2) one member shall be an administrator or faculty member of a nationally accredited school of massage therapy; and
- (3) one member shall be a citizen member.

(b) The Advisory Board shall assist the Board in carrying out the provisions of the Massage Therapy Practice Act regarding the qualifications, examination, registration, regulation, and standards of professional conduct of massage therapists.

(c) The Advisory Board shall elect from its members a Chair and Vice Chair at its first meeting of each fiscal year. Meetings may be called by the Chair as needed for the Board to fulfill its duties.

SUBCHAPTER 5. LICENSURE OF MASSAGE THERAPIST

175:20-5-1. Original Licensure

(a) The Board may issue a license to practice massage therapy to a person who:

- (1) files a completed application on a form prepared by the Board;
- (2) submits satisfactory evidence in the form of a birth certificate, driver's license or other government-issued identification that the person is at least eighteen (18) years of age;
- (3) provides documentation that the applicant currently maintains liability insurance for practice as a massage therapist;
- (4) provides a certificate and certified transcript from a state-licensed massage school showing successful completion of at least five hundred (500) hours of formal education in massage therapy;

(5) provides a certified copy of test scores showing the applicant has completed and passed the Massage and Bodywork Licensing Examination (MBLEx);

(6) states under penalty of perjury in a manner prescribed on the application as to whether the applicant has in any jurisdiction:

- (A) pleaded guilty, nolo contendere or been convicted of a felony;
- (B) pleaded guilty, nolo contendere or been convicted of a misdemeanor involving moral turpitude or a misdemeanor involving an act of violence;
- (C) pleaded guilty, nolo contendere or been convicted of a violation of federal or state controlled dangerous substance laws

(7) submits a current criminal history information report obtained from the Oklahoma State Bureau of Investigation.

(b) A criminal history background information report required by this section shall be current if dated no more than thirty (30) days prior to the date on which the applicant submits a completed application to the Board. The OSBI criminal history background report shall include a search of the Department of Corrections Sex Offender Database and Violent Offender Database. All fees required for the criminal history background report shall be paid by the applicant.

(c) The Board may deny a license or impose probationary conditions if the applicant has

- (1) pleaded guilty, nolo contendere or been convicted of a felony;
- (2) pleaded guilty, nolo contendere or being been convicted of a misdemeanor involving moral turpitude or a misdemeanor involving an act of violence;
- (3) pleaded guilty, nolo contendere or being been convicted of a violation of federal or state controlled dangerous substance laws;
- (4) engaged in unprofessional conduct as described in this chapter that has endangered or is likely to endanger the health, welfare or safety of the public;
- (5) violated any provision of the Massage Therapy Practice Act or any rule of the Board; or
- (6) had a license revoked in another jurisdiction or been the subject of disciplinary action in another jurisdiction.

175:20-5-6. Report of criminal plea or conviction

Each person holding a license shall notify the Board within thirty (30) days of pleading guilty, no contest (nolo contendere), or being convicted of a felony or misdemeanor other than a ~~misdemeanor~~ minor traffic violation.

SUBCHAPTER 7. CONTINUING EDUCATION

175:20-7-1. Continuing education requirement

(a) A licensee shall complete five (5) hours of continuing education per year. Acceptable continuing education shall address topics within the scope of practice of massage therapy

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as defined in the Massage Therapy Practice Act or related business practices and may include training in CPR or First Aid. In order to receive credit for CPR or First Aid, the licensee must take a complete course with certification.

(b) The Board shall accept continuing education approved or provided by any of the following:

- (1) a state-licensed or accredited massage therapy school;
 - (2) an accredited institution of higher education;
 - (3) local, state, or national chapters of professional organizations that address improvement of the profession, including but not limited to the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB), the American Massage Therapy Association, and the ~~American~~ Associated Bodywork and Massage Professionals;
 - (4) the Federation of State Massage Therapy Boards (FSMTB);
 - (5) A seminar licensed by the Oklahoma Board of Private and Vocational Schools (OBPVS)
 - (6) The State Board of Cosmetology and Barbering;
 - (7) Any entity authorized to provide certification in CPR or First Aid that meets or exceeds standards set by the American Heart Association or the American Red Cross; or
 - (8) A continuing education provider approved by the Advisory Board.
- (c) Continuing education may be in the form of in-person instruction or distance learning.
- (d) Each licensee shall, at the time of making application for renewal, sign a statement on the application certifying that the licensee has completed the required hours of continuing education and provide verifiable evidence of completion.
- (e) Each licensee shall maintain verifiable of completion of the continuing education activity until the licensee submits the next application for renewal.

SUBCHAPTER 9. STANDARDS OF PROFESSIONAL CONDUCT

175:20-9-1. Professional conduct

- (a) A licensee shall maintain current knowledge of massage practice and perform services only if the licensee has the necessary knowledge, training or skill to perform the technique.
- (b) A licensee shall be clean, fully-clothed and professional in dress and appearance.
- (c) A licensee shall not engage in an activity, interest or influence that conflicts with the licensee's obligation to act in the best interest of the client.
- (d) A licensee shall not exploit a relationship with a client for the licensee's personal advantage, including, but not limited to, a personal, sexual, romantic, or financial relationship.
- (e) A licensee shall not engage in a romantic or sexual relationship with a client during the time that a therapist/client relationship exists.
- (f) A licensee shall conduct business with honesty and integrity.

(g) A licensee shall be truthful in advertising and marketing, and not misrepresent services, charges for services, credentials, training, experience or result.

(h) A licensee shall not massage the genitalia of a client nor engage in, or offer to engage in, any activity with the intent of sexually arousing a client.

(i) A licensee shall only massage the breasts of a female client if:

- (1) the licensee has training in techniques related to therapeutic treatment of mammary tissue; and
- (2) signed written consent is obtained from the client.

(j) A licensee shall not practice when under the influence of alcohol, drugs or any illegal substances, with the exception of legal or prescribed medication in dosages that do not impair the licensee's ability to render massage therapy services in a safe manner.

(k) A licensee may refuse to treat any person or any part of the body for just or reasonable cause.

(l) A licensee shall immediately modify or terminate treatment at the client's request regardless of prior consent.

~~(m) A licensee shall report to the Board if the licensee has first hand knowledge or evidence of unlicensed practice or evidence indicating any unethical or illegal act that has been committed by another licensee.~~

~~(m)~~ A licensee shall not perform pregnancy massage unless the licensee has been trained in techniques related to pregnancy or prenatal massage and has first obtained an informed written consent for the treatment from the client.

~~(n)~~ A licensee shall not use fraud, misrepresentation or deception in obtaining a massage therapy license, in renewing a license, in passing a massage therapy license examination, in assisting another to obtain a license or pass a license examination, in providing massage therapy services, or in conducting any other activity related to the practice of massage therapy.

~~(p)~~ A licensee shall cooperate with any inspection or investigation conducted by the Board.

~~(q)~~ Upon request, licensee shall produce proof of licensure and photo ID.

~~(r)~~ It shall constitute unprofessional conduct for a licensee to plead guilty, nolo contendere, be convicted of, or receive a deferred sentence for a crime that has a direct bearing on the fitness or ability of the licensee to perform one or more of the duties or responsibilities necessarily related to the practice of massage therapy. Such crimes shall include, but are not be limited to, prostitution, human trafficking, sexual assault, crimes of violence against a person, robbery, larceny, money laundering, or fraud committed in billing or charging for massage services.

~~(s)~~ It shall constitute unprofessional conduct for a licensee to violate any provision of the Massage Therapy Practice Act or any rule of the Board.

(s) A licensee shall report to the Board any disciplinary action taken against the licensee in another jurisdiction.

SUBCHAPTER 11. GROUNDS FOR DISCIPLINE

175:20-11-1. Grounds for discipline

- (a) The Board may take the following disciplinary action against a licensee:
(1) refuse to renew a license;
(2) suspend or revoke a license;
(3) issue an administrative reprimand; or
(4) impose probationary conditions.
(b) The Board may take disciplinary action upon a finding that the licensee has:
(1) pleaded guilty, nolo contendere or been convicted of a felony;
(2) pleaded guilty, nolo contendere or been convicted of a misdemeanor involving moral turpitude;
(3) pleaded guilty, nolo contendere or been convicted of a violation of federal or state controlled dangerous substance laws.
(4) violated any provision of the Massage Therapy Practice Act or any rule of the Board;
(5) engaged in any unprofessional conduct; or
(6) been the subject of disciplinary action in another jurisdiction;

SUBCHAPTER 15. FEE SCHEDULE

175:20-15-1. Massage Therapy Practice Act license and penalty fees

- (a) The following license and penalty fees are hereby adopted:
(1) Massage Therapist License (prior to May 1, 2017) - \$25.00
(2) Massage Therapist License (after May 1, 2017) - \$50.00
(3) Massage Therapist License by Reciprocity - \$65.00
(4) License Renewal - \$50.00
(5) Duplicate license (in case of loss or destruction of original license and/or renewal application) - \$5.00
(6) Notary Fee - \$1.00
(7) Certification of Records - \$10.00
(8) Late fee (for licenses renewed during the one-month grace period) - \$10.00
(b) All fees shall be submitted to the Board in the form of a cashier's check, money order or business check. Personal checks are not accepted by the Board.
(c) Pursuant to the provisions of 59 O.S. § 4003A, upon presentation of satisfactory evidence that an applicant for initial licensure or certification, or that a licensee or certificate-holder seeking renewal, is a low-income individual, the Board shall grant a one-time one-year waiver of the fee for licensure, certification or renewal. A low-income individual is a person 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. An applicant for licensure must provide documentation showing participation in one of the afore-mentioned programs or

submit income tax returns showing income below the established threshold. The documentation must be current and must be issued by the federal or state entity administering the program. Copies of income tax returns must be from the most recent tax year prior to the date of licensure application.

[OAR Docket #19-587; filed 6-12-19]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 1. COMMISSION POWERS AND JURISDICTION

[OAR Docket #19-604]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 325:1-1-2. Definitions [AMENDED]
325:1-1-7. Jurisdiction of Stewards to suspend or fine [AMENDED]
325:1-1-14. Location for information or filing with Commission Offices [AMENDED]
325:1-1-17. Forms and instructions [AMENDED]

AUTHORITY:

3A O.S. § 200 et seq.; Oklahoma Horse Racing Commission

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GIST/ANALYSIS:

Proposed amendments provide definitions for Safety Steward and Substance violation, modify definition and update reference, and update the Commission address and titles of adopted forms.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.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 14, 2019:

325:1-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words

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

"Act" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Controlling Owner" means a person or family who owns or votes fifty percent (50%) or more of the voting shares of a corporation, partnership, syndicate, or other association or entity or who is the Managing, General, or Limited Partner in a partnership which has been issued a currently valid organization license.

"Controlled substance" means any substance included in the five classification schedules of the Oklahoma Uniform Controlled Dangerous Substances Act.

"Day" means a 24-hour period ending at midnight.

"Drug (medication)" means a substance foreign to the normal physiology of the horse.

"Horse" means:

- (A) any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;
- (B) an entire equine male five years of age and older.

"Occupation license" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"Organization license" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"Race day" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"Rules" means the rules adopted by the Commission to implement the provisions of the Act.

"Safety Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Substance violation" means any violation of medication laws or the rules contained within this Chapter.

"Year" means a calendar year.

325:1-1-7. Jurisdiction of Stewards to suspend or fine

(a) The Stewards' jurisdiction in any matter is continuous. The Stewards may deny, refuse to issue, or refer to the Commission for revocation, or suspend for not more than one year per violation the occupation license of any person whom they have the authority to supervise; or they may impose a fine not to exceed Ten Thousand Dollars (\$10,000) per violation; or they may exclude from all enclosures in this state; or they may suspend and fine and/or exclude; or they may order that a person be ineligible for a license. All such suspensions, fines, denials, refusals to issue, referrals or exclusions shall be reported immediately to the Commission.

(b) Upon a first offense for the following rule violations, the Stewards shall assess no less than the Stewards' maximum fine

and suspension authorization to any person found to be in violation of Commission rules concerning:

(1) a positive laboratory report involving a United States Drug Enforcement Agency Schedule I or II controlled substance, or

(2) possession of a United States Drug Enforcement Agency Schedule I or II controlled substance within the enclosure, or

(3) possession or use within the enclosure of a prohibited electrical or mechanical device. Any person whose racing record(s) reflects such prior rule violation(s) shall, upon a subsequent violation, be referred by the Stewards to the Commission with the Stewards' recommendation for specific fine and suspension above the Stewards' authorized fine and suspension maximums.

(c) The Stewards may suspend a horse from participating in races if the horse has been involved in violation(s) of the Rules promulgated by the Commission or the provisions of the Oklahoma Horse Racing Act under the following circumstances:

(1) A horse is a confirmed Bleeder as determined by the Official Veterinarian, and the Official Veterinarian recommends to the Stewards that the horse be suspended from participation.

(2) A horse is involved with:

(A) Any violation of medication substance laws and rules;

(B) Any suspension or revocation of an occupation license by the Stewards or the Commission or any racing jurisdiction recognized by the Commission; and/or any violation of prohibited devices, laws, and rules.

325:1-1-14. Location for information or filing with Commission Offices

When information is requested or a notice or Petition for Appeal in any matter is required to be filed with the Commission, such notice shall be delivered to an authorized representative of the Commission at the office of the Commission on or before the filing deadline. Offices of the Commission are currently located at: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, Oklahoma 73107-2800 N. Lincoln Blvd, Suite 220, Oklahoma City, Oklahoma 73105.

325:1-1-17. Forms and instructions

Additions and deletions to this form list and instructions may be subject to change without notice. The following forms and instructions for their use have been adopted by the Commission:

- (1) Chain of Custody Forms
- (2) Equine and Human Drug Substance Testing Forms
- (3) Fingerprint Card
- (4) Horse Identifier's Daily Report
- (5) Notices to Appear
- (6) Occupation Licensee's Notice of Prescribed Medication Use

- (7) Occupation License Applications/Renewal Applications
- (8) Oklahoma-Bred Registry Forms
- (9) Oklahoma-Bred Claims Forms
- (10) Open Claim Certificate
- (11) Organization Licensee Daily Report Forms
- (12) Organization License Applications
- (13) Petition for Appeal
- (14) Physician's Certificate of Physical
- (15) Request for Information (Open Records)
- (16) Stewards' Reports
- (17) Subpoena (Steward and Commission)
- (18) Veterinarian Report Forms
- (19) Recipient Mare Report
- (20) Request for Split Sample

[OAR Docket #19-604; filed 6-14-19]

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

[OAR Docket #19-605]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
- 325:15-1-2. Definitions [AMENDED]
- Subchapter 5. Occupation Licensing
- 325:15-5-18. Jockey Agent [AMENDED]

AUTHORITY:

3A O.S. § 200 et seq.; Oklahoma Horse Racing Commission

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GIST/ANALYSIS:

Proposed amendments define Safety Steward, modify definition of Authorized Agent, and change the number of Jockeys that a Jockey Agent may represent.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.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 14, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

325:15-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"Authorized Agent" means a person licensed by the Commission and appointed by a written notarized affidavit by the Owner, Trainer, Parent or Guardian of a minor in whose behalf the Agent will act, and limited to the actions as specified on the affidavit. Said affidavit must be on file with the Commission.

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Controlling Owner" means a person or family who owns or votes fifty percent (50%) or more of the voting shares of a corporation, partnership, syndicate, or other association or entity or who is the Managing, General, or Limited Partner in a partnership which has been issued a currently valid organization license.

"Day" means a 24-hour period ending at midnight.

"Dark day" means a day during a live race meeting when no pari-mutuel wagering is conducted.

"Entry" means:

- (A) A horse eligible for and entered in a race.
- (B) Two (2) or more horses entered in the same race which have common ties of Ownership, lease, or training.

"Horse" means:

- (A) any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;
- (B) an entire equine male five years of age and older.

"Horse racing facility - major pari-mutuel" means a facility having those physical and locational characteristics in accord with the Oklahoma Horse Racing Act and which will qualify it for the Breeders' Cup Series or other graded stakes races as granted by The North American Graded Stakes Committee, or both.

"Jockey" means a rider licensed to race.

"Jockey Agent" means a licensed, authorized representative of a Jockey.

"Lessee" means a licensed Owner whose interest in a horse is by virtue of a completed Commission-approved lease form attached to the Registration Certificate and on file with the Commission.

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"Lessor" means the Owner of a horse that is leased.

"Occupation license" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"Organization license" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"Owner" means any person who holds in whole or in part, any right, title or interest in a horse or an Organization Licensee or any person who is a Lessee of a horse and has been duly issued a currently-valid Owner license as a person responsible for such horse.

"Program Trainer" is a licensed Trainer who, for the purposes of the official Race program, is identified as the Trainer of a horse and is acting on behalf of another individual that is either licensed or not licensed, cannot be licensed, is prohibited from racing for any reason, or is attempting to assume the appearance of being the Trainer of a horse that he/she does not have in his/her care, custody or control, or which is under the control of and/or trained by the licensed or unlicensed individual.

"Race" means a contest between horses.

"Race Day" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"Restricted area" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the Organization Licensee or the Commission or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

"Rules" means the rules adopted by the Commission to implement the provisions of the Act.

"Scratch time" means the deadline for withdrawal of entries from an overnight race.

"Shareholder" means a person who owns some share of Ownership, including entitlement to potential profits or losses in a corporation, partnership, syndicate, association or other multiple Ownership entity.

"Stable name" means a name used other than the actual legal name of an Owner or Lessee which is registered with the Commission.

"Safety Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Trainer" means a person qualified and licensed by the Commission as a Trainer.

"Week" means a calendar week.

"Year" means a calendar year.

SUBCHAPTER 5. OCCUPATION LICENSING

325:15-5-18. Jockey Agent

A Jockey Agent is the authorized representative of a Jockey if s/he is registered with the Stewards and licensed by the Commission as the Jockey's representative. No Jockey Agent shall represent more than ~~three (3) Jockeys~~ ~~two (2) Jockeys and one (1) Apprentice Jockey at the same time except that in a race meeting exclusive of Thoroughbred racing, a Jockey Agent may represent a third Jockey.~~ A Jockey Agent shall not give to anyone, directly or indirectly, any information or advice pertaining to a race or engage in the practice commonly known as "touting" for the purpose of influencing any person, or that would tend to do so, in the making of a wager on the result of any race.

[OAR Docket #19-605; filed 6-14-19]

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

[OAR Docket #19-606]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:20-1-3. Racing officials [AMENDED]

325:20-1-6. Racing officials appointed by the Commission [AMENDED]

325:20-1-24. Duties of the Horse Identifier [AMENDED]

325:20-1-25. Duties of the Safety Steward [NEW]

325:20-1-26. Duties of the Outrider [NEW]

AUTHORITY:

3A O.S. § 200 et seq.; Oklahoma Horse Racing Commission

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Proposed new rules and amendments clarify duties of Safety Stewards, Horse Identifiers, and Outriders.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.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 14, 2019:**

325:20-1-3. Racing Officials

The Racing Officials of a race meeting, unless otherwise ordered by the Commission, are as follows: the Stewards, the Safety Steward, the Associate Judge, the Placing Judges (if utilized), the Paddock Judge, the Outrider~~the Patrol Judges (if utilized)~~, the Starter, the Clerk of Scales, the Official Veterinarian, the Racing Veterinarian, the Timers, the Horse Identifier, the Racing Secretary and the Assistant Racing Secretary. No Racing Official may serve in that capacity during any race meeting at which is entered a horse owned by him/her or by a member of his/her family or in which s/he has any financial interest. Being the Lessee or Lessor of a horse shall be construed as having a financial interest. No person may serve as a Steward in a race where that person is the Owner or part Owner of the sire or dam of any horse in the race.

325:20-1-6. Racing Officials appointed by the Commission

(a) The Commission shall appoint the following Racing Officials for a race meeting [3A:203.4]:

- (1) Board of three (3) Stewards;
- (2) Safety Steward;
- (3) Official Veterinarian; and
- (34) Horse Identifier.

(b) To qualify for appointment as a Steward, the appointee shall be an accredited Racing Official or Steward by the Stewards/Judges Accreditation Program administered by the University of Arizona and the University of Louisville, meet the experience and continuing education requirements of the program and be in good standing with all racing jurisdictions. Individuals who have participated and been accredited under the former University of Arizona or University of Louisville programs shall be regarded as qualified for appointment as Stewards.

325:20-1-24. Duties of the Horse Identifier

~~The Horse Identifier shall identify all horses starting in a race. The Horse Identifier shall inspect documents of Ownership, eligibility, registration, or breeding as may be necessary to ensure proper identification of each horse eligible to compete at a race meeting and provide assistance to the Stewards in that regard. The Horse Identifier shall immediately report to the Paddock Judge and the Stewards any horse which is not properly identified or any irregularities reflected in the official identification records. The Horse Identifier shall check track facilities to ensure that they comply with Commission requirements. The Horse Identifier shall report to the Stewards and to the Commission on general racing practices observed, and perform such other duties as the Commission may require.~~

The Horse Identifier shall:

- (1) When required, ensure the safekeeping of digital and paper registration certificates and racing permits for horses stabled and/or racing on association grounds;

(2) Inspect documents of ownership, eligibility, registration or breeding necessary to ensure the proper identification of each horse scheduled to compete at a race meeting;

(3) Examine without physically touching unless wearing a disposable, sterile glove, for every starter in the paddock for sex, color, markings and lip tattoo, microchip (ISO 11784), freeze brand or other identification method approved by the appropriate breed registry and the Commission for comparison with its registration certificate to verify the horse's identity;

(4) Supervise when requested by the Commission, monitor the tattooing, microchipping, freeze branding or other method of identification approved by the appropriate breed registry and the Commission done to and for identification of any horse located on association grounds;

(5) Report to the Stewards any horse not properly identified or whose registration certificate is not in conformity with these rules; and

(6) Perform such other duties as the Commission may require.

325:20-1-25. Duties of the Safety Steward

Safety Stewards, when not serving in the steward's stand, shall perform such duties as directed by the Executive Director or as requested by Board of Stewards at the racetrack where the Safety Steward is being utilized. Duties may include, but not limited to, the following:

(1) Gather information associated with administration or testing of substances administered to horses intended for racing, and report any concerns with compliance to the Stewards, the Executive Director, and/or the Director of Law Enforcement;

(2) Monitor and observe daily habits and practices of backside activities;

(3) Monitor compliance for race day permitted substance regulations and prohibited practices;

(4) Observe permitted substance administration;

(5) Investigate possible inappropriate or illegal use of substances, such as permitted and prohibited substances and practices that may affect racing performance;

(6) Investigate fatalities and accidents at racetracks;

(7) Conduct pre-meet racetrack safety inspections independently or with OHRC law enforcement personnel;

(8) Participate in resolution of financial complaints;

(9) Make recommendations to OHRC to ensure the integrity of racing and compliance with horse racing statutes and rules; and

(10) Provide liaison between the Stewards and OHRC law enforcement staff.

325:20-1-26. Duties of the Outrider

(a) Shall make every effort to maintain the safety and orderly conduct of training and racing according to the rules, regulations and directives of the Commission, Stewards and association management.

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(b) Shall report all unauthorized activities, unusual occurrences or potential rule violations to the Stewards and/or Safety Steward.

(c) Assist the Stewards, Safety Steward, and/or starter with any on-track issue that endangers the safety of the participants and horses.

(d) Shall oversee jockeys, exercise riders, pony persons and trainers when they are on the track.

(e) Shall enforce the track and commission rules concerning approved safety vests and protective helmets while riders are on the racetrack.

[OAR Docket #19-606; filed 6-14-19]

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

[OAR Docket #19-607]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:25-1-2. Definitions [AMENDED]

325:25-1-6. Determining eligibility [AMENDED]

325:25-1-10. Horses ineligible to start in a race [AMENDED]

325:25-1-32. Coggins test [AMENDED]

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3A O.S. § 200 et seq.; Oklahoma Horse Racing Commission

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Provides definition for Safety Steward and modifies definition for Authorized Agent; provides disqualification procedures; updates provisions relating to horses ineligible to start in a race and Coggins Tests.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.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 14, 2019:

325:25-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Act**" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"**Accredited Oklahoma-Bred horse**" means a horse that is eligible pursuant to the Act and Commission rules and whose registration in the Oklahoma-Bred Program has been completed by the official Registering Agency.

"**Added money**" means the amount exclusive of trophy added into a stakes by the Organization Licensee, or by sponsors, state-bred programs, or other funds added to those monies gathered by nomination, entry, sustaining and other fees coming from the horsemen.

"**Age**" means that the age of a horse is reckoned as beginning on the first day of January in the year in which the horse is foaled.

"**Also eligible**" means:

(A) A number of eligible horses, properly entered, which were not drawn for inclusion in a race, but which become eligible according to preference or lot if an entry is scratched from a race prior to scratch time.

(B) In a trial race, the next preferred contestant that is eligible to participate when an entry is scratched, pursuant to the written conditions of the race.

"**Assistant Trainer**" means a person qualified and licensed by the Commission as an Assistant Trainer.

"**Authorized Agent**" means a person licensed by the Commission and appointed by a written notarized affidavit by the Owner, ~~or~~ Trainer, Parent or Guardian of a minor on whose behalf the Agent will act, and limited to the actions as specified on the affidavit. Said affidavit must be on file with the Commission.

"**Closing**" means the time published by the Organization Licensee after which nominations or entries will not be accepted for a race.

"**Commissioner**" means a member of the Oklahoma Horse Racing Commission.

"**Conditions of a race**" means the qualifications which determine the eligibility of a horse to be entered in a race.

"**Coupled entry**" means two or more contestants in a race that are treated as a single betting interest for pari-mutuel wagering purposes (also see "Entry").

"**Day**" means a 24-hour period ending at midnight.

"**Declaration**" means the act of withdrawing an entered horse from a race before the closing of entries.

