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Gubernatorial Approvals

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

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

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #08-776]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 9. Individual Procedures [AMENDED]

GUBERNATORIAL APPROVAL:

April 23, 2008

[OAR Docket #08-776; filed 5-1-08]

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

[OAR Docket #08-777]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. General Provisions

35:10-1-3 [NEW]

GUBERNATORIAL APPROVAL:

April 23, 2008

[OAR Docket #08-777; filed 5-1-08]

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

[OAR Docket #08-778]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 22. Swine Pseudorabies

Part 1. General Provisions

35:15-22-1 [AMENDED]

35:15-22-71 [AMENDED]

Subchapter 24. Swine Brucellosis

35:15-24-2 [AMENDED]

35:15-24-3 [AMENDED]

GUBERNATORIAL APPROVAL:

April 23, 2008

[OAR Docket #08-778; filed 5-1-08]

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

[OAR Docket #08-779]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 34. Feral Swine [NEW]

GUBERNATORIAL APPROVAL:

April 23, 2008

[OAR Docket #08-779; filed 5-1-08]

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

[OAR Docket #08-780]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 38. Bovine Trichomoniasis [NEW]

GUBERNATORIAL APPROVAL:

April 23, 2008

[OAR Docket #08-780; filed 5-1-08]

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

[OAR Docket #08-781]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 3. ~~Concentrated~~ Animal Swine Feeding Operations [AMENDED]

Subchapter 4. Concentrated Animal Feeding Operations [NEW]

Gubernatorial Approvals

GUBERNATORIAL APPROVAL:

April 23, 2008

[OAR Docket #08-781; filed 5-1-08]

**TITLE 35. OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 30. ~~PLANT
INDUSTRY~~CONSUMER PROTECTION**

[OAR Docket #08-782]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 17. Combined Pesticide
Part 22. Wood Infestation Reports [AMENDED]

GUBERNATORIAL APPROVAL:

April 23, 2008

[OAR Docket #08-782; filed 5-1-08]

**TITLE 35. OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 45. WATER QUALITY
STANDARDS IMPLEMENTATION PLAN**

[OAR Docket #08-783]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. Water Quality Standards Implementation
Plan [AMENDED]

GUBERNATORIAL APPROVAL:

April 23, 2008

[OAR Docket #08-783; filed 5-1-08]

**TITLE 140. BOARD OF CHIROPRACTIC
EXAMINERS
CHAPTER 1. ADMINISTRATIVE
ORGANIZATION AND OPERATIONS**

[OAR Docket #08-765]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 1. General Provisions
140:1-1-2 [AMENDED]
140:1-1-2 [AMENDED]

GUBERNATORIAL APPROVAL:

April 11, 2008

[OAR Docket #08-765; filed 4-29-08]

**TITLE 140. BOARD OF CHIROPRACTIC
EXAMINERS
CHAPTER 3. DISCIPLINARY
PROCEDURES**

[OAR Docket #08-766]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 1. General Provisions
140:3-1-2 [AMENDED]
Subchapter 3. Filing and Disposition Complaints
140:3-3-2 [AMENDED]
140:3-3-3 [AMENDED]

GUBERNATORIAL APPROVAL:

April 11, 2008

[OAR Docket #08-766; filed 4-29-08]

**TITLE 140. BOARD OF CHIROPRACTIC
EXAMINERS
CHAPTER 10. LICENSURE OF
CHIROPRACTIC PHYSICIANS**

[OAR Docket #08-767]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 1. General Provisions
140:10-1-1 [AMENDED]
140:10-1-2 [AMENDED]

GUBERNATORIAL APPROVAL:

April 11, 2008

[OAR Docket #08-767; filed 4-29-08]

**TITLE 140. BOARD OF CHIROPRACTIC
EXAMINERS
CHAPTER 20. ADVISORY COMMITTEE**

[OAR Docket #08-768]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

140:20-1-1. Scope and application; re-creation of Advisory
Committee [AMENDED]

GUBERNATORIAL APPROVAL:

April 11, 2008

[OAR Docket #08-768; filed 4-29-08]

**TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 10. CONSUMER LEASING**

[OAR Docket #08-795]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 5. Disclosures
- 160:10-5-1.1 [AMENDED]
- 160:10-5-1.4 [REVOKED]
- Subchapter 7. Advertising
- 160:10-7-1.1 [AMENDED]

GUBERNATORIAL APPROVAL:

April 23, 2008

[OAR Docket #08-795; filed 5-5-08]

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

[OAR Docket #08-796]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 3. Open-End Credit
- 160:45-3-1 [AMENDED]
- 160:45-3-2 [AMENDED]
- 160:45-3-3 [AMENDED]
- 160:45-3-13 [AMENDED]
- 160:45-3-14 [AMENDED]
- Subchapter 5. Closed-End Credit
- 160:45-5-1 [AMENDED]
- 160:45-5-3 [AMENDED]
- 160:45-5-7 [AMENDED]
- 160:45-5-8 [AMENDED]
- Subchapter 9. Special Rules for Certain Home Mortgage Transactions
- 160:45-9-1 [AMENDED]
- 160:45-9-2 [AMENDED]
- Subchapter 11. Electronic Communication [REVOKED]
- 160:45-11-1 [REVOKED]

GUBERNATORIAL APPROVAL:

April 23, 2008

[OAR Docket #08-796; filed 5-5-08]

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

[OAR Docket #08-794]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Chapter 10. Oil and Gas Conservation [AMENDED]

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-794; filed 5-5-08]

**TITLE 165. CORPORATION COMMISSION
CHAPTER 45. GAS SERVICE UTILITIES**

[OAR Docket #08-793]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 3. Plant, Equipment, and Facilities
- 165:45-3-5. Sale or disposal of jurisdictional facilities by utility [AMENDED]
- 165:45-3-5.1 Acquisition, control, or merger of domestic public gas utilities [NEW]

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-793; filed 5-5-08]

**TITLE 165. CORPORATION COMMISSION
CHAPTER 65. WATER SERVICE UTILITIES**

[OAR Docket #08-792]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 3. Plant, Equipment, and Facilities
- 165:65-3-5. Sale or disposal of facilities by utility [AMENDED]
- 165:65-3-5.1 Acquisition, control, or merger of domestic public water utilities [NEW]

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-792; filed 5-5-08]

Gubernatorial Approvals

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 1. GENERAL PROVISIONS

[OAR Docket #08-770]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. General Provisions

240:1-1-2. Definitions [AMENDED]

240:1-1-7. Petitions for declaratory rulings [NEW]

GUBERNATORIAL APPROVAL:

April 17, 2008

[OAR Docket #08-770; filed 4-30-08]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

[OAR Docket #08-771]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. General Provisions

240:10-1-2. Definitions [AMENDED]

Subchapter 3. Benefits

Part 11. Filing Claims - Notice

240:10-3-53. Third party administrators - filing requirements [NEW]

Subchapter 5. Contributions

Part 8. Waiver of Penalty and Interest

240:10-5-44. Initial determination [AMENDED]

240:10-5-45. Appeal of initial determination [AMENDED]

Subchapter 11. Assessment Board Procedures

Part 1. General Provisions

240:10-11-6. Address of Board [AMENDED]

Subchapter 13. Appeal Tribunal Procedures

Part 1. General Provisions

240:10-13-5. Jurisdiction [AMENDED]

240:10-13-8. Address of Appeal Tribunal [AMENDED]

GUBERNATORIAL APPROVAL:

April 17, 2008

[OAR Docket #08-771; filed 4-30-08]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 15. BOARD OF REVIEW PROCEDURES

[OAR Docket #08-772]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. General Provisions

240:15-1-7. Attorney fees - approval [REVOKED]

240:15-1-8. Attorney fees - approval [NEW]

GUBERNATORIAL APPROVAL:

April 11, 2008

[OAR Docket #08-772; filed 4-30-08]

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

[OAR Docket #08-868]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

300:10-1-2. [AMENDED]

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-868; filed 5-9-08]

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

[OAR Docket #08-867]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

300:20-1-1. [AMENDED]

300:20-1-4. [AMENDED]

300:20-1-8. [AMENDED]

300:20-1-9. [AMENDED]

300:20-1-10. [AMENDED]

300:20-1-11. [AMENDED]

300:20-1-16. [NEW]

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-867; filed 5-9-08]

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

[OAR Docket #08-866]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 27. Vegetation Management Plan
- 300:35-27-1. [AMENDED]
- 300:35-27-2. [AMENDED]
- 300:35-27-3. [AMENDED]
- 300:35-27-4. [AMENDED]
- 300:35-27-8. [NEW]

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-866; filed 5-9-08]

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

[OAR Docket #08-810]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 5. Individual Providers and Specialties
- Part 1. Physicians
- 317:30-5-10. [AMENDED]
- Part 45. Optometrists
- 317:30-5-431. through 317:30-5-432. [AMENDED]
- 317:30-5-432.1. [NEW]
- Part 47. Optical Companies
- 317:30-5-451. [AMENDED]
- 317:30-5-452. [REVOKED]
- (Reference APA WF # 07-26)**

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-810; filed 5-7-08]

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

[OAR Docket #08-811]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 3. General Provider Policies
- Part 1. General Scope and Administration
- 317:30-3-6. [AMENDED]
- 317:30-3-12. [AMENDED]
- 317:30-3-23. [AMENDED]
- (Reference APA WF # 07-37)**

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-811; filed 5-7-08]

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

[OAR Docket #08-812]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 5. Individual Providers and Specialties
- Part 20. Lactation Consultants [NEW]
- 317:30-5-230. through 317:30-5-235. [NEW]
- (Reference APA WF # 07-42)**

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-812; filed 5-7-08]

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

[OAR Docket #08-813]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 5. Individual Providers and Specialties
- Part 85. ADvantage Program Waiver Services
- 317:30-5-760. through 30-5-764. [AMENDED]
- (Reference APA WF # 07-49)**

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-813; filed 5-7-08]

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

[OAR Docket #08-815]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties

Part 21. Outpatient Behavioral Health Services

317:30-5-245. [AMENDED]

(Reference APA WF # 07-56)

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-815; filed 5-7-08]

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

[OAR Docket #08-816]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties

Part 6. Inpatient Psychiatric Hospitals

317:30-5-96.8. [NEW]

(Reference APA WF # 07-59)

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-816; filed 5-7-08]

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

[OAR Docket #08-817]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties

Part 39. Skilled and Registered Nursing Services

317:30-5-390. [AMENDED]

Part 51. Habilitation Services

317:30-5-480. [AMENDED]

317:30-5-482. [AMENDED]

Part 53. Specialized Foster Care

317:30-5-495. through 317:30-5-499. [AMENDED]

Part 59. Homemaker Services

317:30-5-535. through 317:30-5-538.

(Reference APA WF # 07-60A)

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-817; filed 5-7-08]

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

[OAR Docket #08-819]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

317:30-5-8. [AMENDED]

Part 4. Long Term Care Hospitals

317:30-5-65. [AMENDED]

Part 9. Long Term Care Facilities

317:30-5-133.2. [AMENDED]

(Reference APA WF # 07-61)

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-819; filed 5-7-08]

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

[OAR Docket #08-820]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

317:30-5-14. through 317:30-5-15. [AMENDED]

(Reference APA WF # 07-62)

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-820; filed 5-7-08]

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

[OAR Docket #08-821]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties
Part 32. SoonerRide Non-Emergency Transportation
317:30-5-327.5. [AMENDED]
(Reference APA WF # 07-63)

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-821; filed 5-7-08]

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

[OAR Docket #08-822]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties
Part 110. Indian Health Services, Tribal Programs, and
Urban Indian Clinics (I/T/Us)
317:30-5-1085. through 317:30-5-1088. [AMENDED]
317:30-5-1090. through 317:30-5-1091. [AMENDED]
317:30-5-1093. through 317:30-5-1096. [AMENDED]
317:30-5-1098. through 317:30-5-1099. [AMENDED]
317:30-5-1100. [NEW]
(Reference APA WF # 07-64)

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-822; filed 5-7-08]

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

[OAR Docket #08-824]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties

Part 9. Long Term Care Facilities
317:30-5-126. [AMENDED]
317:30-5-131.2. [AMENDED]
317:30-5-132. [AMENDED]
317:30-5-134. [AMENDED]
(Reference APA WF # 07-67)

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-824; filed 5-7-08]

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

[OAR Docket #08-825]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties
Part 3. Hospitals
317:30-5-42.14. [AMENDED]
Part 63 Ambulatory Surgical Centers
317:30-5-566. [AMENDED]
(Reference APA WF # 07-68)

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-825; filed 5-7-08]

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

[OAR Docket #08-826]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties
Part 21. Outpatient Behavioral Health Services
317:30-5-241. [AMENDED]
(Reference APA WF # 07-71)

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-826; filed 5-7-08]

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

[OAR Docket #08-827]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties
Part 83. Residential Behavior Management Services in
Foster Care Settings

317:30-5-740. [AMENDED]

(Reference APA WF # 07-74)

GUVERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-827; filed 5-7-08]

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

[OAR Docket #08-828]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties
Part 1. Physicians

317:30-5-11. [AMENDED]

(Reference APA WF # 07-75)

GUVERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-828; filed 5-7-08]

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

[OAR Docket #08-829]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Individual Providers and Specialties

Part 5. ~~Pharmacists~~ Pharmacies

317:30-5-70. through 317:30-5-70.1. [AMENDED]

317:30-5-70.3. [AMENDED]

317:30-5-72. [AMENDED]

317:30-5-77. through 317:30-5-77.3. [AMENDED]

317:30-5-78. through 317:30-5-78.2. [AMENDED]

317:30-5-86. [AMENDED]

(Reference APA WF # 07-76)

GUVERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-829; filed 5-7-08]

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

[OAR Docket #08-814]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Eligibility and Countable Income

Part 5. Countable Income and Resources

317:35-5-42. [AMENDED]

(Reference APA WF # 07-55)

GUVERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-814; filed 5-7-08]

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

[OAR Docket #08-823]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 17. ADvantage Waiver Services

317:35-17-11. [AMENDED]

317:35-17-12. [AMENDED]

317:35-17-15. [AMENDED]

317:35-17-16. [AMENDED]

(Reference APA WF # 07-66)

GUVERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-823; filed 5-7-08]

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

[OAR Docket #08-818]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 5. ~~Client~~ Member Services
- Part 3. Guidelines to Staff
- 317:40-5-40. [AMENDED]
- Part 9. Service Provisions
- 317:40-5-101. [AMENDED]
- 317:40-5-112. [AMENDED]
- Part 11. Community Residential Supports
- 317:40-5-152. [AMENDED]
- Subchapter 7. ~~Waiver~~ Employment Services Through
Home and Community-Based Services Waivers
- 317:40-7-7. [AMENDED]
- 317:40-7-15. [AMENDED]
- 317:40-7-21. [AMENDED]

(Reference APA WF # 07-60B)

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-818; filed 5-7-08]

**TITLE 360. OKLAHOMA STATE AND
EDUCATION EMPLOYEES GROUP
INSURANCE BOARD
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #08-804]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 1. General Provisions
- 360:1-1-2. [AMENDED]
- Subchapter 3. The Board
- 360:1-1-3. [AMENDED]
- 360:1-3-8. [AMENDED]
- 360:1-3-13. [NEW]
- Subchapter 5. Hearing Procedures
- 360:1-5-2. [AMENDED]

GUBERNATORIAL APPROVAL:

April 2, 2008

[OAR Docket #08-804; filed 5-7-08]

**TITLE 360. OKLAHOMA STATE AND
EDUCATION EMPLOYEES GROUP
INSURANCE BOARD
CHAPTER 10. STATE AND EDUCATION
EMPLOYEES HEALTH, DENTAL, VISION
AND LIFE PLANS**

[OAR Docket #08-805]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 1. General Provisions
- 360:10-1-2. [AMENDED]
- Subchapter 3. Administration of Plans
- 360:10-3-3. [AMENDED]
- 360:10-3-3.5. [AMENDED]
- 360:10-3-20. [AMENDED]
- 360:10-3-22. [AMENDED]
- 360:10-3-23. [AMENDED]
- 360:10-3-24. [AMENDED]
- 360:10-3-25. [AMENDED]
- 360:10-3-26. [AMENDED]
- 360:10-3-27. [AMENDED]
- 360:10-3-27.1. [AMENDED]
- Subchapter 5. Coverage and Limitations
- Part 1. Policy Provisions
- 360:10-5-2. [AMENDED]
- 360:10-5-3. [AMENDED]
- Part 3. The Plans
- 360:10-5-16. [AMENDED]
- 360:10-5-17. [AMENDED]
- 360:10-5-20. [AMENDED]
- Part 5. Life Benefits
- 360:10-5-33. [AMENDED]
- Part 15. Subrogation
- 360:10-5-100. [AMENDED]

GUBERNATORIAL APPROVAL:

April 2, 2008

[OAR Docket #08-805; filed 5-7-08]

**TITLE 360. OKLAHOMA STATE AND
EDUCATION EMPLOYEES GROUP
INSURANCE BOARD
CHAPTER 15. THE DISABILITY PLAN**

[OAR Docket #08-806]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- 360:15-1-2. [AMENDED]
- 360:15-1-11. [AMENDED]
- 360:15-1-14.1. [NEW]
- 360:15-1-31. [AMENDED]

Gubernatorial Approvals

GUBERNATORIAL APPROVAL:

April 2, 2008

[OAR Docket #08-806; filed 5-7-08]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 1. ADMINISTRATION AND ORGANIZATION

[OAR Docket #08-757]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

435:1-1-7. Fees [AMENDED]

GUBERNATORIAL APPROVAL:

April 22, 2008

[OAR Docket #08-757; filed 4-29-08]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 10. PHYSICIANS AND SURGEONS

[OAR Docket #08-758]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 7. Regulation of Physician and Surgeon
Practice

435:10-7-6. Retired physicians and surgeons [AMENDED]

GUBERNATORIAL APPROVAL:

April 22, 2008

[OAR Docket #08-758; filed 4-29-08]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 20. PHYSICAL THERAPISTS AND ASSISTANTS

[OAR Docket #08-759]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Regulation of Practice

435:20-5-8. Unprofessional conduct - Grounds for
disciplinary action [AMENDED]

GUBERNATORIAL APPROVAL:

April 22, 2008

[OAR Docket #08-759; filed 4-29-08]

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

[OAR Docket #08-855]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. General Provisions

450:15-1-2. Definitions [AMENDED]

Subchapter 3. Consumer Rights

Part 1. Mental Health and Drug or Alcohol Abuse Services

Consumer bill of Rights

450:15-3-20.1. Consumer rights regarding confidentiality
of mental health and drug or alcohol abuse treatment
information [AMENDED]

450:15-3-20.2. Validity of written consent [NEW]

Part 7. Consumer Access to Health Information, Facilities

Operated by ODMHSAS

450:15-3-60. Right to access designated record set from
facilities operated by ODMHSAS [AMENDED]

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-855; filed 5-9-08]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 16. STANDARDS AND CRITERIA FOR COMMUNITY RESIDENTIAL MENTAL HEALTH FACILITIES

[OAR Docket #08-856]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. General Provisions

450:16-1-2. Definitions [AMENDED]

450:16-1-4. Annual review of standards and criteria
[REVOKED]

Subchapter 5. Services

450:16-5-1. Continuity of care agreements, other service
providers [AMENDED]

Subchapter 17. Security and Disclosure of Resident
Information

- 450:16-17-3.1. Confidentiality of mental health and drug or alcohol abuse treatment information [AMENDED]
- 450:16-17-4. Validity of written consent [REVOKED]
- Subchapter 21. Personnel, Staffing and Training
- 450:16-21-4. Residential care staff training requirements, administrator [AMENDED]

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-856; filed 5-9-08]

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

[OAR Docket #08-857]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 1. General Provisions
- 450:17-1-2. Definitions [AMENDED]
- 450:17-1-4. Annual review of standards and criteria [REVOKED]
- Subchapter 7. Facility Clinical Records
- 450:17-7-10. Progress Notes [AMENDED]
- Subchapter 9. Consumer Records and Confidentiality
- 450:17-9-1.1. Confidentiality of mental health and drug or alcohol abuse treatment information [AMENDED]
- Subchapter 21. Staff Development and Training
- 450:17-21-3. Annually required inservice training for all employees [AMENDED]
- 450:17-21-5. CAPE training [REVOKED]

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-857; filed 5-9-08]

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 18. STANDARDS AND CRITERIA
FOR ALCOHOL AND DRUG TREATMENT
PROGRAMS**

[OAR Docket #08-858]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 1. General Provisions
- 450:18-1-2. Definitions [AMENDED]
- 450:18-1-6. Annual review of standards and criteria [REVOKED]
- Subchapter 5. Organizational and Facility Management
- 450:18-5-3.2. Standards for food service [AMENDED]
- Subchapter 7. Consumer Records
- Part 1. Record System
- 450:18-7-3.1. Confidentiality of mental health and drug or alcohol abuse treatment information [AMENDED]
- Subchapter 13. Substance Abuse Treatment Services
- Part 3. Outpatient Services
- 450:18-13-21. Outpatient Services [AMENDED]
- Part 5. Intensive Outpatient Services
- 450:18-13-42. Service requirements [AMENDED]
- Part 15. Residential Treatment for Adults with Co-occurring Disorders
- 450:18-13-141. Adult residential treatment for consumers with co-occurring disorders [AMENDED]
- Part 21. Halfway House Services for Persons with Dependent Children
- 450:18-13-201. Halfway house services for persons with dependent children [AMENDED]

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-858; filed 5-9-08]

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 30. STATE-OPERATED
INPATIENT SERVICES**

[OAR Docket #08-859]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 15. Forensic Review Board
- 450:30-15-2. Definitions [AMENDED]
- 450:30-15-3. Composition, powers and duties [AMENDED]

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-859; filed 5-9-08]

Gubernatorial Approvals

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 55. STANDARDS AND CRITERIA
FOR PROGRAMS OF ASSERTIVE
COMMUNITY TREATMENT**

[OAR Docket #08-860]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 1. General Provisions
- 450:55-1-2. Definitions [AMENDED]
- Subchapter 3. Program Description and Pact Services
- 450:55-3-7. Staffing requirements [AMENDED]
- Subchapter 7. Confidentiality
- 450:55-7-1. Confidentiality, mental health consumer information and records [AMENDED]
- Subchapter 17. Staff Development and Training
- 450:55-17-3. In-service [AMENDED]

GUVERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-860; filed 5-9-08]

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 60. STANDARDS AND CRITERIA
FOR CERTIFIED EATING DISORDER
TREATMENT PROGRAMS**

[OAR Docket #08-861]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 1. General Provisions
- 450:60-1-4. Annual review of standards and criteria [REVOKED]
- Subchapter 9. Consumer Records and Confidentiality
- 450:60-9-1. Confidentiality of mental health and drug or alcohol abuse treatment information [AMENDED]

GUVERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-861; filed 5-9-08]

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 65. STANDARDS AND CRITERIA
FOR CERTIFIED GAMBLING TREATMENT
PROGRAMS**

[OAR Docket #08-862]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 1. General Provisions
- 450:65-1-2. Definitions [AMENDED]
- 450:65-1-4. Applicability [AMENDED]
- 450:65-1-5. Annual review of standards and criteria [REVOKED]
- Subchapter 3. Gambling Treatment Services and Documentation
- 450:65-3-1. Gambling treatment professional requirements and privileging [AMENDED]
- 450:65-3-2. Treatment Services [AMENDED]
- 450:65-3-3. Assessment and diagnostic services [AMENDED]
- 450:65-3-5. Individual, group and family counseling services [AMENDED]
- 450:65-3-9. Unplanned discharges [AMENDED]
- 450:65-3-10. Consumer records, basic requirement [AMENDED]
- 450:65-3-11. Consumer record system [AMENDED]
- 450:65-3-12. Confidentiality of gambling ~~addiction~~ treatment information [AMENDED]
- Subchapter 5. Certified Gambling ~~Addiction~~ Treatment Programs
- 450:65-5-1. Level of Care [AMENDED]
- 450:65-5-2. Gambling ~~addiction~~ treatment services [AMENDED]
- 450:65-5-3. Admission criteria [AMENDED]
- 450:65-5-4. Discharge criteria [AMENDED]
- 450:65-5-5. Consumer rights [AMENDED]
- Subchapter 7. Organizational and Facility Management
- 450:65-7-2. Hygiene and sanitation [AMENDED]
- 450:65-7-3. Standards for food service [AMENDED]
- 450:65-7-5. Critical incidents [AMENDED]
- 450:65-7-6. Organizational and facility description [AMENDED]
- 450:65-7-8. Performance improvement program [AMENDED]
- 450:65-7-9. Community information, consultation, outreach and street outreach [AMENDED]

GUVERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-862; filed 5-9-08]

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

[OAR Docket #08-863]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 1. General Provisions
- 450:70-1-2. Definitions [AMENDED]
- Subchapter 3. Facility Record System
- Part 1. Record System
- 450:70-3-4. Confidentiality of drug or alcohol abuse or mental health treatment information [AMENDED]

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-863; filed 5-9-08]

**TITLE 550. OKLAHOMA POLICE PENSION
AND RETIREMENT SYSTEM
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #08-790]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 3. Organization of Board
- 550:1-3-3 [AMENDED]
- 550:1-3-4 [AMENDED]

GUBERNATORIAL APPROVAL:

April 28, 2008

[OAR Docket #08-790; filed 5-2-08]

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

[OAR Docket #08-797]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

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

GUBERNATORIAL APPROVAL:

April 23, 2008

[OAR Docket #08-797; filed 5-5-08]

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

[OAR Docket #08-798]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 3. Education and Examination Requirements
- 605:10-3-2. Application for license [AMENDED]
- Subchapter 5. Instructor and Entity Requirements and Standards
- 605:10-5-1. Approval of prelicense course offerings [AMENDED]
- 605:10-5-2. Approval of continuing education offerings [AMENDED]
- Subchapter 7. Licensing Procedures and Options
- 605:10-7-2. License terms and fees; renewals; reinstatements [AMENDED]
- Subchapter 17. Causes for Investigations; Hearing Process; Prohibited Acts; Discipline
- 605:10-17-2. Complaint procedures [AMENDED]
- 605:10-17-3. Complaint hearings; notice and procedures [AMENDED]
- Appendix A. Residential Property Condition Disclosure Statement [REVOKED]
- Appendix A. Residential Property Condition Disclosure Statement [NEW]

GUBERNATORIAL APPROVAL:

April 23, 2008

[OAR Docket #08-798; filed 5-5-08]

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

[OAR Docket #08-864]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 1. General Provisions
- 612:10-1-2. Definitions [AMENDED]
- Subchapter 7. Vocational Rehabilitation and Visual Services

Part 1. Scope of Vocational Rehabilitation and Visual Services

612:10-7-1. Overview of Vocational Rehabilitation and Visual Services [AMENDED]

612:10-7-4. Basic eligibility requirements for vocational rehabilitation services [AMENDED]

612:10-7-8. Order of selection [AMENDED]

612:10-7-11. Counseling and guidance [AMENDED]

Part 3. Case Processing Requirements

612:10-7-33. Supervisory caseload reviews [AMENDED]

612:10-7-33.1. Quality Assurance caseload reviews [NEW]

Part 5. Case Status and Classification System

612:10-7-52. Provision of services [AMENDED]

612:10-7-58. Closed rehabilitated [AMENDED]

612:10-7-62. Post-employment services [AMENDED]

Part 13. Supportive Services

612:10-7-131. Transportation [AMENDED]

Part 15. Training

612:10-7-166. Tutorial training [AMENDED]

Part 17. Supported Employment Services

612:10-7-181. Integrated settings [AMENDED]

612:10-7-184. Extended services [AMENDED]

612:10-7-185. Provision of supported employment services [AMENDED]

Part 18. Employment and Retention Services

612:10-7-186. Overview of Employment and Retention Services [AMENDED]

612:10-7-187. Eligibility for Employment and Retention Services [AMENDED]

Part 19. Special Services for Individuals Who Are Blind, Deaf, or Have Other Severe/Significant Disabilities

Part 21. Purchase of Equipment, Occupational Licenses and Certificates

612:10-7-220. Purchase of special equipment for motor vehicles [AMENDED]

Part 23. Self-employment Programs and Other Services

612:10-7-230.3. Self-Employment/Business Plans [AMENDED]

612:10-7-230.5. DRS Monitoring [AMENDED]

Subchapter 9. Rehabilitation Teaching Services

Part 3. Case Processing and Recording

612:10-9-25. Post-Employment Services Status [AMENDED]

Subchapter 11. Independent Living Services for Older Individuals Who Are Blind

Part 3. Case Processing

612:10-11-28. Post OB Service Status [REVOKED]

GUBERNATORIAL APPROVAL:

April 17, 2008

[OAR Docket #08-864; filed 5-9-08]

**TITLE 675. STATE BOARD OF LICENSED SOCIAL WORKERS
CHAPTER 3. INDIVIDUAL PROCEEDINGS**

[OAR Docket #08-760]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

675:3-1-2. Definitions [AMENDED]

675:3-1-3. Complaint procedure [AMENDED]

675:3-1-4. Procedures for denials, revocations, suspensions [AMENDED]

GUBERNATORIAL APPROVAL:

April 23, 2008

[OAR Docket #08-760; filed 4-29-08]

**TITLE 675. STATE BOARD OF LICENSED SOCIAL WORKERS
CHAPTER 10. LICENSURE REQUIREMENTS**

[OAR Docket #08-761]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

675:10-1-1.2. Requirements for Licensed Clinical Social Worker [AMENDED]

675:10-1-2. Requirements for Licensed Social Worker [AMENDED]

675:10-1-2.1. Requirements for Licensed Social Worker - Administration [AMENDED]

675:10-1-3. Requirements for Licensed Social Work Associate [AMENDED]

675:10-1-4. Requirements for Private or Independent Social Work Practice [AMENDED]

675:10-1-5. Titles of licenses [AMENDED]

675:10-1-6. Continuing education [AMENDED]

675:10-1-9. Form of application [AMENDED]

675:10-1-12.1. Renewal of licenses [AMENDED]

675:10-1-18. Facility [REVOKED]

GUBERNATORIAL APPROVAL:

April 23, 2008

[OAR Docket #08-761; filed 4-29-08]

**TITLE 675. STATE BOARD OF LICENSED
SOCIAL WORKERS
CHAPTER 12. GUIDELINES FOR
SUPERVISION**

[OAR Docket #08-762]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- 675:12-1-2. Supervision [AMENDED]
- 675:12-1-6. Board Approved Supervisors [AMENDED]

GUBERNATORIAL APPROVAL:

April 23, 2008

[OAR Docket #08-762; filed 4-29-08]

**TITLE 675. STATE BOARD OF LICENSED
SOCIAL WORKERS
CHAPTER 15. GUIDELINES FOR
CONTINUING EDUCATION**

[OAR Docket #08-763]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- 675:15-1-2. Introduction [AMENDED]
- 675:15-1-3. Continuing education standards [AMENDED]

GUBERNATORIAL APPROVAL:

April 23, 2008

[OAR Docket #08-763; filed 4-29-08]

**TITLE 675. STATE BOARD OF LICENSED
SOCIAL WORKERS
CHAPTER 20. CODE OF PROFESSIONAL
CONDUCT**

[OAR Docket #08-764]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- 675:20-1-3. Definitions [AMENDED]

GUBERNATORIAL APPROVAL:

April 23, 2008

[OAR Docket #08-764; filed 4-29-08]

**TITLE 695. OVERSIGHT COMMITTEE
FOR STATE EMPLOYEE CHARITABLE
CONTRIBUTIONS
CHAPTER 10. OKLAHOMA STATE
CHARITABLE CAMPAIGN RULES**

[OAR Docket #08-784]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

PROPOSED RULES:

- 695:10-1-1 [AMENDED]
- 695:10-1-2 [AMENDED]
- 695:10-1-5 [AMENDED]
- 695:10-1-6 [AMENDED]
- 695:10-1-7 [AMENDED]
- 695:10-1-8 [AMENDED]
- 695:10-1-9 [AMENDED]
- 695:10-1-10 [AMENDED]
- 695:10-1-11 [AMENDED]
- 695:10-1-13 [AMENDED]
- 695:10-3-2 [AMENDED]
- 695:10-3-3 [AMENDED]
- 695:10-3-4 [AMENDED]
- 695:10-5-2 [AMENDED]
- 695:10-5-3 [AMENDED]
- 695:10-7-2 [AMENDED]
- 695:10-11-2 [AMENDED]
- 695:10-13-2 [AMENDED]
- 695:10-13-3 [AMENDED]
- 695:10-13-4 [AMENDED]
- 695:10-13-5 [AMENDED]
- 695:10-13-6 [AMENDED]
- 695:10-13-7 [AMENDED]

GUBERNATORIAL APPROVAL:

April 2, 2008

[OAR Docket #08-784; filed 5-1-08]

**TITLE 730. DEPARTMENT OF
TRANSPORTATION
CHAPTER 25. HIGHWAY CONTRACTORS**

[OAR Docket #08-799]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 5. Contractor Prequalification and Proposals
- 730:25-3-1 [AMENDED]
- 730:25-3-4 [AMENDED]
- 730:25-3-4.1 [NEW]
- 730:25-3-5 [AMENDED]

Gubernatorial Approvals

GUBERNATORIAL APPROVAL:

April 11, 2008

[OAR Docket #08-799; filed 5-6-08]

Emergency Adoptions

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

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

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

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

TITLE 5. OKLAHOMA ABSTRACTORS BOARD CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #08-754]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions [NEW]

5:1-1-1 through 5:1-1-3 [NEW]

Subchapter 3. Administrative Operations [NEW]

5:1-3-1 through 5:1-3-6 [NEW]

AUTHORITY:

Title 1, Oklahoma Statutes, Section 22 *et seq.*, "Oklahoma Abstractors Act"; Oklahoma Abstractors Board

DATES:

Adoption:

March 6, 2008

Approved by Governor:

April 17, 2008

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

None.

INCORPORATIONS BY REFERENCE:

None.

FINDING OF EMERGENCY:

Imminent peril exists to the preservation of the public health, safety, or welfare and a compelling public interest requires these emergency rules to be adopted, for the reason that these rules provide for procedures to be established to supplement and complete the Oklahoma Abstractors Act. Without such emergency rules, the Board cannot effectively and efficiently embark upon the regulation, licensure, and administration of those holders of Certificates of Authority, applicants for Permits and Licensees, including the filing of forms and complaints.

ANALYSIS:

The proposed rules provide for key definition of terms covered under the statute. It further sets forth the general administration of the office and the conduct of its daily business, including its physical address, mailing address, phone number, and business hours. These emergency rules are necessary to establish the office and its accessibility to the public.

CONTACT PERSON:

Monica Wittrock, Chairman (405) 232-3258

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE

UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S. §253(D):

SUBCHAPTER 1. GENERAL PROVISIONS

5:1-1-1. Purpose

The Rules of this Title are provided for the purpose of interpreting and implementing the Oklahoma Abstractors Act, as set out in Title 1 of the Oklahoma Statutes, which established the Oklahoma Abstractors Board and conferred upon the Board the responsibility for administering and enforcing the Act.

5:1-1-2. Definitions

In addition to the terms defined in the Oklahoma Abstractors Act, the following defined words and terms shall be applied when implementing the Act and rules adopted by the Board.

5:1-1-3. Authority, interpretation, and severability of rules

The rules in this Chapter are adopted pursuant to the provisions of the Oklahoma Abstractors Act, Title 1 of the Oklahoma Statutes, and the Administrative Procedures Act. Should a court having jurisdiction or the Attorney General of Oklahoma find any part of the rules of this Chapter to be inconsistent with the provisions of law as they presently exist or are hereafter amended, they shall be interpreted to comply with the statutes as they presently exist or are hereafter amended and the partial or total invalidity of any section or sections of this Chapter shall not affect the valid sections.

SUBCHAPTER 3. ADMINISTRATIVE OPERATIONS

5:1-3-1. Powers and duties

The powers and duties of the Oklahoma Abstractors Board are set forth in the Oklahoma Abstractors Act, Title 1 of the Oklahoma Statutes.

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5:1-3-2. Principal office; hours

The principal office of the Oklahoma Abstractors Board is 2401 Northwest 23rd Street, Suite 4, Oklahoma City, Oklahoma, 73107- 0076, Post Office Box 700076, Oklahoma City, Oklahoma, 73107-0076. The office is open Monday through Friday from 8:00 A.M. until 5:00 P.M. except Saturday, Sunday and legal holidays.

5:1-3-3. Communications

All communication shall be in writing and addressed to the Board at the principal office of the Board unless the Board directs otherwise.

5:1-3-4. Availability of records; copies

Copies of rules, regulations, and other written statements of policy relating to abstract licenses, holders of a certificate of authority or permit, adopted by the Board in the discharge of duties and all final orders, decisions, and opinions will be available for public inspection at the principal office during stated office hours. Copies of the official records may be made and certified by the Board or a person designated by the Board to perform such duties upon prepayment of the copying fee as authorized in the Oklahoma Open Records Act, which shall be posted in the office of the Board. All material in the office of the Board which is protected from publication by State and Federal law shall not be released.

5:1-3-5. Adoption, amendment or repeal of rule

All interested persons may ask the Board to promulgate, amend, or repeal a rule. Such request shall be in writing and filed with the Board. The request shall fully set forth the reasons for its submission; the alleged need or necessity therefore; whether the proposal conflicts with any existing rule; and what statutory provisions, if any, are involved. Such request shall be considered by the Board. If the Board approves the proposed change, notice will be given that such proposal will be formally considered for adoption. If, however, the Board initially determines that the proposal or request is not a necessary rule, amendment, or repeal, the same will be refused and the decision reflected in the records of the Board. A copy will be sent to the person who submitted the request.

5:1-3-6. Declaratory rulings

Any person who may be directly affected by the existence or application of any of the public rules may request in writing an interpretation or ruling regarding the application of such rule to a particular set of facts. Any such request shall state sufficient facts and the particular rule to which those facts should be applied. The request will be reviewed by the Board. The Board will make a final determination of the interpretation or ruling and that interpretation of the rule will be furnished in writing within a reasonable time to the person making the request.

[OAR Docket #08-754; filed 4-28-08]

TITLE 5. OKLAHOMA ABSTRACTORS BOARD

CHAPTER 20. COMPLAINTS AND ENFORCEMENT

[OAR Docket #08-755]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions [NEW]
5:20-1-1 through 5:20-1-5 [NEW]
Subchapter 3. Complaint Investigation Procedures [NEW]
5:20-3-1 through 5:20-3-2 [NEW]
Subchapter 5. Formal Complaint Procedures [NEW]
5:20-5-1 through 5:30-5-9 [NEW]

AUTHORITY:

Title 1, Oklahoma Statutes, Section 22 *et seq.*, "Oklahoma Abstractors Act"; Oklahoma Abstractors Board

DATES:

Adoption:

March 6, 2008

Approved by Governor:

April 17, 2008

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

None.

INCORPORATIONS BY REFERENCE:

None.

FINDING OF EMERGENCY:

Imminent peril exists to the preservation of the public health, safety, or welfare and a compelling public interest requires these emergency rules to be adopted, for the reason that these rules provide for procedures to be established to supplement and complete the Oklahoma Abstractors Act. Without such emergency rules, the Board cannot effectively and efficiently embark upon the regulation, licensure, and administration of those holders of Certificates of Authority, applicants for Permits and Licensees, including the filing of complaints, conducting investigations, and enforcing the Oklahoma Abstractors Act.

ANALYSIS:

The proposed rules provide for key definition of terms covered under the statute. It further sets forth the general procedures for the filing of a complaint, the investigation of a complaint, resolution of complaints, instituting a formal complaint, and the hearings process, including due process. These emergency rules are necessary to establish the procedures for the public and other licensees to file a complaint, and the process for prosecution of same. These are necessary to establish the basic investigation, administrative hearing and resolution procedures.

CONTACT PERSON:

Monica Wittrock, Chairman (405) 232-3258

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

SUBCHAPTER 1. GENERAL PROVISIONS

5:20-1-1. Administrative Procedures Act

The procedure for complaints, notice, hearing procedures, and regulation of matters covered by the rules of this Chapter shall be governed by the Administrative Procedures Act, and

any conflict between the provisions of this Chapter and the Act, the Act shall govern.

5:20-1-2. Filing complaints

(a) Any person having a complaint, which alleges violation or noncompliance with the Oklahoma Abstractors Act or the rules of the Board implementing that act, may address the complaint to the Board at its principle office.

(b) The complaint shall be in writing and signed by the complainant. It shall contain a clear and concise statement of the facts, including the names, addresses significant to the complaint, and sufficient information to reveal the alleged violations and the facts on which the alleged violations are based.

(c) When a complaint is the result of information contained in a published source, an original copy of the publication with date published and full name of the publishing entity shall be filed with the Board.

(d) In the event a complaint is received by an individual member of the Board or any member of the Board staff, the information shall be forwarded to the Board office for referral to the Enforcement Committee in accordance with the procedures adopted by the Board for processing other complaints received.

(e) The individual against whom the complaint has been filed shall be notified of the complaint under investigation and may file a response to the complaint within fifteen (15) business days of receipt of notice of the filing of the complaint.

(f) The Enforcement Committee shall provide a quarterly report to the Board regarding the status of each pending complaint.

(g) Any individual who has filed a complaint may request to be notified of the final disposition of the matter.

5:20-1-3. Investigators

(a) The Board may appoint one or more individuals to investigate complaints received alleging violations of the Act or the rules of the Board.

(b) An individual appointed as an investigator may be a volunteer who serves without pay or an individual hired to conduct the investigation. Any individual serving as an investigator shall serve at the pleasure of the Board.

(1) Individuals who are holders of a certificate of authority, abstract license, or permit shall be eligible to serve as Investigators. Any such individual shall provide sufficient information to the Board to assure no conflict of interest exists in the conduct of an investigation the individual is conducting.

(2) Other individuals may be appointed as investigators subject to review of their qualifications as they may be significant to the particular type of investigation being conducted.

5:20-1-4. Special prosecutors

(a) The Board may appoint a special prosecutor to work with the Enforcement Committee on each complaint under investigation.

(b) The Board may utilize lawyers licensed to practice law in Oklahoma to serve as special prosecutors in formal proceedings before the Board.

(c) An individual serving as special prosecutor shall not serve as legal counsel to the Board in the same formal proceeding.

5:20-1-5. Cost of investigations

(a) Investigators and Special Prosecutors may be compensated at a rate established by the Board on a case by case basis.

(b) Investigators and Special Prosecutors may be reimbursed for expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

SUBCHAPTER 3. COMPLAINT INVESTIGATION PROCEDURES

5:20-3-1. Enforcement committee procedures

(a) All complaints received by the Board, shall be referred to the Board Enforcement Committee for recommendation for action.

(b) The Enforcement Committee shall be comprised of at least two (2) members of the Board appointed by the Chairman. In the absence of the Chairman of the Board appointing a Chairman of the Enforcement Committee, the members of the Enforcement Committee shall choose their Chairman.

(c) Upon receipt of the complaint and information pertaining to the complaint, the Enforcement Committee may make appropriate inquiry to verify the information received.

(d) The Board may obtain a criminal record check of any applicant from the Oklahoma State Bureau of Investigation or other law enforcement sources.

(e) Upon completion of the preliminary inquiry, the Enforcement Committee shall take one (1) or more of the following actions:

(1) Recommend to the Board that the investigation should be terminated because it appears:

(A) there has been no violation of the law or rules,

or

(B) there is insufficient evidence to support any allegation of a violation.

(2) Attempt an informal resolution of the allegations of violations contained in the information received.

(3) Require further investigation.

(4) Hold the file in abeyance pending receipt of information as a product of an investigation or hearing by another state or federal agency.

(5) Recommend a specific action by the Board.

5:20-3-2. Responsibility of investigators

(a) Upon referral from the Enforcement Committee, an investigator shall determine whether there exists sufficient cause to believe that misconduct has occurred which justifies the institution of formal proceedings. Such determination shall be presented to the Enforcement Committee in a report written and signed by the investigator.

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- (b) Such report shall contain a summary of the evidence, including any material provided by the accused, conclusions of fact, specific reference to applicable laws and rules, and recommendation with respect to institution of formal proceedings.
- (c) All investigations shall be conducted in a timely manner.
- (d) Upon conclusion of any investigation, the investigators shall promptly report the results to the Enforcement Committee.

SUBCHAPTER 5. FORMAL COMPLAINT PROCEDURES

5:20-5-1. Filing of formal complaint

- (a) The Enforcement Committee and the special prosecutor shall determine if a formal complaint should be filed.
- (b) In the event the Enforcement Committee and the special prosecutor do not agree on whether a formal complaint should be filed, the Chairman of the Enforcement Committee shall prepare a report for the Board. The Board shall make the final determination regarding further action.
- (c) The formal complaint shall be signed by the special prosecutor or the Chairman of the Enforcement Committee. In the event the special prosecutor and the Enforcement Committee do not agree, the Chairman of the committee shall sign the formal complaint.
- (d) The formal complaint shall include a concise statement of the allegations and particular sections of the Act or rules of the Board which are involved.