"**Draw**" means the process of publicly assigning post positions and selecting contestants in a manner to ensure compliance with the conditions of the rules of racing.

"**Entry**" means:

(A) A horse eligible for and entered in a race.

(B) Two (2) or more horses entered in the same race which have common ties of Ownership, lease, or training (also see "Coupled Entry").

"**Field**" means all horses competing in a race.

"**Horse**" means:

(A) Any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;

(B) An entire equine male five years of age and older.

"**Lessee**" means a licensed Owner whose interest in a horse is by virtue of a completed Commission-approved lease form attached to the Registration Certificate and on file with the Commission.

"**Lessor**" means the Owner of a horse that is leased.

"**Maiden**" means a horse which has never won an official or recognized race as defined in breed registry rules. A maiden which has been disqualified after finishing first is still a maiden.

"**Mutuel field**" means two or more contestants treated as a single betting interest for pari-mutuel wagering purposes because the number of betting interests exceeds the number that can be handled individually by the pari-mutuel system.

"**Nomination**" means the naming of a horse to a certain race or series of races generally accompanied by payment of a prescribed fee.

"**Nominator**" means the person who nominates a horse as a possible contender in a race.

"**Occupation license**" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"**Occupation licensee**" means any person who has obtained an occupation license.

"**Organization license**" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"**Owner**" means any person who holds in whole or in part, any right, title or interest in a horse or an Organization Licensee or any person who is a Lessee of a horse and has been duly issued a currently-valid Owner license as a person responsible for such horse.

"**Post position**" means the position in the starting gate assigned to the horse for the start of the race.

"**Post time**" means the scheduled time set for the arrival of the horses at the starting gate for the race.

"**Program**" means the published listing of all contests and contestants for a specific performance.

"**Race**" means a contest between horses.

"**Race day**" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"**Races**" mean:

(A) **Allowance.** An overnight race for which eligibility and weight to be carried is determined according to specified conditions which include age, sex, earnings, number of wins, and distance of race.

(B) **Claiming.** A race in which any horse starting may be claimed and purchased for a designated amount in conformance with the rules in this Title.

(C) **Exhibition.** A race on which no wagering is permitted.

(D) **Handicap.** A race in which the weights to be carried by the horses are assigned by the Racing Secretary.

(E) **Invitational.** A race in which the competing horses are selected by inviting their Owners to enter specific horses.

(F) **Maiden.** A race restricted to non-winners.

(G) **Match.** A race contested between two or more horses under conditions agreed to by their Owners.

(H) **Nomination.** A race in which the subscription to a payment schedule nominates and sustains the eligibility of a particular horse. Nominations must close at least seventy-two (72) hours before the first post time of the day the race is originally scheduled to be run.

(I) **Oklahoma-Bred.** A race for which entry may be restricted to accredited Oklahoma-Bred registered horses.

(J) **Overnight (Purse).** A race for which entries close at a time set by the Racing Secretary.

(K) **Progeny.** A race restricted to the offspring of a specific stallion or stallions.

(L) **Schooling.** A preparatory race for entry qualification in official races which conforms to requirements adopted by the Commission.

(M) **Stakes.** A race which is eligible for stakes or "black-type" recognition by the particular breed registry.

(N) **Trial.** A race or a series of races in which horses participate for the purpose of determining eligibility for a subsequent contest.

(O) **Walkover.** A race in which only one horse starts or in which all the starters are owned by the same interest. To claim the purse, a horse must start and go the distance of the race.

"**Restricted area**" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the Organization Licensee or the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

"**Rules**" means the rules adopted by the Commission to implement the provisions of the Act.

"**Scratch**" means the act of withdrawing an entered horse from a race after the closing of entries.

"**Scratch time**" means the deadline for withdrawal of entries from a scheduled race.

"**Starter**" means a horse whose stall door of the starting gate opens in front of such horse at the time the Starter (the Official) dispatches the horses.

"**Safety Steward**" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"**Steward**" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

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"Subscription" means the act of nominating a horse to a nomination race.

"Trainer" means a person qualified and licensed by the Commission as a Trainer.

"Week" means a calendar week.

"Weight for age" means a race in which a fixed scale is used to assign the weight to be carried by individual horses according to age, sex, distance of the race, and season of the year.

"Year" means a calendar year.

325:25-1-6. Determining eligibility

(a) Determination of a horse's eligibility, penalty or penalties and the right to allowance or allowances for all races shall be from the date of the horse's last race unless the conditions specify otherwise. The Trainer is responsible for the eligibility of his/her horse and to properly enter his/her horse in condition. In the event the records of the Racing Secretary or the appropriate breed registry do not reflect the horse's most recent starts, the Trainer or Owner shall accurately provide such information. If a horse is not eligible under the first condition of any race, it cannot be eligible under subsequent conditions. If the conditions specify non-winners of a certain amount, it means that the horse has not won a race in which the winner's share was the specified amount or more. If the conditions specify non-earners of a stated amount, it means that the horse has not earned that stated amount in any total number of races regardless of the horse's placing.

(b) Disqualification:

(1) When the Commission receives an official testing laboratory report of a Positive Test or Overage for a winner of a race that requires a disqualification, change in the order of finish and redistribution of the purse, the horse in question shall maintain the win in past performance records and carry the penalty of a win when determining eligibility for entry in a subsequent race. This horse's condition and eligibility shall remain in effect until the Stewards issue a ruling disqualifying the aforementioned horse and order a redistribution of the purse.

(2) The second place horse shall not carry the win in past performance records nor shall the second place horse carry the win in determining eligibility for entry in a subsequent race until the Stewards issue a ruling disqualifying the winner, change the order of finish and order a redistribution of the purse.

(3) Should the aforementioned ruling be appealed, the disqualification, change in the order of finish and purse redistribution is stayed until final adjudication; and the winner must carry the win and the second place horse is not penalized for the condition.

325:25-1-10. Horses ineligible to start in a race

(a) In addition to any other valid ground or reason, a horse is ineligible to start in any race if:

(1) Such horse is not registered by The Jockey Club if a Thoroughbred; the American Quarter Horse Association

if a Quarter Horse; the Appaloosa Horse Club if an Appaloosa; the Arabian Horse Club Registry of America if an Arabian; the American Paint Horse Association if a Paint; the Pinto Horse Association of America, Inc., if a Pinto; or any successors to any of the foregoing or other registry recognized by the Commission.

~~(2) The original, replacement, or corrected Certificate of Foal Registration, or other registration issued by the official registry for such horse is not on file with the Racing Secretary prior to the race in which the horse is scheduled to race. The Stewards may make exceptions in certain stakes races, in which case such Foal Certificate must be on file no later than one (1) hour prior to post time for the first race of that race program, except that in emergency situations for finals and stakes races, the Stewards may allow a horse to start in a race if an acceptable photocopy of the Foal Certificate is provided by a representative of a turf governing body, a licensed racetrack or a breed registry, and the original Foal Certificate is on file with that entity. However, under no circumstances shall any money earned be paid to said starter until the original, replacement, or corrected Foal Certificate is received by the Stewards so that all information may be verified and any eligibility notations recorded on or attached to the Foal Certificate.~~

(2) If its breed registration certificate is not on file with the racing secretary, unless the racing secretary has submitted the certificate to the appropriate breed registry for correction, or in the case of Thoroughbred horses foaled in 2018 or thereafter, the horse does not have a Digital Tattoo, the stewards may waive these requirements if the information contained on the registration certificate is otherwise available and the horse is otherwise correctly identified to the stewards' satisfaction.

(3) Such horse has been entered or raced at any recognized race meeting under any name or designation other than the name or designation duly assigned by and registered with the official registry.

(4) The Win Certificate, Certificate of Foal Registration, eligibility papers, or other registration issued by the official registry has been materially altered, erased, removed, or forged.

(5) Such horse is ineligible to enter said race, is not duly entered for such race, or remains ineligible ~~to~~ at time of starting.

(6) The ownership and Trainer of such horse has not completed the prescribed licensing procedures required by the Commission before starting the horse, or the horse is in the care of an unlicensed Trainer.

~~(7) Such horse is owned in whole or in part or trained by any person who is suspended or ineligible for a license or ineligible to participate under the rules of any Turf Governing Authority or Stud Book Registry.~~

~~(8) Such horse is a suspended horse.~~

~~(9) Such horse is on the Stewards' List, Starter's List, or the Veterinarian's List.~~

~~(10) Except with permission of the Stewards and Horse Identifier, the identification markings of the horse do not~~

agree with the identification as set forth on the Registration Certificate to the extent that a correction is required from the appropriate breed registry.

~~(4110)~~ Except with the permission of the Stewards, the horse has not been ~~lip tattooed by a Commission approved Tattooer.~~

- ~~(A)~~ verified by the appropriate breed registry; and
- ~~(B)~~ tattooed on the inside of the upper lip, or digital tattoo; or
- ~~(C)~~ microchipped with a unique microchip (ISO 11784); or
- ~~(D)~~ freeze brand; or
- ~~(E)~~ identified by any other method approved by the appropriate breed registry and the Commission.

~~(4211)~~ The entry of a horse is not in the name of its true Owner.

~~(4312)~~ The horse has drawn into the field or has started in a race on the same day.

~~(4413)~~ The age of the horse as determined by an examination of its teeth by the Official Veterinarian does not correspond to the age shown on its Registration Certificate, such determination by tooth examination to be made in accordance with the current OFFICIAL GUIDE FOR DETERMINING THE AGE OF THE HORSE as adopted by the American Association of Equine Practitioners.

~~(4514)~~ The Certificate of Registration of a horse reflects an unknown sire or dam.

~~(4615)~~ An Ownership transfer for a claimed horse is being processed by the Racing Secretary to a breed registry, and an acceptable photocopy of the Foal Certificate is not on file with the Racing Secretary.

~~(4716)~~ A horse is wholly or partially owned by a disqualified person, or a horse is under the direct or indirect management of a disqualified person.

~~(4817)~~ A horse is wholly or partially owned by the spouse of a disqualified person or a horse is under the direct or indirect management of the spouse of a disqualified person, in such cases, it being presumed that the disqualified person and spouse constitute a single financial entity with respect to the horse, which presumption may be rebutted.

~~(4918)~~ The horse is a cloned horse.

~~(2019)~~ The horse has an open hole in its trachea, by means of a tracheotomy or otherwise.

(b) Additionally, a horse is ineligible to start in a race if:

(1) The horse is owned in whole or in part or is trained by any person who is suspended or ineligible for a license or ineligible to participate under the rules of any Stud Book Registry; and

(2) The Commission determines that:

(A) The Stud Book Registry has adopted uniform criteria and procedures for use in excluding horses from participating in a race for the horse's breed and for suspending or finding an Owner or Trainer ineligible;

(B) The Stud Book Registry has adopted procedures that afford the affected Owner(s) or Trainer(s) with Notice and a meaningful opportunity to respond,

that comports with due process, prior to suspending or finding the Owner or Trainer ineligible or excluding a horse; and

(C) The Stud Registry has provided the Commission's Director of Law Enforcement Division with (1) the Registry's Order of Suspension or Ineligibility for an act or omission that violates the Oklahoma Horse Racing Act and/or Commission Rules and (2) the Due Process Notice provided to the Owner or Trainer in the proceeding leading to the Order of Suspension or Ineligibility.

325:25-1-32. Coggins Test

No horse shall be allowed on the premises of an Oklahoma racetrack unless it has had a Coggins test conducted within 12 months and with a negative result. The test record may be a copy of the original Coggins test. Record of the negative test for a race horse participating in a claiming race shall be the original VS Form 10-11 or an approved electronic version ~~attached to along with~~ the registration papers of the horse and conducted within 12 months of the race in question. The trainer of the race horse is responsible for insuring that a negative Coggins test result is in the racing secretary's office as required by this rule prior to racing. Failure to comply subjects the Licensee to disciplinary action.

[OAR Docket #19-607; filed 6-14-19]

**TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 30. CLAIMING RACES**

[OAR Docket #19-608]

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Proposed amendments provide definition for Safety Steward and modify definition of Authorized Agent.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.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 14, 2019:

325:30-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"Age" means that the age of a horse is reckoned as beginning on the first day of January in the year in which the horse is foaled.

"Assistant Trainer" means a person qualified and licensed by the Commission as an Assistant Trainer.

"Authorized Agent" means a person licensed by the Commission and appointed by a written notarized affidavit by the Owner, Trainer, Parent or Guardian of a minor in whose behalf the Agent will act, and limited to the actions as specified on the affidavit. Said affidavit must be on file with the Commission.

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Day" means a 24-hour period ending at midnight.

"Field" means all horses competing in a race.

"Horse" means:

(A) Any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;

(B) An entire equine male five years of age and older.

"Lessee" means a licensed Owner whose interest in a horse is by virtue of a completed Commission-approved lease form attached to the Registration Certificate and on file with the Commission.

"Lessor" means the Owner of a horse that is leased.

"Occupation license" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"Organization license" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"Owner" means any person who holds in whole or in part, any right, title or interest in a horse or an Organization Licensee or any person who is a Lessee of a horse and has been duly issued a currently-valid Owner license as a person responsible for such horse.

"Race" means a contest between horses.

"Race day" means a day during a race meeting when pari-mutuel wagering is conducted on live racing conducted at that racetrack.

"Rules" means the rules adopted by the Commission to implement the provisions of the Act.

"Stable name" means a name used other than the actual legal name of an Owner or Lessee which is registered with the Commission.

"Starter" means a horse whose stall door of the starting gate opens in front of such horse at the time the Starter (the Official) dispatches the horses.

"Safety Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Trainer" means a person qualified and licensed by the Commission as a Trainer.

"Year" means a calendar year.

[OAR Docket #19-608; filed 6-14-19]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 35. GENERAL CONDUCT

[OAR Docket #19-609]

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325:35-1-2. Definitions [AMENDED]

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

325:35-1-13. Possession of contraband [AMENDED]

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Provides definitions for Safety Steward and Substance; modifies definitions; and conforms language.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.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 14, 2019:

325:35-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"Assistant Trainer" means a person qualified and licensed by the Commission as an Assistant Trainer.

"Authorized Agent" means a person licensed by the Commission and appointed by a written notarized affidavit by the Owner, Trainer, Parent or Guardian of a minor in whose behalf the Agent will act, and limited to the actions as specified on the affidavit. Said affidavit must be on file with the Commission.

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Conditions of a race" means the qualifications which determine the eligibility of a horse to be entered in a race.

"Day" means a 24-hour period ending at midnight.

~~"Drug (medication)" means a substance foreign to the normal physiology of the horse.~~

"Entry" means:

- (A) A horse eligible for and entered in a race.
- (B) Two (2) or more horses entered in the same race which have common ties of Ownership, lease, or training.

"Horse" means:

- (A) Any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;
- (B) An entire equine male five years of age and older.

"Jockey" means a rider licensed to race.

"Lessee" means a licensed Owner whose interest in a horse is by virtue of a completed Commission-approved lease form attached to the Registration Certificate and on file with the Commission.

"Lessor" means the Owner of a horse that is leased.

~~"Medication" means a substance other than food intended to affect the structure or any function of the body of a human or a horse.~~

"Occupation license" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"Organization license" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"Owner" means any person who holds in whole or in part, any right, title or interest in a horse or an Organization Licensee or any person who is a Lessee of a horse and has been duly

issued a currently-valid Owner license as a person responsible for such horse.

"Race" means a contest between horses.

"Race day" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"Restricted area" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards, tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the Organization Licensee or the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

"Rules" means the rules adopted by the Commission to implement the provisions of the Act.

"Safety Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Substance" means any kind of physical matter existing in a solid, liquid, or gaseous state or some combination thereof and includes any drugs or medications referred to under the Oklahoma Horse Racing Act, 3A O.S. § 200 et seq.

"Trainer" means a person qualified and licensed by the Commission as a Trainer.

"Week" means a calendar week.

"Year" means a calendar year.

325:35-1-5. Trainer responsibility

(a) The Trainer is presumed to know the rules of racing and is responsible for the condition, soundness, and eligibility of the horses s/he enters in a race. The Trainer shall conduct his/her business of training racehorses with reasonable care and skill and in a humane manner, and with due regard to the interests of his/her Owners and to the safety of employees and Agents and of the horses in his/her care. Should the chemical analysis, urine or otherwise, taken from a horse under his/her supervision show the presence of any ~~substance, drug or medication~~ except as otherwise provided for in Chapter 45, it shall be taken as prima facie evidence that the same was administered by or with the knowledge of the Trainer or person or persons under his/her supervision having care or custody of such horse. At the discretion of the Stewards or Commission, the Trainer and all other persons shown to have had care or custody of such horse may be fined or suspended or both. Under the provisions of this Section, the Trainer is also responsible for any puncture mark on any horse s/he enters in a race, found by the Stewards upon recommendation of the Racing or Official Veterinarian to evidence injection by syringe. If the Trainer cannot be present on race days s/he shall designate an Assistant Trainer. Such designation shall be made prior to time of entry, unless otherwise approved by the Stewards. Failure to fully disclose the actual Trainer of a horse participating in an approved race shall be grounds to disqualify the horse and subject the actual Trainer to possible disciplinary action by the Stewards or the Commission. Designation of an Assistant Trainer shall not relieve the Trainer's absolute responsibility

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for the conditions and eligibility of the horse, but shall place the Assistant Trainer under such absolute responsibility also. Willful failure on the part of the Trainer to be present at, or refusal to allow the taking of any specimen, or any act or threat to prevent or otherwise interfere therewith shall be cause for disqualification of the horse involved; and the matter shall be referred to the Stewards for further action.

(b) In addition to the responsibilities of (a) of this Section, a Trainer has the following specific responsibilities:

- (1) Knowledge of medication rules;
- (2) Knowledge of medication status of all horses in his/her care;
- (3) Knowledge of Furosemide (Salix) use rules;
- (4) To register all horses in his/her care with the Racing Secretary;
- (5) To ensure that no injectable substances, hypodermic needles, syringes, or electrical or mechanical device (other than the ordinary whip or approved twitch) which may or can be used for the purpose of stimulating or depressing a horse or affecting its speed at any time are in his/her possession; in the possession of employees; or in automobiles; or in sleeping, storage or stable areas owned by or assigned to that Trainer or Trainer's employees;
- (6) Proper entering and eligibility of all horses in his/her care;
- (7) Guard horses in his/her care;
- (8) Make any declaration or scratch of an entered horse in his/her care;
- (9) Bill and account for fees and services rendered on behalf of any horse in his/her care to the appropriate Owner or Owners.
- (10) To instruct and determine the training regimen of all horses in his/her care and entered in any race.

(c) No Trainer duty or responsibility, whether listed in (a) or (b) of this Section or not, may be assigned to any person who is ineligible to hold a license or who is under suspension in this or any other racing jurisdiction.

(d) No licensed Trainer shall assume any of the responsibilities described in this Section for a horse not under his/her active care, supervision or custody.

325:35-1-13. Possession of contraband

No person other than a Veterinarian licensed by the Commission shall have in his/her possession within the enclosure any prohibited substance, ~~drug or medication~~, any injectable substance, or any hypodermic syringe or hypodermic needle or similar instrument which may be used for injection. Nor shall any person have in his/her possession within the enclosure the ~~substance drug~~ Clenbuterol other than in a form approved by the FDA, which approval currently allows the use of Clenbuterol under two brand names, Ventipulmin Syrup and Aeropulmin Syrup. Possession within the enclosure of any form of Clenbuterol other than the Ventipulmin Syrup and Aeropulmin Syrup, in their original container, the container in which the ~~substance drug~~ was distributed by its manufacturer, is prohibited. No person shall have in his/her possession within the enclosure any device which can be used for the purpose of stimulating or depressing the horse or affecting its speed at

any time other than the ordinary whip or twitch approved by the Stewards. The Stewards may permit the possession of ~~substance drugs~~ or appliances by a licensee for personal medical needs under such condition as the Stewards may impose.

[OAR Docket #19-609; filed 6-14-19]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 40. VETERINARIAN PRACTICES AND RESTRICTIONS

[OAR Docket #19-610]

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325:40-1-2. Definitions [AMENDED]

325:40-1-3. Veterinary practices - Treatment restricted [AMENDED]

325:40-1-5. Veterinarian reports [AMENDED]

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CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.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 14, 2019:

325:40-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Horse Racing Act 3A O.S. § 200 et seq.

"Administer" means the application of any veterinary treatment permitted under the Oklahoma Veterinary Practice Act, 59 O.S., § 698.1 et seq.

"Animal chiropractic diagnosis and treatment" means treatment that includes vertebral subluxation complex ~~(ves)~~ and spinal manipulation of horses. The term "animal chiropractic diagnosis and treatment" shall not be interpreted to allow taking x-rays, performing surgery, administering medications, or offering traditional veterinary care.

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Day" means a 24-hour period beginning and ending at midnight.

"Direct supervision" means directions have been given to a registered veterinary technician for medical care following the examination of a horse by the Commission licensed veterinarian responsible for the professional care of the horse.

"Enclosure" means all buildings and grounds of the Organization licensee and shall include both public areas and areas with restricted access.

"Entered horse" means a horse appearing on the overnight sheet posted by the Racing Secretary.

"Horse" means any equine including mares, fillies, stallions, colts, ridglings and geldings.

"Occupation license" means a state requirement for any person acting in any capacity pursuant to the provisions of the Act.

"Official Veterinarian" means a person who is licensed to practice veterinary medicine by the State of Oklahoma and employed by the Commission and qualified and licensed by the Commission as an Official Veterinarian.

"Organization license" means a state requirement for any person or entity conducting a race meeting in Oklahoma within the minimum standards required by the Act and the rules of the Commission.

"Owner" means any person who holds in whole or in part, any right, title or interest in a horse or any person who is a lessee or lessor of a horse and has been duly issued a currently-valid Owner license as a person responsible for such horse.

"Permitted substance" means any substance having a listed threshold for a particular breed of horse unless otherwise specified by Commission rules.

"Practicing veterinarian" means a person employed by a trainer or owner to medically treat horses, is licensed to practice veterinary medicine by the State of Oklahoma, and is licensed as a veterinarian by the Commission.

"Prohibited substance" means any substance, chemical, or analog that is not listed by Commission rules as a permitted substance for a particular breed of horse or is not a naturally occurring substance.

"Race" means a contest between horses.

"Race day" means a day during a race meeting when live races are conducted at that racetrack.

"Racing Veterinarian" means a person who is licensed to practice veterinary medicine by the State of Oklahoma, employed by the organization licensee, and qualified and licensed by the Commission as a Racing Veterinarian.

"Registered veterinary technician" means a person who is registered by the Oklahoma Board of Veterinary Medical Examiners and licensed by the Commission as a registered veterinary technician.

"Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Substance" means any kind of physical matter existing in a solid, liquid, or gaseous state or some combination thereof and includes any drugs or medications referred to under the Oklahoma Horse Racing Act, 3A O.S. § 200 et seq.

"Teeth floating" means, as provided by a non-veterinary equine dental care provider, ~~the veterinary practice provided by a non-veterinary equine dental care provider consisting of removing~~ removal of enamel points and the smoothing, contouring and leveling of dental arcades and incisors of a horse's ~~horses'~~ teeth.

"Trainer" means a person qualified and licensed by the Commission as a Trainer.

"Veterinarian-client-patient relationship" means the practicing veterinarian has assumed the responsibility for making medical judgements regarding the health of the horse and the need for medical treatment, and the trainer, owner or other caretaker has agreed to follow the instructions of the practicing veterinarian; there is sufficient knowledge of the horse by the practicing veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the horse or horses in that the practicing veterinarian has recently seen or is personally acquainted with the keeping and care of the horse or the practicing veterinarian has made medically necessary and timely visits to the premises where the horse is stabled; the practicing veterinarian is readily available for follow-up in case of adverse reactions or failure of the regimen of therapy, or has arranged for emergency medical coverage; and the practicing veterinarian's actions would conform to applicable state and federal law and regulations.

"Veterinary prescription medications" means such prescription substance as are in the possession of practicing veterinarians regularly and lawfully engaged in the practice of veterinary medicine and the federal Food and Drug Administration-approved human medications for animals which because of their toxicity or other potential for harmful effects, or method of use, or the collateral measures necessary for use, are labeled by the manufacturer or distributor in compliance with federal law and regulations to be sold only to or on the prescription order or under the supervision of a licensed veterinarian for use in the course of professional practice. Veterinary prescription medications shall not include over-the-counter products for which adequate directions for lay use can be written.

"Week" means a seven (7) day period.

"Year" means 365 day period.

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325:40-1-3. Veterinary practices - Treatment restricted

(a) No person other than an Oklahoma-licensed practicing veterinarian, official veterinarian, racing veterinarian, or registered veterinary technician under the direct supervision of a practicing veterinarian shall administer any veterinary treatment or permitted substance or veterinary prescription medications to any horse within the enclosure.

(b) The following restrictions apply to medical treatments of horses that are engaged in activities, including training, related to competing in pari-mutuel racing in the jurisdiction:

(1) With the exception of emergency care, no permitted substance or veterinary prescription medication shall be administered by a practicing veterinarian outside the context of a valid veterinarian-client-patient relationship between the practicing veterinarian, the horse owner (who may be represented by the trainer) and the horse.

(2) The owner (who may be represented by the trainer) is not required to follow the practicing veterinarian's instructions, but no permitted substance or veterinary prescription medication shall be administered unless administered by a practicing veterinarian having previously examined the horse and provided the treatment recommendation, as follows:

(A) The practicing veterinarian, with the consent of the owner (who may be represented by the trainer), has accepted responsibility for making medical judgments about the health of the horse;

(B) The practicing veterinarian has sufficient knowledge of the horse to make a preliminary diagnosis of the medical condition of the horse;

(C) The practicing veterinarian has performed an examination of the horse and is acquainted with the keeping and care of the horse;

(D) The practicing veterinarian is available to evaluate and oversee treatment outcomes, or has made appropriate arrangements for continuing care and treatment;

(E) The veterinarian-client-patient relationship is maintained by veterinary examinations as needed, and;

(F) The judgments of the practicing veterinarian are independent and shall not be dictated by the trainer or owner of the horse.

(3) A practicing veterinarian, official veterinarian, or racing veterinarian who, in good faith, renders or attempts to render emergency care to a horse in the enclosure suffering from an accident, disaster or other health emergency will not be liable for any violation as a result of such action, subject to the following restrictions:

(A) If the horse is an entered horse, the veterinarian shall attempt to contact the official veterinarian prior to emergency treatment,

(B) If the official veterinarian is not available, the horse may be treated without authorization provided the treating veterinarian contacts the official veterinarian or the stewards as soon as possible after treating the entered horse,

(C) A horse receiving emergency care within 24 hours prior to the running of a race shall be scratched,

(D) The fact that a valid veterinarian-client-patient relationship doesn't exist shall not prevent a veterinarian from providing emergency care to a horse within the enclosure.

(4) The practicing veterinarian shall be responsible to ensure that treatment of a horse complies with Chapter 45 of the Rules of Racing. The recommendation of a medical treatment, therapy, or administration of a permitted substance or veterinary prescription medication for a horse within the enclosure shall be the responsibility of the practicing veterinarian, ~~and the~~ The decision to proceed with a recommended medical treatment, therapy, administration of a permitted substance or veterinary prescription medication shall be the responsibility of the horse owner (who may be represented by the trainer).

(5) Certain medical treatments shall ~~not~~ be permitted, as follows:

(A) Any chiropractic physician licensed in this state and who is certified by the Board of Chiropractic Examiners to engage in animal chiropractic diagnosis and treatment may practice equine chiropractic diagnosis and treatment under the direct supervision of a practicing veterinarian.

(B) Any individual that is certified in animal massage therapy ~~and acquires liability insurance~~ may engage in equine massage therapy after referral from a licensed practicing veterinarian and under the direct supervision of a practicing veterinarian.

(C) Any individual that is certified by the State Board of Veterinary Medical Examiners as a non-veterinary equine dental care provider may engage in horse teeth floating ~~under the direct supervision of a practicing veterinarian~~.

(D) Complementary and alternative therapies may be performed on a horse by a practicing veterinarian or under the direct supervision of a practicing veterinarian. Complementary and alternative therapies include, but are not limited to:

(i) acupuncture and related acupoint therapies;

(ii) manual therapies including physical, massage, and osteopathic therapies;

(iii) energy therapies including ultrasound, pulsating electromagnetic field (PEMF), static magnetic field, laser, Reiki, therapeutic touch, Bowen, and shock wave therapies;

(iv) integrative medicines including Ayurveda, aromatherapy, flower remedy therapy, holistic medicine, homeopathy, nutritional therapy, and phototherapy.

(6) Only trainers and owners may authorize veterinary medical treatment of horses under their care, custody, and control within the enclosure.

(7) A practicing veterinarian shall not engage in conduct likely to deceive, defraud or harm the public or a

demonstration of willful or careless disregard for the health, welfare or safety of a horse;

(8) A practicing veterinarian shall not administer any parenteral substance to an entered horse, other than furosemide, within 24 hours prior to running in a race.

(9) A practicing veterinarian shall not fraudulently issue or use certificates of veterinary inspection; test charts including forms for equine infectious anemia or equine piroplasmiasis; or vaccination reports.

(10) A practicing veterinarian shall not violate any state or federal statute, rule or regulation regarding the prescription, dispensation, or administration of veterinary prescription medications.

(c) Nothing in this Chapter is intended to allow otherwise prohibited conduct or to allow the presence of substances in a horse that would otherwise be considered a violation of Chapter 45 of the Rules of Racing. If the necessary medical treatment of a horse requires the administration of a veterinary prescription medications, prohibited substances, naturally occurring substances, or dosages of permitted substances that make the horse ineligible to run a race, the horse shall be scratched or disqualified as circumstances dictate and the owner, trainer, and practicing veterinarian may be subject to appropriate penalties for violations of these rules.

325:40-1-5. Veterinarian reports

(a) Every practicing veterinarian:

(1) Who treats any horse within the enclosure for any contagious or communicable disease reportable to state or federal authorities shall immediately report the treatment to the official veterinarian, the State Veterinarian for the Oklahoma Department of Agriculture, or the Area Veterinarian in Charge for APHIS (USDA) in writing on a form approved by the Commission.

(2) Who treats a horse within twenty-four (24) hours prior to post-time shall submit daily reports on a form approved by the Commission to the official veterinarian showing all substances which the practicing veterinarian prescribed, administered or dispensed. The form shall include, but not be limited to, the name and location of the horse treated, the name of the trainer, the time of treatment or examination, the probable diagnosis, and the medication administered.

(3) Who treats any horse or performs other professional services to horses participating in any race meeting conducted in Oklahoma shall be responsible for maintaining medical records in compliance with the Oklahoma Veterinary Practice Act, O.S., Title 59, § 698.2 to § 698.28 on all horses for which they prescribe, administer, or dispense permitted substances or veterinary prescription medications, or perform other professional services. The treatment records or log book information shall include but not be limited to the date and time of treatment or service; name of racetrack; practicing veterinarian's printed name and signature; registered name of horse; trainer's name; barn number or location of horse; race date and race number, if any; medication and dosage; and reason for treatment/services. Treatment records shall be available

to the Commission and the Stewards within twenty-four (24) hours of request unless otherwise provided by the Board of Stewards or Commission Executive Director. Failure to comply shall subject the practicing veterinarian to disciplinary action by the Board of Stewards.

(b) Treatment records described in (a) of this Section shall be confidential; and the content of treatment records shall not be disclosed except in a proceeding before the Stewards or the Commission in the exercise of the Commission's jurisdiction or in forwarding such information to the Oklahoma Board of Veterinary Medical Examiners.

[OAR Docket #19-610; filed 6-14-19]

**TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 60. RUNNING THE RACE**

[OAR Docket #19-611]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 325:60-1-2. Definitions [AMENDED]
- 325:60-1-3. Jockeys to report [AMENDED]
- 325:60-1-8. Use of equipment [AMENDED]
- 325:60-1-11. Safety ~~helmet~~ equipment required [AMENDED]
- 325:60-1-17. Start of the race [AMENDED]

AUTHORITY:

3A O.S. § 200 et seq.; Oklahoma Horse Racing Commission

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n/a

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n/a

GIST/ANALYSIS:

Proposed amendments provide definition for Safety Steward; modify jockey reporting requirements; update safety equipment requirements; and modify start of race procedure.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S.,

Permanent Final Adoptions

SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 14, 2019:

325:60-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"Assistant Trainer" means a person qualified as and licensed by the Commission as an Assistant Trainer.

"Authorized Agent" means a person licensed by the Commission and appointed by a written notarized affidavit by the Owner, Trainer, Parent or Guardian of a minor on ~~wh~~ whose behalf the Agent will act, and limited to the actions as specified on the affidavit. Said affidavit must be on file with the Commission.

"Bleeder" means a horse which during or following exercise or the race is observed to be shedding blood from one or both nostrils, or the mouth, or hemorrhaging in the lumen of the respiratory tract.

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Day" means a 24-hour period ending at midnight.

"Field" means all horses competing in a race.

"Foul" means an action by any horse or Jockey that hinders or interferes with another horse or Jockey during the running of a race.

"Horse" means:

(A) any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;

(B) an entire equine male five years of age and older.

"Inquiry" means:

(A) an investigation by the Stewards of potential interference in a contest prior to declaring the result of said contest official; or

(B) the Stewards or Commission investigation of a matter alleged to be related to the provisions of the Act or the rules of the Commission.

"Jockey" means a rider licensed to race.

"Objection" means:

(A) A written complaint made to the Stewards concerning a horse entered in a race and filed not later than two hours prior to the scheduled post time for the first race on the day which the questioned horse is entered.

(B) A verbal claim of foul in a race lodged by the horse's Jockey, Trainer, Owner, or the Owner's licensed Authorized Agent before the race is declared official.

"Occupation license" means a state requirement for any person acting in any capacity pursuant to the provisions of the Act.

"Official order of finish" means the order of finish of the horses in a contest as declared official by the Stewards.

"Organization license" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"Owner" means any person who holds in whole or in part, any right, title or interest in a horse or an Organization Licensee or any person who is a Lessee of a horse and has been duly issued a currently-valid Owner license as a person responsible for such horse.

"Post position" means the position in the starting gate assigned to the horse for the start of the race.

"Post time" means the scheduled time set for the arrival of the horses at the starting gate for the race.

"Race" means a contest between horses.

"Race day" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"Races" mean:

(A) **Allowance.** An overnight race for which eligibility and weight to be carried is determined according to specified conditions which include age, sex, earnings, number of wins, and distance of race.

(B) **Claiming.** A race in which any horse starting may be claimed and purchased for a designated amount in conformance with the rules in this Title.

(C) **Exhibition.** A race on which no wagering is permitted.

(D) **Handicap.** A race in which the weights to be carried by the horses are assigned by the Racing Secretary.

(E) **Invitational.** A race in which the competing horses are selected by inviting their Owners to enter specific horses.

(F) **Maiden.** A race restricted for non-winners.

(G) **Match.** A race contested between two or more horses under conditions agreed to by their Owners.

(H) **Nomination.** A race in which the subscription to a payment schedule nominates and sustains the eligibility of a particular horse. Nominations must close at least seventy-two (72) hours before the first post time of the day the race is originally scheduled to be run.

(I) **Oklahoma-Bred.** A race for which entry may be restricted to accredited Oklahoma-Bred registered horses.

(J) **Overnight (Purse).** A race for which entries close at a time set by the Racing Secretary.

(K) **Progeny.** A race restricted to the offspring of a specific stallion or stallions.

(L) **Schooling.** A preparatory race for entry qualification in official races which conforms to requirements adopted by the Commission.

(M) **Stakes.** A race which is eligible for stakes or "black-type" recognition by the particular breed registry.

(N) **Trial.** A race or a series of races in which horses participate for the purpose of determining eligibility for a subsequent contest.

(O) **Walkover.** A race in which only one horse starts or in which all the starters are owned by the same interest. To claim the purse, a horse must start and go the distance of the race.

"Restricted area" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the Organization Licensee or the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

"Rules" means the rules adopted by the Commission to implement the provisions of the Act.

"Starter" means a horse whose stall door of the starting gate opens in front of such horse at the time the Starter (the Official) dispatches the horses.

"Safety Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Trainer" means a person qualified and licensed by the Commission as a Trainer.

"Weigh in" means the presentation of a Jockey to the Clerk of Scales for weighing after a race.

"Weigh out" means the presentation of a Jockey to the Clerk of Scales for weighing prior to a race.

325:60-1-3. Jockeys to report

Every Jockey engaged to ride in a race shall report their weight to the clerk of scales to the Jockey Room at least one hour before post time of the first race and shall report to the Jockey Room one hour prior to the race in which they are engaged to ride shall weigh out at the appointed time unless excused by the Stewards. After reporting, a Jockey shall not leave the Jockey Room until all of the Jockey's riding engagements have been fulfilled and/or unless excused by the Stewards.

325:60-1-8. Use of equipment

(a) No bridle shall weigh more than two pounds, nor shall any whip weigh more than one pound or be more than thirty one inches (31") in length. No whip shall be used unless it shall have affixed to the end thereof a leather "popper". All whips are subject to inspection and approval by the Stewards.

(b) All riding crops are subject to inspection and approval by the stewards and the clerk of scales. Riding crops shall have a shaft and a flap and will be allowed in flat racing including training, only as follows:

- (1) Maximum weight of eight ounces;
- (2) Maximum length, including flap of 30 inches;
- (3) Minimum diameter of the shaft of three-eighths inch; and
- (4) Shaft contact area must be smooth, with no protrusions or raised surface, and covered by shock absorbing material that gives a compression factor of at least one-millimeter throughout its circumference.

(c) The flap is the only allowable attachment to the shaft and must meet these specifications:

- (1) Length beyond the end of the shaft a maximum of one inch;
- (2) Width a minimum of 0.8 inch and a maximum of 1.6 inches;
- (3) No reinforcements or additions beyond the end of the shaft;
- (4) No binding within seven inches of the end of the shaft; and
- (5) Shock absorbing characteristics similar to those in the contact area of the shaft.

(d) Blinkers are not to be placed on the horse until after the horse has been identified by the Horse Identifier, except with permission of the Stewards.

(e) Approval from the Stewards or their designee for any change of equipment must be obtained prior to entry.

325:60-1-11. Safety helmets equipment required

~~All persons, when mounted on a race horse within the enclosure or riding in a race, shall wear a properly fastened safety helmet. The Commission or the Stewards may require any other person to wear such helmet when mounted on a horse within the enclosure. All safety helmets so required are subject to approval of the Stewards or Commission.~~

(a) **Helmets.** Any person mounted on a horse or stable pony on association grounds must wear a properly secured safety helmet at all times. Additionally, all members of the starting gate crew must adhere to this regulation at all times while performing their duties or handling a horse. For the purpose of this regulation, a member of the starting crew means any person licensed as an assistant starter or any person who handles a horse in the starting gate. The helmet must comply with one of the following minimum safety standards or later revisions:

- (1) American Society for Testing and Materials (ASTM 1163);
- (2) European Standards (EN-1384 or PAS-015 or VG1);
- (3) Australian/New Zealand Standards (AS/NZ 3838; or ARB HS 2012); or
- (4) Snell Equestrian Standard 2001.

(b) **Vests.** Any person mounted on a horse or stable pony on the association grounds must wear a properly-secured safety vest at all times. Additionally, all members of the starting gate crew must also adhere to this regulation at all times while performing their duties or handling a horse. For the purpose of this regulation, a member of the starting gate crew means any person licensed as an assistant starter or any person who handles a horse at the starting gate. The safety vest must comply with one of the following minimum standards or later revisions:

- (1) British Equestrian Trade Association (BETA):2000 Level 1;
- (2) Euro Norm (EN) 13158:2000 Level 1;
- (3) American Society for Testing and Materials (ASTM) F2681-08 or F1937;
- (4) Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6 Issue 3; or
- (5) Australian Racing Board (ARB) Standard 1.1998.

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- (c) A safety helmet or a safety vest shall not be altered in any manner nor shall the product marking be removed or defaced.
- (d) All safety equipment so required are subject to approval of the Stewards, Safety Steward, or Commission.

325:60-1-17. Start of the race

When the horses have reached the starting gate, they shall be placed in their starting gate stalls in the order stipulated by the Starter. Except in cases of emergency as determined by the Stewards, every horse shall be started by the Starter from a starting gate approved by the Commission. The Starter shall see that the horses are placed in their proper positions without unnecessary delay. Causes for any delay in the start shall immediately be reported to the Stewards. If, when the Starter purposefully dispatches the field, the ~~doors~~ at the front of the starting gate stall should not open properly due to a mechanical failure or malfunction of the starting gate, the Stewards may declare such to be a non-starter. Should a horse which is not previously scratched not be in the starting gate stall thereby causing horse to be left when the field is purposefully dispatched by the Starter, such horse shall be declared a non-starter by the Stewards. Should an incident or malfunction of the starting gate, or other unforeseen event compromise the fairness of the race or the safety of race participants, the stewards shall post the inquiry sign and may declare individual horses to be non-starters, exclude individual horses from all pari-mutuel pools or declare a "no contest" and refund all wagers except as otherwise provided in the rules involving multi-race wagers.

[OAR Docket #19-611; filed 6-14-19]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 65. PARI-MUTUEL WAGERING

[OAR Docket #19-612]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 9. Calculation of Payoffs and Distribution of Pools
325:65-9-6. Win Three Pools [AMENDED]
325:65-9-7. Pick (n) Pools [AMENDED]
325:65-9-8. Place Pick (n) pools [AMENDED]

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n/a

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n/a

GIST/ANALYSIS:

Proposed amendments provide transparency in pari-mutuel wagering.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.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 14, 2019:

SUBCHAPTER 9. CALCULATION OF PAYOFFS AND DISTRIBUTION OF POOLS

325:65-9-6. Win Three pools

- (a) The Win Three requires selection of the first-place finisher in each of three specified contests.
- (b) The net Win Three pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:
- (1) As a single price pool to those whose selection finished first in each of the three contests; but if there are no such wagers, then
 - (2) As a single price pool to those who selected the first-place finisher in any two of the three contests; but if there are no such wagers, then
 - (3) As a single price pool to those who selected the first-place finisher in any one of the three contests; but if there are no such wagers, then
 - (4) The entire pool shall be refunded on Win Three wagers for those contests.
- (c) If there is a dead heat for first in any of the three contests involving:
- (1) contestants representing the same betting interest, the Win Three pool shall be distributed as if no dead heat occurred.
 - (2) contestants representing two or more betting interests, the Win Three pool shall be distributed as follows:
 - (A) as a profit split to those whose selections finished first in each of the three contests; but if there are no such wagers, then
 - (B) as a single price pool to those who selected the first place finisher in any two of the three contests; but if there are no such wagers, then
 - (C) as a single price pool to those who selected the first place finisher in any one of the three contests; but if there are no such wagers, then
 - (D) the entire Win Three pool shall be refunded.

(d) Should a betting interest in any of the three Win Three contests be scratched, the actual favorite, as evidenced by total amounts wagered in the Win pool at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination. ~~Should a betting interest in any of the three Win Three contests be scratched and the actual wagering favorite for that race has already been included in the wager, a refund shall be offered for the scratched horse.~~

(e) If all three Win Three contests are canceled or declared "no contest," the entire pool shall be refunded on Win Three wagers for those contests.

(f) If one or two of the Win Three contests are canceled or declared "no contest," the Win Three pool will remain valid and shall be distributed in accordance with (b) of this Section.

(g) If the Win Three pool is distributed according to subparagraphs (c)(2)(B) or (c)(2)(C) an announcement shall be made to the public as to the possible winning Win Three combinations.

(h) If any regularly scheduled turf race is moved to the main race course for any leg(s) of a Win Three and such change has not been known to the public before the close of wagering for the Win Three, all wagers of such leg(s) affected by the surface change shall be considered winning wagers for the purpose of the Win Three pool.

325:65-9-7. Pick (n) Pools

(a) The Pick (n) requires selection of the first-place finisher in each of a designated number of contests. The Organization Licensee must obtain written approval from the Commission concerning the scheduling of Pick (n) contests, the designation of one of the methods prescribed in (b) of this Section, and the amount of any cap to be set on the carryover. Any changes to the approved Pick (n) format require prior approval from the Commission.

(b) The Pick (n) pool shall be apportioned under one of the following methods:

(1) Method 1, Pick (n) with Carryover: The net Pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests; and the remainder shall be added to the carryover.

(2) Method 2, Pick (n) with Minor Pool and Carryover: The major share of the net Pick (n) pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of

Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Pick (n) contests, the minor share of the net Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests; and the major share shall be added to the carryover.

(3) Method 3, Pick (n) with No Minor Pool and No Carryover: The net Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

(4) Method 4, Pick (n) with Minor Pool and No Carryover: The major share of the net Pick (n) pool shall be distributed to those who selected the first place finisher in the greatest number of Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of Pick (n) contests, the minor share of the net Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests. If the greatest number of first-place finishers selected is one (1), the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

(5) Method 5, Pick (n) with Minor Pool and No Carryover: The major share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all Pick (n) contests, the entire net Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests. If there are no wagers selecting the first-place finisher in a second greatest number of Pick (n) contests, the minor share of the net Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the Pick (n) contests. If there are no winning wagers, the pool is refunded.

(6) Method 6, Pick (n) with Minor Pool, Jackpot Pool, Major Carryover and Jackpot Carryover: Predetermined percentages of the net Pick (n) pool shall be set aside as a Major pool, Minor pool and Jackpot pool. The Major share of the net Pick (n) pool and the Major carryover, if any, shall be distributed to those who selected the first place finisher of each of the Pick (n) contests, based upon the official order of finish. If there are no tickets selecting the first-place finisher in each of the Pick (n) contests, the Major net pool shall be added to the Major carryover. If

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there is only one single ticket selecting the first-place finisher of each of the Pick (n) contests, based on the official order of finish, the Jackpot share of the net Pick (n) pool and the Jackpot carryover, if any, shall be distributed to the holder of that single ticket, along with the Major net pool and the Major carryover, if any. If more than one ticket selects the first-place finisher of each of the Pick (n) contests the Jackpot net pool shall be added to the Jackpot carryover. The Minor share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher of the second greatest number of Pick (n) contests, based on the official order of finish. If there are no wagers selecting the first-place finisher of all Pick (n) contests, the Minor net pool of the Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher of the greatest number of Pick (n) contests.

(7) Method 7, Pick (n) with No Minor Pool and Carryover: The net Pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the Pick (n) contests, based on the official order of finish. If there are no such wagers, the net Pick (n) pool shall be added to the carryover.

(8) Method 8, Pick (n) with Minor Pool and Carryover with Unique Wager: The entire Pick (n) pool and carryover, if any, shall be distributed to the holder of a unique wager selecting the first place finisher in each of the selected Pick (n) contests, based upon the official order of finish. If there is no unique wager selecting the first place finisher in all Pick (n) contests, the minor share of the Pick (n) pool shall be distributed as a single price pool to those who selected the first place finisher in the greatest number of Pick (n) contests; and the major share shall be added to the carryover. If the minor share cannot be distributed, the minor pool shall be combined with the major pool and added to the previous day's carryover. The entire pool plus carryover shall be carried forward to the next Pick (n) pool.

(c) If there is a dead heat for first in any of the Pick (n) contests involving:

(1) contestants representing the same betting interest, the Pick (n) pool shall be distributed as if no dead heat occurred.

(2) contestants representing two or more betting interests, the Pick (n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

(d) Should a betting interest in any of the Pick (n) contests be scratched, the actual favorite, as evidenced by total amounts wagered in the Win pool at the host Organization Licensee for the contest at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination. ~~Should a betting interest in any of the Pick (n) contests be scratched and the actual wagering~~

~~favorite for that race has already been included in the wager, a refund shall be offered for the scratched horse.~~

(e) If any regularly scheduled turf race is moved to the main race course for any leg(s) of a Pick (n) wager and such change has not been known to the public before the close of wagering for the Pick (n), all wagers on such leg(s) affected by the surface change shall be considered winning wagers for the purpose of the Pick (n) pool.

(f) The Pick (n) pool shall be canceled, and all Pick (n) wagers for the individual performance shall be refunded if:

(1) all three contests included as part of a Pick 3 are canceled or declared "no contest."

(2) at least three contests included as part of a Pick 4, Pick 5 or Pick 6 are canceled or declared "no contest."

(3) at least four contests included as part of a Pick 7, Pick 8 or Pick 9 are canceled or declared "no contest."

(4) at least five contests included as part of a Pick 10 are canceled or declared "no contest."

(g) If at least one contest included as part of a Pick (n) is canceled or declared "no contest," but not more than the number specified in (e) of this Section, the net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of Pick (n) contests for that performance. Such distribution shall include the portion ordinarily retained for the Pick (n) carryover but not the carryover from previous performances.

(h) The Pick (n) carryover may be capped at a designated level approved by the Commission so that if, at the close of any performance, the amount in the Pick (n) carryover equals or exceeds the designated cap, the Pick (n) carryover will be frozen until it is won or distributed under other provisions of this Section. After the Pick (n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the Pick (n) carryover, shall be distributed to those whose selection finished first in the greatest number of Pick (n) contests for that performance.

(i) A written request for permission to distribute the Pick (n) carryover on a specific performance may be submitted to the Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(j) Should the Pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the Pick (n) contests, the entire pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of Pick (n) contests. The Pick (n) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

(1) Upon written approval from the Commission as provided in (h) of this Section.

(2) Upon written approval from the Commission when there is a change in the carryover cap, a change from one type of Pick (n) wagering to another, or when the Pick (n) is discontinued.

(3) On the closing performance of the meet or split meet.

(k) If, for any reason, the Pick (n) carryover must be held over to the corresponding Pick (n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the Commission. The Pick (n) carryover plus accrued interest shall then be added to the net Pick (n) pool of the following meet on a date and performance so designated by the Commission.

(l) With the written approval of the Commission, the organization licensee may contribute to the Pick (n) carryover a sum of money up to the amount of any designated cap.

(m) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data.

(n) The organization licensee may suspend previously-approved Pick (n) wagering with the prior approval of the Commission. Any carryover shall be held until the suspended Pick (n) wagering is reinstated. An organization licensee may request approval of a Pick (n) wager or separate wagering pool for specific performances.

(o) The following is an example of a net price calculation for a Pick 7 pool with multiple takeout rates and multiple betting sources [net price calculation]:

- (1) Source 1:
 - (A) Percent Takeout - 16%
 - (B) Gross Pool - \$190,000.00
 - (C) Gross Amt. Bet on Win - \$44.00
 - (D) Net Pool - \$159,600.00
 - (E) Net Amt. Bet on Win - \$36.96
- (2) Source 2:
 - (A) Percent Takeout - 18.5%
 - (B) Gross Pool - \$10,000.00
 - (C) Gross Amt. Bet on Win - \$18.00
 - (D) Net Pool - \$8,150.00
 - (E) Net Amt. Bet on Win - \$14.67
- (3) Source 3:
 - (A) Percent Takeout - 21%
 - (B) Gross Pool - \$525,730.00
 - (C) Gross Amt. Bet on Win - \$124.00
 - (D) Net Pool - \$415,326.70
 - (E) Net Amt. Bet on Win - \$97.96
- (4) Totals of 3 Sources:
 - (A) Gross Pool - \$725,730.00
 - (B) Gross Amt. Bet on Win - \$186.00
 - (C) Net Pool - \$583,076.70
 - (D) Net Amt. Bet on Win - \$149.59
- (5) Total Profit: Total Net Pool - Total Net Bet on the Winning Combination = \$ 582,927.11
- (6) Profit Per Dollar: Total Profit/Total Net Bet on the Winning Combination = \$3,896.8321
- (7) \$1 Unbroken Base Price: Profit Per Dollar + \$1 = \$3,897.8321
- (8) \$1 Unbroken Price for Source 1: \$1 Unbroken Base Price x (1 - Percent Takeout) = \$3,274.1789
- (9) \$1 Unbroken Price for Source 2: \$1 Unbroken Base Price x (1 - Percent Takeout) = \$3,176.7331

(10) \$1 Unbroken Price for Source 3: \$1 Unbroken Base Price x (1 - Percent Takeout) = \$3,079.2873

325:65-9-8. Place Pick (n) Pools

(a) The Place Pick (n) requires selection of the first or second- place finisher in each of a designated number of contests. The organization licensee must obtain written approval from the Commission concerning the scheduling of Place Pick (n) contests, the designation of one of the methods prescribed in (b) of this Section, the distinctive name identifying the pool and the amount of any cap to be set on the carryover. Any changes to the approved Place Pick (n) format require prior approval from the Commission.