5:20-5-2. Violations by holders of a certificate of authority, abstract license, or permit

- (a) In the event the investigation of an allegation against a holder of a certificate of authority, abstract license, or permit concludes that the individual against whom the complaint has been filed is in violation of the Act or the rules of the Board, the Board shall take any authorized action to protect the public from the unauthorized or illegal action of the certificate, license or permit holder.
- (b) The Chairman of the Board shall set a time and place for the hearing of the formal complaint. Notice of the hearing shall be sent to the individual against whom the complaint has been filed not less than twenty (20) days from the date of the hearing at the last known address as shown in the official records of the Board.
- (c) The person against whom the complaint has been filed shall be provided with any material information including any staff memoranda or data to be relied on by the Board.
 - (1) At the hearing, the person against whom the formal complaint has been filed shall be afforded an opportunity to contest the reports and other materials referenced.
 - (2) The experience, technical competence, and specialized knowledge of the members of the Board may be utilized in the evaluation of the evidence.

5:20-5-3. Formal complaint hearing procedures

- (a) Hearings will be conducted by one of the following methods, determined by the Board before the hearing begins:
 - (1) By the Board;
 - (2) By any member of the Board or a designee of the Board acting as a hearing examiner or Administrative Law Judge; or
 - (3) By an attorney licensed to practice law in this state appointed by the Board to act as a hearing examiner or Administrative Law Judge.
- (b) All oral proceedings shall be electronically recorded.
 - (1) The record shall be transcribed upon request of any party to the proceeding.
 - (2) All costs of such transcription shall be paid in advance by the requesting party.
 - (3) Upon approval of the Chairman of the Board, the accused, may use a licensed court reporter to transcribe the hearing. The cost of such reporter shall be paid by the accused.
- (c) The hearing record of any formal proceeding shall be open to the public.

5:20-5-4. Standards for making decision

- (a) The Board may take notice of:
 - (1) Judicially cognizable facts, and
 - (2) Generally recognized technical or scientific facts within the specialized knowledge of one or more members of the Board.
- (b) The standard of proof in all hearings shall be clear and convincing evidence.
- (c) The Board shall consider past disciplinary action taken against any accused found guilty in any present proceeding. Such past conduct shall not be evidence of guilt in the present proceeding but will be considered only in determining appropriate sanctions to be imposed by the Board in the present proceeding.
- (d) Unless precluded by law, the accused may waive any right granted in the law and proceed by stipulation, agreed settlement, consent order, or default. No provision of this section shall be construed as prohibiting the Board from suspending, or holding in abeyance, any formal proceeding pending the outcome of informal negotiation or informally agreed upon terms.
- (e) All orders shall be in writing and state findings of fact, conclusions of law, and actions to be taken. Final orders shall state their effective date.

5:20-5-5. Subpoena of witness, documents, or things

- (a) In all cases the Board may issue subpoena or subpoena *duces tecum* where a party desires to compel the attendance of witnesses after a complaint has been filed.
- (b) When the party, or his attorney, desires to have witnesses subpoenaed to appear before the hearing examiner, a request in writing shall be made by such party or his attorney, giving the name and correct address of any such witness.
- (c) The requesting party shall pay the cost of service.

5:20-5-6. Discipline for violations by applicants

- (a) An applicant for an abstract license who is alleged to have violated the Act, the rules of the Board, or who subverts or attempts to subvert the examination process shall be subject to disciplinary action by the Board.
- (b) Failure of any applicant to cooperate with an investigation conducted by the Board shall result in denial of the application.
- (c) Upon the determination that the applicant is guilty of the allegations, the Board may impose one (1) or more of the following disciplinary measures on the applicant:
 - (1) Withhold the grades on the examination;
 - (2) Declare the scores on the examination invalid;
 - (3) Disqualification from holding a certificate of authority, or license permanently or for a specified period of time; or
 - (4) Impose other authorized penalties.

5:20-5-7. Violations by individuals who do not hold a certificate of authority, license or permit

- (a) In the event the investigation of an allegation against an individual who is not a holder of a certificate or abstract license concludes that the accused is in violation of the Act or rules of the Board and that action should be taken to stop the violation, the Board may designate a member of the Board, staff member, or other individual acting for the Board to:
 - (1) Send written notice of the accusation, supporting documentation and a copy of the Complaint and Notice of Hearing, to be held not later than sixty (60) days following such notice, to the accused by certified mail, restricted delivery, return receipt requested. Notice may also be given by personal service upon the person of the accused in a manner authorized by the statutes of the State of Oklahoma for service of process in a civil proceeding;
 - (2) Provide the accused with a copy of the Act and rules of the Board along with its notification of the accusation and Complaint and Notice of Hearing.
- (b) The Board, at a full and formal hearing, shall make a final determination of the accusations against the accused and issue such permanent cease and desist order, fine, penalty or other action as authorized by the Act and the rules of the Board.

5:20-5-8. Final orders

- (a) A final order shall be in writing and shall include separate statements of the findings of fact and conclusions of law.
- (b) Findings of fact shall be accompanied by a concise and explicit statement of the evidence supporting the findings. The order shall include a ruling on proposed findings of fact submitted by a party to the proceeding.
- (c) A copy of the final order shall be delivered or mailed forthwith to each party or to their attorney of record as soon as practicable.

5:20-5-9. Rehearings

- (a) An application for rehearing may be made in writing within ten (10) days of the date of the final order. The petitioner

shall set forth one (1) or more of the following as grounds in the rehearing request:

- (1) newly-discovered or newly-available evidence, relevant to the issues;
 - (2) need for additional evidence to adequately develop the facts essential to a proper decision;
 - (3) probable error committed by the agency in the proceeding or in its decision such as would be ground for reversal on judicial review of the order;
 - (4) need for further consideration of the issues and the evidence in the public interest; or
 - (5) showing that issues not previously considered ought to be examined in order to properly dispose of the matter.
- (b) Nothing in this Subchapter shall prohibit the Board from rehearing, reopening or reconsidering a matter at any time, on the grounds of fraud practiced by the prevailing party, procurement of perjured testimony, or fictitious evidence, and in accordance with other statutory provisions applicable to the Board.

[OAR Docket #08-755; filed 4-28-08]

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

[OAR Docket #08-830]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 8. Six-Year Comprehensive Local Education Plan 210:15-8-3. Component of the Six-Year Plan [NEW]

AUTHORITY:

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

DATES:

Adoption:

February 28, 2008

Approved by Governor:

April 11, 2008

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Time Reform Task Force recommended that the self-examination instrument be made available to school districts during second semester of school year 2007-2008 with implementation for school year 2008-2009.

ANALYSIS:

The proposed rule will require all schools to complete the self-examination on their use of school time and to assess the amount of time spent on quality instructional time.

CONTACT PERSON:

Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE

Emergency Adoptions

UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O. S., SECTION 253 (D):

SUBCHAPTER 8. SIX-YEAR COMPREHENSIVE LOCAL EDUCATION PLAN

210:15-8-3. Component of the six-year plan

A component of the six-year plan shall include the self-examination of a school's time spent on quality academic instruction. The State Department of Education will provide the district self-examination tool. Principals, teachers, parents, and district administrators shall be involved with the annual self-examination. Items to be reviewed such as:

- (1) Schools current use of instructional time.
- (2) A description of quality time in its ideal state.
- (3) The barriers to achieving this quality time.
- (4) The steps necessary to achieve the ideal objective.
- (5) Indicators of growth in learning that will demonstrate the effectiveness of proposed changes and.
- (6) The benefits of the proposed changes.

[OAR Docket #08-830; filed 5-7-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF

[OAR Docket #08-831]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 24. Science and Mathematics Advanced Recruiting Technique (SMART) Program [NEW]
210:20-24-1. Purpose [NEW]
210:20-24-2. Science and Mathematics Advanced Recruiting Technique (SMART) Program [NEW]

AUTHORITY:

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

DATES:

Adoption:

February 28, 2008

Approved by Governor:

April 11, 2008

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The legislation is to be enacted for recruiting new employees for the 2008-2009 school year. The rule change must be in place immediately in order for school districts to recruit eligible employees. The purpose of the new rules is to create the Science and Mathematics Advanced Recruiting Technique (SMART) Program pursuant to 62 O. S. § 46.3 which became effective July 1, 2007.

ANALYSIS:

The proposed new rules for the Science and Mathematics Advanced Recruiting Technique (SMART) Program outline components important to

implementation of the program. The rules include identification criteria for the persons who will receive the one-time recruitment fund and application requirements for public school districts to identify qualified personnel.

CONTACT PERSON:

Connie Holland, 405-521-3308

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

SUBCHAPTER 24. SCIENCE AND MATHEMATICS ADVANCED RECRUITING TECHNIQUE (SMART) PROGRAM

210:20-24-1. Purpose

This rule prescribes procedures to be used in implementing the Science and Mathematics Advanced Recruiting Technique (SMART) Program pursuant to the provisions of state statute 62 O.S. 46.3.

210:20-24-2. Science and Mathematics Advanced Recruiting Technique (SMART) Program

(a) The State Department of Education shall dispense recruitment funds to public school districts recruiting persons who meet all of the following criteria:

- (1) Persons who hold an advanced degree in science, mathematics or both such disciplines (an advanced degree means a masters degree or above in the specific discipline);
- (2) Persons who have not previously taught for a full academic year in an Oklahoma public school while holding an advanced degree in science, mathematics or both such disciplines; and
- (3) Persons for whom recruitment funds have never been received through the SMART Program.

(b) Advanced degrees in mathematics education and science education do not qualify.

(c) While funding is available, each eligible full-time employee teaching in the subject area matching the advanced degree shall receive a one-time payment of \$7,500 from the recruitment funds. The public school district shall receive the payment plus the employer's share of FICA and Teacher Retirement contribution.

(d) Payments from the recruitment funds shall be prorated based on the FTE in the subject area matching the advanced degree.

(e) Public school districts in the state recruiting eligible persons shall submit applications for recruitment funds. All applications shall be reviewed by a panel appointed by the State Superintendent. The recruitment funds shall be dispensed in

the order applications are received subject to the availability of funds.

[OAR Docket #08-831; filed 5-7-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF

[OAR Docket #08-832]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 37. Adjunct Teachers 210:20-37-2. Adjunct Teachers [AMENDED]

AUTHORITY:

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

DATES:

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February 28, 2008

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

Would allow administrative personnel flexibility in making coaching assignments knowing alternative offerings were available. This would also allow coaches additional resource if course could not be scheduled through college or university.

ANALYSIS:

Proposed rule would require all coaches to take a course of care and prevention of athletic injuries and have valid teaching certificates.

CONTACT PERSON:

Connie Holland, 405-521-3308

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

SUBCHAPTER 37. ADJUNCT TEACHERS

210:20-37-2. Adjunct teachers

Rules which pertain to adjunct teachers are:

- (1) The local school district shall determine the specific qualifications, duties, and responsibilities of adjunct teachers. (2) The employment of persons to serve as adjunct teachers shall be approved by the local board of education. (3) The local district shall request a felony record search of any person approved for adjunct employment.

(4) Formal notification of the employment of adjunct teachers shall be provided to the State Department of Education within thirty (30) days of the date of employment.

(5) Hours taught while serving as an adjunct teacher shall not count towards teaching experience or recency for purposes of meeting certification or recertification requirements, tenure, or retirement benefits.

(6) Adjunct teachers employed to coach school athletic teams shall have successfully completed a college course in the care and prevention of athletic injuries.

[OAR Docket #08-832; filed 5-7-08]

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

[OAR Docket #08-833]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Transportation 210:30-5-1. District operation and management [AMENDED]

AUTHORITY:

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

DATES:

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

This is considered an emergency based upon the fact that many students are being denied school transportation services. The rule amendments will allow the affected students to receive transportation and reduce the hardship the old rule placed upon the parents.

ANALYSIS:

Rules are being amended to allow students transferring from elementary school districts to independent school districts which are not in their transportation area to receive transportation. The rules also amend the hourly requirement for the school bus driver certification course.

CONTACT PERSON:

Connie Holland, 405-521-3308

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

SUBCHAPTER 5. TRANSPORTATION

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210:30-5-1. District operation and management

(a) **Administration.** The local superintendent and board of education shall be held responsible for applying these regulations to all pupil transportation under their administration and supervision. In keeping with this responsibility, each local board of education shall examine and periodically review the school district's bus fleet liability insurance coverage and its tort liability insurance coverage to assure such coverages are coordinated to protect the interest of the students, general public, and school district. Any school district maintaining a school may provide transportation with the approval of the State Board of Education.

(b) **Students.**

(1) A student must live in a school district authorized by law to furnish transportation.

(2) A student must live one and one-half (1 1/2) miles or more by commonly traveled road from the school attended. Students living less than one and one-half (1 1/2) miles from school may be transported, but shall not be counted in determining state aid.

(3) A normal school day consists of not less than six (6) hours, exclusive of lunch period, with the exception of the first and kindergarten grades. Transportation may be provided for kindergarten age students to and from school during the normally scheduled morning and evening bus operation. Districts desiring to provide additional transportation for kindergarten students at midday may do so at local district expense but it is not required.

(4) The local school district is responsible for providing transportation for an eligible special education student when transportation has been identified as "related service" necessary to enable the student to receive the educational services outlined in his/her Individualized Education Program (IEP).

(5) Students living in a school district not offering the grade which they are entitled to pursue are entitled to transportation to a school authorized by law to provide transportation to and from school provided they have been legally transferred and reside in the transportation area.

(c) **Activities.** All Oklahoma school districts shall develop policies and procedures authorizing transportation for extracurricular activities and community involvement purposes as authorized by 70 O.S. § 5-130.

(d) **Routes and boundaries.** All school bus routes shall be evaluated annually for safety and efficiency by the local school district supervisor of transportation or designee.

(1) **Boundaries.**

(A) A change in transportation area made after July 1, will not become effective until the next July 1, unless all boards of education affected agree to the proposed change.

(B) An elementary area that has been assigned to a high school transportation area may be changed to another high school transportation area by mutual agreement, in writing, by the three (3) boards of education affected and the approval of the State Board of Education.

(C) A part or all of an elementary school district that is isolated from the remainder of the school district's transportation area because of topography or previous annexations to another high school district, may be changed from one high school district's transportation area to another high school district's transportation area if the State Board of Education determines the change should be made on the basis of good administration.

(D) When a dependent school district is surrounded by an independent school district, that district must be designated as the transportation area for the high school students.

(E) An independent school district's transportation route may extend into a dependent school district's territory to pick up students whose grade is not offered in the dependent district, ~~if the area is within its transportation area.~~

(F) Upon mutual agreement of two (2) school districts, a school district may cross a portion of another district provided the doors of the school bus are kept closed.

(2) **Petition for changing boundary lines.**

(A) Seventy percent (70%) of the legal voters residing in a district who have children eligible to attend a public school (grades K through 12) or who have children under the age of five (5) may petition the State Board of Education for an election to change any part or all of a district from one transportation area to another.

(B) The State Board of Education will approve a convenient date for an election, supply ballots, and send a representative to assist with the election.

(C) If fifty-one percent (51%) of all such legal voters in the district vote for the change, the election makes a good recommendation to the State Board of Education.

(3) **Changing areas, high school districts discontinued.** High school districts and/or elementary school districts that must be placed in one or more high school transportation area or areas because a high school has been discontinued may be placed in a transportation area or areas on the following basis:

(A) All or part of District "A" may be placed in the transportation area of high school District "B", whose transportation area is not adjacent to District "A", provided high school District "C", which has transportation area that separates District "A" from District "B" transportation area, appears to be in jeopardy of being discontinued itself, and provided the number of people in District "A", who want to be placed in the transportation area of District "B", justifies such an arrangement. People in District "A" requesting these arrangements to enable them to annex to District "B" will be given much more consideration than those desiring to transfer only.

(B) No portion of a school district that is adjacent to a high school district's transportation area, but is separated from the high school area by a natural barrier, will be placed in the high school district's transportation area unless or until there is a road connecting the two (2) areas that is maintained in a manner that will justify the operation of a school bus over the road across the barrier.

(e) **School bus.**

(1) **Equipment.**

(A) Transportation equipment used to transport ten (10) or more public school children at one time shall meet all the minimum standards required for Types A, B, C, and D buses.

(B) Vehicles having a seating capacity of fewer than (10) passengers, excluding the operator, are not required to meet the State minimum standards for school buses.

(2) **School bus inspections.**

(A) A driver shall perform a daily pre-trip safety inspection of the vehicle. The inspection shall include brakes, lights, tires, exhaust system, gauges, windshield wipers, steering and fuel. The driver shall make a daily written report describing the condition of the bus and listing any deficiencies. This report is to remain on file with the local Chief Administrative Officer or designee for a period of ninety (90) days.

(B) A school district shall have each school bus mechanically inspected annually by an inspector approved by the Oklahoma State Department of Education.

(C) At least twice during each school year, each pupil who is transported in a school vehicle shall be instructed in safe riding practices, and participate in emergency evacuation drills. This instruction should be conducted during the first two weeks of each semester.

(3) **School bus inspector qualifications.**

(A) Any person licensed to inspect school buses by the Department of Public Safety under the Motor Vehicle Laws of Oklahoma prior to July 1, 2001, may be qualified to perform annual school bus inspections.

(B) Any person not meeting the qualifications as prescribed in (A) may be qualified to perform the annual school bus inspection by submitting proof to the Oklahoma State Department of Education that they meet the following qualifications:

(i) Two years experience as an automotive technician and certification by the Association for Automotive Service Excellence (ASE), or

(ii) Any person qualified to perform inspections under the Federal Motor Carrier Safety Act, appendix G.

(iii) Any person successfully completing an Inspector's Training Course approved by the Oklahoma State Department of Education.

(4) **Standards and school bus specifications.**

(A) The NATIONAL MINIMUM STANDARDS FOR SCHOOL BUSES applies to school bus construction and equipment. The Oklahoma State Board of Education has accepted the various methods bus manufacturers use to meet the requirements of these standards and all requirements under the Federal Motor Vehicle Safety Standards. (P.L. 89-563) The responsibility for compliance with Federal and State bus specifications rests with dealers and manufacturers.

(B) State Standards in addition to Federal Requirements also apply as follows:

(i) The seller of any used or previously owned school bus shall certify to the local board of education that any such transportation equipment meets all Oklahoma and National Standards required for the date of its manufacture.

~~(ii) School buses converted for purposes other than transporting pupils to or from school shall be painted a color other than national school bus yellow with loading lights disconnected.~~

~~(iii) A church bus transports persons including school age children to and from religious services. The words "church bus" in letters not less than eight (8) inches in height shall be contained on the front and rear of the bus. Visual signals shall be used when the vehicle is stopped on the highway receiving or discharging passengers. Church buses used for the purpose of transporting children to and from schools shall be painted national school bus yellow.~~

~~(iv) A copy of the invoice on all purchases of new chassis and/or bodies shall be submitted to the Transportation Officer of the State Department of Education.~~

(C) School districts that convert or have converted school buses to Liquefied Petroleum Gas (LPG) shall comply with safety standards prescribed by the National Fire Protection Association, Standard No. 58 (NFPA-58) and the Oklahoma Liquefied Petroleum Gas Administration. In order to insure safe installation and proper maintenance of equipment, all personnel must also meet the following existing requirements of the Oklahoma Liquefied Petroleum Gas Administration: "No person, firm, corporation, association, or other entity shall engage in the manufacturing, assembling, fabrication, installing, or selling of any system, container, or apparatus to be used in this State in or for the transportation, storing, dispensing, or utilization of LPG, nor shall any transporter, distributor, or retailer of LPG store, dispense and/or transport over the highways of this State any LPG for use in this State in any system, container, apparatus, or appliance without having first obtained a permit to do so as provided..."

(f) **Special education.**

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- (1) **Loading responsibility.** The local school district is responsible for the special education child from the time the student is loaded at the "home curb" until returned and unloaded at the "home curb". The parent or their designee is responsible for "door-to-curb", "curb-to-door", and "street crossing" of the child to the designated loading and unloading point.
- (2) **Extended boundaries.** Based upon mutual agreement between two participating school districts, a school district offering special education classes may extend its transportation program to include the transportation of students qualifying for special education in an adjacent school district which does not offer special education classes.
- (g) **School bus driver certification.**
- (1) **General criteria.**
- (A) No board of education shall have authority to enter into any written contract with a school bus driver who does not hold a valid certificate issued by the State Board of Education authorizing said bus driver to operate a school bus.
- (B) The State Board of Education requires all public school bus drivers to complete a school bus drivers training course approved by the State Department of Education to obtain a standard certificate.
- (C) All school bus drivers must have not less than 20-40 vision (Snellen) in each eye and not less than 20-40 vision (Snellen) with both eyes and a minimum field of vision of 70 degrees horizontal median vision in each eye.
- (D) Any person with diabetes requiring insulin by injection shall not be eligible for a school bus certificate.
- (E) The use of tobacco by a school bus driver is not permitted during the operation of the bus while hauling pupils. The use of any intoxicating or non-intoxicating alcoholic beverage by the driver eight (8) hours prior to or during the operation of a school bus is strictly prohibited. The use of any controlled dangerous substance seventy-two (72) hours prior to or during the operation of a school bus is strictly prohibited. The possession of any controlled dangerous substance on a school bus is strictly prohibited.
- (F) All school bus drivers shall have an annual health certificate signed by a physician licensed by this state filed in the office of the local Chief Administrative Officer or designee attesting that such physician has examined the applicant and that the applicant has no sign or symptoms of ill health, and is otherwise, from the observation of such physician, physically and mentally capable of safely operating a school bus. As an alternative to the annual physical examination requirements for school bus drivers, school districts may adopt a policy that utilizes a biannual physical examination, provided the examination is in compliance with the physical qualifications and examination requirements of the Federal Motor Carrier Safety Act, Subpart E 391.41 to 391.50.
- (G) Substitute and activity school bus drivers shall meet all the requirements prescribed for regular bus drivers.
- (H) At a minimum, the Chief Administrative Officer or designee shall conduct an annual driving record check of all school bus drivers, including substitute and activity drivers. The Oklahoma State Department of Education shall be immediately notified of any violation(s) that make a school bus driver ineligible to hold an Oklahoma School Bus Driver's Certificate.
- (2) **Certificate requirements.**
- (A) The Chief Administrative Officer or designee shall certify to the State Department of Education that each applicant submitted for Standard Five-Year Certification:
- (i) Is at least 18 years of age.
- (ii) Has successfully completed a ~~twenty-four hour~~ special school bus drivers' course approved by the State Department of Education.
- (iii) Holds a valid Commercial Drivers license (CDL) appropriate for the type of vehicle driven with the proper endorsements required by the Department of Public Safety.
- (iv) Has not been convicted, plead guilty, or nolo contendere to a felony during the last ten years.
- (v) Has passed a driving record check, and no certificate shall be issued to any person who, within the preceding three years:
- (I) Has had a license suspended or revoked, canceled or withdrawn pursuant to the Implied Consent Laws at 47 O.S. §751 et seq.
- (II) Has a conviction for a violation of 47 O.S. §11-902 which includes driving, operating or being in actual physical control of a vehicle while under the influence of alcohol or any intoxicating drug.
- (III) Has been convicted or plead guilty to a violation of 47 O.S. §761, operating a motor vehicle while impaired by consumption of alcohol.
- (IV) Has been convicted of any municipal violation of driving under the influence of alcohol or drugs or operating a motor vehicle while impaired or being in actual physical control of a motor vehicle while impaired.
- (V) Has had four or more traffic violations. (excluding parking violations)
- (B) The Chief Administrative Officer or designee shall certify to the State Department of Education that the applicant for an Emergency One-Year School Bus Driver Certificate (Not Renewable).
- (i) Is at least 18 years of age.
- (ii) Holds a valid Commercial Drivers License with the proper endorsements required by the Department of Public Safety.
- (C) Requirements for Renewal of the Standard Five-Year Certificate include:

- (i) Every five years, each driver shall have successfully completed 4 hours per year of inservice training approved by the State Department of Education.
- (ii) The local Chief Administrative Officer or designee shall certify to the State Department of Education that the applicant meets all requirements for standard certification, [47 O.S. § 15-109]
- (iii) Each applicant has a health certificate on file signed by a licensed physician and meets all vision requirements and is not dependent upon insulin by injection,
- (iv) Each applicant has not been convicted or plead guilty of a felony in the last ten years, and
- (v) A driving record has been checked and meets State Board of Education requirements for certification.

[OAR Docket #08-833; filed 5-7-08]

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

[OAR Docket #08-834]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 17. Co-Curricular and Extracurricular Programs
210:35-17-2. Co-curricular and extracurricular programs [AMENDED]

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

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SUPERSEDED EMERGENCY ACTIONS:
N/A

INCORPORATIONS BY REFERENCE:
N/A

FINDING OF EMERGENCY:
School districts will begin scheduling 2008-2009 activities in the near future.

ANALYSIS:
Proposed rule amendments will require all state accredited schools to follow Oklahoma Secondary School Activities Association (OSSAA) guidelines related to student eligibility to participate in extracurricular activities, activity absences, number of games allowed, and length of season.

CONTACT PERSON:
Connie Holland, 405-521-3308

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING EMERGENCY RULES ARE
CONSIDERED PROMULGATED AND EFFECTIVE**

**UPON APPROVAL BY THE GOVERNOR AS SET
FORTH IN 75 O. S., SECTION 253 (D):**

**SUBCHAPTER 17. CO-CURRICULAR AND
EXTRACURRICULAR PROGRAMS**

210:35-17-2. Co-curricular and extracurricular programs

- (a) Co-curricular and extracurricular programs shall provide opportunities for developing leadership ability and stimulate active participation of all students in appropriate school organization and community activities according to their aptitudes and interests.
- (b) Co-curricular and extracurricular programs shall be planned through the cooperative efforts of the teachers and students and shall be organized and administered so as to contribute to the educational objectives of the school.

(1) Students shall not participate in a particular activity more than one period during the regular school day.

(2) A member of the teaching staff shall be in charge of each activity. The sponsors shall be directly responsible to the principal or some person appointed by the administration to direct the activities of the school.

(3) The State Board of Education encourages all elementary, middle, junior high, and secondary students to be in attendance in their regularly scheduled classes so that maximum learning can occur. Educational programs are built on the foundation of continuity of instruction and participation in the classroom setting. Consistent classroom attendance can assist students toward development of strong work habits, responsibility and self-discipline. Since the educational merit of the co-curricular and extracurricular programs is recognized, the goal of the State Board of Education is to facilitate a balanced education for each student. It is with these goals and philosophy that the State Board of Education establishes the following attendance/activities regulations:

(A) It is the intent of the State Board of Education that the superintendent or elementary superintendent and local board of education annually review the scheduling of co-curricular and extracurricular activities so that minimal interruptions occur in the instructional program of a student. The Oklahoma Secondary Activities Association (OSSAA) guidelines related to student eligibility to participate in extra-curricular activities, activity absences, number of games allowed, and length of season shall be applicable to all Oklahoma public schools and students.

(B) The maximum number of absences for activities, whether sponsored by the school or outside agency/organization, which removes any student from the classroom shall be ten for any one class period of each school year. Excluded from this number are state and national levels of school-sponsored contests. State and national contests are those for which a student must earn the right to compete. The criteria for earning the right to represent the school in any

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activity or contest must be submitted in writing by local school sponsors and approved by the local board of education.

(C) Each local board of education shall appoint, at the beginning of the school year, an Internal Activities Review Committee. This committee shall be responsible for reviewing and recommending any deviation of the activities policy to the local board of education. Any deviation from the ten days absence rule shall not exceed five days.

(D) Each school district shall be responsible for maintaining an addendum to the attendance records to verify the conditions within the school system that apply to regulation (3) (B) of this subsection.

(E) Procedures for filing complaints are:

(i) A signed written complaint must first be filed with the local board of education. If the complaint is not resolved at the local level then the complaint should be filed with the Accreditation Section of the State Department of Education. Upon receipt of the complaint the Accreditation Section shall appoint a monitoring team to make an on-site visit and file a written report to the State Board of Education and Accreditation Section. This complaint must include a list of the name(s) of the student(s), date(s) and class(es) missed which exceed the regulation in (3) (B) of this subsection.

(ii) The school district shall provide to the monitoring team during the on-site visit the necessary records to verify or deny the violation as specified in the written complaint.

(iii) The monitoring team shall submit a written report to the superintendent or elementary superintendent and local board of education within 10 school days of the on-site visit.

(F) Upon the recommendation of the monitoring team the superintendent or elementary superintendent may be called to appear before the State Board of Education for determination of the appropriate action to be taken. In cases of flagrant violation state funds may be deducted/withheld from the school district.

[OAR Docket #08-834; filed 5-7-08]

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

[OAR Docket #08-835]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 87. Rules for Payment to Charter Schools
210:40-87-5. Charter school application [NEW]

AUTHORITY:

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

DATES:

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February 28, 2008

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

Legislation has created the need for this rule. House Bill 1589, which was passed during the 2007 Legislative Session, requires implementation by January 2008.

ANALYSIS:

The State Department of Education will provide training on the process and requirements for establishing a charter school. The State Department of Education will accept approved applications in order of receipt to determine that the application does not exceed the statutory limit established in 70 O. S. § 3-134.

CONTACT PERSON:

Connie Holland, 405-521-3308

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

SUBCHAPTER 87. RULES FOR PAYMENT TO CHARTER SCHOOLS

210:40-87-5. Charter school application

(a) Training. Prior to submission of any additional applications to a proposed sponsor to establish a charter school, the prospective charter school applicant shall complete training as provided by the State Department of Education. The training shall include but not be limited to the following:

- (1) Process and requirements for establishing a charter school
- (2) Relevant Rules and Statutes pertaining to Charter Schools
- (3) Child Nutrition/Free and Reduced Lunch
- (4) Audits/State Aid/OCAS Reporting
- (5) School Personnel/Transportation
- (6) Curriculum/Gifted and Talented/Student Assessment
- (7) The WAVE Requirements
- (8) Open Meeting/Open Records/Ethics
- (9) Special Education

(b) Establishment of a new charter school. A new charter school will be considered established when a charter school application complies with 70 O.S. § 3-134 and is approved by the governing board of a sponsoring entity set forth in 70 O.S. § 3-132.

(c) Processing the receipt of approved charter school applications. All charter schools established pursuant to 70 O.S. Supp 2007 § 3-132(3)(4) must file charter documents with the

State Department of Education, Legal Services Section. The following documents must be filed:

(1) a copy of the sponsor's board minutes approving the charter school application, and

(2) a copy of the approved contract for the new charter school.

(d) **Determining the number of new charter schools.** Determinations regarding the statutory maximum number of new charter schools established annually shall be made by

the Oklahoma State Department of Education based upon the order of receipt of the documents referenced in section c of this rule. Funding for a new charter school shall not be allocated if the establishment of a new charter school exceeds the statutory limit referenced in 70 O.S. § 3-142.

[OAR Docket #08-835; filed 5-7-08]

Permanent Final Adoptions

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

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

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

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

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

[OAR Docket #08-756]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
10:15-1-2. [AMENDED]
Subchapter 3. Requirements to Practice Public Accountancy
10:15-3-4. [AMENDED]
10:15-3-5. [NEW]
Subchapter 18. Computer-Based Examination
10:15-18-1. [AMENDED]
10:15-18-4. [AMENDED]
Subchapter 21. Reciprocity
10:15-21-1. [AMENDED]
Subchapter 22. Substantial Equivalency
10:15-22-2. [NEW]
Subchapter 24. Return of Certificate or License [NEW]
10:15-24-1. [NEW]
10:15-24-2. [NEW]
Subchapter 25. Permits
10:15-25-2. [AMENDED]
10:15-25-3. [AMENDED]
10:15-25-5. [AMENDED]
Subchapter 27. Fees
10:15-27-14. [AMENDED]
Subchapter 30. Continuing Professional Education
10:15-30-2. [AMENDED]
10:15-30-3. [AMENDED]
10:15-30-5. [AMENDED]
10:15-30-6. [AMENDED]
10:15-30-9. [AMENDED]
Subchapter 33. Peer Review
10:15-33-2. [AMENDED]
10:15-33-3.1. [REVOKED]
10:15-33-4. [AMENDED]
10:15-33-5. [AMENDED]
10:15-33-6. [AMENDED]
10:15-33-7. [AMENDED]
Subchapter 37. Enforcement Procedures
10:15-37-7. [AMENDED]
Subchapter 39. Rules of Professional Conduct
10:15-39-1. [AMENDED]

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n/a

ANALYSIS:

Amendments to the general provisions rules delete definitions unused in the Oklahoma Accountancy Act (Act) or Oklahoma Administrative Code (Code) or those already defined in the Act. Amendments to the requirements to practice public accountancy clarify the circumstances under which individuals who provide expert witness testimony must hold a permit. The amendment to the reciprocity rules removes an outdated requirement that a certificate of good standing must have been issued not more than sixty days prior to the filing of the application for reciprocity, allowing the agency to provide a timelier turnaround for reciprocal applications. As a condition for the renewal of permits, Section 15.30 of the Act provides that the OAB may require applicants that perform review or audit services to undergo peer review. Heretofore, a non-resident sole proprietorship seeking practice privileges to perform attest services in Oklahoma under the substantial equivalency provision was not required to hold a permit and therefore was not subject to the peer review requirement. The amendment to the substantial equivalency rules will require these sole proprietors to register with the Oklahoma Accountancy Board (OAB) and obtain a permit to practice. This will then make them subject to the peer review requirement, the same as any firm or any registrant of the OAB. The subchapter regarding the return of the CPA certificate or PA license is added to replace OAB policy about the return of these documents, making the requirements readily available to any registrant considering relinquishing his/her certificate or license. Section 15.14A of the Act provides that individuals who provide services defined in the Act as the practice of public accounting must hold a permit to practice. The amendment to the permit rules clarify that licensed attorneys providing tax services as attorneys and who do not display the CPA certificate or PA license or have any reference to their certification or licensure on professional stationery, business cards or on printed or electronic format are not required to hold a permit to practice. The amendment to the fee rules incorporates new language from the AICPA Peer Review Standards. No fees are being added or changed. Section 15.35.D of the Act requires the OAB to adopt rules regarding continuing education. The amendments to the continuing professional education rules decrease the ethics requirement from 2 hours every year to 4 hours in each rolling 3-calendar-year period, effective January 1, 2009. They also provide that the AICPA ethics examination required to obtain an initial permit or to renew a lapsed permit be completed within the previous calendar year or within the 365-day period immediately preceding the date of the application for permit. Another amendment clarifies that the ethics CPE requirement may be met by courses from other licensed professional disciplines that relate directly to the practice of public accounting and on ethical codes in jurisdictions other than Oklahoma. Additional amendments clarify the rules regarding the verification of CPE credit which were previously handled by OAB policy and the ethics requirement for registrants re-entering active status. Amendments to the

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peer review rules are made to incorporate new language from the AICPA Peer Review Standards, revoke the rule requiring that any individual or firm performing a peer review for registrants in Oklahoma be registered and hold a valid permit to practice, and remove outdated wording and provide update verbiage regarding services requiring a peer review. A previous OAB policy providing that the results of hearings for applicants or candidates will not be published in the OAB's newsletter is added to the enforcement procedures rules. Amendments to the rules of professional conduct remove outdated references and provide needed clarification resulting from the revocation of Subparagraph 10:15-39-6 in a previous rules promulgation. Any other amendments to the rules in Chapter 15 are non-substantive and made for purposes of clarification or to correct references changed in a previous rules promulgation.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.8(A), WITH AN EFFECTIVE DATE OF JULY 1, 2008:

SUBCHAPTER 1. GENERAL PROVISIONS

10:15-1-2. Definitions

In addition to the terms defined in the Oklahoma Accountancy Act, the following words or terms shall be applied when implementing that Act and, when used in this Chapter shall have the following meaning, unless the context clearly indicates otherwise:

"Accounting information system (AIS)" means a subsystem of the management information system within an organization. The accounting information system collects and records financial and related information used to support management decision making and to meet both internal and external financial reporting requirements. An AIS system includes, but is not limited to, the accounting for transactions cycles such as revenues and receivables, purchases and payables, payroll, inventory, cash receipts and cash disbursements, and related data based systems.

"Act" means the Oklahoma Accountancy Act, Oklahoma Statutes, Title 59, §§ 15.1 through 15.38, dealing with the practice of public accountancy in Oklahoma.

"Active" when used to refer to the status of a registrant, describes an individual who possesses a certificate or license and who has not otherwise been granted "retired" or "inactive" status.

"Advanced" means the learning activity level most useful for individuals with mastery of the particular topic. This level focuses on the development of in-depth knowledge, a variety of skills, or a broader range of applications. Advanced level programs are often appropriate for seasoned professionals within organizations; however, they may also be beneficial for other professionals with specialized knowledge in a subject area.

"Audit sensitive" means activities of an individual which are normally an element of or subject to significant internal accounting controls. For example, the following positions, which

~~are not intended to be all inclusive, would normally be considered audit sensitive, even though not positions of significant influence: cashier, internal auditor, accounting supervisor, purchasing agent, or inventory warehouse supervisor.~~

"Basic" means the learning activity level most beneficial to registrants new to a skill or an attribute. These individuals are often at the staff or entry level in organizations, although such programs may also benefit a seasoned professional with limited exposure to the area.

"Close relative" means a non-dependent child, stepchild, brother, sister, grandparent, parent, parent-in-law, and their respective spouses of a registrant. Close relatives of the registrant do not include the brothers and sisters of the spouse of the registrant.

"Code" means Title 10 of the Oklahoma Administrative Code.

"Compensation" means the receipt of any remuneration of any kind for public accounting services, including but not limited to salary, wages, bonuses or receipt of any tangible or intangible thing of value.

"Continuing Professional Education" means an integral part of the lifelong learning required to provide competent service to the public. The set of activities that enables registrants to maintain and improve their professional competence.

"CPE" means continuing professional education.

"CPE credit" means fifty minutes of participation in a group, independent study or self-study program. One-half CPE credit increments (equal to 25 minutes) are permitted after the first credit has been earned in a given learning activity.

"CPE program sponsor" means the individual or organization responsible for setting learning objectives, developing the program materials to achieve such objectives, offering a program to participants, and maintaining the documentation required by these standards. The term CPE program sponsor may include associations of CPAs or PAs, whether formal or informal, as well as employers who offer in-house programs.

"Domicile" means an individual's place of residence.

"Engagement team" means auditors who are required to exercise significant judgment in the audit process and would include positions where the auditor was the person in charge of the fieldwork up through partner on the engagement.

"Evaluative feedback" means specific response to incorrect answers to questions in self-study programs. Unique feedback must be provided for each incorrect response, as each one is likely to be wrong for differing reasons.

"Examining Authority" means the agency, board or other entity, of the District of Columbia, or any state or territory of the United States, entrusted with the responsibility for the governance, discipline, registration, examination and award of certificates, licenses or conditional credits for certified public accountants or public accountants and the practice of public accountancy in said jurisdictions.

~~**"Firm"** means a professional entity which is legally constituted in accordance with Oklahoma statutes to engage in accountancy.~~

"Generally accepted accounting principles" means the same as "Statement on Auditing Standards No. 69, The Meaning of Present Fairly in Conformity With Generally

Accepted Accounting Principles in the Independent Auditor's Report" adopted in 1992, and issued by the American Institute of Certified Public Accountants and subsequent amendments.

"Generally accepted auditing standards" means those standards which are used to measure the quality of the performance of auditing procedures and the objectives to be obtained by their use. Statements on Auditing Standards issued by the American Institute of Certified Public Accountants, Standards for Audit of Government Organizations, Programs, Activities and Functions issued by the Comptroller General of the United States, Standards of the Public Company Accounting Oversight Board (PCAOB) and other pronouncements having similar generally recognized authority, are considered to be interpretations of generally accepted auditing standards, and departures from such pronouncements, where they are applicable, must be justified by those who do not follow them.

"Group program" means an educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants either in a classroom or conference setting or by using the Internet.

"Immediate family members" means the registrant's, or his/her spouse's, lineal and collateral heirs.

"Inactive" used to refer to the status of a registrant who is exempt from complying with the CPE requirements as provided in Subchapter ~~10:15-30-8(a) (2), (3) and (4)~~. 10:15-30-8(1)(B),(C),(D), and (E). However, inactive status does not preclude volunteer services for which the inactive registrant receives no direct or indirect compensation so long as the inactive registrant does not sign any documents related to such services as a CPA or PA.

"Independent study" means an educational process designed to permit a participant to learn a given subject under a learning contract with a CPE program sponsor.

"Instructional methods" means delivery strategies such as case studies, computer-assisted learning, lectures, group participation, programmed instruction, teleconferencing, use of audiovisual aids, or work groups employed in group, self-study, or independent study programs.

"Intermediate" means learning activity level that builds on a basic program, most appropriate for registrants with detailed knowledge in an area. Such persons are often at a mid-level within the organization, with operational and/or supervisory responsibilities.

"Internet-based programs" means a learning activity, through a group program or a self-study program, that is designed to permit a participant to learn the given subject matter via the Internet. To qualify as either a group or self-study program, the Internet learning activity must meet the respective standards.

"Learning activity" means an educational endeavor that maintains or improves professional competence.

"Learning contract" means a written contract signed by an independent study participant and a qualified CPE program sponsor prior to the commencement of the independent study that:

- (A) Specifies the nature of the independent study program and the time frame over which it is to be completed, not to exceed 15 weeks.

- (B) Specifies that the output must be in the form of a written report that will be reviewed by the CPE program sponsor or a qualified person selected by the CPE program sponsor.

- (C) Outlines the maximum CPE credit that will be awarded for the independent study program, but limits credit to actual time spent.

"Learning objectives" means specifications on what participants should accomplish in a learning activity. Learning objectives are useful to program developers in deciding appropriate instructional methods and allocating time to various subjects.

"Learning plans" means structured processes that help registrants guide their professional development. They are dynamic instruments used to evaluate and document learning and professional competence development. This may be reviewed regularly and modified, as registrants' professional competence needs change. Plans include:

- (A) A self-assessment of the gap between current and needed knowledge, skills, and abilities;
- (B) A set of learning objectives arising from this assessment; and
- (C) Learning activities to be undertaken to fulfill the learning plan.

"Licensee" means an individual designated as a CPA, PA, or equivalent designation in another state.

"Management information system (MIS)" means a computer or manual system, or a group of systems, within an organization that is responsible for collecting and processing data to ensure that all levels of management have the information needed to plan, organize, and control the operations of the organization and to meet both internal and external reporting requirements.

"NASBA" means National Association of State Boards of Accountancy.

"New CPAs and PAs" refers to individuals who are initially certified or licensed in Oklahoma as the result of successfully completing the examination, including those individuals certified or licensed as the result of transferring all credits earned on an examination from another jurisdiction.

"Office" means a building, room, or series of rooms which are owned, leased, or rented by an individual or firm for the purpose of holding out or carrying out the practice of public accounting.

"Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, sole proprietorship, an association, two or more persons having a joint or common interest, an employer of CPAs or PAs, or any other legal or commercial entity.

"Other compensation" means compensation, including remuneration based on a percentage of the amounts involved received by a registrant who is engaged in the practice of public accounting for other than the performance of professional services or for the sale or referral of products or services of third parties.

"Other professional standards" means those standards as defined by Statements on Management Advisory Services,

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Statements on Responsibilities in Tax Practice, Statements on Standards for Accounting and Review Services and Statements of Quality Control Standards, where applicable, issued by the American Institute of Certified Public Accountants.

"Overview" means learning activity level that provides a general review of a subject area from a broad perspective. These programs may be appropriate for professionals at all organizational levels.

"Period of professional engagement" means the period during which professional services are provided, with such period starting when the registrant begins to perform professional services requiring independence and ending with the notification of the termination of that professional relationship by the registrant or by the client.

"Personal development" means a field of study that covers such skills as communications, managing the group process, dealing effectively with others, interviewing, counseling, and career planning.

"Pilot test" means sampling of at least three independent individuals representative of the intended participants to measure the average completion time to determine the recommended CPE credit for self-study programs.

"Principal place of business" means that physical location identified by a licensee to a state's accountancy regulatory agency where substantial administrative or management activities are conducted. For purposes of "Substantial Equivalency" the physical location cannot be in the State of Oklahoma.

"Professional competence" means having requisite knowledge, skills, and abilities to provide quality services as defined by the technical and ethical standards of the profession. The expertise needed to undertake professional responsibilities and to serve the public interest.

"Program of learning" means a collection of learning activities that are designed and intended as continuing education and that comply with these standards.

"Reinforcement feedback" means specific responses to correct answers to questions in self-study programs. Such feedback restates why the answer selected was correct.

"Related individual" includes spouses, and dependent persons, whether or not related for all purposes of complying with the Rules of Professional Conduct, provided that the independence of the registrant and the firm of the registrant will not normally be impaired solely because of employment of a spouse or dependent person by a client if the employment is in a position that does not allow "significant influence" over the operating, financial, or accounting policies of the client. In the event such employment is in a position in which the activities of the related individual are audit sensitive, even though not a position, of significant influence, the registrant should not participate in the engagement.

"Renewal permit" refers to a permit applied for prior to the expiration of the current permit.

"Retired" means a registrant who holds a certificate or license and verifies to the Board that the registrant is no longer practicing public accounting or employed. However, retired status does not preclude volunteer services for which the retired registrant receives no direct or indirect compensation

so long as the retired registrant does not sign any documents related to such services as a CPA or PA.