(b) The Place Pick (n) pool shall be apportioned under one of the following methods:

(1) Method 1, Place Pick (n) with Carryover: The net Place Pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first- or second-place finisher in each of the Place Pick (n) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first- or second-place finisher in the greatest number of Place Pick (n) contests; and the remainder shall be added to the carryover.

(2) Method 2, Place Pick (n) with Minor Pool and Carryover: The major share of the net Place Pick (n) pool and the carryover, if any, shall be distributed to those who selected the first- or second-place finisher in each of the Place Pick (n) contests, based upon the official order of finish. The minor share of the net Place Pick (n) pool shall be distributed to those who selected the first- or second-place finisher in the second greatest number of Place Pick (n) contests, based up on the official order of finish. If there are no wagers selecting the first or second-place finisher of all Place Pick (n) contests, the minor share of the net Place Pick (n) pool shall be distributed as a single price pool to those who selected the first- or second-place finisher in the greatest number of Place Pick (n) contests; and the major share shall be added to the carryover.

(3) Method 3, Place Pick (n) with No Minor Pool and No Carryover: The net Place Pick (n) pool shall be distributed as a single price pool to those who selected the first- or second-place finisher in the greatest number of Place Pick (n) contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

(4) Method 4, Place Pick (n) with Minor Pool and No Carryover: The major share of the net Place Pick (n) pool shall be distributed to those who selected the first- or second-place finisher in the greatest number of Place Pick (n) contests, based upon the official order of finish. The minor share of the net Place Pick (n) pool shall be distributed to those who selected the first- or second-place finisher in the second greatest number of Place Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first- or second-place finisher in a second greatest number of Place Pick (n) contests,

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the minor share of the net Place Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first- or second-place finisher in the greatest number of Place Pick (n) contests. If the greatest number of first- or second- place finishers selected is one (1), the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

(5) Method 5, Place Pick (n) with Minor Pool and No Carryover: The major share of net Place Pick (n) pool shall be distributed to those who selected the first- or second-place finisher in each of the Place Pick (n) contests, based upon the official order of finish. The minor share of the net Place Pick (n) pool shall be distributed to those who selected the first- or second-place finisher in the second greatest number of Place Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first- or second- place finisher in all Place Pick (n) contests, the entire net Place Pick (n) pool shall be distributed as a single price pool to those who selected the first- or second-place finisher in the greatest number of Place Pick (n) contests. If there are no wagers selecting the first- or second-place finisher in a second greatest number of Place Pick (n) contests, the minor share of the net Place Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first- or second-place finisher in each of the Place Pick (n) contests. If there are no winning wagers, the pool is refunded.

(c) If there is a dead heat for first in any of the Place Pick (n) contests involving:

(1) contestants representing the same betting interest, the Place Pick (n) pool shall be distributed as if no dead heat occurred.

(2) contestants representing two or more betting interests, the Place Pick (n) pool shall be distributed as a single price pool with a winning wager including each betting interest participating in the dead heat.

(d) If there is a dead heat for second in any of the Place Pick (n) contests involving:

(1) contestants representing the same betting interest, the Place Pick (n) pool shall be distributed as if no dead heat occurred.

(2) contestants representing two or more betting interests, the Place Pick (n) pool shall be distributed as a single price pool with a winning wager including the betting interest which finished first or any betting interest involved in the dead heat for second.

(e) Should a betting interest in any of the Place Pick (n) contests be scratched, the actual favorite, as evidenced by total amounts wagered in the Win pool at the host organization licensee for the contest at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalisator shall produce reports showing each

of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination. ~~Should a betting interest in any of the Place Pick (n) contests be scratched and the actual wagering favorite for that race has already been included in the wager, a refund shall be offered for the scratched horse.~~

(f) If any regularly scheduled turf race is moved to the main race course for any leg(s) of a Place Pick (n) wager and such change has not been known to the public before the close of wagering for the Place Pick (n), all wagers on such leg(s) affected by the surface change shall be considered winning wagers for the purpose of the Place Pick (n) pool.

(g) The Place Pick (n) pool shall be canceled and all Place Pick (n) wagers for the individual performance shall be refunded if:

(1) at least two contests included as part of a Place Pick 3 are canceled or declared "no contest."

(2) at least three contests included as part of a Place Pick 4, Place Pick 5 or Place Pick 6 are canceled or declared "no contest."

(3) at least four contests included, as part of a Place Pick 7, Place Pick 8 or Place Pick 9 are canceled or declared "no contest."

(4) at least five contests included as part of a Place Pick 10 are canceled or declared "no contest."

(h) If at least one contest included as part of a Place Pick (n) is canceled or declared "no contest," but not more than the number specified in (f) of this Section, the net pool shall be distributed as a single price pool to those whose selection finished first or second in the greatest number of Place Pick (n) contests for that performance. Such distribution shall include the portion ordinarily retained for the Place Pick (n) carryover but not the carryover from previous performances.

(i) The Place Pick (n) carryover may be capped at a designated level approved by the Commission so that if, at the close of any performance, the amount in the Place Pick (n) carryover equals or exceeds the designated cap, the Place Pick (n) carryover will be frozen until it is won or distributed under other provisions of this Section. After the Place Pick (n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the Place Pick (n) carryover, shall be distributed to those whose selection finished first or second in the greatest number of Place Pick (n) contests for that performance.

(j) A written request for permission to distribute the Place Pick (n) carryover on a specific performance may be submitted to the Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(k) Should the Place Pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first- or second-place finisher in each of the Place Pick (n) contests, the entire pool shall be distributed as a single price pool to those whose selection finished first or second in the greatest number of Place Pick (n) contests. The Place Pick (n) carryover shall be designated for distribution on a specified date and performance under any of the following circumstances:

- (1) Upon written approval from the Commission as provided in (i) of this Section.
- (2) Upon written approval from the Commission when there is a change in the carryover cap, a change from one type of Place Pick (n) wagering to another, or when the Place Pick (n) is discontinued.
- (3) On the closing performance of the meet or split meet.

(l) If, for any reason, the Place Pick (n) carryover must be held over to the corresponding Place Pick (n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the Commission. The Place Pick (n) carryover plus accrued interest shall then be added to the net Place Pick (n) pool of the following meet on a date and performance so designated by the Commission.

(m) With the written approval of the Commission, the organization licensee may contribute to the Place Pick (n) carryover a sum of money up to the amount of any designated cap.

(n) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data.

(o) The organization licensee may suspend previously-approved Place Pick (n) wagering with the prior approval of the Commission. Any carryover shall be held until the suspended Place Pick (n) wagering is reinstated. An organization licensee may request approval of a Place Pick (n) wager or separate wagering pool for specific performances.

[OAR Docket #19-612; filed 6-14-19]

**TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 70. OBJECTIONS AND PROTESTS; HEARINGS AND APPEALS**

[OAR Docket #19-613]

RULEMAKING ACTION:
PERMANENT final adoption

- RULES:**
- 325:70-1-2. Definitions [AMENDED]
 - 325:70-1-13.1. Entry of appearance of attorney, withdrawal of counsel, address of record, change of address [NEW]
 - 325:70-1-14. Testimony and evidence at hearing [AMENDED]
 - 325:70-1-20. Summary suspension of occupation licensee [AMENDED]
 - 325:70-1-31. Pleadings [NEW]
 - 325:70-1-32. Discovery [NEW]

AUTHORITY:
3A O.S. § 200 et seq.; Oklahoma Horse Racing Commission
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 7, 2018

COMMENT PERIOD:
January 2, 2019 through February 4, 2019

PUBLIC HEARING:
February 4, 2019

ADOPTION:
February 21, 2019

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 1, 2019

LEGISLATIVE APPROVAL:

Approved May 28, 2019 by HJR 1022

FINAL ADOPTION:

May 28, 2019

EFFECTIVE:

September 14, 2019

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

Proposed amendments add and modify definitions and provide a framework for Commission hearings and appeals including new rules for Evidence, Appearance of Attorney, Withdrawal of Counsel, Address of Record, Change of Address, Pleadings, and Discovery.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.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 14, 2019:

325:70-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"Authorized Agent" means a person licensed by the Commission and appointed by a written notarized affidavit by the Owner, Trainer, Parent or Guardian of a minor in whose behalf the Agent will act-and limited to the actions as specified on the affidavit. Said affidavit must be on file with the Commission.

"Business Day" means any day Monday through Friday exclusive of official holidays.

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Conditions of a race" means the qualifications which determine the eligibility of a horse to be entered in a race.

"Day" means a 24-hour period ending at midnight.

"Entry" means:

- (A) A horse made eligible to run in a race.
- (B) Two (2) or more horses entered in the same race which have common ties of Ownership, lease, or training.

"Foul" means an action by any horse or Jockey that hinders or interferes with another horse or Jockey during the running of a race.

"Horse" means:

- (A) Any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;

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(B) An entire equine male five years of age and older.

"**Inquiry**" means:

(A) An investigation by the Stewards of potential interference in a contest prior to declaring the result of said contest official; or

(B) The Stewards or Commission investigation of a matter alleged to be related to the provisions of the Act or the rules of the Commission.

"**Jockey**" means a rider licensed to race.

"**Jockey Agent**" means a licensed, authorized representative of a Jockey.

"**Month**" means a calendar month.

"**Objection**" means:

(A) A written complaint made to the Stewards concerning a horse entered in a race and filed not later than two hours prior to the scheduled post time for the first race on the day which the questioned horse is entered.

(B) A verbal claim of foul in a race lodged by the horse's Jockey, Trainer, Owner, or the Owner's licensed Authorized Agent before the race is declared official.

"**Occupation license**" means a state requirement for any person acting in any capacity pursuant to the provisions of the Act.

"**Organization license**" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"**Owner**" means any person who holds in whole or in part, any right, title or interest in a horse or an Organization Licensee or any person who is a Lessee of a horse and has been duly issued a currently-valid Owner license as a person responsible for such horse.

"**Post time**" means the advertised time set for the arrival of the horses at the starting gate for the race.

"**Prima Facie evidence**" means evidence that, until its effect is overcome by another evidence, will suffice as proof of fact in issue.

"**Protest**" means a written complaint, signed by the protester, made to the Stewards within forty-eight (48) hours after the running of the race, alleging that a horse was ineligible to race, except as provided in 325:70-1-10 of these rules.

"**Race day**" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"**Race**" means a contest between two horses.

"**Rules**" means the rules adopted by the Commission to implement the provisions of the Act.

"**Scratch**" means the act of withdrawing an entered horse from a race after the closing of overnight entries.

"**Safety Steward**" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"**Steward**" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"**Substantial evidence**" means evidence which a reasoning mind would accept as sufficient to support a particular

conclusion and consists of more than a mere scintilla of evidence but may be somewhat less than a preponderance.

"**Trainer**" means a person qualified and licensed by the Commission as a Trainer.

"**Week**" means a period of seven (7) days ~~beginning at 12:01 a.m. Monday during which races are conducted.~~

"**Year**" means a calendar year.

325:70-1-13.1. Entry of appearance of attorney, withdrawal of counsel, address of record, change of address

(a) In any proceeding before the Commission or the Board of Stewards, any attorney appearing for a party shall file with the Stewards Clerk an entry of appearance no later than the first filing of any pleading or other paper in the case by that counsel or the first appearance before the Executive Director or Board of Stewards. In the event a party adds or substitutes counsel, new counsel shall immediately file an entry of appearance. The entry of appearance shall include the name and signature of counsel, mailing address, telephone number, email address, fax number, Bar Association number, and name of the law firm. Copies shall be served on all other parties of record.

(b) A motion to withdraw may be filed at any time. All motions to withdraw shall be accompanied by a proposed order. No counsel may withdraw from a pending case without leave of the Executive Director or Board of Stewards. The counsel filing the motion to withdraw shall serve a copy of the motion on the client and all attorneys of record. All motions shall be signed by the party on whose behalf counsel has previously appeared or contain a certificate that:

(1) the client has knowledge of counsels' intent to withdraw, or

(2) counsel has made a good faith effort to notify the client and the client cannot be located. Where there is no successor counsel the withdrawing attorney must clearly state in the body of the order the name and current address of the party. If no entry of appearance is filed within thirty (30) days from the date of the order permitting withdrawal, then the unrepresented party is deemed to be pro se. In all cases, counsel seeking to withdraw shall advise the Executive Director or Board of Stewards if the case is currently set for hearing.

(c) The address of record for any attorney or party appearing in a case pending the Commission or the Board of Stewards shall be the latest address provided to the Stewards Clerk in the entry of appearance, License Application or change of address. The attorney or unrepresented party must, in all cases pending before the Commission or the Board of Stewards, file with the Stewards Clerk and serve upon all counsel and unrepresented parties a notice of a change of address. The attorney or unrepresented party has the duty of maintaining a current address with the Commission and Board of Stewards. Service of notice to the last known address of record of counsel or an unrepresented party, shall be considered valid service for all purposes.

(d) All attorneys and unrepresented parties shall give immediate notice to the Commission and Board of Stewards of a change of address by filing notice with the Stewards Clerk. The

notice of change of address shall contain the same information required by the entry of appearance. The notice of change of address shall be served on all parties, and a copy provided to the Board of Stewards if the case is before the Board. If an attorney or unrepresented party files an entry of appearance, the Commission will assume the correctness of the last address of record, until a notice of change of address is received. Attorneys of record who change firms shall notify the Executive Director and the Board of Stewards of the status of the representation of their clients, and shall immediately withdraw, when appropriate.

(e) A party may terminate their relationship with attorney of record and must notify the Executive Director or Board of Stewards in writing of such change and effective date.

325:70-1-14. Testimony and evidence at hearing

(a) Every person called to a hearing before the Stewards concerning an alleged rule violation shall be allowed to present testimony, produce witnesses, cross-examine witnesses, and present documentary evidence in accordance with the rules of privilege recognized by law [3A:204 and 3A:204.3].

(b) Each witness at a disciplinary hearing conducted by the Stewards must be sworn by the presiding steward.

(c) The Stewards shall allow a full presentation of evidence and are not bound by the technical rules of evidence. However, the Stewards may disallow evidence that is irrelevant or unduly repetitive of other evidence. The Stewards shall have the authority to determine, in their sole discretion, the weight and credibility of any evidence and/or testimony. The Stewards may admit hearsay evidence if the Stewards determine the evidence is of a type that is commonly relied on by reasonably prudent people. The rules of privilege recognized by Oklahoma law apply in hearings before the Stewards.

325:70-1-20. Summary suspension of occupation licensee

(a) If the Stewards or the Commission find that the public health, safety, or welfare requires emergency action and incorporates such finding to that effect in any Order, summary suspension of any licensee may be ordered pending proceedings for revocation or other action, which proceedings shall be promptly initiated and held as provided in the Administrative Procedures Act, 75 O.S., §§ 301 through 326. [3A:204 and 3A:204.3]

(b) The Stewards may enter an Order of Summary Suspension of any licensee in any matter concerning any of the following classes of violations which are an imminent peril to the public health, safety and welfare:

- (1) any rule regarding the running of a race;
- (2) any violation of medication laws and rules;
- (3) any suspension or revocation of an occupation license by any racing jurisdiction recognized by the Commission;
- (4) any assault or other destructive acts within Commission-licensed premises;
- (5) any violation of prohibited devices, laws and rules; or

(6) any filing of false information. [75:205.4(B)(13)]

(c) A licensee whose license has been summarily suspended is entitled to a hearing on the summary suspension not later than the Seventh (7th) business day after the license was summarily suspended. The licensee may waive his/her right to a hearing on the summary suspension within the 7-day limit.

(d) The Stewards shall conduct a hearing on the summary suspension in the same manner as other disciplinary hearings. At a hearing on a summary suspension, the sole issue is whether the licensee's license should remain suspended pending a final disciplinary hearing and ruling with the burden on the licensee to show good cause why the suspension should be set aside.

325:70-1-31. Pleadings

(a) Pleadings shall be filed with the Commission and include appeals, applications, answers, complaints, exceptions, replies and motions. Regardless of an error in designation, a pleading shall be accorded its true status in the proceeding in which it is filed.

(b) A request for discovery or a response to a request for discovery is not a pleading and is not a part of the administrative record of a contested case unless the request or response is offered into evidence.

(c) A pleading for which the Commission staff has not prepared an official form must contain:

- (1) the name of the pleader;
- (2) the telephone number and street address of the pleader's residence and business and the telephone number and street address of the pleader's representative, if any;
- (3) the jurisdiction of the Commission over the subject matter;
- (4) a concise statement of the facts relied on by the pleader;
- (5) a request stating the type of Commission action desired by the pleader;
- (6) the name and address of each person who the pleader knows or believes will be affected if the request is granted;
- (7) a proposed order, containing proposed findings of fact and conclusions of law;
- (8) any other matter required by statute or Commission rule; and
- (9) a certificate of service.

(d) A party filing a pleading shall, by certified mail, email, fax or hand deliver, a copy of the pleading to each party of record. If a party is being represented by an attorney or other representative, service must be made on the attorney or representative instead of on the party. The knowing failure of a party to make service in accordance with this subsection is grounds for the Commission to strike the pleading from the record.

(e) An objection to a defect, omission or fault in the form or content of a pleading must be specifically stated in a motion or an exception presented not later than the prehearing conference if one is held and not later than seven (7) days before the date of the hearing if a prehearing conference is not held. A party who fails to timely file an objection under this subsection waives the objection.

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(f) Except as otherwise provided by this subsection, a pleader may amend or supplement a pleading at any time before the seventh (7th) day after the date the pleading was filed, but not later than seven (7) days before the date of the hearing. A pleader may amend or supplement a pleading at any time:

- (1) on written consent of each party of record; or
- (2) as permitted by the Chief Steward for the proceeding, when justice requires the amendment or supplementation and when the amendment or supplementation will not unfairly surprise another party.

(g) A pleading may adopt or incorporate by specific reference any part of a document in the official files and records of the Commission. This subsection does not relieve the pleader of the duty to allege in detail all facts necessary to sustain the pleader's burden of proof.

325:70-1-32. Discovery

Discovery shall be in accordance with the Oklahoma Administrative Procedures Act and these rules.

[OAR Docket #19-613; filed 6-14-19]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 75. OKLAHOMA-BRED PROGRAM

[OAR Docket #19-614]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:75-1-2. Definitions [AMENDED]

325:75-1-3. Definition of Accredited Oklahoma-Bred Thoroughbreds [AMENDED]

325:75-1-3.1. Definition of accredited Oklahoma-Bred Quarter Horse, Paint or Appaloosa [AMENDED]

325:75-1-19. Embryo transfer [AMENDED]

AUTHORITY:

3A O.S. § 200 et seq.; Oklahoma Horse Racing Commission

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

December 7, 2018

COMMENT PERIOD:

January 2, 2019 through February 4, 2019

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February 4, 2019

ADOPTION:

February 21, 2019

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 1, 2019

LEGISLATIVE APPROVAL:

Approved May 28, 2019 by HJR 1022

FINAL ADOPTION:

May 28, 2019

EFFECTIVE:

September 14, 2019

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

Proposed amendments provide definitions for Domicile, Donor Mare, Embryo Transfer, Recipient Mare, and Safety Steward in the Oklahoma-Bred Program; modify definitions; and modify requirements for embryo transfer.

CONTACT PERSON:

Kambi Maddy, Assistant General Counsel, Oklahoma Department of Agriculture, Food, and Forestry, Office of General Counsel, P.O. Box 528804, Oklahoma City, OK 73152-8804, phone: (405) 522-5803, email: kambi.maddy@ag.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 14, 2019:

325:75-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Act**" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"**Accredit**" means to certify as meeting the standard of eligibility for participation as a broodmare, stallion or racing stock in the Oklahoma-Bred Program.

"**Accreditation**" means the process of verifying and certifying the eligibility of a broodmare, stallion or racing stock for participation in the Oklahoma-Bred Program and adding its name to the official registry.

"**Accredited Oklahoma-Bred horse**" means a broodmare, stallion or racing stock that is eligible pursuant to the Act and Commission rules and whose enrollment in the Oklahoma-Bred Program has been completed by the official Registering Agency.

"**Added money**" means the amount exclusive of trophy added into a stakes by the Organization Licensee, or by sponsors, state-bred programs, or other funds added to those monies gathered by nomination, entry, sustaining and other fees coming from the horsemen.

"**Adoption Program**" means a program in which race horses are rehabilitated and/or retrained for other uses, such as, but not limited to, polo, dressage, hunter/jumper and pleasure riding, the goal and purpose of which is the adoption of the race horse after rehabilitation and/or retraining.

"**Age**" means that the age of a horse is recognized as beginning on the first day of January in the year in which the horse is foaled.

"**Authorized Agent**" means a person licensed by the Commission and appointed by a written notarized affidavit by the Owner, Trainer, Parent or Guardian of a minor in whose behalf the Agent will act, and limited to the actions as specified on the affidavit. Said affidavit must be on file with the Commission.

"**Breakage**" means the net pool minus payout.

"**Breeder**" means the Owner of a horse's dam at the time of foaling for Thoroughbreds, and means the Owner of a horse's dam at time of conception for non-Thoroughbreds.

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Conditions of a race" means the qualifications which determine the eligibility of a horse to be entered in a race.

"Day" means a 24-hour period ending at midnight.

"Domicile" means the permanent dwelling of the horse(s).

"Donor Mare" means mare which produces an embryo or an oocyte which, after fertilization, is transferred into the uterus of a recipient mare.

"Embryo Transfer" means the process of transferring a Donor Mare embryo into a recipient mare.

"Dual breed registered horse" means an accredited Oklahoma-Bred horse that has filed with the Registering Agency Registration Certificates from more than one national breed registry. A dual breed registered horse may be eligible for dual breed Oklahoma-Bred awards.

"Eligible" means a broodmare, stallion, or racing stock horse that can satisfy all of the requirements for participation in the Oklahoma-Bred Program.

"Enroll" means to enter the name of an eligible broodmare, stallion, or racing stock horse on the official roll, register, or record as a qualified participant in the Oklahoma-Bred Program.

"Hardship Application" means that a horse Owner is eligible to complete a Hardship Application if the horse in question is a mare that is accredited as Racing Stock in the Oklahoma-Bred Program, with the proper Oklahoma-Bred stamp, but was not accredited as a Broodmare in the Oklahoma-Bred Program prior to producing a foal.

"Horse" means:

(A) any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;

(B) an entire equine male five years of age and older.

"Lessee" means a licensed Owner whose interest in a horse is by virtue of a completed Commission-approved lease form attached to the Registration Certificate and on file with the Commission.

"Lessor" means the Owner of a horse that is leased.

"Nomination" means the naming of a horse to a certain race or series of races generally accompanied by payment of a prescribed fee.

"Nominator" means the person who nominates a horse as a possible contender in a race.

"Occupation license" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"Organization license" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"Owner" means any person who holds in whole or in part, any right, title or interest in a horse or an Organization Licensee or any person who is a Lessee of a horse and has been duly issued a currently-valid Owner license as a person responsible for such horse.

"Pension Program" means a program for the care and "pasturing" of retired or unwanted horses who, because of their health or condition, are incapable of being rehabilitated/re-trained and adopted.

"Race" means a contest between horses.

"Race day" means a day during a race meeting when pari-mutuel racing occurs on live races conducted at that racetrack.

"Races" mean:

(A) **Allowance.** An overnight race for which eligibility and weight to be carried is determined according to specified conditions which include age, sex, earnings, number of wins, and distance of race.

(B) **Claiming.** A race in which any horse starting may be claimed and purchased for a designated amount in conformance with the rules in this Title.

(C) **Exhibition.** A race on which no wagering is permitted.

(D) **Handicap.** A race in which the weights to be carried by the horses are assigned by the Racing Secretary or handicapper for the purpose of equalizing the chances of winning for all horses entered.

(E) **Invitational.** A race in which the competing horses are selected by inviting their Owners to enter specific horses.

(F) **Maiden.** A race restricted to non-winners.

(G) **Match.** A race contested between two or more horses under conditions agreed to by their Owners.

(H) **Nomination.** A race in which the subscription to a payment schedule nominates and sustains the eligibility of a particular horse. Nominations must close at least seventy-two (72) hours before the first post time of the day the race is originally scheduled to be run.

(I) **Oklahoma-Bred.** A race for which entry may be restricted to accredited Oklahoma-Bred registered horses.

(J) **Overnight (Purse).** A race for which entries close at a time set by the Racing Secretary.

(K) **Progeny.** A race restricted to the offering of a specific stallion or stallions.

(L) **Schooling.** A preparatory race for entry qualification in official races which conforms to requirements adopted by the Commission.

(M) **Stakes.** A race which is eligible for stakes or "black-type" recognition by the particular breed registry.