"Rolling three-year period" means that the registrant is required to have completed 120 hours of CPE in any three-calendar-year period beginning January 1, 2006 and going forward.

"Self-study program" means an educational process designed to permit a participant to learn a given subject without major involvement of an instructor. Self-study programs use a pilot test to measure the average completion time from which the recommended CPE credit is determined.

"Sole Proprietorship" means an unincorporated business enterprise which is owned entirely by one (1) certificate or license holder.

"State" means the District of Columbia, any state, or territory of the United States.

"Update" means learning activity level that provides a general review of new developments. This level is for participants with a background in the subject area who desire to keep current.

SUBCHAPTER 3. REQUIREMENTS TO PRACTICE PUBLIC ACCOUNTANCY

10:15-3-4. Permits to practice

In addition to a license or certificate, ~~any individual or firm~~ any registrant wishing to practice practicing public accounting in this state or providing expert witness testimony in any Oklahoma or Federal Court located in Oklahoma shall also be required to have a valid permit, to practice except for qualified individuals practicing under substantial equivalency.

10:15-3-5. Exceptions

(a) An exception to requiring a permit would apply to an Oklahoma CPA or PA who is testifying in his or her capacity as an employee of other than a public accounting firm.

(b) Expert witness testimony from a certified public accountant or public accountant who is credentialed in another jurisdiction other than Oklahoma does not require the individual to obtain an Oklahoma CPA certificate or PA license provided the CPA or PA clearly states to the Court that an Oklahoma CPA certificate, PA license or permit to practice public accounting is not held and the individual identifies the jurisdiction(s) in which the CPA or PA is credentialed.

SUBCHAPTER 18. COMPUTER-BASED EXAMINATION

10:15-18-1. Applications for examination

(a) An application for qualification on a form prescribed by the Board, will not be considered filed until the application and all required examination fees, as provided by §15.8 of the Act and supporting documents, including photographs and

official transcripts as proof that the applicant has satisfied the education requirement, are received by the Board.

(b) A candidate's application for examination will not be considered filed until the form prescribed by the Board and the application ~~fees~~ fee as provided by §15.10A of the Act, are received by the Board.

(c) Failure of a candidate to furnish all information requested by the Board within the time frame set by the Board shall be grounds for denying such candidate admission to the examination.

(d) Any candidate who gives false information to the Board in order to be eligible to take the examination shall be subject to disciplinary action by the Board.

10:15-18-4. Educational requirements

(a) An applicant shall show, to the satisfaction of the Board, that the applicant has graduated from an accredited two-year or four-year college or university.

(1) As to an applicant whose college credits are reflected in quarter hours, each quarter hour of credit shall be considered as two-thirds (2/3) of one (1) semester hour when determining semester hour credits necessary to qualify for examination or transfer of credits.

(2) When determining eligibility based on educational qualifications, the Board shall consider only educational credit reflected on official transcripts from an accredited two-year or four-year college or university.

(3) The specific requirement that each applicant shall have completed at least one (1) course in auditing may only be satisfied with an auditing or assurance course taken for credit from an accredited two-year or four-year college or university.

(b) When determining eligibility of an applicant for qualification, the Board shall not consider any combination of education and experience.

(c) The Board will also consider an applicant who has graduated from a college or university located outside the United States if an educational evaluation performed by a national credential evaluation service, as approved by the Board, certifies in writing that the applicant's course of study and degree are equivalent to the requirements set forth in Section 15.8 of the Act.

(d) On and after July 1, 2003, one hundred fifty (150) semester hours or its equivalent of collegiate education is required to qualify for any examination as set forth in Section 15.8.C. of the Oklahoma Accountancy Act. Any MIS or AIS course, or derivative thereof, as defined in Code ~~40:15-18-13~~ 10:15-1-2, used by the applicant to qualify must have a substantial relationship, either direct or indirect, to the accounting profession. However, only AIS courses will qualify for the core accounting courses as required in Section 15-8.C.

(e) Any candidate who has qualified to take the examination on the basis of education prior to July 1, 2003, as provided in Section 15.8.B, is not subject to subparagraph (d) of this subsection.

SUBCHAPTER 21. RECIPROCITY

10:15-21-1. Application for certificate or license

An applicant seeking to obtain an Oklahoma reciprocal certificate or license, who holds a valid certificate or license pursuant to the laws of another jurisdiction shall provide the Board with:

(1) written proof of test scores received on all examinations from the examining jurisdiction;

(2) written information that the applicant met or currently meets all Oklahoma requirements for eligibility as provided by statute, §15.13, Title 59, Oklahoma Statutes and these rules;

(3) a current certificate of good standing from the jurisdiction who issued the certificate or license upon which the reciprocal certificate or license is based ~~(the certificate of good standing must have been issued not more than sixty (60) days prior to filing the application);~~

(4) written proof of having met all Oklahoma continuing professional educational requirements for those applicants seeking a permit to practice public accounting; and

(5) Evidence of successful completion of the AICPA ethics examination or its equivalent as determined by the Board.

(6) An applicant shall file for a reciprocal certificate or license within one hundred twenty (120) days of engaging in the practice of public accounting in Oklahoma.

SUBCHAPTER 22. SUBSTANTIAL EQUIVALENCY

10:15-22-2. Sole proprietorship firm permit

A qualified non-resident sole proprietorship seeking practice privileges in this state to perform attest services shall be required to register the firm and obtain a permit to practice public accounting within thirty (30) days after the firm knowingly avails itself of the laws of this state by accepting an attest engagement.

SUBCHAPTER 24. RETURN OF CERTIFICATE OR LICENSE

10:15-24-1. Voluntary surrender of certificate or license

(a) Upon voluntary surrender of a certificate or license, the registrant shall not be required to return the certificate or license into the custody of the Board if:

(1) The registrant has retired from all types of employment regardless of the registrant's age; and

(2) The Board's records indicate that no enforcement actions have been taken against the registrant within the last ten (10) years.

(b) If the registrant has not retired from all types of employment but no longer wishes to hold an Oklahoma certificate or license, a request for the return of the certificate or license shall be made.

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10:15-24-2. Deceased registrants

Upon notification that the registrant is deceased, no request for the return of the certificate or license shall be made.

SUBCHAPTER 25. PERMITS

10:15-25-2. Date of issue

(a) Permits renewed on a timely basis shall bear a date of issue of July 1 for individuals and June 1 for firms except sole proprietorships. All other permits, except for b and c below, shall bear a date of issue based on the date the acceptable application for a permit is received in the Board office.

(b) When the Board has granted an extension in accordance with ~~10:15-29-10~~ 10:15-30-8(3), the date of issuance will be determined on a case by case basis.

(c) If an application for a permit which has been returned to the holder for correction or completion of information is returned to the Board in acceptable form within thirty (30) calendar days of the first denial, the permit shall bear the date on which the permit application was first received in the office of the Board. Failure to resubmit an acceptable application within the thirty-day period shall cause the permit to be dated with the date the acceptable application is received in the Board office.

10:15-25-3. Individual permit

(a) An individual permit shall have a maximum term of one (1) year and shall expire on June 30 following the date of issuance.

(b) Any registrant engaged in the practice of public accounting, regardless of whether such services are rendered for compensation, must have a permit, except for a licensed attorney providing tax services who does not display the certificate or license and does not have any reference thereto on professional stationery, business cards, or printed or electronic format. However, for purposes of this section, an individual may not be considered to be in the practice of public accounting if the individual performs an incidental amount of non-compensated services for immediate family members. An individual who meets the definition of retired or inactive status as defined in the Code or the Act is not considered to be in the practice of public accounting. In order to obtain a permit, an individual must have a valid certificate or license, be properly registered, pay all applicable fees, and comply with the continuing education requirements.

(c) Each partner, shareholder, owner, member and certified or licensed employee of a firm located outside this state shall be required to hold a valid permit or to notify the Board of his/her intent to practice public accountancy in this State in accordance with the Substantial Equivalency provision in order to serve clients in this State unless such service is incidental to other responsibilities in the firm or involves the internal review procedures of the firm.

(d) The application for renewal of a permit shall be filed with the Board on a form prescribed by the Board prior to the expiration of the permit currently held and no later than June 30.

(e) At the time the application for a permit is filed, the registrant shall attest to compliance with the continuing education requirement for the applicable compliance period as specified by the Board.

(f) An application for a permit may be filed at any time during the year by a registrant who is entering or reentering the practice of public accounting. Such registrant shall attest to compliance with the applicable continuing education requirement.

(g) The fees to obtain a permit to practice shall accompany the application. The fees for the renewal of permits are set forth in Subchapter 27.

10:15-25-5. Transitional period for individuals entering and re-entering public practice

(a) A registrant who immediately gives written notice to the Board upon changing to public accounting status from non-public status may be granted a period of sixty (60) days from the date the registrant begins the practice of public accounting in which to complete the continuing education credit required for issuance of the permit. Such courses shall comply with the criteria set forth in Subchapter ~~29~~ 30. The procedure for administering the code is as follows:

(1) The registrant shall furnish a letter if self employed or from the employer, if employed, attesting to the beginning date of the registrant's self employment or employment, and shall furnish a list of courses in which the registrant has enrolled during the 60-day period. The list should include course title, name of sponsor, CPE credits to be awarded, and approximate date course is to be completed.

(2) Upon receipt of the written notification, the Executive Director shall review the request for sufficiency of information and shall ascertain whether the registrant is to be granted the transitional CPE compliance period.

(3) The registrant shall be notified by letter within five (5) working days whether the transitional period has been granted. Such letter shall grant permission for the registrant to practice public accounting, without penalty, for the sixty (60) day transitional period or shall state the specific reason why the transitional period was not granted. A copy of the letter notifying the registrant that the transitional period was not granted will also be mailed to the registrant's employer, if employed.

(b) If a registrant is unable to qualify for the permit within the sixty (60) days provided for herein, the registrant may apply in writing one time to the Board for an additional thirty (30) day period in which to qualify for the permit. The procedure for doing so is as follows:

(1) The written petition shall set forth the reason(s) for the registrant's inability to satisfy the CPE requirement within the sixty (60) days previously granted. The petition shall set forth the precise manner in which the registrant will satisfy the requirement for the issuance of a permit if the additional thirty (30) days is granted.

(2) Upon receipt of the petition from the self employed registrant or the employer, the Executive Director shall decide whether the registrant is to be granted the additional thirty (30) days in which to comply.

(3) If granted, the thirty (30) day period shall commence following the last day of the sixty (60) day period. The registrant and the employer, if applicable, shall be notified by the Board within five (5) working days following the Board's receipt of the employer's petition.

(4) If the additional thirty (30) day period is denied, the registrant and the employer, if applicable, will be informed in writing of the specific reason(s) for the denial within five (5) working days following receipt of the petition.

(5) Upon denial of the additional thirty (30) day period, the registrant and the employer, if applicable, will be notified in writing that the registrant must cease practicing public accounting until such time as the registrant has been issued the permit.

(c) Approval by the Board of such request(s) shall authorize the registrant to practice public accounting during the time period(s) referred to in this Subchapter.

SUBCHAPTER 27. FEES

10:15-27-14. Peer review fee

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

SUBCHAPTER 30. CONTINUING PROFESSIONAL EDUCATION

10:15-30-2. Required CPE for issuance of an original permit

Certificate and license holders applying for their first permit to practice public accounting must report a minimum of forty (40) hours of CPE, including two (2) hours of professional ethics, and shall also provide evidence of the successful completion of the AICPA Ethics Examination or its equivalent as determined by the Board earned within the previous calendar year or within 365 days immediately preceding the date of the application before a permit will be issued. A certificate or license holder shall also provide evidence of the successful completion of the AICPA Ethics Examination or its equivalent as determined by the Board. The passing score is determined by the Board.

10:15-30-3. Required CPE for issuance of a lapsed permit

Certificate and license holders previously holding a permit to practice public accounting must report a minimum of forty (40) hours of CPE, including two (2) hours of professional ethics, and shall also provide evidence of the successful completion of the AICPA Ethics Examination or its equivalent as

determined by the Board earned within the previous calendar year or within 365 days immediately preceding the date of the application before a permit will be issued.—~~A certificate or license holder shall also provide evidence of the successful completion of the AICPA Ethics Examination or its equivalent as determined by the Board.~~ The passing score is determined by the Board.

10:15-30-5. Reporting and documentation by certificate and license holders

(a) Certificate and license holders not otherwise exempt must complete one hundred twenty (120) hours of qualifying CPE within a rolling three (3) calendar year period. A certificate or license holder's three (3) year period begins January 1 in the year the certificate or license holder was required to earn CPE. A minimum of twenty (20) hours of acceptable CPE, including two (2) hours of professional ethics, shall be completed each calendar year. Effective January 1, 2009, four hours of professional ethics must be completed within each rolling three (3) calendar year period.

(b) The professional ethics requirement as mandated in this section may be met by courses from other licensed professional disciplines that relate directly to the practice of public accounting, such as law or securities and may be met by courses on ethical codes in jurisdictions other than Oklahoma.

~~(b)c~~ Each certificate and license holder required to report CPE shall certify, in a format prescribed by the Board, information regarding the CPE hours claimed for credit for the calendar year.

~~(e)d~~ CPE hours claimed for credit may be claimed only for the compliance period in which the course was completed and credit granted.

~~(f)e~~ Each letter or certificate of completion shall include the date of completion of the seminar or course as evidenced by:

- (1) Date the in-attendance course was completed;
- (2) Date a self-study course was completed and evidenced by the date of certified mailing or date of facsimile transmission to the program sponsor;
- (3) Date an internet self-study course is transmitted to the program sponsor.

~~(e)f~~ At the time of completing each course, or within sixty (60) days thereafter, the certificate or license holder shall obtain a letter or certificate attesting to completion of the course from the sponsor of the course. Such letters or certificates shall be retained for a period of five (5) years after the end of the compliance period in which the program is completed and shall include the specific information set forth in the Board's CPE Standards.

~~(f)g~~ Participants in structured CPE programs shall also retain descriptive material for five (5) years which reflects the content of a course in the event the participant is requested by the Board to substantiate the course content.

~~(g)h~~ If a certificate or license holder's main area of employment is industry and the certificate or license holder holds a permit to practice, at least seventy-two (72) hours of the one hundred twenty (120) hour requirement within a three (3) year period of the qualifying CPE completed by the certificate or license holder shall be in subjects related to the practice of

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public accounting and shall earn a minimum of eight (8) hours in the areas of taxation, accounting or assurance per year.

10:15-30-6. Verification of CPE credit

(a) The Board may periodically conduct verification of the CPE credit reported by certificate and license holders.

(b) Such verification shall be conducted by requesting the certificate or license holder to submit to the Board the documentation and evidence required to be retained by the certificate or license holder.

(c) If a CPE course is not accepted for credit, the certificate or license holder will be notified and the Board may grant a period of time for the certificate or license holder to correct the deficiency.

(d) In order to determine compliance with the CPE standards, the Board may inspect the records of CPE program sponsors and CPE program developers.

(e) Certificate and license holders shall automatically be included in the subsequent verification of CPE in any of the following instances:

(1) If the certificate or license holder failed to satisfactorily comply with CPE requirements as determined by the Board;

(2) if a certificate or license holder has been the subject of an enforcement action by the Board during the preceding credit verification.

(f) Registrants are required to substantiate credit reported to the Board, regardless of whether the registrant continues to be required to hold a permit.

(g) Current valid credit may be substituted for disallowed credit if offered to the Board by the registrant within sixty (60) days, or a number of days as determined by the Board, following notification of a credit deficiency.

(h) Before enforcement action is taken as the result of a CPE audit deficiency, the Board will issue a second request for documents and allow sixty (60) days, or a number of days as determined by the Board, for compliance with the request.

10:15-30-9. Re-Entering Active Status

An inactive status registrant upon return to active status must comply with CPE requirements as follows:

(1) For each month the registrant was on inactive status, three and one-third (3 1/3) hours of qualified CPE, rounded up to the nearest half credit.

(2) The maximum number of qualified CPE hours required by this rule shall be one hundred twenty (120) hours, including at least four (4) hours of CPE in ethics.

(3) The registrant can claim any CPE hours earned while on inactive status during the preceding three (3) year period.

(4) A registrant who immediately gives written notice to the Board upon changing to active status may be granted the following time periods from the date of the change of status in which to complete the CPE required by this section.

(A) From the date of the change of status, for registrants needing forty (40) hours or less to comply with (1) or (2) above, sixty (60) days; and

(B) From the date of the change of status, a registrant shall complete additional CPE over the forty (40) hours described in (a) above within one hundred eighty (180) days.

(5) A registrant must document, on a form prescribed by the Board, all qualified CPE required by this rule.

(6) At its discretion, the Board may modify the requirements of this rule for good cause on a case by case basis.

SUBCHAPTER 33. PEER REVIEW

10:15-33-2. Special definitions

The following words and terms used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise.

(+) **"Adverse report"** means there are significant deficiencies in the design of the firm's system of quality control, pervasive instances of noncompliance with the system as a whole, or both, resulting in several material failures to adhere to professional standards on engagements.

"Deficiency" means one or more findings that the peer reviewer has concluded that due to the nature, causes, pattern, or pervasiveness, including the relative importance of the finding to the reviewed firm's system of quality control taken as a whole, could create a situation in which the firm would not have reasonable assurance of performing and/or reporting in conformity with applicable professional standards in one or more important respects. It is not a significant deficiency if the peer reviewer has concluded that except for the deficiency or deficiencies, the reviewed firm has reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects.

"Deficient report" means any report which is adverse, modified, pass with deficiencies, or fail.

"Fail" on a system review (audit is highest level of service) means there are significant deficiencies in the design of the firm's system of quality control, pervasive instances of noncompliance with the system as a whole, or both, resulting in several material failures to adhere to professional standards on engagements. Fail on an engagement review means the engagements submitted for review were not performed and/or reported in conformity with applicable professional standards in all material respects.

"Pass" on a system review means the reviewed firm's system of quality control has been designed to meet the requirements of the quality control standards for an accounting and auditing practice and the system was being complied with during the peer review year to provide the firm with reasonable assurance of complying with professional standards in all material respects. Pass on an engagement review means nothing came to the reviewer's attention that the engagements submitted for review were

not performed and reported in conformity with applicable professional standards in all material respects.

(2) **"Modified report"** means the design of the firm's system of quality control created a condition in which the firm did not have reasonable assurance of complying with professional standards or that the firm's degree of compliance with its quality control policies and procedures did not provide it with reasonable assurance of complying with professional standards. A report modified due to scope limitations specifically related to compilations would not be considered modified for the purposes pursuant to these rules.

"Pass with deficiencies" on a system review means the design of the firm's system of quality control created a condition in which the firm did not have reasonable assurance of complying with professional standards or that the firm's degree of compliance with its quality control policies and procedures did not provide it with reasonable assurance of complying with professional standards in all material respects with the exception of a certain deficiency or deficiencies that are described in the report. A pass with deficiencies report issued due to scope limitations specifically related to compilations would not be considered deficient for the purposes pursuant to these rules. Pass with deficiencies on an engagement review means that nothing came to the attention of the reviewer that caused him/her to believe on the engagements submitted for review that the firm did not comply with professional standards except for the deficiencies that are described in the report.

(3) **"Peer review due date"** must be a date within six (6) months after the peer review year end, plus any extensions granted by the sponsoring organization or the Board.

(4) **"Peer review year end"** means the year end as determined by the firm and its reviewer.

(5) **"Performance of services"** is deemed to start when an engagement letter is signed or agreement reached.

(6) **"Review program"** means the peer review conducted under the peer review program.

(7) **"Review year"** means the peer review covers a one-year (twelve-month) period. Engagements selected for peer review normally would have periods ending during the year under peer review.

"Significant deficiency" means one or more deficiencies that the peer reviewer has concluded results from a condition in the reviewed firm's system of quality control or compliance with it such that the reviewed firm's system of quality control taken as a whole does not provide the reviewed firm with reasonable assurance of performing and/or reporting in conformity with applicable professional standards in all material respects.

(8) **"Sponsoring organization"** means an individual or entity that meets the standards specified by the Board for administering the peer review. The Board shall periodically publish a list of sponsoring organizations, which have been approved by the Board.

(9) **"Unmodified report"** means the reviewed firm's system of quality control has been designed to meet the

requirements of the quality control standards for an accounting and auditing practice and the system was being complied with during the peer review year to provide the firm with reasonable assurance of complying with professional standards.

10:15-33-3. 1 Standards for peer reviewers [REVOKED]

~~(a) Any firm who performs peer reviews for registrants within the State of Oklahoma must be registered and hold a valid permit to practice public accounting issued by the Board.~~

~~(b) Any individual who performs peer reviews for registrants within the State of Oklahoma must be registered and hold a valid permit to practice public accounting issued by the Board or make application for practice privileges as provided in Subchapter 10:15-22.~~

10:15-33-4. Enrollment and participation

(a) Participation in the program is required of each firm holding a permit from the Board that performs any ~~review or audit services after July 1, 2004, unless the firm ceases performing review or audit services before July 1, 2005, services which require a peer review as provided in Section 15.30 of the Oklahoma Accountancy Act.~~

(b) Firm enrollment is required as follows:

(1) An existing firm required to participate under subsection (a) shall enroll in the peer review program of an approved sponsoring organization within one (1) year from the performance of services that require a peer review. The firm shall adopt the peer review due date assigned by the sponsoring organization, and must notify the Board of the date within thirty (30) days of its assignment. In addition, the firm shall schedule and begin an additional peer review within three (3) years of the previous peer review due date, or earlier as may be required by the sponsoring organization. It is the responsibility of the firm to anticipate its needs for peer review services in sufficient time to enable the reviewer to complete the peer review by the assigned review due date.

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

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

(d) Any firm having a permit revoked, suspended, surrendered, or cancelled, that held a permit from the Board at the time it provided ~~audit or review services~~ any service requiring

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a peer review must enroll in a Board approved peer review program as provided in subsection 10:15-33-4(a) or submit a peer review report as provided in subsection 10:15-33-6(a).

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

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

- (1) Name of sponsoring organization rejecting the enrollment;
- (2) Reasons for the rejection;
- (3) Name of subsequently selected sponsoring organization.

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

10:15-33-5. Effect of consecutive successive modified/adverse deficient reports

(a) Effective for peer reviews commencing on or before December 31, 2008, A a firm, including a succeeding firm, which receives two (2) consecutive modified reports and/or one (1) adverse report(s), may be required by the Board or its designee to have an accelerated peer review within eighteen (18) months from the year end of the firm's last peer review.

(b) If the accelerated review required by subsection (a) above results in a modified or adverse report:

- (1) The firm may complete any review and audit engagement for which field work has already begun only if:
 - (A) Prior to issuance of any report, the engagement is reviewed and approved by a third party reviewer acceptable to the Board or its designee; and
 - (B) The engagement is completed within ninety (90) days of the acceptance of the peer review report, letter of comments, and letter of response by the sponsoring organization;
- (2) The firm shall be referred to the Vice Chair of the Board for enforcement investigation.
- (3) A firm may petition the Board for a waiver from the provisions of this rule subsection (b).

(c) Effective for peer reviews commencing on or after January 1, 2009, a firm, including a succeeding firm which receives two (2) consecutive pass with deficiencies reports and/or one (1) fail report, may be required by the Board or its designee to have an accelerated peer review within eighteen (18) months from the year end of the firm's last peer review.

(d) If the accelerated review required by subsection (a) or (c) above results in a deficient report:

- (1) The firm may complete any service requiring a peer review for which field work has already begun only if:
 - (A) Prior to issuance of any report, the engagement is reviewed and approved by a third party reviewer acceptable to the Board or its designee; and
 - (B) The engagement is completed within ninety (90) days of the acceptance of the peer review report,

and letter of response (when applicable) by the sponsoring organization;

(2) The firm shall be referred to the Vice Chair of the Board for enforcement investigation.

(3) A firm may petition the Board for a waiver from the provisions of this rule subsection (d).

10:15-33-6. Reporting to the board

(a) Through December 31, 2008, Any any report or document required to be submitted under this subsection shall be filed with the Board, including by electronic means, within thirty (30) days of receipt from the sponsoring organization. Such report shall contain:

- (1) A copy of the report and the final letter of acceptance from the sponsoring organization, if such report is unmodified with or without comments; or
- (2) A copy of the report, letter of comments, letter of response, the signed agreement to the conditional letter of acceptance, and final letter of acceptance when corrective actions are complete if the report is modified in any respect or adverse; and
- (3) A copy of the Public Company Accounting Oversight Board (PCAOB) report, if applicable.

(b) Effective January 1, 2009, any report or document required to be submitted under this subsection shall be filed with the Board, including by electronic means, within thirty (30) days of receipt from the sponsoring organization. Such report shall contain:

- (1) A copy of the report and the final letter of acceptance from the sponsoring organization, if such report is pass; or
- (2) A copy of the report, letter of response, the signed agreement to the conditional letter of acceptance, and final letter of acceptance when corrective actions are complete if the report is pass with deficiencies or fail.

(b)c) Any document submitted to the Board under this subsection is confidential pursuant to the Act.

10:15-33-7. Peer review committee

(a) The Board shall appoint a Peer Review Committee for the purpose of:

- (1) Monitoring sponsoring organizations to provide reasonable assurance that peer reviews are being conducted and reported on in accordance with peer review minimum standards;
- (2) Reviewing the policies and procedures of sponsoring organization applicants as to their conformity with the peer review minimum standards; and
- (3) Reporting to the Board on the conclusions and recommendations reached as a result of performing functions in paragraphs (A) and (B) of this subsection.

(b) The Peer Review Committee shall consist of three (3) members nominated by the Chair and approved by the Board, none of whom is a current member of the Board. Initial appointment of the three (3) committee members shall be as follows: one (1) member appointed for three (3) years; one (1) member appointed for two (2) years; and one member

appointed for one (1) year. Subsequent committee members shall serve three (3) year terms. Compensation, if any, of Peer Review Committee members shall be set by the Board, not to exceed One Hundred Fifty Dollars (\$150.00) per hour. Each member of the Peer Review Committee must be active in the practice of public accounting at a supervisory level or above in the accounting or auditing function while serving on the committee or any employee involved at a supervisory level or above in an audit function of a state or local government. The member or member's firm must be enrolled in an approved practice/monitoring program and have received an unmodified or pass report on its most recently completed peer review. A majority of the committee members must satisfy the qualifications required of system peer review team captains as established and reported in the AICPA Standards for Performing and Reporting on Peer Reviews.

- (1) No more than one Peer Review Committee member may be from the same firm.
 - (2) A Peer Review Committee member may not concurrently serve as a member of the AICPA's or any state's CPA society ethics or peer review committee.
 - (3) A Peer Review Committee member may not participate in any discussion or have any vote with respect to a reviewed firm when the committee member lacks independence or has a conflict of interest. The Board may appoint alternate committee member(s) to serve in these situations.
- (c) Information concerning a specific firm or reviewer obtained by the Peer Review Committee during oversight activities shall be confidential, and the firm's or reviewer's identity shall not be reported to the Board. Reports submitted to the Board will not contain information concerning specific registrants, firms or reviewers.
- (d) As determined by the Board, the Peer Review Committee shall make periodic recommendations to the Board, but not less than annually, as to the continuing qualifications of each sponsoring organization as an approved sponsoring organization.
- (e) The Peer Review Committee may:
- (1) When necessary in reviewing reports on peer reviews, prescribe actions designed to assure correction of the deficiencies in the reviewed firm's system of quality control policies and procedures and provide such results to the Board;
 - (2) Monitor the prescribed remedial and corrective actions to determine compliance by the reviewed firm;
 - (3) Establish and perform procedures for ensuring that reviews are performed and reported on in accordance with the AICPA Standards for Performing and Reporting on Peer Reviews or other standards as approved by the Board and the rules promulgated herein by the Board;
 - (4) Establish a report acceptance process, which facilitates the exchange of viewpoints among committee members and sponsoring organization; and
 - (5) Communicate to the governing body of the sponsoring organization on a recurring basis:
 - (A) Problems experienced by the enrolled registrants in their systems of quality control as noted in

- the peer reviews conducted by the sponsoring organization;
- (B) Problems experienced in the implementation of the peer review program; and
- (C) A summary of the historical results of the peer review program.

- (f) Committee members shall become disqualified to serve on Peer Review Committee if any of the provisions that qualify the committee member no longer exist or by majority vote of the Board.

SUBCHAPTER 37. ENFORCEMENT PROCEDURES

- 10:15-37-7. Discipline for violations by candidates**
- (a) A candidate who is alleged to have violated the Oklahoma Accountancy Act, the rules implementing that Act, or who subverts or attempts to subvert the examination process shall be subject to disciplinary action by the Board. Upon the determination that the candidate is guilty of the allegations, the Board may impose one (1) or more of the following disciplinary measures on the candidate:
- (1) Withhold the candidate's grades on the examination;
 - (2) Declare the candidate's scores on the examination invalid;
 - (3) Disqualify the candidate from holding a certificate or license permanently or for a specified period of time; or
 - (4) Impose other authorized penalties.
- (b) Results of hearings for applicants or candidates will not be published in the Board's newsletter.

SUBCHAPTER 39. RULES OF PROFESSIONAL CONDUCT

- 10:15-39-1. Application**
- (a) To the extent not contradicted by rule herein, a registrant shall conform in fact and in appearance to the AICPA Code of Professional Conduct.
- (b) To protect the public interest, the Rules of Professional Conduct are based on the premise that the public and the business community rely on sound financial reporting and on professional competence. This premise is inherent in the authorized use of the titles certified public accountant and public accountant, which imposes on persons registered with the Board certain obligations to the public and to others. These obligations which the Rules of Professional Conduct are intended to enforce, include: the obligation to maintain independence and objectivity of thought and action, to strive continuously to improve professional skills, to observe, where applicable, generally accepted accounting principles, governmental auditing standards, standards as set by the Public Company Auditing Oversight Board, and generally accepted auditing standards, to promote sound and informative financial reporting, to hold the affairs of clients or employers in

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confidence, to uphold the standards of the public accounting profession, and to maintain high standards of personal conduct in all matters affecting fitness to practice public accounting.

(c) Acceptance by a registrant of a certificate or license involves a duty to abide by the Rules of Professional Conduct.

(d) The Rules of Professional Conduct are intended to have application to all kinds of professional services performed in the practice of accounting, including, but not limited to, assurance, attest, auditing, accounting, review and compilation services, tax services, management advisory services and personal financial and investment planning, and intended to apply as well to all certificate and license holders, whether or not engaged in the practice of public accounting, except where the wording of one of the Rules of Professional Conduct clearly indicates that the applicability is more limited.

(e) A registrant who is engaged in the practice of public accounting outside the United States is not subject to discipline by the Board for departing, with respect to such foreign practice, from any of the Rules of Professional Conduct, so long as the conduct is in accordance with the Rules of Professional Conduct applicable to the practice of public accounting in the country in which the registrant is practicing. If the name of a registrant is associated with financial statements in such manner as to imply that the registrant is acting as an independent CPA or PA under circumstances which would entitle the reader to assume that United States practices are followed, the registrant will be expected to comply ~~with the provisions of Code 10:15-39-6(b), 10:15-39-6(c) and 10:15-39-6(d), with auditing standards and accounting principles generally accepted in the United States of America, and other professional standards applicable to the services provided.~~

(f) In interpreting and enforcing these rules, the Board may give consideration, but not necessarily dispositive weight, to relevant interpretations, rulings and opinions issued by the boards of other jurisdictions, appropriately authorized ethics committees of professional organizations and other federal and state agencies.

[OAR Docket #08-756; filed 4-29-08]

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

[OAR Docket #08-752]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
40:25-1-1 [AMENDED]
40:25-1-2 [AMENDED]
40:25-1-3 [AMENDED]

AUTHORITY:
47 O.S. §759; Board of Tests for Alcohol and Drug Influence

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None held or requested

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Gubernatorial approval:
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24 Ok Reg 2681
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07-1270

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rule changes how the Board may approve and disapprove equipment to be used for breath alcohol testing in Oklahoma pursuant to the authority granted in 47 O.S. §759.

CONTACT PERSON:

J. Robert Blakeburn, Director of the Board of Tests, 3600M.L. King Blvd. Oklahoma City, OK 73111, 405-425-2460

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2008:

40:25-1-1. Purpose

The rules in this chapter concern the method of approving approved apparatus, devices, and equipment, materials, supplies and other items used for or involved in tests for alcohol and other intoxicating substances under the provisions of 47 O.S., Sections 751-761 and 3 O.S., Section 303 and 63 O.S., Section 4210A.

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

(a) Any evidential breath-alcohol analyzer, approved by the Board as an automated analyzer, by resolution, at an open meeting of the Board ~~The Model 5000 D Intoxilyzer (manufactured by CMI, Inc., Owensboro, KY 42301, or its successors)~~ is hereby approved for analysis of alcohol in breath specimens and is designated as an automated analyzer.

(b) The Board may expunge from approval any previously approved analyzer, by resolution, at an open meeting of the Board.

(c) The Board shall maintain a list of all said approved analyzers, available for public review at the administrative office of the Board during regular office hours.

40:25-1-3. Alcoholic breath simulators and reference methods

(a) Any alcoholic breath simulator or reference method approved by the Board, by resolution, at an open meeting of the Board is ~~The following alcoholic breath simulator devices are~~ hereby approved, for use in association with any breath-alcohol analysis apparatus, device, or instrument for the determination of the alcohol concentration of breath specimens approved for that purpose by the Board of Tests for Alcohol and Drug Influence. ~~Influence or its predecessor agency:~~

(b) The Board may expunge from approval any previously approved simulator or reference method, by resolution, at an open meeting of the Board.

- (1) ~~Alcoholic Breath Simulator, Model Mark II A, National Draeger, Inc., Pittsburgh, PA, or its predecessors or successors~~
- (2) ~~Alcoholic Breath Simulator, Model 34C, Guth Laboratories, Inc., Harrisburg, PA, or its predecessors or successors~~
- (3) ~~Alcoholic Breath Simulator, Model 10-4, Guth Laboratories, Inc., Harrisburg, PA, or its predecessors or successors~~
- (4) ~~Alcoholic Breath Simulator, Model 210021, Guth Laboratories, Inc., Harrisburg, PA, or its predecessors.~~
- (5) ~~Alcoholic Breath Simulator, Model 2100, Guth Laboratories, Inc., Harrisburg, PA, or its predecessors.~~

(c) The Board shall maintain a list of all said approved simulators or reference methods, available for public review at the administrative office of the Board during regular office hours.

[OAR Docket #08-752; filed 4-28-08]

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

[OAR Docket #08-753]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

40:30-1-3 [AMENDED]

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47 O.S. §759; Board of Tests for Alcohol and Drug Influence

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40:30-1-3 [AMENDED]

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07-1557

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

The rule describes the required procedure for administering a breath alcohol test using either the CMI Intoxilyzer 5000 or 8000 instruments and the maintenance requirements for both. Tests administered pursuant to the rule comply with 47 O.S. §§ 752, 759 and are admissible in civil and criminal proceedings pursuant to 47 O.S. §756.

CONTACT PERSON:

J. Robert Blakeburn, Director of the Board of Tests, 3600M.L. King Blvd. Oklahoma City, OK 73111, 405-425-2460

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2008:

40:30-1-3. Breath-alcohol analysis with the enhanced Intoxilyzer Model 5000-D. Board approved devices

(a) **Approved method.** Analysis of breath specimens for the determination of the alcohol content therein by means of the Model 5000-D (manufactured by CMI, Inc., Owensboro, Kentucky 42301 or its successors), is hereby approved as a method or technique for analysis of breath specimens for alcohol.

(b) **Operating procedure(s).** Each such analysis shall be performed in compliance with Operating Procedure(s) prescribed and approved by the State Director of Tests for Alcohol and Drug Influence.

(c) **Analysis.** Each such analysis shall include the following steps:

- (1) ~~Continuous observation~~ Observation of the subject whose breath is to be tested sufficient to determine that, for a period of at least fifteen (15) minutes prior to the collection of the first breath specimen, and continuing through the second breath specimen, during which observation period the subject shall not have ingested alcohol in any form or alcoholic beverages or any other substance, ~~regurgitated~~, vomited, or smoked. Such observation shall ~~may~~ be carried out by the breath-alcohol analysis Operator or Supervisor Specialist or by any other qualified person.

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- (2) Analysis for alcohol of two (2) or more specimens of breath consisting substantially of expired alveolar air.
- (3) A blank analysis preceding analysis of each breath specimen.
- (4) Analysis for alcohol of at least one suitable reference or control sample of known alcohol concentration, such as air equilibrated at a known temperature with a reference solution of known ethyl alcohol content in an alcoholic breath simulator device approved by ~~the~~ this Board. The results of each such control analysis must coincide with the corresponding vapor-alcohol concentration target value within plus or minus one-hundredths gram per two hundred and ten liters ($\pm 0.01\text{g}/210\text{L}$).
- (5) The operator performing each such analysis shall properly ~~provide~~ complete a Breath-Alcohol Analysis Record and Report form prescribed and designated by the State Director of Tests for Alcohol and Drug Influence, and shall promptly ~~forwarded~~ forward one (1) copy thereof to the Oklahoma Department of Public Safety, and to other agencies and persons listed on the form.
- (d) **Reporting results.** The results of each such breath-alcohol analysis shall be reported in terms of the concentration of alcohol and in the subject's breath, in grams of alcohol per two hundred and ten liters of breath ($\text{g}/210\text{ L}$), truncated to two (2) decimal places. Results of duplicate breath alcohol analyses, on the same subject on the same occasion, which are within three-hundredths grams per two hundred and ten liters of breath ($\pm 0.03\text{g}/210\text{L}$) shall be deemed to be in acceptable agreement and mutually confirmatory and substantiative. ~~All such results~~ Results of analysis of all breath specimens shall be reported, but actions and interpretation of the results of such duplicate analyses shall be based upon the lowest such acceptable breath alcohol result obtained.
- (e) **Maintenance.** Maintenance shall be performed as follows on the above listed equipment at least once during each thirty (30) day period and not later than thirty (30) days since the last prior such maintenance, or after the testing of twenty five (25) subjects, whichever occurs first, by a person possessing a valid Breath Alcohol Analysis (Specialist) permit issued by ~~this~~ the Board:
- (1) A thorough inspection of the equipment for cleanliness and determination that it is in proper operating condition shall be performed.
- (2) The reference ethyl alcohol solution in the alcoholic breath simulator device shall be replaced with new solution and one (1) or more verification analyses performed with the new solution. Each verification analysis shall be performed in accordance with the Operating Procedure(s) prescribed by the State Director of Tests for Alcohol and Drug Influence. The result of each such verification analysis must coincide with the corresponding vapor-alcohol concentration target value within plus or minus one-hundredths gram per two hundred and ten liters ($\pm 0.01\text{g}/210\text{ L}$).
- (3) The administrative maintenance performed, shall include; results of said verification analyses, date of inspection, and a ~~written~~ record of the inspection will be documented on the log of tests and maintenance record
- retained by the breath analysis instrument in digital form as entered in the applicable portions of the Intoxilyzer 5000-D Log of Tests and Maintenance Record (or equivalent) form prescribed and designated by the State Director of Tests for Alcohol and Drug Influence.
- (f) **Approved method.** Analysis of breath specimens for the determination of the alcohol content therein by means of the Model 8000-D (manufactured by CMI, Inc., Owensboro, Kentucky 42301 or its successors), is hereby approved as a method or technique for analysis of breath specimens for alcohol.
- (g) **Operating procedure(s).** Each such analysis shall be performed in compliance with Operating Procedure(s) prescribed and approved by the State Director of Tests for Alcohol and Drug Influence.
- (h) **Analysis.** Each such analysis shall include the following steps:
- (1) Observation of the subject whose breath is to be tested sufficient to determine that, for a period of at least fifteen (15) minutes prior to the collection of the first breath specimen, and continuing through the second breath specimen, the subject shall not have ingested alcohol in any form or any other substance, vomited, or smoked. Such observation shall be carried out by the breath-alcohol analysis Operator or Specialist or by any other qualified person.
- (2) Analysis for alcohol of two (2) or more specimens of breath consisting substantially of expired alveolar air.
- (3) A blank analysis preceding analysis of each breath specimen.
- (4) Analysis for alcohol of at least one suitable reference or control sample of a known alcohol concentration, such as air equilibrated at a known temperature with a reference solution of known ethyl alcohol content in an alcoholic breath simulator device approved by the Board or a Board approved nitrogen-ethanol dry gas reference method. The results of each such control analysis must coincide with the corresponding vapor-alcohol concentration target value within plus or minus one-hundredths gram per two hundred and ten liters ($\pm 0.01\text{g}/210\text{L}$).
- (5) The operator performing each such analysis shall properly complete a Breath-Alcohol Analysis Record and Report form prescribed and designated by the State Director of Tests for Alcohol and Drug Influence, and shall promptly forward one (1) copy thereof to the Oklahoma Department of Public Safety, and to other agencies and persons listed on the form.
- (i) **Reporting results.** The results of each such breath-alcohol analysis shall be reported in terms of the concentration of alcohol and in the subject's breath, in grams of alcohol per two hundred and ten liters of breath ($\text{g}/210\text{ L}$), truncated to two (2) decimal places. Results of duplicate breath alcohol analyses, on the same subject on the same occasion, which are within three-hundredths grams per two hundred and ten liters of breath ($\pm 0.03\text{g}/210\text{L}$) shall be deemed to be in acceptable agreement and mutually confirmatory and substantiative. Results of analysis of all breath specimens shall be reported, but

actions and interpretation of the results of such duplicate analyses shall be based upon the lowest such acceptable breath alcohol result obtained.

(j) **Maintenance.** Maintenance shall be performed on the CMI 8000 Intoxilyzer, equipped with nitrogen-ethanol dry gas mixture, at such time as the regulator of the nitrogen-ethanol pressurized dry gas cannister fails to provide a gas sample for analysis or by the manufacturers stated expiration date, whichever occurs first. Such maintenance shall be performed by Board personnel, according to the procedure(s) prescribed by the State Director of Tests for Alcohol and Drug Influence.

[OAR Docket #08-753; filed 4-28-08]

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

[OAR Docket #08-751]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 40:50-1-1. Explanation of terms and actions [AMENDED]
- 40:50-1-2. Procedure for device approval [AMENDED]
- 40:50-1-3. Technical requirements [AMENDED]
- 40:50-1-4. Miscellaneous requirements [AMENDED]
- 40:50-1-5. Maintenance and calibration requirements [AMENDED]
- 40:50-1-7. Certification and inspection of service centers[AMENDED]
- 40:50-1-8. Service representative [AMENDED]
- 40:50-1-9. Ignition interlock inspector [AMENDED]
- 40:50-1-11. Approved ignition interlock devices [AMENDED]

AUTHORITY:

47 O.S. §759; Board of Tests for Alcohol and Drug Influence

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Superseded rules:

- 40:50-1-1. Explanation of terms and actions [AMENDED]
- 40:50-1-2. Procedure for device approval [AMENDED]
- 40:50-1-3. Technical requirements [AMENDED]
- 40:50-1-4. Miscellaneous requirements [AMENDED]
- 40:50-1-5. Maintenance and calibration requirements [AMENDED]
- 40:50-1-7. Certification and inspection of service centers[AMENDED]
- 40:50-1-9. Ignition interlock inspector [AMENDED]
- 40:50-1-11. Approved ignition interlock devices [AMENDED]

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INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The rules describe the procedures by which ignition interlocks required by 22 O.S. §§991a,6-212.3, 11-902, 754.1 shall be approved and installed; How the personell installing them and maintaining them shall be trained and certified; How locations for installation and maintenance shall be prepared and approved; And lists the currently approved devices

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2008:

40:50-1-1. Explanation of terms and actions

- (a) **Alcohol:** Ethyl Alcohol, also called ethanol.
- (b) **Alcohol concentrations:** The weight amount of alcohol contained in a unit of breath or air, measured in grams of Ethanol/210 liters of breath or air which gives a quantitative measurement of alcohol concentration from which breath alcohol concentrations can be determined. "Alveolar" refers to the alveoli, which are the smallest air passages in the lungs, surrounded by capillary blood vessels and through which an interchange of gases occurs during respiration.
- (c) **Alveolar air:** Also called "deep lung air" or "alveolar breath". An air sample which is the last portion of a prolonged, uninterrupted exhalation and which gives a quantitative measurement of alcohol concentration from which breath alcohol concentrations can be determined. "Alveolar" refers to alveoli, which are the smallest air passages in the lungs, surrounded by capillary blood vessels and through which an interchange of gases occurs during respiration.
- (d) **Anti-Circumvention feature(s):** Any feature or circuitry incorporated into the Ignition Interlock Device (IID) that is designated to prevent human tampering which would cause the device not to operate as intended.
- (e) **Approval:** Meeting and maintaining the requirements of these rules and placement on the Board of Tests for Alcohol and Drug Influence (Board) list of approved devices. Approval may be denied, cancelled, withdrawn, and/or suspended at any time, for cause by the Board.
- (f) ~~**Appropriate judicial authority:** A phrase used throughout these rules that is meant to include personnel or court orders of the Oklahoma judicial system including but~~

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~~not limited to: the actual court order requiring or authorizing installation of an IID, the court (or judge) that ordered or authorized that installation, pretrial services authorities (having to do bail bond requirements in these matters), adult supervision (or adult probation) authorities and/or occupational licensing authorities.~~

~~(gf)~~ **Board:** The unmodified word Board in these rules refers to the Oklahoma Board of Tests for Alcohol and Drug Influence.