(N) **Trial.** A race or a series of races in which horses participate for the purpose of determining eligibility for a subsequent contest.

(O) **Walkover.** A race in which only one horse starts or in which all the starts are owned by the same interest. To claim the purse, a horse must start and go the distance of the race.

"Recipient Mare" means the surrogate mare carrying a Donor Mare's embryo.

"Register" means the official record of names of broodmares, stallions, or racing stock horses that have been approved for participation in the Oklahoma-Bred Program.

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"Registration" means placing the name of approved broodmares, stallions, or racing stock horses in the official record of horses approved to participate in the Oklahoma-Bred Program.

"Registration Certificate" means the official document from the breed-specific national registry, providing the horse's name, foal date, age, color, sex, pedigree and breeder and confirming the horse's registration with the appropriate national breed registry.

"Rules" means the rules adopted by the Commission to implement the provisions of the Act.

"Stallion Re-certification" means completing a re-certification application annually for Thoroughbred stallions that were previously accredited in the Stallion Registry.

"Safety Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Trainer" means a person qualified and licensed by the Commission as a Trainer.

"Unclaimed ticket" means:

(A) a winning or refundable pari-mutuel ticket which was not cashed during the performance for which it was issued; or

(B) Proceeds which shall be remitted by the Organization Licensee to the Commission for deposit in the Oklahoma Breeding Development Fund Special Account in accordance with provisions of statute and as prescribed by the Commission.

"Week" means a period of seven (7) days beginning at 12:01 a.m. Monday during which races are conducted.

"Year" means a calendar year.

325:75-1-3. Definition of Accredited Oklahoma-Bred Thoroughbreds

As used in this Chapter, an accredited Oklahoma-Bred Thoroughbred horse shall mean a Thoroughbred horse which meets the requirements below:

(1) **Stallion.** An accredited Oklahoma-Bred stallion is one that is domiciled in Oklahoma, stands for service in Oklahoma, and is enrolled in the Oklahoma-Bred stallion registry. An Oklahoma-Bred stallion that is accredited as racing stock is not accredited as breeding stock in the registry unless the required application is filed and fee paid to Registering Agency. For resulting foals to be eligible for accreditation as Oklahoma-Bred racing stock, the stallion must be accredited in the Oklahoma-Bred stallion registry prior to the service that produces the resulting foal. Except for those foals eligible for accreditation that are sired by non-accredited stallions, any foals conceived prior to the stallion being accredited in the Oklahoma-Bred stallion registry will not be eligible for accreditation. Eligibility for participation in the Oklahoma-Bred Program begins when the application for the stallion registry is submitted, at which time the stallion must be domiciled in Oklahoma. The stallion's application must be filed with the Oklahoma-Bred Registering Agency by February 1 of that breeding season. Late applications will be accepted after

February 1 and through June 30 of that season. A stallion's accreditation shall not be forfeited if the stallion leaves Oklahoma for an indefinite period of time for racing, medical treatment, performance, or approved departure for breeding purposes in another hemisphere. An Oklahoma-Bred stallion may leave Oklahoma for the purpose of being offered in a recognized sale consignment. In the case of a sale consignment, an accredited stallion returned to Oklahoma to resume his domicile within 30 days after the sale date is not required to become re-accredited. Foals conceived after sale date will be ineligible if the stallion fails to resume domicile within thirty (30) days. Should the stallion not meet the return period from the sale, the stallion must be re-accredited upon resuming his domicile in order to be eligible for breeder awards from foals conceived after the date of departure. The burden of proof relating to such race, performance, medical treatment, sale consignment or breeding shall be on the Owner of record who shall produce such evidence to the Oklahoma-Bred Registering Agency.

(A) **Stallions Leaving Oklahoma for Breeding Purposes in Another Hemisphere:** Approved departure for breeding purposes shall be granted by the Registering Agency upon written notification by the stallion Owner or manager as to the destination of the stallion, the anticipated date the stallion will be leaving and the anticipated date of return to Oklahoma. The stallion must reestablish his domicile in Oklahoma prior to servicing any mare for which subsequent foals conceived by service from that stallion are to be eligible for accreditation. The Owner or manager of the stallion must provide written notice of the exact date of stallion's return and re-established domicile location in Oklahoma and the effective date for the stallion's eligibility to earn awards will be the date of return if notice is provided within 30 days of that date, or upon receipt of notice if longer than 30 days after the return of the Stallion.

(B) **Re-Accreditation of Stallions:** If a stallion leaves the State of Oklahoma for any reason other than breeding in another hemisphere, sale consignment, performance, or medical treatment and terminates his domicile, that stallion will not be eligible to sire subsequent foals eligible for accreditation as racing stock in the Oklahoma-Bred Program. If the stallion returns to Oklahoma to re-establish his domicile, pays the appropriate fees and meets all other qualifying requirements, the stallion may become re-accredited in the Oklahoma-Bred stallion registry. If a stallion stands for service outside of Oklahoma during the calendar year in which a foal(s) was conceived, any foal conceived after accreditation or reaccreditation in the Oklahoma-Bred stallion registry and while the accredited stallion was standing in Oklahoma and which otherwise may be accredited in the Oklahoma-Bred Program upon presentation of acceptable documentation reflecting that the service producing the foal occurred while the accredited stallion was standing in

Oklahoma. The stallion shall be eligible for stallion awards only from those breedings that occurred while the accredited stallion was physically domiciled in Oklahoma. The Registering Agency may require an affidavit for any breeding season during which the stallion is standing as an accredited Oklahoma-Bred stallion. Failure to provide the required documentation for any year shall result in the stallion Owner being ineligible for stallion awards for all foals resulting from that breeding season unless the required documentation is received by the Registering Agency within thirty (30) days after written request. Further, foals conceived during that breeding season shall be ineligible for accreditation unless the required affidavit is received by the Registering Agency not later than thirty (30) days after written request. An accredited stallion who terminates his domicile in Oklahoma and later returns to Oklahoma to resume his domicile, prior to breeding, but fails to reaccredit in the Oklahoma-Bred stallion registry, may qualify for a hardship reaccreditation. In addition to the regular application fee, the applicant shall be charged an additional \$200.00 fee. All other qualifications and requirements of the Oklahoma-Bred stallion registry must be met as well. The Registering Agency may require proof that all requirements for accreditation have been met. Any foal by the stallion seeking re-accreditation that would otherwise be eligible for accreditation as racing stock in the Oklahoma-Bred Program will be eligible for accreditation upon a hardship reaccreditation in the Oklahoma-Bred stallion registry. Acceptance of a foal application under these circumstances, by the official Registering Agency, is subject to the stallion being enrolled under a hardship re-accreditation application in the Oklahoma-Bred stallion registry within sixty (60) days from receipt of notice by the stallion Owner that the stallion was not re-accredited in the Oklahoma-Bred stallion registry prior to breeding. The fee to enroll the racing stock in the Oklahoma-Bred Program will be based upon the age of the foal on the date the Registering Agency receives the racing stock application. Failure to enroll a stallion under a Hardship Application within sixty (60) days from receipt of notice that the stallion was not re-accredited prior to breeding will result in the rejection of any pending racing stock applications for foals by the stallion. The Owner of an accredited Oklahoma-Bred stallion (for the purpose of qualifying for stallion awards) is the Owner or Lessee of record at the time the offspring is conceived.

(C) **Yearly Re-Certification Fee.** The Owner of the accredited Oklahoma-Bred stallion must pay a yearly re-certification fee. The yearly recertification fee is \$25.00 and due on or before February 1. If the yearly recertification fee is paid between February 2 and June 30, the fee is \$50.00. If the yearly recertification fee is paid between July 1 and December 31, the fee is \$250.00. If the yearly recertification fee is

not paid on or before December 31, the stallion will lose its certification as an accredited Oklahoma-Bred stallion. The owner of a stallion may re-certify the stallion as an accredited Oklahoma-Bred stallion by paying a hardship fee of \$500.00 prior to the stallion's foal(s) becoming a yearling or \$1,000.00 prior to the foal(s)' two-year-old year. If the stallion is not re-certified, the stallion loses its accreditation in the Oklahoma-Bred Stallion Registry, and the Owner is ineligible for stallion awards for all foals resulting from that breeding season.

(2) **Broodmare.** An accredited Oklahoma-Bred broodmare is one that is domiciled in Oklahoma and is enrolled in the Oklahoma-Bred broodmare registry. An Oklahoma-Bred mare that is accredited as racing stock is not accredited as breeding stock in the registry unless the required application is filed and fee paid to Registering Agency. Eligibility for participation in the Oklahoma-Bred Program begins when the application for the broodmare registry is submitted, at which time the broodmare must be domiciled in Oklahoma, and such application is in substantial compliance with the requirements of the registry. The broodmare's application must be filed with the Oklahoma-Bred Registering Agency by December 31 of the year prior to foaling. Late applications will be accepted after December 31, but must be prior to foaling. Hardship Applications are accepted at any time. A broodmare's accreditation shall not be forfeited if the broodmare leaves Oklahoma for an indefinite period of time for racing, medical treatment, performance, or approved departure for breeding purposes in another hemisphere. An Oklahoma-Bred broodmare may leave Oklahoma for the purpose of being offered in a recognized sale consignment. In the case of sale consignment, an accredited broodmare returned to Oklahoma to resume her domicile within 30 days after the sale date is not required to become re-accredited. The burden of proof relating to such race, performance, medical treatment, sale consignment or breeding shall be on the Owner of record who shall produce such evidence to the Oklahoma-Bred Registering Agency.

(A) **Broodmares Serviced by Out-of-State Stallions:** An accredited Oklahoma-Bred broodmare may be shipped out of Oklahoma to be serviced by a non-accredited stallion, provided she is returned to Oklahoma to resume her domicile not later than August 15 of the calendar year in which she is serviced. Failure of the accredited broodmare to return to Oklahoma to resume her domicile not later than August 15 shall have two results: First, the broodmare loses her accreditation in the program; Second, the resultant foal is ineligible for accreditation in the Oklahoma-Bred Program, unless the broodmare resumes her domicile in Oklahoma and files for reaccreditation prior to the birth of the foal. In order for the broodmare to produce successive foals eligible for accreditation in the Oklahoma-Bred Program, beginning with foals born in 2011, she must produce a

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foal in Oklahoma in alternating years by an accredited stallion standing in Oklahoma.

(B) **Thoroughbred Broodmares Serviced by Non-Thoroughbred Stallions:** An accredited Oklahoma-Bred Thoroughbred broodmare that is serviced by a Non-Thoroughbred stallion shall be subject to the same regulations as Quarter Horse, Paint, or Appaloosa broodmares with regard to its accreditation and eligibility to produce accredited Oklahoma-Bred racing stock so long as the mare is serviced by a Quarter Horse, Paint, or Appaloosa stallion.

(C) **Re-accreditation Rule:** If a broodmare leaves the State of Oklahoma for any reason other than breeding, performance, sale consignment or medical treatment, the broodmare is deemed terminated and loses broodmare accreditation in the Oklahoma-Bred Program. Such broodmare will not be eligible to produce subsequent foals eligible for accreditation as racing stock in the Oklahoma-Bred Program. If the broodmare returns to Oklahoma to reestablish her domicile, pays the appropriate fees and meets all other qualifying requirements, the broodmare may become re-accredited in the Oklahoma-Bred broodmare registry provided, however, a broodmare re-accredited in consecutive years shall not be eligible to produce accredited foals born in the second or subsequent, consecutive year of back to back re-accreditation, unless the application for re-accreditation includes a valid transfer of Ownership between individuals that are not related by blood or marriage, or that share the same physical address. In the event a re-accredited broodmare produces successive foals by non-accredited Oklahoma-Bred stallions, the broodmare Owner will not receive any breeder awards for the second foal. The Registering Agency may request a copy of the foal report submitted to the official breed registry for any accredited Oklahoma-Bred broodmare. An accredited broodmare who terminates her domicile in Oklahoma and later returns to Oklahoma to resume her domicile, prior to foaling, but fails to re-accredit in the Oklahoma-Bred broodmare registry, may qualify for a hardship re-accreditation. In addition to the regular application fee, the applicant shall be charged an additional \$200.00 fee. All other qualifications and requirements of the Oklahoma-Bred broodmare registry must be met as well. The Registering Agency may require proof that all requirements for accreditation have been met. Any foal out of the broodmare seeking re-accreditation that would otherwise be eligible for accreditation as racing stock in the Oklahoma-Bred Program will be eligible for accreditation upon hardship re-accreditation in the Oklahoma-Bred broodmare registry provided however, a broodmare re-accredited in consecutive years shall not be eligible to produce accredited foals born in the second or subsequent, consecutive year of back to back re-accreditation, unless the application for re-accreditation

includes a valid transfer of Ownership between individuals that are not related by blood or marriage, or that share the same physical address. Acceptance of a foal application under these circumstances, by the official Registering Agency, is subject to the broodmare being enrolled under a hardship re-accreditation application in the Oklahoma-Bred broodmare registry within sixty (60) days from receipt of notice by the broodmare Owner that the broodmare was not re-accredited in the Oklahoma-Bred broodmare registry prior to foaling. The fee to enroll the racing stock in the Oklahoma-Bred Program will be based upon the age of the foal on the date the Registering Agency receives the racing stock application. Failure to enroll a broodmare under a Hardship Application within sixty (60) days from receipt of notice that the broodmare was not re-accredited prior to foaling will result in the rejection of any pending racing stock applications for foals out of that mare.

(D) Oklahoma broodmares are classified annually as one of the following and are eligible for awards from Oklahoma-Bred funds as defined, and must meet all other eligibility requirements:

(i) Category A - Accredited Oklahoma-Bred broodmare who is bred to an accredited Oklahoma-Bred stallion receives 100% of the available broodmare awards for that foal [Oklahoma conceived and foaled].

(ii) Category B - Accredited Oklahoma-Bred broodmare who is bred to a non-Oklahoma-Bred accredited stallion receives 50% of the available broodmare awards for that foal [Oklahoma foaled].

(iii) Category C - A broodmare who is accredited for the first time in the Oklahoma-Bred Program, whether or not bred to an accredited Oklahoma-Bred stallion, receives 100% of the available breeders awards for her first foal. [Re-accredited broodmares do not qualify for Category C.] All subsequent awards for the broodmare will be based upon the first two foal options listed above.

(E) **For Purposes of Qualifying for Broodmare Awards:** the Owner of an accredited Oklahoma-Bred Thoroughbred broodmare is the Owner or Lessee of record at the time of foaling.

(3) **Hardship Application.** Notwithstanding other provisions of this Section, a mare accredited in the Oklahoma-Bred Program as a racing stock (with the proper Oklahoma-Bred stamp) but which has not been accredited in the Oklahoma-Bred broodmare registry prior to producing a foal that would otherwise be eligible for accreditation in the Oklahoma-Bred Program may be accredited in the Oklahoma-Bred broodmare registry. In addition to the regular application fee, the applicant shall be charged an additional \$200.00 fee. All other qualifications and requirements of the Oklahoma-Bred broodmare registry must be met as well. The Registering Agency may require proof that all requirements for accreditation have been met. Any foal out of the broodmare that would

otherwise be eligible for accreditation as racing stock in the Oklahoma-Bred Program will be eligible for accreditation upon enrollment in the Oklahoma-Bred broodmare registry. Acceptance of a foal application under these circumstances by the official Registering Agency is subject to the broodmare being enrolled under a Hardship Application in the Oklahoma-Bred broodmare registry within sixty (60) days from receipt of notice by the broodmare Owner that the broodmare was not accredited in the Oklahoma-Bred broodmare registry. The fee to enroll the racing stock in the Oklahoma-Bred Program will be based upon the age of the foal on the date the Oklahoma-Bred Registering Agency received the racing stock application. Failure to enroll a broodmare under a Hardship Application within sixty (60) days from receipt of notice from the official Registering Agency that the broodmare was accredited in the Oklahoma-Bred racing stock registry and not in the Oklahoma-Bred broodmare registry, will result in the rejection of any pending racing stock applications for foals out of that mare.

(4) **Racing stock.** An accredited Oklahoma-Bred racehorse is one that foaled in Oklahoma, and meets the following requirements:

(A) Beginning with the foal crop of 2001 there will be two (2) classifications of Thoroughbred foals eligible for accreditation in the Oklahoma-Bred Program. The category for those foals out of an accredited Oklahoma-Bred broodmare and by an accredited Oklahoma-Bred Stallion shall be classified as Oklahoma-Bred Conceived and Foaled. The second category for foals out of an accredited Oklahoma-Bred broodmare and by a non-accredited stallion shall be classified as Oklahoma-Bred Foaled. A foal out of an accredited Oklahoma-Bred broodmare and by a non-accredited stallion may receive accreditation in the Oklahoma-Bred racing stock registry provided all other requirements are met. In such an event, to be eligible for accreditation, the next foal out of said broodmare presented for accreditation must be by an accredited Oklahoma-Bred stallion and meet all other requirements. Further, in no event can a broodmare produce accredited Oklahoma-Bred foals in succession that are by non-accredited stallions. Except for the initial foal accredited in the Oklahoma-Bred Program, all accredited foals sired by non-accredited stallions must be preceded [by year of birth] in the registry by an accredited foal sired by an accredited stallion. Re-accreditation shall not preclude the listed rule. Provided all other requirements are met, both classifications are eligible for accreditation and may compete in Oklahoma-Bred races.

(B) An Oklahoma-Bred that is accredited as racing stock is not accredited as breeding stock in the registry. The Owner of an accredited Oklahoma-Bred racehorse (for the purpose of qualifying for added purse supplements) is the Owner or Lessee of record at the time of the race.

(5) **Late applications.**

(A) **Broodmare.** A broodmare may be accredited in the Oklahoma-Bred broodmare registry after December 31 of the year prior to foaling if the application for accreditation is submitted to the Oklahoma-Bred Registering Agency prior to foaling; and the broodmare is otherwise in substantial compliance with the requirements of the registry. Domicile must be established in Oklahoma when the broodmare's application is filed with the Oklahoma-Bred Registering Agency.

(B) **Stallion.** A stallion may be accredited in the Oklahoma-Bred stallion registry after February 1 and by June 30 and complete the current breeding season if the stallion is otherwise in substantial compliance with the requirements of the registry. Domicile must be established in Oklahoma when the stallion's application is filed with the Oklahoma-Bred Registering Agency.

(C) **Fee.** The fee to accredit a broodmare or stallion under a late application is twice the regular fee. The fee will not be refunded if the Registering Agency rejects the application but will be applied to accreditation of the horse for the next ensuing year.

(6) **Domicile exception.** An Oklahoma-Bred broodmare or stallion may leave Oklahoma for an indefinite period of time for race, performance or for medical treatment. The broodmare or stallion may leave Oklahoma for the purpose of being offered in a recognized sale consignment, and, if returned within thirty (30) days of sale date, is not required to become reaccredited. Should the broodmare or stallion not meet the return period from the sale, it must be re-accredited. The burden of proof shall be on the Owner to notify the Registering Agency of the intent to leave the state for any of the above reasons. The Registering Agency may further require verification of participation, treatment or consignment to a sale. Further, the Owner must report to the Oklahoma-Bred Registering Agency the date the broodmare or stallion returned to Oklahoma.

325:75-1-3.1. Definition of accredited Oklahoma-Bred Quarter Horse, Paint or Appaloosa

As used in this Chapter, an accredited Oklahoma-Bred Appaloosa, Quarter Horse, or Paint horse is a horse which meets the requirements below:

(1) **Stallion.** An accredited Oklahoma-Bred stallion is one that is domiciled in Oklahoma, stands for service in Oklahoma, and is enrolled in the Oklahoma-Bred stallion registry. An Oklahoma-Bred Stallion that is accredited as racing stock is not accredited as breeding stock in the registry unless the required application is filed and fee paid to Registering Agency. For resulting foals to be eligible for accreditation as Oklahoma-Bred racing stock, the stallion must be accredited in the Oklahoma-Bred Program stallion registry prior to the service that produces the resulting foal. Except for those foals eligible for accreditation that are sired by non-accredited stallions, any foals conceived prior to the stallion being accredited in the Oklahoma-Bred Program stallion registry will not be

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eligible for accreditation. Eligibility for participation in the Oklahoma-Bred Program begins when the application for the stallion registry is submitted, at which time the stallion must be domiciled in Oklahoma, and such application is in substantial compliance with the requirements of the registry. The stallion's application must be filed with the Oklahoma-Bred Registering Agency by February 1 of that breeding season. Late applications will be accepted after February 1 and through June 30 of that season. A stallion's accreditation shall not be forfeited if the stallion leaves Oklahoma for an indefinite period of time for racing, medical treatment, performance, or approved departure for breeding purposes in another hemisphere. An Oklahoma-Bred stallion may leave Oklahoma for the purpose of being offered in a recognized sale consignment. In the case of sale consignment, an accredited stallion returned to Oklahoma to resume his domicile within 30 days after the sale date is not required to become re-accredited. Any foals conceived after date of departure and prior to sale date shall be eligible for accreditation if the stallion does not return within thirty (30) days. Foals conceived after sale date will be ineligible if the stallion fails to resume domicile within thirty (30) days. Should the stallion not meet the return period from the auction or sale, the stallion must be re-accredited upon resuming his domicile in order to be eligible for breeder awards conceived after the date of departure. The burden of proof relating to such race, performance, medical treatment, sale consignment or breeding shall be on the Owner of record who shall produce such evidence to the Oklahoma-Bred Registering Agency.

(A) **Stallions leaving Oklahoma for breeding purposes in another hemisphere:** Approved departure for breeding purposes shall be granted by the Registering Agency upon written notification by the stallion Owner or manager as to the destination of the stallion, the anticipated date the stallion will be leaving and the anticipated date of return to Oklahoma. The stallion must reestablish his domicile in Oklahoma prior to servicing any mare for which subsequent foals conceived by service from that stallion are to be eligible for accreditation. The Owner or manager of the stallion must provide written notice of the exact date of stallion's return and re-established domicile location in Oklahoma and the effective date for the stallion's eligibility to earn awards will be the date of return if notice is provided within 30 days of that date, or upon receipt of notice if longer than 30 days after the return of the Stallion.

(B) **Use of preserved semen to service broodmares:** So long as an accredited Quarter Horse, Paint, Appaloosa or Thoroughbred stallion is in compliance with the accreditation requirements for the Oklahoma-Bred Program, the stallion may service mares through the use of semen preserved in accordance with the rules adopted by the appropriate national breed registry for that breed of stallion. Additionally, if an accredited stallion dies or becomes

physically incapable of servicing mares while in compliance with the accreditation requirements of the Oklahoma-Bred Program, semen preserved in accordance with the rules adopted by the appropriate national breed registry for that breed of stallion may be used to service mares with the resulting foals eligible for accreditation as racing stock so long as all other conditions of eligibility are met for those resulting foals.

(C) **Re-accreditation of stallions:** If a stallion leaves the State of Oklahoma for any reason other than breeding in another hemisphere, sale consignment, performance, or medical treatment and terminates his domicile, that stallion will not be eligible to sire subsequent foals eligible for accreditation as racing stock in the Oklahoma-Bred Program. If the stallion returns to Oklahoma to re-establish his domicile, pays the appropriate fees and meets all other qualifying requirements, the stallion may become re-accredited in the Oklahoma-Bred stallion registry. If a stallion stands for service outside of Oklahoma during the calendar year in which a foal(s) was conceived, any foal conceived after accreditation or reaccreditation of the stallion in the Oklahoma-Bred stallion registry and while the accredited stallion was standing in Oklahoma and which otherwise may be accredited in the Oklahoma-Bred Program upon presentation of acceptable documentation reflecting that the service producing the foal occurred while the accredited stallion was standing in Oklahoma. The stallion shall be eligible for stallion awards only from those breedings that occurred while the accredited stallion was physically domiciled in Oklahoma. The Registering Agency may require an affidavit for any breeding season during which the stallion is standing as an accredited Oklahoma-Bred stallion. Failure to provide the required documentation for any year shall result in the stallion Owner being ineligible for stallion awards for all foals resulting from that breeding season unless the required documentation is received by the Registering Agency within thirty (30) days after written request. Further, foals conceived during that breeding season shall be ineligible for accreditation unless the required affidavit is received by the Registering Agency not later than thirty (30) days after written request. An accredited stallion who terminates his domicile in Oklahoma and later returns to Oklahoma to resume his domicile, prior to breeding, but fails to reaccredit in the Oklahoma-Bred stallion registry, may qualify for a hardship reaccreditation. In addition to the regular application fee, the applicant shall be charged an additional \$200.00 fee. All other qualifications and requirements of the Oklahoma-Bred stallion registry must be met as well. The Registering Agency may require proof that all requirements for accreditation have been met. Any foal by the stallion seeking re-accreditation that would otherwise be eligible for accreditation as racing stock

in the Oklahoma-Bred Program will be eligible for accreditation upon hardship re-accreditation in the Oklahoma-Bred stallion registry. Acceptance of a foal application under these circumstances, by the official Registering Agency, is subject to the stallion being enrolled under a hardship re-accreditation application in the Oklahoma-Bred stallion registry within sixty (60) days from receipt of notice by the stallion Owner that the stallion was not re-accredited in the Oklahoma-Bred stallion registry prior to breeding. The fee to enroll the racing stock in the Oklahoma-Bred Program will be based upon the age of the foal on the date the Registering Agency receives the racing stock application. Failure to enroll a stallion under a Hardship Application within sixty (60) days from receipt of notice that the stallion was not re-accredited prior to breeding will result in the rejection of any pending racing stock applications for foals by the stallion. The Owner of an accredited Oklahoma-Bred stallion (for the purpose of qualifying for stallion awards) is the Owner or Lessee of record at the time the offspring is conceived.