~~(hg)~~ **Bogus air sample:** Any gas sample other than the unaltered, undiluted, or unfiltered alveolar air sample coming from the individual required to have an ignition interlock device installed in his/her vehicle.

~~(ih)~~ **Breath-Alcohol analysis:** Analysis of a sample of a person's expired alveolar breath to determine the concentration of alcohol in the person's breath.

~~(ji)~~ **Certification:**

(1) Certification refers to meeting and maintaining the requirements set forth in these rules. Under the provisions of these rules, certification is granted to:

- (A) inspectors,
- (B) service representatives, and
- (C) service centers.

(2) Certification is granted by the Board only when minimum requirements of certification have been met. All aspects of IID business in Oklahoma must be performed under certification in order to ~~be eligible for court purposes~~ satisfy statutory requirements.

(3) Certificates are issued to inspectors, service representatives, and service centers. Certificates are not issued for individual IID's or reference sample devices.

~~(kj)~~ **Certified IID inspectors:** Refers to an individual who meets the requirements stated in 40:50-1-9 of this title (relating to Ignition Interlock Device Inspector).

~~(lk)~~ **Certified service center:** Refers to any IID service center, ~~whether fixed site or mobile,~~ meeting and maintaining the provisions stated in ~~40:50-1-7~~ of this title (relating to Certification and Inspection of Service Centers).

~~(ml)~~ **Certified service center representative:** Refers to an individual who has successfully completed the requirements stated in these rules and has received certification from the Board to install, inspect, download, calibrate, ~~repair,~~ monitor, maintain, service and/or remove a specific Ignition Interlock Device(s). Service representative certification is contingent upon compliance with all provisions stated in 40:50-1-8 of this title (relating to Service Representative).

~~(nm)~~ **Fees:** The non-refundable original administrative fees plus any and all costs incurred by the Board for approval, or reevaluation, of any device. Additionally the cost established by the Board in the form of inspection fees payable by either the manufacturer or vendor, whichever is appropriate. Fees for Reinstatement of an inactivated certificate, revoked certificate, suspended certificate or any other fees which the Board deems necessary to maintain the IID program in a safe and dependable way. Failure to pay or reimburse the Board for these reasonable costs shall result in the denial or loss of certification of affected service center(s). This will be fees charged under Chapter 55 of the Board's Rules and listed in the appropriate sections. This term also applies to the fee described in 40:50-1-5 (a).

~~(on)~~ **Data storage system:** A computerized recording of all events monitored by the installed IID, which may be reproduced in the form of required reports.

~~(po)~~ **Device:** An ignition interlock device (abbreviated in this title as IID).

~~(qp)~~ **Director:** Refers to the position of the State Director of the Board of Tests for Alcohol and Drug Influence as defined in OAC 40:50-1-3, and will be under the overall guidance and supervision of the Chairman of the Board, and with the assistance of the Administrative Assistant to the Board, to conduct and administer the affairs and functions of the Board between meetings thereof. The appeals made by an ignition interlock manufacturer, vendor or employee will initially be determined by ~~go from~~ the State Director ~~to of~~ the Board, pursuant to 40:50-1-10 of this rule.

~~(tr)~~ **Emergency bypass:** ~~A one time event, authorized by a service representative that permits the IID equipped vehicle to be started without the requirement of passing the breath test. This event must be recorded in the Data storage system. Also see Illegal Start.~~

~~(sq)~~ **Filtered air sample:** Any mechanism by which there is an attempt to remove alcohol from the human breath sample. ~~Filters would include, but are not limited to silica gel, drierite eat litter, cigarette filters, water filters, cotton, or by any other means not mentioned.~~

~~(tr)~~ **Fixed-Site service center:** A certified service center that is at a permanent location, i.e., not mobile.

~~(us)~~ **Free re-start:** The condition in which a test is successfully completed and the motor vehicle is started, and then at some point the engine stops for any reason (including stalling). A free re-start is the ability to start the engine again, within a reasonable time as approved by the Board, without completion of another breath-alcohol analysis. This free re-start does not apply, however, if the IID was awaiting a rolling re-test that was not delivered.

~~(wt)~~ **IID:** The common abbreviation for Ignition Interlock Device used throughout these Rules.

~~(wu)~~ **Ignition interlock device:** (Abbreviated in this Rule as IID) A device that is a breath-alcohol analyzer ~~that is~~ connected to a motor vehicle ignition. In order to start the motor vehicle engine, a driver must deliver an alveolar breath sample to an approved IID which measures the alcohol concentration using fuel cell analysis. If the alcohol concentration meets or exceeds the startup set point on the interlock device, the motor vehicle will not start.

~~(xv)~~ **Illegal start:** An event wherein the IID equipped vehicle is started without the requisite breath test having been taken and passed and/or is started when the IID is in a lockout condition, ~~or is started by enabling an authorized emergency bypass. Any and all of these events~~ Any illegal start shall be recorded in the Data storage system as a violations and shall result in a violation reset.

~~(yv)~~ **Inactivation:**

(1) Inactivation refers to the voluntary or temporary discontinuance of certification. Unless specifically stated otherwise, this loss of certification will be an administrative program control as opposed to suspension or revocation for violation of these rules or the unreliability

or incompetence. Inactivation may be initiated by anyone having authority to suspend or revoke or by the certified entity in case of voluntary surrender of certification. In questionable cases, the decision to accept inactivated suspension or revocation will be determined by the Board or its designee. Re-certification of an inactivated certificate will require a written request from the applicant to the Board and successful completion of requirements outlined in 40:50-1-7, 40:50-1- 8 and 40:50-19 of this title (relating to Certification and Inspection of Service Centers, Service Representative, and Ignition Interlock Device Inspector) as appropriate for re-certification and/or other requirements determined by the Board or its designee. Inactivation will be used in, but not limited to, the following situations:

- (A) an inspector or service representative terminates employment under which certification was acquired and a new employment does not require certification, or the new location of the inspector or service representative cannot be ascertained; or
- (B) a service representative fails to renew current certification and reverts to an inactive status; or
- (C) a service center that no longer meets all the requirements for certification.

(2) Inactivation will not be considered by the Board as a disciplinary action. It is for administrative program control to safeguard the scientific integrity of the IID program.

(x) **Installation Authority:** A phrase used throughout these rules that refers to the actual statute or order requiring or authorizing installation of an IID.

(zy) **Interlock:** The mechanism which prevents a motor vehicle from starting when the alcohol concentration of a person meets or exceeds a preset value.

(aaz) **Lockout condition:** A state wherein the IID will not allow the vehicle to be started until a certified service representative completes a ~~violation~~ reset, downloads the data storage system and restores the IID to a state that will allow the vehicle to be started. ~~Events Violation—conditions~~ that trigger the lockout condition will enable a unique auditory and/or visual cue that will warn the driver that the vehicle ignition will enter a lockout condition ~~within a period not to exceed in~~ five (5) days ~~from the date of the event. This event will be uniquely recorded in the data storage system and will simultaneously start a clock that culminates in the actual lockout condition.~~

(bbaa) **Manufacturer:** The actual producer of the device.

(eebb) **Manufacturer's representative:** An individual and/or entity designated by the manufacturer to act on behalf of or represent the manufacturer of the device. May be synonymous with vendor.

(decc) **Mobile service center:** Any IID facility that has the personnel and equipment capability to be in use separately and simultaneously with it's parent fixed service center, whether set up in a vehicle or temporarily set up at a site with a permanent foundation.

(dd) **Monitor:** The agency, organization and/or person(s) designated by the Installation Authority to receive reports regarding IID participants.

(ee) **Negative result:** A test result indicating that the alcohol concentration is less than the startup set point or re-test set point value.

(ff) **Penalty Fail:** A pre-set or pre-determined alcohol concentration setting at which, or above, the device will record the high alcohol result in the data storage system. The pre-set point for persons under 21 years of age shall be 0.03. The pre-set point for persons 21 years of age and over shall be 0.09.

(ffgg) **Positive result:** A test result indicating that the alcohol concentration meets or exceeds the startup set point or re-test set point value.

(eggh) **Proficiency test:** A test administered by, and in the presence of, an IID inspector to establish and/or ascertain the competency of a service representative with regard to IID equipment.

(hhi) **Purge:** Any mechanism which cleanses or removes a previous breath or reference sample from the device and specifically removes alcohol.

(hij) **Re-certification:** Re-certification refers to the regaining of lost certification; for example, certification loss by inactivation, suspension, or revocation. Unless provided for by specific provision in these rules, application for re-certification requires a written request from the applicant to the Board. Upon receipt of the request, the applicant will be advised of necessary procedure to regain certification. Re-certification requires the successful completion of requirements stated in 40:50-1-7, 40:50-1-8 and 40:50-1-9 of this title (relating to Certification and Inspection of Service Centers, Service Representative, and Ignition Interlock Device Inspector) as appropriate, and/or additional requirements as stated by the ~~department Board.~~

(jjk) **Reference sample device:** Any alcohol breath testing external control or device approved for use pursuant to OAC 40:25-1-3(A). A device which generates a head space gas above a water/alcohol solution that is maintained at a thermostatically controlled temperature. This head space gas can be used to simulate the breath alcohol concentration of an individual who has been drinking alcoholic beverages and whose alcohol concentration is reflected in an analysis of breath sample. The results of this analysis are expressed as grams of alcohol per two hundred and ten liters of breath (g/210L).

(kk) **Re-test set point:** A pre set or pre determined alcohol concentration setting, which is the same (0.02g/210L) as the startup set point, at which, or above, during a rolling re-test, the device will record in the data storage system, the high alcohol result as a violation.

(ll) **Reportable violation:**

(1) Reportable violations are as follows:

(A) Three (3) Penalty Fails, at startup, within a 15 minute time frame.

(B) Any Illegal Start except when,

(i) Adequate proof, in the form of a Mechanics Affidavit provided by the Board, prepared and executed by the mechanic performing the repair work with a complete description of the work performed and that the illegal start was incidental to the work performed. Any Mechanic's Affidavit

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submitted shall be accompanied by receipts of said mechanic, or

(ii) Adequate proof, in the form of a Mechanics Affidavit provided by the Board, prepared and executed by the program participant, if the work was performed by him, under oath, with a complete description of the work performed and that the illegal start was incidental to the work performed. Any Mechanic's Affidavit submitted shall be accompanied by receipts for parts or sublet labor.

(C) Two (2) Re-test failures in a Sixty (60) day period. Each Sixty (60) day period shall run from the date of installation.

(D) Three (3) Re-test refusals in a Sixty (60) day period, unless accompanied by a Mechanic's Affidavit as specified in 2(a) of this subsection. Each Sixty (60) day period shall run from the date of installation.

(E) Failure to return to the IID to a licensed service center within Eight (8) days from entering a lockout condition may result in a Reportable Violation except when:

(i) The vehicle is being repaired. In the event the vehicle is being repaired, the program participant must inform their licensed service center at least every Eight (8) days as to the location of the vehicle and the anticipated date of completion of the repairs, or

(ii) The vehicle is being replaced. In the event the vehicle is being replaced by another vehicle, the reinstallation of the IID in the subsequent vehicle must be accomplished within Eight (8) days of original removal, and

(F) IID Removal except:

(i) Upon receipt of documentation from the Installation Authority or Monitor authorizing said removal, which shall only be performed by an Interlock Technician duly licensed by the Board.

(ii) The vehicle is being repaired. In the event the vehicle is being repaired, the program participant must inform their licensed service center at least every Eight (8) days as to the location of the vehicle and the anticipated date of completion of the repairs. In the event the IID must be disconnected during any repairs, said work must be performed or authorized by an Interlock Technician duly licensed by the Board. The reinstallation request must be accompanied by the Mechanics Affidavit as described herein, or

(iii) When the vehicle is being replaced. In the event the vehicle is being replaced by another vehicle, the removal and reinstallation of the IID in the subsequent vehicle must be accomplished within Eight (8) days of original removal and performed by an Interlock Technician duly licensed by the Board.

(G) Tampering as defined in paragraph (vv) of this chapter.

(2) Reportable violations shall be reported to the Installation Authority and/or Monitor by the five business days, banking holidays excepted, after the vendor verifies the violation.

(mm) **Re-test:** After passing the test allowing the engine to start, the IID shall require a second test within a randomly variable interval ranging from 5-15 minutes and shall allow a preset time period ranging from 4-6 minutes for the test to be completed. The third and subsequent retests shall be required at intervals ranging from 15 to 45 minutes from the previously requested test for the duration of the travel and shall allow the said 4-6 minutes for the test to be completed. The re-test set point value shall be 0.03.

(# nn) **Revocation:**

(1) Revocation refers to the immediate cancellation of certification. Revocation is an action taken only by the Board or its designee. To regain certification after revocation requires a written request from the applicant to the Board and successful completion of the requirements for certification and/or re-certification and/or a cost for this reinstatement, plus any other requirements determined by the Board. Revocation invalidates any current IID program certification issued to the revoked entity for the period of revocation and until recertification. Unless provided for by specific provision in these rules, revocation will apply when the holder of the certification no longer meets the criteria for certification. Examples of cases for which revocation will apply include, but not limited to, the following:

(A) a certified IID service center that no longer meets the requirements of these rules because of unreliability, incompetence, or violation of these rules.

(B) A certified inspector or service representative who is no longer in compliance with the requirements for certification under these rules including a certified inspector or certified service representative who, subsequent to certification, is convicted of driving while intoxicated, theft, a crime involving moral turpitude, or any offense classified as a felony.

(C) any case where, in the opinion of the Board or its designee, continuance of certification would not uphold the scientific integrity of the IID program.

(2) If after the allowed appeals process, the revocation of a service center is sustained; the revoked entity shall be required to replace the IID service and/or the IID as in 40:50-1-5 of this title (relating to Maintenance and Calibration Requirements).

(3) In the event that no appeal from the revoked service center is forthcoming, the revoked entity shall have 30 days to achieve the requirements of 40:50-1-5 of this title (relating to Maintenance and Calibration Requirements).

(mm) **Rolling re-start:** After passing the test allowing the engine to start, the IID shall require a second test within a randomly variable interval ranging from 5-15 minutes. The third and subsequent retests shall be required at intervals not to exceed 15 to 45 minutes from the previously requested test for the duration of the travel. See re-test set point.

(oo) **Re-test refusal:** Failure to complete a Re-test within the 4-6 minutes allowed. Any retest refusal shall be recorded in the data storage system as a retest violation.

(pp) **Re-test failure:** A Re-test breath test resulting in a positive result. Any retest failure shall be recorded in the data storage system as a retest violation.

~~(qq)~~ **Rolling re-test** **Re-test violation:** An event, recorded in the data storage system when the rolling retest requirements ~~is~~ are not met. Any re-test violation recorded in the data storage system shall result in a violation reset.

~~(rr)~~ **Service center:** The physical location where the service representative performs their IID services. Also see certified service center.

~~(ss)~~ **Service representative:** See Certified service representative.

(tt) **Startup set point:** A pre-set or pre-determined alcohol concentration setting at which, or above, the device will prevent the ignition of a motor vehicle from operating. That value shall be an alcohol concentration of 0.02g/210 liters of breath.

~~(uu)~~ **Suspension:** Suspension refers to the immediate cancellation or curtailment of certification and may be applied to any certified IID entity when, because of unreliability, incompetence, or violation of these rules that entity is not in compliance with the provisions stated in these rules or when continuance of such certification, in ~~is~~ the opinion of the Board, would ~~is~~ not uphold the scientific integrity of the IID program. A suspension can be initiated by an IID inspector or designated representative of the Board. Prior to appeal to the Board, suspensions may be set aside or sustained only after investigation by the Board. The minimum period of suspension as determined by the Board will be for a period of time not less than 30 days. The IID inspector or a designated representative of the Board may recommend a specific period of suspension to the Board.

(1) A suspension cancels any certification issued to a suspended inspector or service representative for a period of suspension until recertification. During a suspension, the suspended entity is barred from providing any service to the IID program.

(2) A suspension curtails any certification issued to a suspended service center for a period of suspension until recertification. During a suspension, the suspended service center may continue to provide service to those IID customers in existence prior to the suspension, but shall not acquire new IID customers during the period of suspension.

(3) To regain certification after the period of suspension requires a written request from the suspended entity to the Board. Upon receipt of the written request, the applicant will be advised of the necessary steps to be taken in order to regain certification. Suspension will not be considered by the Board to be a disciplinary action but shall be for the purpose of maintaining the scientific integrity of the ignition interlock program and upholding these rules. Suspension may be appealed in accordance to 40:50-1-10 of these rules.

~~(vv)~~ **Tampering:** An overt or conscious attempt to provide means whereby the operator may physically disable, disconnect the IID from its power source, wire around the device or otherwise use an artificial air source and thereby allow the operator to start the engine without taking and passing the requisite breath test. This attempt, whether successful or not, shall be recorded in the data storage system as a violation. Tampering may result in a Reportable Violation.

~~(ww)~~ **Vendor:** The person or entity representing the manufacturer(s) of an approved IID and responsible for the day-to-day operations and continuing of an IID service center. Must have manufacturer's approval for use of a particular approved IID either through purchase or lease agreement. May be synonymous with manufacturer's representative.

~~(xx)~~ **Violation:** Any of several events including but not limited to such things as penalty fail ~~high alcohol, whether from a violation set point or from a retest set point, rolling retest violations, tampering, or an illegal start, or any other event prohibited by the installation authority or monitor.~~ These events, recorded in the data storage system must be reported as per appropriate judicial requirements and which, when accumulated to a total determined by the appropriate judicial authority, shall enter a lockout condition within a period to exceed seven (7) days and require a violation reset.

~~(yy)~~ **Violation re-set:** An unscheduled service of the IID and download of the data storage system by the service center required because ~~an accumulation of violations has reached a number (predetermined by appropriate judicial authority) that generates a lock out condition, a violation has been recorded in the data storage system.~~ This information shall be reported to the appropriate judicial authority within 48 hours after the vendor confirms the violation. A violation reset shall cause the IID to enter a lockout condition in five (5) days from the date of the violation. Completion of this service will include restoring the IID to a state that will allow the vehicle to be started.

~~(zz)~~ **Violation set point:** A pre set or pre determined alcohol concentration setting at which, or above, the device will record the high alcohol result in data storage system as a violation. Until modified by the Board of Tests for Alcohol and Drug Influence, said pre set point shall be 0.05.

~~(zz)~~ **Withdrawal of approval:** Cancellation of approval of a device; to wit, not meeting or maintaining these regulations.

40:50-1-2. Procedure for device approval

(a) All ignition interlock devices to be used in the state of Oklahoma must be approved by the State Director of Tests for Alcohol and Drug Influence, of the Board of Tests for Alcohol and Drug Influence. The rules and requirements only apply to the IID usage in the Oklahoma legal system in applications such as (but not limited to) court orders, probation requirements or by the Department of Public Safety's Legal Division and/or occupational licensing requirements. They are not intended to apply to or limit IID use in a voluntary or non-adjudicated scenario such as a parent having an IID placed on a child's motor vehicle. intended to apply to or limit IID use in a

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~~voluntary or non-adjudicated scenario such as a parent having an IID placed on a child's motor vehicle.~~

(b) The Board will establish and maintain a list of approved devices, ~~published in these rules, available for public review at the administrative office of the Board during regular office hours,~~ by model and/or class for use in the state. Only fuel cell devices will be accepted in Oklahoma.

(c) If application is made for approval of a device by model and/or class not on the approved list, the following procedures and standards shall apply.

(1) A manufacturer or manufacturer's representative requesting approval of a device must submit a product model of the device, along with a written request for approval. It shall be the responsibility of the manufacturer or manufacturer's representative to incur costs of mailing, shipping or physically bring the device to and from the Board. It shall also be the responsibility of the manufacturer or the manufacturer's representative to submit a certified check or money order in the amount of \$1,000.00 ~~\$75.00, as designated on the Board's fee schedule posted in Chapter 55~~ (this is an administrative processing fee and is non-refundable). In the event of non-approval, additional requests for approval for the same device, submitted within one year of the original submission, shall not incur any additional fee. Repetitive additional requests for approval may be limited by the Board. ~~In the event of non-approval, additional requests for approval may be limited by the Board.~~ The Board shall not ~~get involved~~ participate in research and development procedures of these devices.

(2) Accompanying each device shall be shall be a notarized affidavit from a testing laboratory certifying that the submitted device by model and/or class meets or exceeds all requirements set forth in 40:50-1-3 of this title (relating to Technical requirements) and 40:50-1-4 of this title (relating to Miscellaneous Requirements) and/or any other requirements as determined by the Board. This affidavit shall also include:

- (A) the name and location of the laboratory;
- (B) the address and phone number of the testing laboratory;
- (C) a description of the test ~~performed~~ performed;
- (D) copies of the data and results of the testing procedures; and
- (E) the names and qualifications of the individuals performing the test.

(d) Prior to approval of the device, the manufacturer or the manufacturer's representative shall complete and submit an approved application Affidavit available through the Board. The notarized Affidavit shall be signed by the manufacturer or the manufacturer's representative. This affidavit shall state that the device by model and/or class will be calibrated and maintained pursuant to these rules and as designated by the Board. The affidavit shall include the following information:

(1) Name of individuals designated as the state service representative responsible for installation, periodically maintaining, calibrating and repairing the IID in accordance with the rules of the Board.

- (2) Address of these individuals.
- (3) Phone number of these individuals.
- (4) Qualifications of these individuals.

(A) If a device is submitted for approval by a party other than the manufacturer, the submitting party shall submit a notarized affidavit from the manufacturer of the device certifying that the submitting party is an authorized manufacturer's representative and that it is agreed and understood that any action taken by the Board or any cost incurred in accordance with the provisions of these rules shall ultimately be the responsibility of the manufacturer.

(B) After the device is approved, in order to do business in the Oklahoma IID program, a manufacturer must vend through a Certified IID Service Center as described in 40:50-1-7 of this title (relating to Certification and Inspection of Service Centers).

(e) An annual reevaluation of the approved IID, pursuant to Board of Tests for Alcohol and Drug Influence Title 40 Chapter 50 shall be required in order for continued approval (\$1000.00) ~~(\$75.00)~~. This reevaluation shall consider those requirements, and 40:50-1-3, 40:50-1-4 and 40:50-1-5 of this title (relating to Technical Requirements, Miscellaneous Requirements, and Maintenance and Calibration Requirements). The cost of this reevaluation shall be the same as for the initial approval process noted in subsection c (1) of this section.

(f) Annually provide to the Board a written report of each service and feature of all approved IIDs made available by the manufacturer. The Board shall make available the form for this report.