(2) **Broodmare.** An accredited Oklahoma-Bred Quarter Horse, Paint, or Appaloosa broodmare is one that is domiciled in Oklahoma and is enrolled in the Oklahoma-Bred broodmare registry. An Oklahoma-Bred mare that is accredited as racing stock is not accredited as breeding stock in the registry unless the required application is filed and fee paid to Registering Agency. Eligibility for participation in the Oklahoma-Bred Program begins when the application for the broodmare registry is submitted, at which time the broodmare must be domiciled in Oklahoma, and such application is in substantial compliance with the requirements of the registry. The broodmare's application must be filed with the Oklahoma-Bred Registering Agency by December 31 of the year prior to foaling. Late applications will be accepted after December 31, but must be prior to foaling. Hardship Applications are accepted at any time. A broodmare's accreditation shall not be forfeited if the broodmare leaves Oklahoma for an indefinite period of time for racing, medical treatment, performance, or approved departure for breeding purposes in another hemisphere. An Oklahoma-Bred broodmare may leave Oklahoma for the purpose of being offered in a recognized sale consignment. In the case of sale consignment, an accredited broodmare returned to Oklahoma to resume her domicile within 30 days after sale date is not required to become re-accredited. The burden of proof relating to such race, performance, medical treatment, sale consignment or breeding shall be on the Owner of record who shall produce such evidence to the Oklahoma-Bred Registering Agency.

(A) **Broodmares serviced out-of-state:** An accredited Oklahoma-Bred broodmare may be shipped out of Oklahoma to be serviced by a non-accredited stallion, provided she is returned to Oklahoma to resume her domicile not later than August 15 of the calendar year in which she is serviced. Failure of

the accredited broodmare to return to Oklahoma to resume her domicile not later than August 15 shall have two results: First, the broodmare loses her accreditation in the program; Second, the resultant foal is ineligible for accreditation in the Oklahoma-Bred Program unless the broodmare resumes her domicile in Oklahoma and files for re-accreditation prior to the birth of the foal.

(B) **Multiple foals by accredited broodmares:** An accredited broodmare shall be eligible to produce multiple foals eligible for accreditation as Oklahoma-Bred racing stock and shall be eligible to receive breeders awards so long as the multiple foals are produced in accordance with guidelines or requirements adopted or approved by the national breed registry for the breed of foal being produced, and the resulting foals are eligible for registration with the appropriate national breed registry.

(C) **For purposes of qualifying for broodmare awards:** The Owner of an accredited Oklahoma-Bred broodmare bred to a Quarter Horse, Paint, or Appaloosa stallion is the Owner or Lessee of record at the time of conception. No accredited Oklahoma-Bred broodmare shall be permitted to earn broodmare awards from the accreditation of Oklahoma-Bred racing stock foals by non-accredited Oklahoma-Bred stallions if the broodmare has consecutive years with service only by non-accredited stallions.

(D) **Re-accreditation rule:** If a broodmare leaves the State of Oklahoma for any reason other than breeding, sale consignment, performance, or medical treatment, the broodmare is deemed terminated and loses broodmare accreditation in the Oklahoma-Bred Program. Such that broodmare will not be eligible to produce subsequent foals eligible for accreditation as racing stock in the Oklahoma-Bred Program. If the broodmare returns to Oklahoma to reestablish her domicile, pays the appropriate fees and meets all other qualifying requirements, the broodmare may become re-accredited in the Oklahoma-Bred broodmare registry provided however, a broodmare re-accredited in consecutive years shall not be eligible to produce accredited foals born in the second or subsequent, consecutive year of back to back re-accreditation, unless the application for re-accreditation includes a valid transfer of Ownership between individuals that are not related by blood or marriage, or that share the same physical address. In the event a re-accredited broodmare produces successive foals by non-accredited Oklahoma-Bred stallions, the broodmare Owner will not receive any breeder awards for the second foal. The Registering Agency may request a copy of the foal report submitted to the official breed registry for any accredited Oklahoma-Bred broodmare. An accredited broodmare who terminates her domicile in Oklahoma and later returns to Oklahoma to resume her domicile, prior to foaling, but fails to re-accredit in

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the Oklahoma-Bred broodmare registry, may qualify for a hardship re-accreditation provided however, a broodmare re-accredited in consecutive years shall not be eligible to produce accredited foals born in the second or subsequent, consecutive year of back to back re-accreditation, unless the application for re-accreditation includes a valid transfer of Ownership between individuals that are not related by blood or marriage, or that share the same physical address. In addition to the regular application fee, the applicant for a hardship re-accreditation shall be charged an additional \$200.00 fee. All other qualifications and requirements of the Oklahoma-Bred broodmare registry must be met as well. The Registering Agency may require proof that all requirements for accreditation have been met. Any foal out of the broodmare seeking re-accreditation that would otherwise be eligible for accreditation as racing stock in the Oklahoma-Bred Program will be eligible for accreditation upon hardship re-accreditation in the Oklahoma-Bred broodmare registry. Acceptance of a foal application under these circumstances, by the official Registering Agency, is subject to the broodmare being enrolled under a hardship re-accreditation application in the Oklahoma-Bred broodmare registry within sixty (60) days from receipt of notice by the broodmare Owner that the broodmare was not re-accredited in the Oklahoma-Bred broodmare registry prior to foaling. The fee to enroll the racing stock in the Oklahoma-Bred Program will be based upon the age of the foal on the date the Registering Agency receives the racing stock application. Failure to enroll a broodmare under a Hardship Application within sixty (60) days from receipt of notice that the broodmare was not re-accredited prior to foaling will result in the rejection of any pending racing stock applications for foals out of that mare.

(3) **Hardship Application.** Notwithstanding other provisions of this Section, a mare accredited in the Oklahoma-Bred Program as a racing stock (with the proper Oklahoma-Bred stamp) but which has not been accredited in the Oklahoma-Bred broodmare registry prior to producing a foal that would otherwise be eligible for accreditation in the Oklahoma-Bred Program may be accredited in the Oklahoma-Bred broodmare registry. In addition to the regular application fee, the applicant shall be charged an additional \$200.00 fee. All other qualifications and requirements of the Oklahoma-Bred broodmare registry must be met as well. The Registering Agency may require proof that all requirements for accreditation have been met. Any foal out of the broodmare that would otherwise be eligible for accreditation as racing stock in the Oklahoma-Bred Program will be eligible for accreditation upon enrollment in the Oklahoma-Bred broodmare registry. Acceptance of a foal application under these circumstances by the official Registering Agency is subject to the broodmare being enrolled under a Hardship Application in the Oklahoma-Bred broodmare registry

within sixty (60) days from receipt of notice by the broodmare Owner that the broodmare was not accredited in the Oklahoma-Bred broodmare registry. The fee to enroll the racing stock in the Oklahoma-Bred Program will be based upon the age of the foal on the date the Oklahoma-Bred Registering Agency received the racing stock application. Failure to enroll a broodmare under a Hardship Application within sixty (60) days from receipt of notice from the official Registering Agency that the broodmare was accredited in the Oklahoma-Bred racing stock registry and not in the Oklahoma-Bred broodmare registry, will result in the rejection of any pending racing stock applications for foals out of that mare.

(4) **Racing stock.** An accredited Oklahoma-Bred Quarter Horse, Paint, or Appaloosa racehorse is a horse foaled in Oklahoma that meets one of the following requirements:

(A) The racehorse is a Quarter Horse, Paint, or Appaloosa horse registered by the appropriate national breed registry(s) and is by an accredited Oklahoma-Bred stallion and out of an accredited Oklahoma-Bred broodmare; or

(B) The racehorse is a foal out of an accredited Oklahoma-Bred broodmare and by a non-accredited stallion; and

(C) In no event can an accredited broodmare produce accredited Oklahoma-Bred Racing Stock foals in successive years that are by non-accredited stallions; however, multiple foals out of an accredited Oklahoma-Bred broodmare and by both accredited Oklahoma-Bred stallions and non-accredited stallions in the same calendar year shall be eligible. With regard to multiple embryos, if the appropriate national breed registry permits registration of multiple foals from the same broodmare in a single year, all foals conceived and foaled by that broodmare or her recipients shall be eligible for accreditation in the Oklahoma-Bred Program if the other requirements of the program are met or

(D) Except for the initial foal accredited in the Oklahoma-Bred Program, all foals to be accredited in the Oklahoma-Bred Program sired by non-accredited stallions must be preceded (by year of birth) in the registry by either an Oklahoma-Bred accredited foal sired by an accredited stallion, or by affidavit or other documentation accepted by the Registering Agency that verifies the broodmare was bred to an accredited stallion and subsequently produced a foal that died after the broodmare was bred back to an out-of-state stallion but prior to registering that live foal; or produced a foal carried by a recipient mare which was stillborn or died prior to being registered but after the accredited broodmare was bred to an out-of-state stallion in the subsequent year. In such case, if the broodmare is permitted to produce accredited foals by non-accredited stallions in two consecutive years, that broodmare must for the next subsequent year be bred to an accredited stallion and produce a foal which is

accredited for subsequent foals to be eligible for accreditation. An Oklahoma-Bred that is accredited as racing stock is not accredited as breeding stock in the registry. The Owner of an accredited Oklahoma-Bred racehorse (for the purpose of qualifying for added purse supplements) is the Owner or Lessee of record at the time of the race.

(5) **Late applications.**

(A) **Broodmare.** A broodmare may be accredited in the Oklahoma-Bred broodmare registry after December 31 of the year prior to foaling if the application and fee are submitted to the Oklahoma-Bred Registering Agency prior to foaling; and the broodmare is otherwise in substantial compliance with the requirements of the registry. Domicile must be established when the broodmare's application is filed with the Oklahoma-Bred Registering Agency.

(B) **Stallion.** A stallion may be accredited in the Oklahoma-Bred stallion registry after February 1 and by June 30 and complete the current breeding season if the stallion is otherwise in substantial compliance with the requirements of the registry. Domicile must be established when the stallion's application is filed with the Oklahoma-Bred Registering Agency.

(C) **Fee.** The fee to accredit a broodmare or stallion under a late application is twice the regular fee. The fee will not be refunded if the Registering Agency rejects the application but will be applied to accreditation of the horse for the next ensuing year.

(6) **Domicile exception.** An Oklahoma-Bred broodmare or stallion may leave Oklahoma for an indefinite period of time for race, performance purposes or for medical treatment. The broodmare or stallion may leave Oklahoma for the purpose of being offered in a recognized sale consignment, and, if returned within thirty (30) days of sale date, is not required to become re-accredited. Should the broodmare or stallion not meet the return period from the sale, it must be re-accredited. The burden of proof shall be on the Owner to notify the Registering Agency of the intent to leave the State for any of the above reasons. The Registering Agency may further require verification of participation, treatment or consignment to a sale. Further, the Owner must report to the Oklahoma-Bred Registering Agency the date the broodmare or stallion returned to Oklahoma.

325:75-1-19. Embryo transfer

For a resulting foal from an embryo transfer to be eligible for accreditation in the Oklahoma-Bred Program, the donor mare must be accredited in the broodmare registry prior to foaling. If a donor mare is bred in Oklahoma, the donor mare may be shipped out of Oklahoma to have the embryo removed but must return to Oklahoma within 30 days to continue her domicile, or if the donor mare is to be bred in subsequent cycles at an out-of-state location to obtain additional embryos, the broodmare must return to Oklahoma and resume her domicile within thirty (30) days of her final breeding date for that

year's breeding season. Nothing in this section would prohibit an accredited broodmare that is serviced out-of-state [325:75-1- 3.1(2) (a)] from producing multiple embryos which are transferred to recipient mares during the period of time she is permitted to be out-of-state for breeding purposes. All other eligibility requirements must be met for the resulting foal to be eligible for accreditation in the Oklahoma-Bred Registry. Before the resulting foal of an embryo transfer is eligible for Oklahoma Accreditation, the following requirements shall be met: Effective January 1, 2020; All Recipient Mares shall be permanently identified using methods listed on the "Recipient Mare Form" provided by the Commission. Recipient Mares shall be domiciled in Oklahoma no less than 30 days prior to the due date indicated on said "Recipient Mare Form" and remain in Oklahoma until the foal is born. If a Recipient Mare is not domiciled in Oklahoma at least 30 days prior to the due date listed on said form, or leaves Oklahoma before foaling, the resulting foal shall be ineligible for entry into the Oklahoma-Bred Program. The "Recipient Mare Form" must be completed by the breeder and returned to the Commission by November 1st of the year prior to foaling. "Recipient Mare Forms" shall not be accepted by the Commission after this date. Any breeder, whose "Recipient Mare Form" is on file with the Commission shall be responsible to notify the Commission in writing, within thirty (30) calendar days, of any changes in domicile location or ownership. In addition, any new owners of said recipient mares, if any, shall notify the Commission in writing, within thirty (30) calendar days, regarding the domicile location of the recipient mare. In the event there is a transfer in ownership of a foal in utero, the new owner shall be responsible to notify the Commission in writing, within thirty (30) calendar days, regarding the domicile location of the recipient mare carrying the foal in utero. Failure to comply with these requirements will result in foals being ineligible for entry into the Oklahoma-Bred Program.

[OAR Docket #19-614; filed 6-14-19]

**TITLE 420. OKLAHOMA LIQUEFIED PETROLEUM GAS BOARD
CHAPTER 10. LIQUEFIED PETROLEUM GAS ADMINISTRATION**

[OAR Docket #19-615]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 420:10-1-5. Permits [AMENDED]
- 420:10-1-6. Application for certificate or permit [AMENDED]
- 420:10-1-8. Processing and handling of applications and examinations [AMENDED]
- 420:10-1-9. Issuing of certificates of permits [AMENDED]
- 420:10-1-14. Standards for the storage and handling of liquefied petroleum gas [AMENDED]
- 420:10-1-16. Training schools [AMENDED]

AUTHORITY:

Oklahoma Liquefied Petroleum Gas Board; Pursuant to statute 420.3. Oklahoma Liquefied Petroleum Gas Board - Rules, regulations and specifications. Subsection (G)(H).

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SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

January 24, 2019

COMMENT PERIOD:

February 15, 2019 through March 20, 2019

PUBLIC HEARING:

March 20, 2019

ADOPTION:

March 20, 2019

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 29, 2019

LEGISLATIVE APPROVAL:

Approved May 28, 2019 by HJR 1022

FINAL ADOPTION:

May 28, 2019

EFFECTIVE:

August 25, 2019

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated standards:

The standards for the storage and handling of liquefied petroleum gases adopted by the National Fire Protection Association and published in its pamphlets No. 58, and the standards for the installation of gas appliances and gas piping adopted by said National Fire Protection Association published in its pamphlet No. 54 have been adopted by the legislature in 52 O.S. 1991, Section 420.3 (e) and shall be accepted standards for the State of Oklahoma.

Incorporating rules:

420:10-1-14

Availability:

Oklahoma liquefied Petroleum Gas Administration, 3815 N. Santa Fe, Suite 117, Oklahoma City, Oklahoma, 73118, 405-521-2458. Office hours are from 7:30 a.m., to 4:30 p.m., Monday through Friday.

GIST/ANALYSIS:

The proposed rule amendments to 420:10-1-5 would clarify that all transport drivers employed by a Class II and Class III permit holder are required to obtain a fuel handlers card. The annual filing fee for the fuel handler card is set at \$10.00 in order to defray administrative processing costs. Clarifying language was added to the section addressing truck, trailer or cargo tank inspections. Antiquated language was stricken and new language was added to better clarify the inspection requirements.

The proposed rule amendments to 420:10-1-6 would delete antiquated language regarding how filing fees are paid and add clarifying language that a filing fee is to be submitted with any new permit fee.

The proposed rule amendments to 420:10-1-8 would place authority with the Administrator to review the Class I and Class X examination questions and the Board would then provide final approval. Language was added to provide the Board with the authority to approve procedures for applicants to review their examination papers.

The proposed rule amendments to 420:10-1-9 would strike antiquated language regarding a requirement that permit holders furnish the board with a written list of all places in which the holder(s) intends to engage in the business in the State. Subsequent subheadings were then renumbered accordingly.

The proposed rule amendments to 420:10-1-14 would strike antiquated language regarding a Container charging requirement. The container charging requirement for DOT cylinders with water capacity less than 300 pounds is already addressed in applicable Federal regulations. The Administration's inspection fee for reinstalled underground containers would increase from \$25.00 to \$100.00. New language was added to require any person performing an installation of an underground container to have completed Board approved Cathodic Protection training prior to performing an installation. Subheadings were renumbered accordingly.

The proposed rule amendments to 420:10-1-16 would clarify the requirements for obtaining a fuel handlers card and specifies that the qualifications must be demonstrated per CFR 49 requirements for transporting LP Gas.

CONTACT PERSON:

Mr. Larry Snodgrass, Administrator, (405)521-2458.

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 25, 2019:

420:10-1-5. Permits

(a) **Permits required.** No person, firm, corporation, association or other entity shall engage in the manufacturing, assembling, fabrication, installing or selling of any system, container, or apparatus to be used in this State in or for the transportation, storing, dispensing, or utilization of LPG, nor shall any transporter, distributor, or retailer of LPG store, dispense and/or transport over the highways of this State any LPG for use in this State in any system, container, apparatus or appliance without having first obtained a permit to do so as provided in this section.

(b) **Permit classifications.** The permits required for engaging in business shall be divided into the following classifications:

(1) **Class I - Dealer permit.** The Class I Dealer Permit permits the holder to engage in any phase of the LP Gas business. A Class X Manager's permit must be secured for the person actually in charge of an LP Gas operation at each separate branch or base of operation of a Class I permit holder. The initial permit fee for a Class I is One Thousand Dollars (\$1,000.00) The annual renewal fee required to be paid for the Class I permit is Nine Hundred Dollars (\$900.00).

(A) Class I holder can go on inactive status, but will have to meet all the requirements of the permit, including paying the annual renewal fee, and having proper insurance requirements filed with the Administrator, before going back on active status. If requirements are not met the permit will then be revoked. The annual renewal fee required to be paid for a Class I permit holder on inactive status is Four Hundred Dollars (\$400.00).

(B) Applicant must furnish to the Board, evidence of the following insurance:

- (i) A minimum of \$1,000,000.00 general liability insurance, as per 420:10-1-18;
- (ii) Worker's Compensation insurance shall be required as per state requirements;
- (iii) Motor vehicle insurance must meet State and Federal requirements.

(C) Brokers/wholesalers selling LP Gas to anyone other than Class I permit holders or refinery/gas processing type facilities shall obtain a Class I permit and meet the requirements thereof, except for minimum storage and metering, when said sales are by transport bulkhead to bulkhead.

(D) Before testing for a Class I permit, an applicant must meet the following requirements as approved by the Board:

- (i) Five (5) years experience as an active Class X Manager or equivalent; and
- (ii) Forty (40) hours of specified training.

(2) **Class II - Truck Transporter permit.** The Class II Transporter Permit permits the holder to transport LP Gas as a common carrier or private carrier to another of

the following: a person, firm, or corporation engaged in the production or manufacture of LP Gas and/or selling or reselling LP Gas to transporters, industrial consumers, processors, distributors, retailers, and/or to holders of Class I, III, or VI permits. A Class II permit shall not authorize the resale of LP Gas to an end-user. A Class II permit shall not be a substitute where a Class I is needed. A transport must meet all CFR 49 requirements. The initial permit fee for a Class II is One Thousand Dollars (\$1,000.00). The annual fee for a Class II permit is Four Hundred Dollars (\$400.00). All LP Gas transport drivers employed by a Class II permit holder are required to obtain a fuel handlers card. The annual filing fee for a fuel handlers card is Ten Dollars (\$10.00).

(3) **Class III - DOT Cylinder Transporter Permit.**

(A) The Class III DOT Cylinder Transporter Permit permits the holder to operate a cylinder delivery service. The separate endorsement will be as follows: III-A, permits the holder to invoice the end-user for bulk deliveries only when the LP Gas is delivered by a Class I permit holder.

(B) The annual fee for a Class III permit is One Hundred Fifty Dollars (\$150.00). The annual fee for the separate endorsement is Three Hundred Dollars (\$300.00).

(C) All DOT cylinder transport drivers employed by a Class III permit holder are required to obtain a fuel handlers card. The annual filing fee for a fuel handlers card is Ten Dollars (\$10.00).

(4) **Class IV - Installer permit.**

(A) The Class IV Installer Permit permits the holder to install and service LP Gas systems, appliances, and other LP Gas equipment. The applicant is required to have immediate supervision for two (2) weeks with a Class IV, IV-D, Class X, or a person licensed by Oklahoma Construction Industries Board with a Mechanical License, and then shall be required to pass a written examination for each separate endorsement. The endorsements will be as follows:

- (i) LP, Low Pressure systems covered by NFPA 54;
- (ii) HP, High Pressure systems covered by NFPA 58;
- (iii) RV, Recreational Vehicle systems covered by NFPA 1192;
- (iv) MC, Meter Calibration systems covered by NIST Handbook 44;
- (v) TI, Truck Inspections and Piping covered by NFPA 58 and CFR 49;
- (vi) DO, Dispenser Operator for Class IV permit holders that also dispense propane.

(B) Exception from two (2) week training period would be anyone already licensed by Oklahoma Construction Industries Board with a Mechanical License. If the supervising person determines that the new applicant is properly trained, proper documentation of the training is on file, and a Class IV application has been forwarded to the LP Gas Administration, the

applicant at that time may begin performing the duties of a Class IV permit holder until such time as the test is administered and the permit issued. This time shall not exceed thirty (30) days or the applicant shall cease to perform these duties. Current Class IV's, as of September 1, 1994, are not required to take a written exam. Upon renewal, endorsements will be based on services provided as authorized by the Administrator. The annual fee for a Class IV permit with one (1) endorsement is Seventy Dollars (\$70.00). Each additional endorsement is Ten Dollars (\$10.00).

(C) Class IV permit does not permit the holder to install or service LP-Gas carburetion systems.

(D) Any installer not under the personal and direct supervision of a Class X holder at the immediate time and location of installation shall be required to have a Class IV or IV-D permit.

(5) **Class IV-D - Driver/Installer Permit.**

(A) The Class IV-D Driver/Installer Permit permits the holder to deliver LP Gas by bobtail and install and service LP Gas systems, appliance, and other LP Gas equipment. Class IV-D permit can only be issued under a Class I permit. New applicants must be under immediate supervision from a current Class IV-D, or Class X while in a minimum of a two (2) week training period before testing. Permit holder shall be required to pass a written examination. The tests shall be given according to current policies of the LP Gas Administration. If the supervising Class X determines that the new applicant is properly trained, proper documentation of the training is on file, and a Class IV-D application has been forwarded to the LP Gas Administration, the applicant at that time may begin performing the duties of a Class IV-D permit holder until such time as the test is administered and the permit issued. This time shall not exceed thirty (30) days or the applicant shall cease to perform these duties. Current Class IV permit holders, as of September 1, 1994, properly trained in delivery of LP Gas will not be required to take the test and will be issued a IV-D permit. The annual fee for a Class IV-D is Fifty Dollars (\$50.00).

(B) Class IV-D permit does not permit the holder to install or service LP Gas carburetion systems.

(C) Any installer not under the personal and direct supervision of a Class X holder at the immediate time and location of installation shall be required to have a Class IV or IV-D permit.

(6) **Class VI - DOT Cylinder &/or LP Gas Motor Fuel Station Operator Permit.**

(A) The Class VI DOT Cylinder and/or LP Gas Motor Fuel Station Operator Permit permits the holder to operate DOT cylinder dispensing station and/or a motor fuel dispenser for public resale. A permit is required for each DOT cylinder dispensing station and/or motor fuel station. The endorsements will be as follows:

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(i) AAG, This Attended Autogas "AAG" endorsement permits the holder to operate LP Gas dispenser stations that fill DOT cylinders and/or Attended LP Gas motor fuel refueling dispensers for resale.

(ii) UAG, This Unattended Autogas "UAG" endorsement permits the holder to operate Unattended self-service LP Gas motor fuel dispenser stations; however, these installations require more stringent regulations than those that are attended. In addition to the requirements in this section, the permit holder shall be required to install equipment that meets or exceeds the minimum installation and performance standards described in OAC Section 420:10-1-14(28). For the purpose of defraying the cost and expenses of administering and enforcing this rule, persons, firms and corporations shall pay at the time of initial inspection a fee of Three Hundred Dollars (\$300.00) for each unattended LP Gas motor fuel dispenser station. Thereafter, the annual inspection fee is One Hundred Fifty Dollars (\$150.00) for each unattended LP Gas motor fuel dispenser station.

(B) Permit holder is responsible for the safety of the dispensing operation and training and safety of the employees dispensing LP Gas. Class VI locations may not become operational until a permit has been issued. A Class VI-A LP Gas Dispensing permit must be secured for the person actually in charge of an LP Gas dispensing operation of a Class VI permit holder. A permit will not be issued until the proper fee has been paid and certificate of insurance is received by the LP Gas Administration. The annual fee for a Class VI permit is One Hundred Fifty Dollars (\$150.00).

(7) **Class VI-A - LP Gas Dispensing Permit.** All employees involved in dispensing LP Gas must acquire a Class VI-A permit, except a Class IV, Class IV-D, and Class X. A Class VI-A LP Gas Dispensing permit is required for a person actively in charge of LP Gas dispensing operations for the holder of a Class VI permit. All Class VI-A permit holders must be an employee of said Class VI permit holder. Class VI-A applicants must be properly trained by a Class VI or Class X on proper filling of ASME tanks and DOT cylinders, and inspection thereof per NFPA 58. Applicants shall be required to pass an approved written examination. Test shall be administered by a Safety Code Enforcement Officer, or by Class X manager. In either case, the test fee for the Class VI-A permit is Ten Dollars (\$10.00). Holder must carry permit and attend the annual safety school once every year. This does not prohibit any person, firm or corporation from filling his own equipment from his own supply line, or dispensing motor fuel from an approved limited access self-service dispenser. The annual fee for a Class VI-A permit is Thirty Five Dollars (\$35.00).

(8) **Class VII - Cylinder Exchange Program Permit.** The Class VII Cylinder Exchange Program Permit permits the holder to participate in the cylinder exchange program.

A permit is required for each cylinder exchange location. Class VII locations may not become operational until a permit has been issued. Permits will not be issued until the proper fee has been paid and certificate of insurance is received by the LP Gas Administration. The annual fee for a Class VII permit is Fifty Dollars (\$50.00).

(9) **Class IX - LP Gas Container Sales Permit.** The Class IX Gas Container Sales Permit permits the holder to manufacture and/or sell LP Gas containers. This permit is required by both wholesalers and retailer. The annual fee for a Class IX permit is Seventy Dollars (\$70.00).

(10) **Class IX-A - Manufactured Homes and Recreation Sales Permit.**

(A) The Class IX-A Manufactured Homes and Recreation Sales Permit permits the holder to manufacture, fabricate and sell all LP Gas facilities or systems used in manufactured homes, campers, recreational vehicles and portable buildings whether such LP Gas system is manufactured, fabricated or sold separately or as an integral part of such trailer, camper, recreational vehicle or portable building. The annual fee for a Class IX-A is Seventy Dollars (\$70.00).

(B) This shall not be construed to require a permit for a sale by the owner of a manufactured home or recreational vehicle who is not engaged in such business on a commercial basis and does not make over two such sales in one year.

(11) **Class X - Manager's Permit.**

(A) A Class X Manager's permit is required for a person actively in charge of LP Gas operation for holder of Class I permit and at each separate branch or base of operation of a Class I permit. All Class X holders must be a full-time employee of said Class I holder. The annual fee for a Class X permit is One Hundred Fifty Dollars (\$150.00).

(B) Before testing for a Class X permit, an applicant must meet the following requirements as approved by the Board:

(i) Hold an active Class IV or Class IV-D permit and employed under an active Class I Dealer for a minimum of three (3) years or equivalent; and

(ii) One (1) year of the minimum three (3) years required experience can be satisfied with forty (40) hours of specified training.

(C) Temporary exemptions for emergency conditions can be granted by the Administrator.

(12) **Additional permits required for employees of Class I dealers.** Class IV, IV-D, VI-A, and X permits are the only additional permits that may be required for the employees of a Class I dealer, or as may be required by future Board action.

(13) **Truck, LP Gas Trailer, Bobtail or Cargo Tank inspections.** For the purpose of defraying the cost and expenses of administering and enforcing this act, persons, firms and corporations shall also pay at the time of inspection an annual inspection fee of One Hundred Fifty Dollars (\$150.00) for each LP Gas ~~truck-bobtail~~, **MC 330** or **MC 331** trailer or cargo tank that transports LP Gas

~~in this State belonging to a person who holds a permit authorizing the use of such truck, trailer or cargo tank and One Hundred Fifty Dollars (\$150.00) for each such truck, trailer or cargo tank belonging to a person who does not hold a permit. All requirements imposed subsequent to these inspections must be met within thirty (30) days of the initial inspection. Failure to comply will necessitate a re-inspection at a charge of One Hundred Fifty Dollars (\$150.00) for each inspection. The inspection fee shall increase to Three Hundred Dollars (\$300.00) per vehicle for each LP Gas bobtail, MC 330 or MC 331 trailer or cargo tank that transports LP Gas in this State if said inspection LP Gas bobtail, MC 330 or MC 331 trailer or cargo tank is not completed initially inspected within sixty (60) days following the current permit expiration date, or if requirements imposed subsequent to the initial inspection are not completed within sixty (60) days of the initial inspection, whichever is later, or at the discretion of the Administrator.~~

(14) **Containers or cylinders.** There is hereby levied the following fee, to be paid to the Administrator, upon all first sales, purchases, rentals or uses in this state of liquefied petroleum gas containers or cylinders; on all Department of Transportation (DOT) cylinders, vehicle fuel containers, a fee of Three Dollars (\$3.00) each, and on all other containers, a fee of Ten Dollars (\$10.00) each.

420:10-1-6. Application for certificate or permit

(a) **Filing Fee.** Application for any new permit under the rules of this chapter shall be filed with the Administrator on written forms to be prescribed by the Board or Administrator and shall be accompanied with the filing fee ~~in cash, cashiers check or money order~~ in the amount of Ten Dollars (\$10.00) for each permit, along with the appropriate permit fee.

(b) **Examination.** Before any permit shall be issued, except those which may be specifically exempt from requirement for examination by the statutes, or by this chapter the applicant shall be required to pass a necessary written examination to satisfy the Board or Administrator that the applicant possesses the necessary technical knowledge and qualifications so as to safely deal with the product, commodity or render the services authorized by the permit. All examination fees are Ten Dollars (\$10.00), except Class I (\$55.00), and Class X (\$55.00).

(c) **Exception to acquiring Class I through examination.** An applicant for a Class I Dealers Permit may purchase a Class I permit from its present owner, as per O.S. Title 52, but must meet the following conditions:

- (1) Only Active Class I Dealer Permits are transferable. An Inactive Class I Dealer Permit is not transferable;
- (2) Pay a Class I Transfer Fee of Five Thousand Dollars (\$5,000.00);
- (3) A Class X Manager's permit must be in place, before the transfer, for the person actually in charge of the LP gas operation at each separate branch or base of operation of the Class I permit holder;
- (4) Have on file with the LP Gas Administration the required Class I insurance requirements as per 420:10-1-18.

(d) **Other requirements.**

(1) The mere filing of an application for a permit does not of itself authorize the engaging of any of the operations sought in said application. Such operations are prohibited except pursuant to an order of the Board or Administrator issuing such permit and only after the applicant has satisfied the Board or Administrator as to its qualifications and fitness by a written examination, when required, and filing of all the necessary insurance and meeting other requirements of the statutes and of this chapter.

(2) Any person, firm or corporation to whom a permit is issued shall commence operation within 90 days from the date of issuance of such permit, unless this time be extended by the authority issuing the permit for good cause.

420:10-1-8. Processing and handling of applications and examinations

(a) **Scheduling.** Upon the receipt of an application for a permit for Class I or Class X permit the Board or Administrator shall schedule the applicant provided therein for examination at the next periodic written examination, unless the application be filed less than 30 days prior to the next scheduled written examination.

(b) **Passing score.** A score of 80% correct shall be a passing grade for all examinations.

(c) **Examinations.**

(1) **Class I examination.** Questions for a Class I examination shall be selected at random from a reservoir of questions consisting of no less than 500 questions but no more than 1000 questions. Questions shall be of four-part, multiple choice. Prior to being placed in the reservoir the questions shall be reviewed by the ~~Board~~ Administrator and approved by the Board. For each examination a total of 150 questions shall be drawn from the reservoir. All applicants sitting at one time shall receive identical examinations. Questions shall be from NFPA pamphlets 58 and 54 and rules and regulations promulgated by the Board. All exams shall be coded in such a manner that identity of the applicant shall be unknown to the grading authority.

(2) **Qualified Managers examination.** Questions for a Class X Qualified Managers Examination shall be selected at random from a reservoir of questions consisting of no less than 500 questions but no more than 1000 questions. Questions shall be of four-part, multiple choice. Prior to being placed in the reservoir the questions shall be reviewed by the ~~Board~~ Administrator and approved by the Board. For each examination a total of 100 questions shall be drawn from the reservoir. All applicants sitting at one time shall receive identical examinations. Questions shall be from NFPA pamphlets 58 and 54 and rules and regulations promulgated by the Board. All exams shall be coded in such a manner that identity of the applicant shall be unknown to the grading authority.

(3) **Class IV and IV-D examinations.** Class IV and IV-D examinations consist of standardized examinations. Class IV examinations will consist of 50 questions and Class IV-D exam will consist of 75 questions, each to be prepared by the Administrator.

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(4) **Class II, III, VI-A, VII examinations.** Class II, III, VI-A, and VII examinations shall be standard concerning basics of safety and handling of LP Gas. The examination to be prepared by the Administrator.

(d) **Applicant information.**

(1) All applicants for the same type permit sitting at any one time shall receive identical examinations.

(2) All applications and examinations except Class I and Class X shall be scheduled by the Administrator at such times as he may deem appropriate.

(3) Applicants may review their examination papers at the Administration Office within 30 days after examination date.

420:10-1-9. Issuing of certificates of permits

When an applicant for a permit has passed the written examination, when required, and has satisfied the Board as to all of the legal requirements including insurance, the Board shall issue the license sought upon the following terms and conditions:

(1) **Compliance.** The holder of the permit shall bind himself to comply with all of the laws, rules and regulations applicable to the business and to the permit which he has sought. Class I applicants shall attend an orientation with the Administrator prior to receiving their permit. After one year of business a Class I holder may be required to meet with the Board at the next regular Board meeting to review safety records and history. If not in compliance a 90 day show-cause hearing will be called to possibly revoke the permit. The burden of proof within the 90 days is placed on the permit holder.

~~(2) **Notification of locations.** Permit holders shall furnish in writing to the Board the list of all places in which the holder(s) intends to engage in the business in the State of Oklahoma.~~ Permits issued under the act and the rules of this chapter shall be personal to the holder thereof and shall only be used and the rights thereunder authorized exercised by him and his duly qualified employees. No holder of a permit issued under the statutes and these rules shall lease, sub-let or permit in any manner the use of said permit or the performance of acts authorized thereunder by any person, other than duly qualified, bona fide employees of the holder of such permit, except as specifically provided in this chapter.

(32) **Record keeping.** Permit holders shall furnish a designated place or places at which all the books and records of the holder of the license shall be kept, including the records of any persons, firms or corporations who act in the name, place and stead of the permit holder in any manner. These records shall be open to inspection at all reasonable business hours by the Administrator or any other employee of the Board and a failure of the holder of the license, or employees, to permit such examination of the books and records shall be cause for suspension or revocation of the license under which such person, firm, or corporation might be operating.

(43) **Branches.** Prior to renewal of any Class I permit, the holder shall provide the Administration a complete

list of branches of operations, dispensers, and a list of the Class IV, IV-D, VI-A, and X permit holders for each location, as a part of his renewal application.

(54) **School attendance.** The Class I permit holder must indicate if all personnel have attended the mandatory schools as required by the rules and regulations. Failure to list all employees or fulfill the school attendance requirements of these rules and regulations shall be a cause for suspension or revocation of the license under which such person, firm or corporation might be operating.

(65) **Manager termination.**

(A) When a Class X Manager quits or is otherwise relieved of his duties and his permit is canceled as per 420:10-1-13(c), it shall be the duty of the Class I dealer to immediately notify the Administrator. The Administrator shall authorize interim continuance of an operation where no undue hazard would result, such authorized interim continuance may be granted for a period not to exceed 120 days. During such interim, it shall be the duty of the Class I permit holder to acquire the services of a qualified manager.

(B) No further continuances beyond 120 days shall be granted without review and approval of the Board, and can in no event be extended more than an additional three months.

(76) **Exceptions.** Except as enumerated in (6) of this subsection and 420:10-1-10 no operation shall be allowed to operate unless a Class I dealer and a Class X Manager acting for the Class I holder is in charge; provided however the Board may extend the time in a situation of extreme hardship in the nature of physical or mental disability or when the convenience and necessity of the public demands, to be determined by the Board after application and hearing.

(87) **Class I and Class X permit issuance.** When a corporation, partnership, association or other non-personal entity seeking a Class I permit has satisfied all legal requirements, the Board shall issue a Class I permit to the non-personal entity, and a Class X permit to the individual designated by the non-personal entity, that submitted himself for the examination.

420:10-1-14. Standards for the storage and handling of liquefied petroleum gas

(a) **NFPA standards.** The standards for the storage and handling of liquefied petroleum gases adopted by the National Fire Protection Association and published in its pamphlets No. 58, and the standards for the installation of gas appliances and gas piping adopted by said National Fire Protection Association published in its pamphlet No. 54 have been adopted by the Legislature in 52 O.S. 1991, Section 402.3 (e) and shall be accepted standards for the State of Oklahoma. All Class I permit holders must have a current copy of NFPA 58 and 54 on file at each separate branch.

(b) **Supplemental standards.** The following standards are supplemental to NFPA pamphlet No. 58 and shall be part of the rules and regulations of the Oklahoma Liquefied Petroleum Gas Board:

(1) **Definitions.**

(A) The word "approved" as used in this section means acceptable to the State Liquefied Petroleum Gas Administrator. A device or system having materials or forms different from those detailed in this section may be examined and tested according to the intent of the regulations and if found equivalent, may be approved.

(B) In this section those provisions which are considered essential for adequate protection of life and property from fire are indicated by the words "shall" and "must. The words "should" or "preferably" indicate advisory provisions concerning which the State Liquefied Petroleum Gas Administrator of Oklahoma should be consulted.

(C) In each place mentioned in NFPA No. 54 and NFPA No. 58 where it refers to "the authority having jurisdiction" this would mean the Liquefied Petroleum Gas Administrator.

(D) An "important building" shall be any building, open to the public, or inhabited by people, in which any LP Gas system or any type is installed.

(2) **Submittal of plans.**

(A) Prior to the installation of new, or the modification of liquefied petroleum gas plumbing systems, excluding tank change outs, in school buildings, churches, courthouses, office building and other building to which the public is invited, such as cafes, dance halls, tourist courts and parks, plans and specifications for such installation in duplicate, shall be submitted to, and approved, by the State Liquefied Petroleum Gas Administrator, and before such systems are filled with liquefied petroleum gas, they shall be physically inspected and approved by a licensed installer and a report made by him to the State Liquefied Petroleum Gas Administrator on LPG Form 4, or its revision, furnished by the LP Gas Administrator's office.

(B) Plans must be submitted and approved on any dispenser used to fill DOT cylinders and/or ASME containers, and used for public resale of LP Gas, including unattended self-service LP Gas motor fuel dispenser stations. These plans must be submitted by a Class I permit holder to the Administration office along with the proper fee, and an onsite inspection must be performed by a Safety Code Enforcement Officer prior to final approval and before the dispenser can be placed into service. A One Hundred Dollar (\$100.00) plan review fee must accompany all dispenser plans submitted. If a dispenser is taken out of service, written notice must be given to the Administration office within seven (7) working days. If a dispenser is moved to a new location, new plans must be submitted to the Administrator and onsite inspection performed by a Safety Code Enforcement Officer prior to final approval and dispenser being placed into service. A complete list of dispensers by location

shall be submitted to the LP Gas Administration as indicated on Class I permit renewal forms.

(C) Plans must be submitted to, and approved, by the Administrator on any fixed installation with individual water capacity of 2,000 gallons or more, or aggregate water capacity exceeding 4,000 gallons.

(3) **Report of accident.** In case of accident or fire at any location where a liquefied petroleum gas system or equipment is involved, or any accident involving liquefied petroleum gas systems or equipment, the dealer owning, operating or servicing the equipment or installation shall notify the State Liquefied Petroleum Gas Administrator. This notification shall be forwarded as soon as feasibly possible after the dealer has knowledge of the accident in order that an inspection may be made by the State Liquefied Petroleum Gas Administrator before the site has been disturbed.

(4) **Piping - including pipe, tubing and fittings.**

(A) No person, firm, or corporation shall connect a liquefied petroleum gas tank to any piping without having first determined that such piping complies with the laws of the State of Oklahoma and the rules and regulations of the State Liquefied Petroleum Gas Administrator relative to liquefied petroleum gas piping.

(B) All installations, installed after July 1, 2002, of storage containers, with more than 4,000 gallon water capacity, shall have internal valves installed as per NFPA 58.

(C) On installations of stationary or portable storage, with an aggregate of more than 4,000 gallon water capacity, a bulkhead approved by the LP Gas Administrator shall be required on each liquid line of one and one-half (1-1/2) inch or larger and each vapor line of one and one-quarter (1-1/4) inch or larger.

(5) **Vaporizers and housings.**

(A) The minimum capacity of the storage container feeding the vaporizer shall not be less than ten (10) times the hourly capacity of the vaporizer in gallons.

(B) The minimum capacity of a storage container being heated by a direct fired tank heater shall not be less than ten (10) times the hourly vaporizing capacity of the tank heater in gallons.

~~(6) **Container charging.** DOT cylinders with water capacity less than 300 pounds shall be charged by weight, except containers as per NFPA 58.~~

~~(7) **Liquid metering systems.** Each bulk retail delivery of liquid LP Gas shall be measured by a suitable LP Gas liquid meter system, except those deliveries of liquid LP Gas in cylinders which are filled by weight, deliveries of LP Gas vapor through vapor meters and a delivery of a full transport load from the terminal to the end-user with a bill of lading, are exempt from the requirements of this paragraph.~~

(A) LP Gas Liquid meters shall indicate deliveries in terms of gallons and to the nearest tenth of a gallon.

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(B) The LP Gas liquid meter shall meet, in addition to the other requirements of this paragraph, the following requirements:

(i) The system shall include a device (such as a differential back-pressure regulator) so designed and installed that the product being measured will remain in a liquid state during passage through the meter.

(ii) No means shall be provided by which any measured liquid can be diverted from the measuring chamber, differential valve equipment or the discharge line therefrom.

(iii) Effective January 1, 1994, in accordance with the National Institute of Standards and Technology (NIST) Handbook 44, all LP Gas Liquid meters used for bulk delivery shall be designed with the necessary equipment for mechanically printing gallons on a delivery ticket and the customer served thereby shall be given a ticket mechanically imprinted by the printing device. The customer's name and Class I Dealer's name must be included on the metered ticket. Meters used for stationary dispensing of motor fuel will not be required to be equipped with such printing device.

(iv) All bulk metered sales of propane, via bobtail or transport, shall be made by temperature compensated measure. Except, any truck now operating without a temperature compensation meter shall be retrofitted by no later than July 1, 2003.

(C) All meters where product is sold to the public must be proved annually by an approved meter tester/inspector and have written certification on file at permit holders place of business. All meters and temperature compensators must be accurate within the manufacturers tolerance not to exceed + or -1% at any time. The LP Gas liquid meter system shall be designed and constructed to provide for applying lead-and-wire seals in such a manner that no modifications or adjustments which would affect the accuracy of deliveries, can be made without mutilating the seal or seals. If a seal is broken, notification must be made to the Administrator and resealed by a Safety Code Enforcement Officer, an approved meter tester, or a person approved by the Administrator. In addition, the Administrator at his discretion may require proving of metering system to determine the accuracy.

(D) No dealer or firm controlled or affiliated with a dealer may calibrate or certify its own meters. All meters must be tested with a volumetric meter prover.

(87) Qualified personnel. Each holder of an LP Gas permit shall be responsible for having qualified personnel operating and installing LP Gas equipment.

(98) Filling unsafe or unapproved dispensing or storage tanks prohibited. No person, firm, or corporation shall introduce liquefied petroleum gas into a dispensing or storage tank in the State with knowledge that such

dispensing or storage tank or piping is known to be in an unsafe operating condition.

(109) Basement installations. No appliance shall be installed in any basement or semi-basement unless it is fully automatically controlled and properly vented and must have the approval of the State Liquefied Petroleum Gas Administrator.

(110) Standards for containers.

(A) In accordance with 52 O.S. Sec. 420.5, all first sales, rentals, purchases or uses of DOT cylinders and ASME tanks in this State, must have Oklahoma Identification tags attached to such cylinders or tanks. However, all DOT cylinders and ASME tanks in Oklahoma, with a manufacturers date prior to September 1, 1993, are not required to have Oklahoma Identification tags. These Oklahoma Identification tags are not transferable from one cylinder or tank to another.

(B) Any new container sold or installed in Oklahoma for use in this State shall carry a five year warranty covering workmanship and material. This warranty shall provide that any container not in compliance with this regulation must be repaired or replaced by the fabricator at no expense to the dealer or customer. This provision is to take care of "pin-hole" leaks in the weld that were not detected at the time of fabrication and does not apply to fittings.

(C) Containers shall be filled or used only upon authorization of the fee simple owner. The name of the fee simple owner, if other than the consumer, shall be conspicuously shown on the container.

(D) Any stationary storage container converted from anhydrous ammonia to propane shall be converted as follows:

(i) The container shall be purged of anhydrous ammonia by water flooding, steam or other methods described by the National Propane Gas Association's (NPGA) Recommendation for Prevention of Ammonia Contamination; and

(ii) It shall then be properly purged with propane vapor and tested with the red litmus paper as described in NFPA 58 or by any other test approved by the Board; and

(iii) The test shall be completed by the permit holder that performs the conversion; and

(iv) The results shall be documented and shall contain the container manufacturer, water capacity, serial number, the results of the test, the capacity of the relief valve, the date of the test, and the signature of the permit holder conducting the test. A copy of the results shall be provided to the owner of the container; and

(v) Any dealer filling a converted anhydrous ammonia container for the first time shall either be provided a copy of the test or complete the test as described above; and

(vi) The container shall meet all requirements of NFPA 58.

(111) Underground containers.

(A) Underground containers before being reinstalled must be inspected by the State Liquefied Petroleum Gas Administrator, and a fee of ~~\$25.00~~One Hundred Dollars (\$100.00) paid to the State Liquefied Petroleum Gas Administrator's office, and reinstalled by a licensed LP Gas installer.

(B) Underground containers shall be dug up at the expense of the owner at any time at the discretion of the State Liquefied Petroleum Gas Administrator.

(C) Prior to performing an installation of an underground container a person must complete Board approved Cathodic Protection training.

~~(43)~~**12) Minimum storage.** All new Class I permit holders must provide bulk propane storage capacity of not less than an aggregate of 18,000 water gallons. The minimum storage must be maintained and operational, with installation approved by the authority having jurisdiction, and within a fifty (50) mile radius of the corporate office or branch location. The minimum storage shall be considered maintained if the area meets the requirements of NFPA 58, the rules and regulations established by the Board and is kept reasonably clear of long, dry grass, weeds, debris, and any other combustible material. Any exceptions to the minimum storage requirement may be granted by the Board. Current active Class I permit holders, as of September 1, 1994, are not required to meet this minimum storage requirement. After a change of ownership the new Class I permit holder must secure the minimum storage requirement within one year.

~~(44)~~**13) Painting.** All bulk storage containers of a capacity 120 gallons water capacity or greater shall be painted a heat reflection color.

~~(45)~~**14) Lettering bulk storage and dispensers.**

(A) All bulk storage 2,000 gallons and above shall be lettered with the name of the contents, such as LP Gas, butane, propane, and a "No Smoking" sign in letters not less than six (6) inches high.

(B) In addition to subparagraph (A) of this paragraph, all bulk storage used for loading and unloading facilities, and all container filling storages (dispensers) shall include the name of the person, firm, or corporation operating the bulk storage or dispenser and their phone number in letters not less than two (2) inches high. This information shall be placed so as to be readily visible to the public.

(C) For all size bulk storage containers the name of the fee simple owners, if other than the consumer, shall be conspicuously shown on the container.

~~(46)~~**15) Extinguishers required.** Extinguishers of the dry chemical type, with a B:C or A:B:C rating, are required. Extinguishers shall have a net content of not less than the current NFPA 58 requirements and shall be inspected at least once each year by an authorized inspector such as Fire Departments or Fire Appliance Company representatives. Current weatherproof inspection tags shall be attached to the extinguisher.

~~(47)~~**16) Marking cargo vehicles.** Every tank vehicle used for transportation of liquefied petroleum gas shall

be marked and placarded according to current DOT requirements. Each tank vehicle must also have the name of the person, firm or corporation on each side of the cargo tank in letters a minimum of two (2) inches in height. This information shall be placed so as to be readily visible to the public. This name shall be the same as permit holder has designated on the Class I or Class II permit.

~~(48)~~**17) Parking and garaging LP gas tank vehicles.** Any tank vehicle used for transportation of Liquefied petroleum gas shall not be parked beneath or adjacent to any electric transmission line in such position that there is a possibility of a conductor contacting the tank in event of breakage.

~~(49)~~**18) Filling unapproved truck, trailer or cargo tanks prohibited.**

(A) An inspection form, when properly completed, and a LPG registration decal (the serial number of which is shown on the inspection form), shall be evidence that the liquefied petroleum gas truck, trailer or cargo tank described on the inspection form by its serial number has been approved by the Liquefied Petroleum Gas Administrator for use in the transportation of liquefied petroleum gas. Such LPG registration decal and inspection form also shall authorize the person, firm or corporation whose name appears on the inspection form or its bona fide employees to operate the truck or trailer tank described on the inspection form, and further shall authorize the filling of such truck, trailer or cargo tank with liquefied petroleum gas.

(B) The LPG registration decal shall be displayed at all times in an easily visible location on the left front of the cargo tank, which is on the driver's side. A copy of the inspection form shall be retained, until the expiration date, in the office of the person, firm or corporation whose name appears thereon. It will not be necessary to keep or display a copy of the inspection form on the truck, trailer or cargo tank.

(C) No person, firm or corporation shall operate a truck, trailer or cargo tank in the transportation of liquefied petroleum gas in this State unless such person, firm or corporation has been issued a LPG registration decal and an inspection form certifying that such tank has been registered with and approved by the State Liquefied Petroleum Gas Administrator, or unless its operation has been specifically approved by a communication from the State Liquefied Petroleum Gas Administrator.

(D) The LPG registration decal and the inspection form required in this paragraph are not transferable by the person, firm or corporation to whom they are issued or from one truck, trailer or cargo tank to another, and they are not to be used after the expiration date of the fiscal year for which they were issued, or in the event the Class I permit becomes inactive.

~~(20)~~**19) Vaporizers.** Exhaust gases shall not be used as a direct means of heat supply for the vaporization of fuel.

~~(24)~~**20) Stationary engines in building.**

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(A) All engine rooms shall be well ventilated at the floor level.

(B) When engines are installed below grade level, suitable floor level mechanical exhaust ventilation shall be provided and operated continuously or adequate means shall be provided to purge the room before the engine is started. In any case the mechanical ventilation shall be in operation when the engine is running. Before and during any repairs to the engine the room shall be ventilated.

(C) Automatic fire doors shall be provided at openings in the engine room that open into other sections of the building.

(D) Exhaust gases shall be discharged outside the building in a manner that will not create a fire or any other hazard.

(E) Regulators and pressure relief valves installed in buildings and engine rooms shall be vented to the outside and discharge at least five feet away from any building opening. Such venting will not be required for combination engine fuel vaporizing - fuel reducing - fuel metering devices providing an acceptable automatic shut-off valve is installed immediately ahead of such devices.

~~(2221)~~ **Storage outside of buildings.** Valves and safety relief devices shall be protected against accumulations of ice and snow. Protective caps shall be deemed adequate.

~~(2322)~~ **Appliances.** Any mobile home, travel trailer, camper or recreational vehicle shall be delivered to the buying public by the permit holder with the system properly installed and free of leaks.

~~(2423)~~ **Maximum vapor pressure and container working pressure.**

(A) The maximum vapor pressure of the product at 100 degree Fahrenheit which may be transferred to a container shall not exceed the design working pressure of the container. Exception: 200 psig ASME working pressure vessels in LP Gas service in Oklahoma prior to January 1, 1994, may be continued in service for commercial propane, provided that they are fitted with relief valves and meet the start-to-leak setting in relation to the design pressure of the container, shall be in accordance with NFPA 58. For the purpose of this exception, "commercial propane" is defined as having a vapor pressure not in excess of 210 psig at 100 degree Fahrenheit. This exception does not apply to LP Gas motor fuel and mobile fuel containers.

(B) Any stationary 200 psig ASME containers brought into Oklahoma from out of state and intended for stationary LP Gas installation in Oklahoma at any facility requiring submission of plans and specification must be tested by at least two (2) of the following nondestructive test methods recognized by ASME to determine if the container or assembly is safe for LP Gas use in Oklahoma. The following test results must be submitted to the Oklahoma LP Gas Administration for approval.

(i) Hydrostatic Test;

(ii) Ultrasonic thickness test;

(iii) Wet particle fluorescent or magnaflux.

~~(2524)~~ **Testing, leakage and visual inspection, and meter calibration.**

(A) Hydrostatic testers operating in Oklahoma that are hydrostatic testing cargo containers for LP Gas use in Oklahoma must be approved by the Oklahoma LP Gas Board and shall:

(i) Hold a Federal C.T. number;

(ii) Include in their testing the use of a calibrated pressure chart recorder;

(iii) Hold a Class IV installer permit.

(B) Leakage and visual inspectors operating in Oklahoma and performing this inspection on cargo containers and their systems for LP Gas use in Oklahoma must be approved by the Oklahoma LP Gas Board and meet the following requirements:

(i) Inspectors shall hold a Federal C.T. number;

(ii) If the inspection includes repairs that require the LP Gas system to be re-plumbed, a Class IV permit is required.

(C) Meter calibrators operating in Oklahoma that are calibrating meters for LP Gas use in Oklahoma must be approved by the Oklahoma LP Gas Board and meet the following requirements:

(i) Meters shall be tested in accordance to Oklahoma Rules and Regulations, Section 420:10-1-14(7);

(ii) Meter calibrators shall furnish the meter owner a copy of the calibration showing the correct gear numbers and temperature compensator settings;

(iii) Meter calibration results shall be on a form approved by the LP Gas Administrator and a copy of the completed form shall be furnished to the meter owner;

(iv) Meter calibrators shall hold a Class IV permit.

(v) Meter calibration testers shall test meters according to National Institute of Standards and Technology (NIST) standards.

~~(2625)~~ **Cylinder exchange stations.**

(A) Cylinder exchange cabinets shall be constructed as per NFPA 58.

(B) The cabinet shall have the following signs affixed to it and readily visible to the public:

(i) "Propane" or "Flammable Gas" and "No Smoking" in letters not less than two (2) inches high;

(ii) "Net Weight ____ lbs." with the net weight of the cylinders to be specified, all of which shall be displayed on the front of the cabinet in letters not less than two (2) inches high;

(iii) Name of Class I permit holder who supplies the cylinders;

(iv) 24-hour Emergency telephone number.

(C) The cabinet shall be located for distance and number of cylinders as per NFPA 58.

(D) The cylinder storage area shall be kept free of wood, debris, and other combustible/flammable material not necessary to the storage for a distance of ten (10) feet, not to include the construction materials of the building itself.

(E) Protection against vehicle impact shall be provided in accordance with good engineering practice where vehicle traffic normally is expected at the location as per NFPA 58.

(F) A fire extinguisher shall be provided as per NFPA 58.

(G) A warning sign shall be posted at or near any entrance doorway stating the "LP GAS EXCHANGE CYLINDERS EMPTY OR FULL SHALL NOT BE TAKEN INDOORS FOR ANY REASON."

(H) The Class I permit holder shall provide safety training materials to the Class VII permit holder. The Class VII permit holder is responsible for providing appropriate safety information to the individual exchanging the cylinder. This documentation of training will be kept by the Class VII permit holder at the Class VII location.

(I) Automated cylinder exchange cabinets that include an automated vending system for exchanging cylinders shall comply with the following additional requirements:

(i) Electrical equipment installed in cylinder storage compartments shall comply with the requirements for Class I, Division 2 equipment in accordance with NFPA 70, National Electrical Code;

(ii) Cabinets shall be designed such that cylinders can be placed inside only in the upright position;

(iii) Door releases for access to stored cylinders shall be permitted to be pneumatic, mechanical or electrically powered;

(iv) A manual override control shall be permitted for use by authorized personnel;

(v) The vending system shall not be capable of returning to automatic operation after a manual override until the system has been inspected and reset by authorized personnel.

(J) A Class I permit shall be required in order to supply exchange cylinders for the cylinder exchange permit holder.

(K) A busy sidewalk and thoroughfare, as referenced in NFPA 58, shall be further defined as not being located on private property. A busy sidewalk is alongside a public road and a thoroughfare is a public road.

(2726) Recreational vehicles. Installations or repairs on LP Gas systems on recreational vehicles shall be performed as per NFPA 1192, Standard on Recreational Vehicles.

(2827) Minimum installation and performance standards of unattended self-service LP Gas motor fuel dispenser stations.

(A) Unattended self-service LP Gas motor fuel dispenser stations shall meet the applicable sections of the rules and regulations of the Oklahoma Liquefied Petroleum Gas Board and NFPA 58.

(B) Any unattended self-service LP Gas motor fuel dispenser shall also meet all Alternative Provisions for Installations of ASME containers found in NFPA 58 regardless of tank size. This includes Redundant Fail Safe Product Control and Low Emission Transfer requirements.

(C) The delivery valve and nozzle combination shall be designed, installed, and operated, so that LP Gas will not be released unless the valve is correctly attached to the filler coupling on the receiving valve of the LP Gas motor fuel container.

(D) To maintain minimum performance standards, the following shall be considered minimum system performance requirements:

(i) Dispensing rate minimum of eight (8) gallons per minute (GPM) per manufacturer's specifications;

(ii) Vehicle fueling area, ground where vehicle is parked, shall be reasonably level to allow for complete fuel fills.

(E) The dispenser shall have the following signs affixed to the dispenser and readily visible to the public:

(i) Step by step operating instructions, approved in advance by the Administrator;

(ii) A warning sign(s) stating, "WARNING, STATE LAW PROHIBITS FILLING ANY PORTABLE DOT CONTAINERS AT THIS DISPENSER" and "All vehicles refueling at this dispenser must have an appropriate ASME container fitted with an operational OPD valve" in letters not less than two (2) inches high;

(iii) Proper name of LP Gas being dispensed, as specified by federal regulations at CFR-Title 49, in letters not less than two (2) inches high;

(iv) "No Smoking" in letters not less than two (2) inches high;

(v) 24-hour emergency telephone number in letters not less than two (2) inches high;

(vi) Name of the Class 1 permit holder that services the dispenser, in letters not less than two (2) inches high.

420:10-1-16. Training schools

(a) Safety schools for Class I dealers and X managers. It shall be the continuing responsibility of all Class I and Class X permit holders to attend a Board sanctioned safety seminar at least once every two years. Seminars shall be available at least annually, with biennial attendance a requisite for license renewals.

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(b) Safety school for fuel handling personnel. Class IV, IV-D, VI, VI-A, and X permit holders must attend a Board sponsored or sanctioned safety school at least once a year.

(1) Schools will be held at least annually at such time and places as may be deemed advisable. It shall be the administration policy to make available regional schools for the convenience of the industry.

(2) Such schools in no way relieve the dealer of the responsibility of training new employees adequately through on the job training. through on the job training.

(3) A fuel handlers card ~~evidencing approval by the Administrator~~ is required for all LP Gas transport drivers to demonstrate their qualifications per CFR 49 requirements for transporting LP Gas.

(c) Compliance. Failure to comply with this section shall be cause for suspension or revocation of the permit under which such person, firm or corporation might be operating.

[OAR Docket #19-615; filed 6-14-19]

TITLE 540. PHYSICIAN MANPOWER TRAINING COMMISSION CHAPTER 35. COMMUNITY MATCH INTERN RESIDENT PROGRAM

[OAR Docket #19-582]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
540:35-1-3 [AMENDED]
540:35-1-4 [AMENDED]
540:35-1-5 [AMENDED]
540:35-1-7 [AMENDED]

AUTHORITY:
Physician Manpower Training Commission; 70 O.S., § 625.13
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540:35-1-7 [AMENDED]

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November 6, 2018

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36 Ok Reg 100

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INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

The revisions to Chapter 35 serve to reflect changes to funding available for the Community Match Intern Resident Program for fiscal year 2019 (70 O.S., § 625.13). This change was voted on by the Commission to be effective for fiscal year 2019. Emergency request is necessary to implement these changes for the current FY19 award period providing for additional support to place physicians in rural Oklahoma.

CONTACT PERSON:

Janie S. Thompson, Deputy Director, Physician Manpower Training Commission, 5500 North Western Avenue, Suite 201, Oklahoma City, Oklahoma, 73118-022. 405.843.8667, Janie.Thompson@pmtc.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 25, 2019:

540:35-1-3. Power to grant loans

The Physician Manpower Training Commission shall be authorized and empowered to grant loans to qualified individuals who have completed a degree of Doctor of Medicine or Doctor of Osteopathic Medicine, and who have completed an intern/residency program in a primary care specialty (Family Practice, General Practice, Internal Medicine, Pediatrics, OB/GYN, Emergency Medicine, or General Surgery), or other specialty as approved by the Commission on an individual basis. The loans shall be provided through participation with communities considered by the Physician Manpower Training Commission to be medically underserved. Priority shall be given to underserved rural communities with a population of less than 10,000, which qualify under the current rules approved by the Commission and State Legislature. Assistance shall be on a matching basis between state (60%) and community (40%) (50% - 50%). The Physician Manpower Training Commission shall reserve the right to disapprove an application.

540:35-1-4. Terms and conditions of loans

(a) Recipients shall agree to practice medicine in the specific community for a minimum of three years for a ~~\$50,000~~\$40,000 loan, or two years for a ~~\$30,000~~\$20,000 loan. Communities shall deposit the funds with the Physician Manpower Training Commission to be administered and matched by the Commission.

(b) The procedures, terms and conditions governing the loans and how they are administered shall be as prescribed and formulated by the Physician Manpower Training Commission but shall include the following:

(1) Eligible communities desiring to participate in the Oklahoma Community Match Intern Resident Program, shall select an individual who meets the requirements for participating and give notice to the Commission.

(2) The Commission shall aid and advise communities in the selection of qualified individuals to participate in a given community loan program.

(3) The communities shall deposit their total share, 40%50%, of the loan with the Commission a minimum

of 30 days prior to the participating physician's initial practice date in the community.

(4) The Commission shall review and approve the selection of a given individual and then (based on availability of funds) match community funds with the state funds from the Oklahoma Community Match Intern Resident Program in the amount agreed upon by the participating physician, the Commission, and the community in each particular case, within limits prescribed by the Commission.

(c) The Contract shall provide that in the event the recipient breaches the terms of the contract by not serving the designated community for the specified period of time, he/she shall pay liquidated damages in an amount determined by the Commission and representing a reasonable estimate of the damage or loss to the community or the state. Said damages shall not exceed one hundred percent (100%) of the principal. After payment of the liquidated damages, repayment of the principal and interest shall be made as agreed upon by the Commission and the recipient.

540:35-1-5. Eligibility and amount

(a) An applicant may be eligible for the Community Match Intern Resident Program when the following conditions are met:

(1) That the physician has not previously received Physician Manpower Training Commission money, either through the Oklahoma Rural Medical Education Scholarship Loan Program, the Community Match Intern Resident Program, the Community Physician Education Scholarship Loan Program, or the Family Practice/General Practice Resident Rural Scholarship Program.

(2) That he/she has successfully completed an accredited medical or osteopathic college and an approved internship or residency program in a primary care specialty (Family Practice, General Practice, Internal Medicine, Pediatrics, OB/GYN, General Surgery or Emergency Medicine) or other specialties as approved by the Commission on an individual basis.

(3) That he/she desires to practice medicine in a specific Oklahoma community which participates in the "matching" program.

(4) That he/she submits proof which states that he/she has not accepted or will not accept any other assistance which has a conflicting service obligation requirement.

(5) That the physician possesses a valid license to practice medicine in the State of Oklahoma at the time he/she actually receives the matching funds.

(6) That the physician has conformed to requirements stipulated in the contract.

(b) The amount of each loan shall not exceed ~~Fifty(\$50,000)Forty~~ Forty ~~Thousand Dollars(\$40,000).~~

(c) The method of payment of funds to each recipient will be in lump sum by the Commission, payable upon the recipient's beginning his/her practice in the applicable community, providing that said recipient has met requirements stipulated in the contract.

540:35-1-7. Repayment of loans

(a) Each recipient shall repay the loan to the state and to the community by practicing medicine in the community in Oklahoma providing the initial funds at a minimum of two years for ~~Twenty~~ Thirty ~~Thousand Dollars (\$30,000)~~ or three years for ~~Forty~~ Fifty ~~Thousand Dollars (\$50,000)~~ which the community and the state have jointly financed for the recipient; provided, however, that the recipient will be given no credit for payment, repayment and reduction of said obligation to the community and the state by serving the given community for a period of less than one year.

(b) Repayment of the total amount of the loan, plus principal, interest, litigation charges, and liquidated damages as assessed by the Physician Manpower Training Commission, upon failure of the recipient to fulfill his/her contractual obligations, shall be made to the state fund. This loan repayment will be shared with the participating community in accordance with the percentage and total amounts contributed by the state and by the community to the matching fund program and in accordance with the provisions of the contract requirements delineated by the Physician Manpower Training Commission.

(c) Monies received by the Commission in repayment of loans granted from appropriated funds shall be deposited with the State Treasurer who shall place the same to the credit of the Commission in a depository fund. All monies so collected and deposited in the State Treasury as aforesaid shall not be subject to fiscal limitations, and the unexpended balance shall at all times be available for expenditures for the purposes and in the manner and form provided by this act. All funds and property, and income therefrom, received by the Commission through the acceptance of gifts, grants, bequests, or devise shall be held by the Commission in trust and may be sold, transferred, invested and reinvested by the Commission in accordance with the provisions of the Oklahoma Trust Act, and all such funds and property and income therefrom shall be used by the Commission in fulfilling and accomplishing the conditions and purposes of the program.

[OAR Docket #19-582; filed 6-12-19]

**TITLE 540. PHYSICIAN MANPOWER TRAINING COMMISSION
CHAPTER 45. PHYSICIAN ASSISTANT SCHOLARSHIP PROGRAM**

[OAR Docket #19-583]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

540:45-1-4 [AMENDED]

AUTHORITY:

Physician Manpower Training Commission; 2018 Okla. Sess. Laws ch. 286, (H.B. 2987); 70 O.S., § 697.21

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18-708

INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

The revisions to Chapter 45 serve to comply with changes made to 70 O.S., § 697.21 regarding residency requirements for participating physician assistant students, which are to be effective November 1, 2018 (H.B. 2987). The program will now be available to out of state students in addition to in state students.

CONTACT PERSON:

Janie Thompson, Deputy Director, (405) 843-5667, janie.thompson@pmtc.ok.gov

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) AND EFFECTIVE DATE OF AUGUST 25, 2019:

540:45-1-4. Eligibility; amount; method of payment

(a) Only students ~~who are residents of this state and~~ who have been admitted as a student in an accredited physician assistant program shall be eligible to participate in the Physician Assistant Scholarship Program. [70:697.21(b)]

(b) Applicants must also indicate a desire and intent to practice in rural and medically underserved areas of this state. [70:697.21(a)]

(c) Applicants must submit proof that they are not currently obligated, and will not become obligated, to any other scholarship assistance that has a conflicting service obligation requirement.

(d) The number of and amount of each award shall be determined by the Commission based on the availability of funds. [70:697.21(a)]

(e) In the event a physician assistant student begins participation in the scholarship program after the beginning of an academic year, the Commission may approve retroactive payment.

[OAR Docket #19-583; filed 6-12-19]

TITLE 540. PHYSICIAN MANPOWER TRAINING COMMISSION CHAPTER 50. OKLAHOMA MEDICAL LOAN REPAYMENT PROGRAM

[OAR Docket #19-584]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

540:50-1-1 [AMENDED]

540:50-1-2 [AMENDED]

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540:50-1-7 [AMENDED]

540:50-1-8 [AMENDED]

AUTHORITY:

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540:50-1-4 [AMENDED]

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540:50-1-6 [AMENDED]

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INCORPORATIONS BY REFERENCE:

n/a

GIST/ANALYSIS:

The revisions to Chapter 50 serve to comply with changes made to the Oklahoma Medical Loan Repayment Program (OMLRP) by the legislature. The OMLRP will now be available to physician assistants in addition to physicians, beginning November 1, 2018. The amendments to the rules ensure that physician assistants will be able to participate in the program beginning November 1, 2018, in accordance with the intent of the Legislature in making changes to the OMLRP (H.B. 2987) and ensure consistency with the authorizing statute. The amendments to the rules also correct statutory references.

CONTACT PERSON:

Janie Thompson, Deputy Director, (405) 843-5667, janie.thompson@pmtc.ok.gov

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) AND EFFECTIVE DATE OF AUGUST 25, 2019:

540:50-1-1. Purpose

The purpose of the ~~Oklahoma Medical Physician and Physician Assistant Loan Repayment Program Programs (OM-PLRP)(PLRP) and (PALRP)~~ is to provide financial assistance to physicians and physician assistants in repaying educational loans when they elect to provide health care in rural and underserved areas of Oklahoma. The ~~Program Programs~~, depending upon and limited to available funding, shall provide educational loan repayment assistance to Oklahoma licensed primary care physicians and physician assistants who agree to establish a practice in a community located in Oklahoma approved by the Commission.[63:1-2721(A)(3)(5)]

540:50-1-2. Statutory administration

The Physician Manpower Training Commission shall administer the Oklahoma Medical Loan Repayment Program. [63:1-2721(A)(1)] ~~The Oklahoma Medical Loan Repayment Program shall be administered by the Physician Manpower Training Commission pursuant to rules promulgated by the Commission and shall be funded based on an annual estimate of need as determined by the Commission and the actual funds available to the Program for expenditure. The Oklahoma Medical Loan Repayment Program shall be administered by the Physician Manpower Training Commission pursuant to rules promulgated by the Commission and shall be funded based on an annual estimate of need as determined by the Commission and the actual funds available to the Program for expenditure.~~

540:50-1-3. Terms and conditions of loans

(a) The terms and conditions governing the ~~Program Programs~~ shall be as prescribed and formulated by the Physician Manpower Training Commission. The physician or physician assistant shall agree to practice in the designated need areas identified by the Commission ~~for no fewer than two (2) consecutive years as a condition of the loan repayment. If the physician or physician assistant does not fulfill the service obligation, or doesn't comply with the reporting requirements, the Commission may discontinue the payments beginning with the current year, and may remove the physician or physician assistant from the Program. The Commission may collect from the participant the entire amount of loan payments made under the Program plus interest. [63:1-2721(D)]~~ The contract shall specify that in case of default the physician shall be required to repay all funds that they received plus interest that equals the prime rate plus one percent (1%).

(b) Physicians and physician assistants must submit proof that they are not currently obligated, and will not become obligated, to any other repayment program that has a conflicting service obligation.

540:50-1-4. Eligibility

(a) A physician or physician assistant shall be eligible to participate in the ~~OMLRPPLRP or PALRP~~ if the physician or physician assistant:

- (1) Is licensed to practice medicine in Oklahoma;
- (2) Is a new primary care residency graduate/Physician Assistant school graduate; or
- (3) Is a current practicing physician or physician assistant and has met criteria established by the Commission. [63:1-2721(C)(1-3)]
- (4) Agree to provide medical care and services to Medicaid and Medicare recipients as authorized by the Oklahoma Health Care Authority [63:1-2721(B)]

(b) "Primary care physicians and physician assistant" shall mean physicians and physician assistants practicing in family medicine, geriatrics, general internal medicine, general pediatrics, obstetrics/gynecology, or emergency medicine. [63:1-2721(A)(2)]

540:50-1-5. Amount and method of payment

(a) Physicians and physician assistants would have to provide documentation of legitimate educational debt in the amount of \$160,000/~~\$60,000~~ or above to receive the maximum amount available. If total debt is less than \$160,000/~~\$60,000~~ a contract would be tailored, on a prorated basis, to provide an amount not to exceed legitimate educational debt of the physician or physician assistant. Prior to any disbursement, the Commission shall certify and properly review reports submitted by the participating physician or physician assistant detailing performance of activities in accordance with the Program. ~~[63:1-2721(4)]~~[63:1-2721(A)(6)]

(b) Maximum amounts of financial assistance: first year \$25,000/~~\$10,000~~; second year \$35,000/~~\$20,000~~; third year \$45,000/~~\$30,000~~; and fourth year \$55,000 for physicians only. Payments would be made after the physician or physician assistant completed the first year and on each anniversary thereafter, up to a maximum of four years. The Commission shall review the performance in the Program of the participating physician or physician assistant and determine whether an award may be granted for additional years pursuant to rules. Physicians would be required to sign on to the Program for a minimum of two years. At the conclusion of an initial two year period, the Commission shall review the performance in the Program of the participating physician and determine whether an award may be granted for additional years pursuant to rules. [63:1-2721(A)(7)]~~[63:1-2721(5)]~~

540:50-1-6. Procedures for administering loans

The Commission shall promulgate and adopt procedures as may be necessary to carry out the administration of the program. The Commission shall delineate the following procedures:

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- (1) **Promulgation of information concerning loans.** Every reasonable effort shall be made to contact all eligible physicians or physician assistants concerning the availability of the program. Preference will be given to graduates of the primary care residency programs affiliated with the Oklahoma State University of College of Osteopathic Medicine, the University of Oklahoma College of Medicine and the teaching hospitals affiliated with both schools of medicine and teaching health centers located in this state. [63:1-2721(C)(2)]
- (2) **Applications.** All interested physicians or physician assistants shall file an application with the Physician Manpower Training Commission. This application can be submitted at any time during the year. Applications are available at www.pmtc.ok.gov and in the office of the Physician Manpower Training Commission.
- (3) **Approval by the Commission.** Applications shall be submitted to the Commission for approval at any regular Commission meeting. Applications will be reviewed in the order they are received and will be approved or denied as determined by the Commission.
- (4) **Renewal of contracts.** The original contract shall be guaranteed for the initial year, and renewed each anniversary thereafter contingent upon available funding.

540:50-1-7. Repayment by practice or repayment of monies received

- (a) Each physician or physician assistant shall repay the financial assistance received by practicing full time in an approved community in Oklahoma. The period shall begin on the date the physician or physician assistant begins to practice in the approved community.

- (b) Repayment of the total amount received, plus interest, and litigation costs as assessed by the Commission, upon failure of the physician or physician assistant to fulfill the contractual obligations, shall be made payable to the Commission.

540:50-1-8. Applicant contracts

- (a) Each physician or physician assistant shall enter into a contract with the Commission agreeing to the terms and conditions upon which financial assistance shall be granted to the physician or physician assistant.
- (b) The physician or physician assistant shall fulfill their contractual obligation to a qualifying community as outlined in the original contract.
- (c) The contract shall include such terms and provisions as will carry out the full purpose and intent of the Program, and shall be in a form prepared and approved by the Attorney General.
- (d) The contract shall be signed by the Executive Director on behalf of the Commission, and by the applicant. ~~In the event the applicant is married, the contract shall also be cosigned by the applicant's spouse.~~
- (e) ~~The Commission may file suit against any physician, and cosigner if applicable, for any balance due the Commission on any contract.~~ The Commission may cancel any contract made between it and any physician or physician assistant upon cause deemed sufficient by the Commission.
- (f) The Commission shall maintain copies of the contracts in its offices.

[OAR Docket #19-584; filed 6-12-19]

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2019-30.

EXECUTIVE ORDER 2019-30

I, J. Kevin Stitt, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. to 5:00 p.m., on Tuesday, July 23, 2019, as a mark of respect for the memory and longstanding service of John Paul Stevens, retired Associate Justice of the Supreme Court of the United States.

Retired Associate Justice John Paul Stevens will lie in repose in the Great Hall of the Supreme Court of the United States on Monday, July 22. A private funeral service and interment will be held at Arlington National Cemetery on Tuesday, July 23, 2019.

This executive order shall be forwarded to the Division of Capital Assets Management, who shall cause the provisions

of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, on this 22nd day of July, 2019

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

J. Kevin Stitt

ATTEST:
Michael Rogers
Secretary of State

[OAR Docket #19-716; filed 7-22-19]