(g) The vendor shall notify the Board in writing if the Certification or approval of a device that is approved for use in Oklahoma is or ever has been suspended, revoked or denied in another state, whether such action occurred before or after approval in Oklahoma. This notification shall be made in a timely manner, not to exceed 30 days, after the vendor has received notice of the suspension, revocation, or denial of certification or approval of the device, whether or not the action is or has been appealed.

40:50-1-3. Technical requirements

(a) **Accuracy.** The startup set point value for the interlock device shall be an alcohol concentration of 0.020g/210L of breath. The accuracy of the device shall be 0.020g/210L ± 0.01g/210L. The accuracy will be determined by analysis of an external standard generated by a reference sample device, wet bath simulator, dry gas or other methodologies approved by the Board. The startup set point value for voluntary or non-adjudicated IID clients may not exceed an alcohol concentration of 0.030g/210L of breath.

(b) **Alveolar breath sample.** The device shall have a demonstrable feature designed to assure that the breath sample that is measured is essentially alveolar air.

(c) **Precision.** The device shall correlate with a known alcohol concentration of 0.020g/210L with accuracy set forth in subsection ~~set forth in subsection~~ (a) of this section. A correlation of 95% will be considered reliable precision; 95 of 100 times the device must respond to, detect, and prevent the

motor vehicle engine from operating when the operator has alcohol concentration of 0.02g/210L or greater, or any other limits as set by the Board.

- (1) The proportion of false positive results shall not exceed 5.0%
- (2) The proportion of false negative results shall not exceed 5.0%.
- (d) **Specificity.** A test of alcohol-free samples shall not yield a positive result. Endogenously produced substances capable of being present in the breath shall not yield or significantly contribute to positive results.
- (e) **Temperature.** The device shall meet the requirements of subsections (a) and (b) of this section when used at ambient temperature of -20 ° C to 50 ° C or other limits as set by the Board.
- (f) ~~Rolling restart or retest~~ **Retest.** To thwart curbside assistance, after passing the test allowing the engine to start, the IID shall require a retest as defined in 40:50-1-1(mm), second test within a randomly variable interval ranging from 5 to 15 minutes. Third and subsequent retests shall be required at intervals not to exceed 15 minutes from previously requested test for the duration of the travel. During the rolling retest, the retest set point shall be the same as the startup set point. In order to alert the driver that a retest is to be required, a warning light and/or tone shall come on. ~~The driver will then be afforded sufficient time to retest.~~ If the engine is intentionally or accidentally shutdown after or during the warning but before retesting, the free restart shall not be operative. ~~The failure to take a retest shall be recorded in the data storage system as a violation.~~
- (g) **Vibrational stability.** The device shall meet the requirements of subsections (a) and 9 (c) of this section when subjected to simple harmonic motion having an amplitude of 0.38 mm (0.015 inches) applied initially at a frequency of 10 Hz and increased at a uniform rate to 30 Hz in 22 minutes, then decrease at a uniform rate to 10 Hz in 22 minutes. The device shall also meet the requirements to simple harmonic motion having an amplitude of 0.19mm (0.0075 inches) applied initially at a frequency of 30 Hz in 22 minutes.

40:50-1-4. Miscellaneous requirements

- (a) **Anticircumvention.** The device shall be designed so that anticircumvention features will be difficult to bypass.
 - (1) Anticircumvention provisions shall include, but not be limited to, prevention or preservation of evidence of cheating by attempting to use bogus or filtered breath samples or bypass the breath sampling requirements of the device ~~electronically.~~
 - (2) The device may use special seals or other methods that record attempts to bypass anticircumvention provisions.
 - (3) The device shall be checked for evidence of tampering at least every sixty (60) days or more frequently if the need arises.
 - (4) When evidence of tampering is discovered, the licensed Interlock Technician shall notify the installation authority and/or monitor appropriate judicial authority

~~and/or the Department of Public Safety shall be notified in writing and these records shall be made available to the Board upon request subject to the limitation specified in 40:50-1-7(c)(4)(B).~~

- (b) **Operational features.**
 - (1) The device shall be designed to permit a free restart of the motor vehicle's ignition within a reasonable time as approved by the Board after the ignition has shut off, without requiring a further alcohol analysis.
 - (2) The device shall also automatically purge alcohol before allowing subsequent analyses. In addition to the operational features of these rules, the Board may impose additional requirements, as needed, depending upon design and functional changes in device technology.
 - (3) The device shall have a data storage system of sufficient capacity to facilitate the recording and maintaining of all daily driving activities for the period of time elapsed from one maintenance and calibration check, as referred to in 40:50-1-5 of this title (relating to Maintenance and Calibration Requirements) to the next.
- (c) **Product liability.** The manufacturer of the device shall carry liability insurance covering product liability, including coverage in Oklahoma with a minimum policy limit ~~of~~ one million dollars (\$1,000,000.00).
- (d) **Service report.** The manufacturer shall ensure responsibility for service within a maximum of 48 hours after notification of a reported malfunction. This support shall be in effect during the period the device is required to be installed in a motor vehicle or during such time as lease of the device shall be in effect.
- (e) **Modifications.** Once a device by model and/or class has been approved, no modification in design or operational concept may be made without prior written consent of the Board or its designee. This does not include replacement or substitution of repair parts to maintain the device nor software changes that do not modify the operational concept of the device.
- (f) **Warning label.** A label warning against tampering, circumventing, or misuse shall be affixed to each device.
- (g) **Safety.** The device shall be designed to comply with generally recognized safety requirements.
- (h) **Specification and operating instructions.** Manufacturers shall provide to the Board with each device submitted for approval, a precise set of specifications, which describe the features of the device concerned in the evaluation of its performance. A set of detailed operating instructions shall be supplied with each device.
 - (i) **Product indemnity.** The manufacturer shall provide a signed statement that the manufacturer shall indemnify and hold harmless the state of Oklahoma, the Board and its members, employees and agents from claim, demands, and actions, as a result of damage or injury to persons or property which may arise, directly or indirectly, out of any act or omission by the manufacturer or their representative relating to the installation, service, repair, use and/or removal of an IID.
 - (j) **General.** Any other requirements as may be determined necessary by the Board or its designee to ensure that the device functions properly and reliably.

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40:50-1-5. Maintenance and calibration requirements

(a) The device shall be inspected, maintained, and calibrated for accuracy and operational performance upon installation and at least once every sixty (60) days and more frequently, if necessary, as specified by the Board or the ~~appropriate judicial installation authority and/or monitor~~. This maintenance and calibration check will be performed by a certified IID service center as described in 40:50-1-7 of this title (relating to Certification and Inspection of Service Centers). On and after July 1, 2007, upon installation pursuant to an installation authority, the service representative shall provide the program participant with an installation certificate indicating the date installed and the name of the service representative. Each installation certificate shall be affixed with a seal from the Board showing the participant has paid a ten dollar (\$10.00) installation fee to the Board.

(b) The maintenance and calibration check will consist of, but not be limited to, a check of the device to determine that the device is properly functioning in accordance with the following sections:

(1) **Accuracy** - 40:50-1-3 (a) of this title (relating to Technical Requirements);

(A) The device shall be calibrated before placing into service. The calibration described herein shall verify the IID accuracy to be within plus or minus (\pm) 0.010g/210L of the reference sample predicted value.

(B) Upon return to the service center as in subsection (a) of this section, the device shall be subjected to a calibration confirmation test. The test results described herein shall verify the accuracy of the IID to be within plus or minus (\pm) 0.010g/210L of the reference sample predicted value.

(i) Should the device fail the calibration confirmation test referred to in subsection (b)(1)(B) of this section that information shall be ~~made available to the appropriate judicial authority and provided upon request to the Board and/or the installation authority and/or the monitor~~.

(ii) Should the calibration confirmation test referred to in subsection (b)(1)(B) of this section not agree within plus or minus (\pm) 0.010 g/210L of the reference sample predicted value, the device shall be recalibrated so as to restore accuracy described in subsection (b)(1)(A) of this section before the device may be returned to service.

(2) **Anticircumvention** - 40:50-1-4 of this title (relating to Miscellaneous Requirements); and

(3) **Operational features** - 40:50-1-4 of this title (relating to Miscellaneous Requirements).

(c) Maintenance and calibration records shall be maintained by the manufacturer, the manufacturer's representative, and/or the vendor and shall be provided upon request to the Board, ~~the installation authority and/or any appropriate judicial authority and/or the Department of Public Safety, the monitor~~.

(d) If at any time the device fails to meet the provisions of this section, the device shall be removed from service or recalibrated and/or repaired, and these reports shall be ~~made~~

~~available to the appropriate judicial authority and/or the Department of Public Safety and provided~~ upon request to the Board.

(e) A manufacturer shall be responsible for providing continuing service by a certified service center during the installation period, without interruption, should a certified service center go out of business or be revoked.

(1) If the out of business or revoked service center is being replaced, the manufacturer shall make all reasonable efforts to obtain participant records and data from certified service center being replaced and provide them to the new service center. The Board shall be notified of this event within thirty (30) days.

(2) If the out of business or revoked service center is not replaced, the manufacturer shall retain the records and data as required in subsection (e)(1) of this section. The Board shall be notified of this event as soon as possible.

(A) The manufacturer shall be responsible for, and shall bear the cost of, removal of the original IID, regardless of the manufacturer of the device being substituted, if another manufacturer's device is available. The manufacturer shall also determine that each participant with an existing installed IID is able to obtain the required service within a reasonable distance, or the closest service center available, of participant's residence or place of business.

(B) The manufacturer shall make every reasonable effort to notify all participants of the change of the certified service center or replacement of the device thirty (30) days before the change or replacement will occur, or as soon as is possible.

(3) If neither subsection (e)(1) nor subsection (e)(2) of this section can be accomplished, the manufacturer shall be responsible for notifying the clients and the installation authority and/or monitor ~~appropriate judicial authority~~ that service will be terminated within sixty (60) days, and then removing the device at no cost to the clients in question.

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

(a) All IID service centers conducting business in this state, whether fixed or mobile, must have the approval of and be certified by the Board and pay a fee for site inspection of \$100.00.

(b) To initiate certification for an IID service center, a vendor or IID manufacturer's representative shall submit an application to the Board for approval. The application, available from the Board, shall show physical location of service center, the brand and/or model of the ignition interlock device(s) to be merchandised and reference sample device(s) to be used. The application shall also contain a statement acknowledging permission from the IID manufacturer to vend the IID described by application. Only IID's listed on the approved (40:50-1-11) list referenced in 40:50-1-2 of this title (relating to Procedure for Device Approval) may be merchandised. A vendor applying for certification of an IID service center must agree to:

(1) Allow access for inspection under subsection (d) of this section,

- (2) comply with subsection (g) of this section,
 - (3) comply with subsection (c) of 40:50-1-4 of this title (relating to Miscellaneous Requirements) concerning product liability insurance requirements, and
 - (4) comply with subsection (d) 40:50-1-4 of this title (relating to Miscellaneous Requirements) concerning service support requirements.
 - (5) pay fees for inspection of site as stated in (a) of this section.
- (c) All IID testing techniques, in order to be approved, shall meet, but not be limited to, the following:
- (1) A certified IID service center shall be located in a facility which properly and successfully accommodates installing, inspection, downloading, calibrating, ~~repairing~~, monitoring, maintaining, servicing an /or removing a specific IID device(s). The service center must incorporate the use of analysis of a reference sample such as head space gas from a mixture of water and known weight of alcohol at a known temperature, the results of which must agree with the reference sample predicted value as in 40:50-1-5 of this title (relating to Maintenance and Calibration Requirements), or other methodology that may be approved by the Board (40:50-1-3, Technical Requirements, (a) Accuracy) Preparatory documentation (such as certificate of analysis) on then reference sample solution(s) shall be available to the Board. Only reference sample devices approved by the Board and specified in 40:25-1-3 may be used in certified IID operations.
 - (2) Services rendered by IID service center must be performed by a properly trained and certified service representative. IID service centers shall maintain sufficient staff to ensure an acceptable level of service. Monitor checks shall be scheduled in a manner such as not to deprive the client of an acceptable level of service. The IID service center must at all times be staffed with at least one certified service representative. Potential service representative candidates may train in the certified IID service center only under the direct supervision of a currently certified service representative. The potential service representative candidate will be given a reasonable time as determined by the Board to train before being required to take and pass the IID service representative examination.
 - (3) All analytical results shall be expressed in grams of alcohol per two hundred and ten liters (g/210L).
 - (4) The applicant must agree to maintain any specified records designated by the Board, including but not ~~limit~~ limited to:
 - (A) ~~submitting reportable violation(s) if any, of any court order to appropriate judicial authority and/or the Department of Public Safety, not later than 48 hours after the vendor confirms the violation to the installation authority and/or the monitor as specified in 40:50-1-1(II).~~
 - (B) maintaining complete records of each device installed for five (5) years from the date of the removal.
 - (C) making IID records available, either by inspection or via copy to any ~~appropriate judicial~~ installation
- authority and/or the monitor and/or Department of Public Safety and upon request to the Board.
- (5) Anticircumvention features must be activated ~~an~~ on any installed IID.
 - (6) ~~If applicable, the~~ The device must be installed and inspected in accordance with ~~these rules applicable court order.~~ Furthermore, the service center, through the certified IID representative(s), shall perform a visual inspection of the vehicle, the devices, and the device's wiring to ensure no tampering or circumvention has occurred during the monitoring period. ~~In the case wherein the client returns to the service center as in 40:50-1-5 of this title (relating to Maintenance and Calibration Requirements) absent their vehicle, such fact shall be made available to the appropriate judicial authority or the Department of Public Safety.~~
 - (d) An IID inspector or a designated representative of the Board may at any time make an inspection of the certified IID service center to ensure compliance with these rules.
 - (e) A designated custodian of records, when required, shall be provided by the vendor to testify in court and provide testimony concerning the interpretation of any data storage system records, as required by these courts and to answer questions concerning certification of the IID program.
 - (f) Upon proof of compliance with subsection (a)-(c) of this section, certification will be issued by the Board. Issuance of a certificate to the service center shall be evidence that the service center meets all necessary criteria for approval and certification. Prior to issuance of the certification, an on-site evaluation may be required by the Board to ensure compliance with the provisions of this section.
 - (g) Certification of the IID service center is contingent upon the applicant's agreement to conform and abide by any directives, orders or policies issued or to be issued by the Board regarding any aspect of the IID service center; this shall include, but not be limited to, the following:
 - (1) program administration;
 - (2) reports;
 - (3) records and forms;
 - (4) inspections;
 - (5) methods of operation and testing techniques;
 - (6) personnel training and qualifications;
 - (7) criminal history considerations for service representative; and
 - (8) records custodian.
 - (h) Certification of an IID service center may be denied, withdrawn, inactivated, suspended, or revoked by the Board if a vendor, service center, service representative, or IID equipment fails to meet all criteria stated in this section, or if the vendor violates any law of this state that applies to the vendor. An IID service center whose pending application for certification has been denied, or an IID service center whose certification has been withdrawn, inactivated, suspended or revoked may appeal may be made by following the appeal process established in 40:50-1-10 of these rules. The Board may allow the pending application for certification of the IID service center, or the Board may reinstate certification of the

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IID service center appealing the withdrawal, activation, suspension or revocation of certification under such conditions deemed necessary.

- (i) Recertification of a service center whose certification has been withdrawn, inactivated, suspended or revoked will require a written request from the applicant to the Board and successful completion of the original requirements for certification as outlined in subsection (b) of this section and/or other requirements as determined by the Board.
- (j) Recertification of a service center whose certification has been withdrawn, inactivated, suspended or revoked will require a fee as show in Chapter 55 of the Boards Rules before recertification will take place.

40:50-1-8. Service representative

(a) Initial certification.

(1) In order to apply for certification as a service representative of an ignition interlock device service center, an applicant must successfully attain the following and pay a fee of ~~\$100.00~~ \$35.00:

(A) proof of employment by an ignition interlock device service center that meets the requirements set forth in 40:50-1-7 of this title (relating to Certification and Inspection of Service Centers); and

(B) documentation from the aforementioned ~~employee~~ employer that the applicant is currently trained in all necessary aspects of the specific IIDs involved in the vendors service center.

(C) If a service representative is certified to work with a specific brand and/or model of equipment and is required to be certified on an additional brand and/or model of equipment, the Board may waive portions of subsection (a)(1)(B) of this section and require only that instruction needed to acquaint the applicant with proper operation of the new brand and/or model of equipment.

(2) Prior to initial certification as a service representative of an ignition interlock device service center, an applicant must satisfactorily complete a written examination which shall cover the regulatory aspects of the Oklahoma IID program.

(A) Failure of the initial written examination will cause the applicant to be ineligible for reexamination for a period of thirty (30) days.

(B) A subsequent failure will be handled the same as an initial failure.

(3) An applicant who has been convicted of an alcohol related offense, theft, crime involving moral turpitude, or any offense classified as a felony, within five (5) years prior to the date of filing of the applicant's application for certification as an IID service representative ~~is may~~ is not be eligible for certification. For ~~purpose~~ purposes of this section, a conviction means the applicant was adjudicated guilty, ~~No to contendere or received a deferred sentence~~ by a court of competent jurisdiction.

(b) **Renewal of current certification.** The service representative is required to renew certification prior to its expiration

date. The minimum requirement for renewal of service representative certification will be:

(1) a ~~biennial~~ annual written acknowledgment from the service representative's employing IID vendor that this service representative is both;

(A) employed by the vendor in the capacity of service representative, and

(B) currently trained in all necessary aspects of the IIDs involved in the vendor's service center.

(C) Renewal fee of ~~\$75.00~~ \$25.00 has been paid.

(2) a ~~biennial~~ annual written acknowledgment from the service representative that he or she still meets the requirements of subsection (a)(3) of this section.

(3) Renewal of certification will be denied and current certification will be inactivated when the service representative:

(A) fails to ~~finish~~ furnish proper documentation required in subsection (b)(1)(A) and of this section or

(B) fails to meet requirements of subsection (a)(3) of this section.

(4) Upon successful completion of the requirements for renewal of certification, the Board will issue the individual a service representative's certificate valid for a period of time designated by the Board or until next renewal unless certification is withdrawn, inactivated, suspended, or revoked.

(c) Certification of the service representative may denied, withdrawn, inactivated, suspended or revoked by the director if the service representative fails to meet the requirements of these rules. A person whose pending application for certification has been denied, or service representative whose certification has been withdrawn, inactivated, suspended or revoked may appeal such action as established in 40:50-1-10 of ~~this~~ these rules. The Board may allow the pending application for certification as an IID service representative, or the Board may reinstate certification of the IID service representative appealing the withdrawal, inactivation, suspension or revocation of certification under such conditions deemed necessary.

(d) Recertification of a service representative whose certification has been withdrawn, inactivated, suspended or revoked will require written request from the applicant to the Board and successful completion of the original requirements for certification as outlined in subsection (a) of this section and/or other requirements as determined by the Board.

(e) Recertification of a service representative whose certification has been withdrawn, inactivated, suspended or revoked will require a reinstatement fee, ~~this fee will be found in Chapter 55 of the Boards Rules.~~ equal to the fee for intial certification.

40:50-1-9. Ignition interlock inspector

(a) The **minimum qualifications** for certification as an IID inspector are:

(1) graduation from a standard senior high school or the equivalent plus two (2) years or more responsible work experience. College may substitute for experience on a year-year basis.

(2) the satisfactory completion of IID inspector training that is approved by the Board, the content of which shall include, but not ~~limit be limited~~ to familiarity with:

- (A) record keeping appropriate to approved IIDs in use in the State of Oklahoma;
- (B) operational principles and theories applicable to the program; and
- (C) legal aspects of the IID program.

(3) Knowledge and understanding of the scientific theory and principles as to the operation of the IID and reference same device.

(4) Persons who are currently engaged in business with or employed by an IID manufacturer or an IID vendor shall not be eligible to become a certified IID inspector.

(5) An applicant who has been convicted of an alcohol related offense, theft, a crime involving moral turpitude, or any offense classified as a felony, within five (5) years prior to the date of filing of the applicant's application for certification as an IID inspector ~~is may not be~~ eligible for certification. For ~~purpose purposes~~ of this section, a conviction means the applicant was adjudicated guilty, ~~no to contendere or received a deferred sentence~~ by a court of competent jurisdiction.

(6) Upon satisfactory proof to the Board by the applicant that the minimum qualifications of this subsection have been met, the Board will approve and direct the State Director to issue a certificate that will be valid unless certification is withdrawn, inactivated, suspended or revoked for cause.

(b) **Duties.** A certified IID inspector will make a minimum of one onsite inspection of each service center as needed or directed by the State Director. Such an inspection will include but not limited to:

- (1) Any and all IID technician requirements as per 40:50-1-3 of this section (relating to Technical Requirements).
- (2) Any and all IID miscellaneous requirements as per 40:50-1-4 of this title (relating to Miscellaneous Requirements).
- (3) Any and all IID maintenance and calibration requirements as per 40:50-1-5 of this title (relating to Maintenance and Calibration Requirements).
- (4) Any and all service center representative requirements as per 40:50-1-7 of this title (relating to Certification and Inspection of Service).
- (5) Any and all service representative requirements as per 40:50-1-8 of this title (relating to Service Representative).

(c) **Fees.** Vendors shall reimburse the Board for conducting each inspection of the vendor's facility under this section. These fees shall be \$100.00 for initial and \$75.00 renewal each year thereafter. This cost shall be uniform for all facilities inspected.

- (1) The Board may conduct more inspections for cause, such as complaints from judicial, or adult supervision, or client at additional cost to the service center being inspected.

(2) The calculated cost per inspection will be standardized throughout the IID program unless there are individual vendor circumstances that require additional costs to the Board and will consequently be passed through to the affected vendor(s).

~~(d) Certified IID inspector will be appointed by the State Director of Tests and this appointment will be reviewed and approved by the Board and a fee of \$100.00 for initial issuance and \$75.00 for renewal.~~

~~(e)~~ Certification of a an IID inspector may be **denied, withdrawn, inactivated, suspended or revoked** by the Director, if the inspector fails to meet the requirements of these rules.

~~(f)~~ A person whose pending application for certification has been denied, or an IID inspector whose certification has been withdrawn, inactivated, suspended or revoked **may appeal** such action as required in 40:50-1-10 of these rules. The Board may allow the pending application for certification as an IID inspector, or the Board may reinstate certification of the IID inspector appealing the withdrawal, inactivation, suspension or revocation of certification under such conditions deemed necessary.

~~(g)~~ Recertification of an IID inspector whose certification has been withdrawn, inactivated, suspended, or revoked will require a written request from the applicant to the State Director. Such request must ~~will~~ be reviewed and approved by the Board, ~~and~~ after successful completion of the original requirements for certification as outlined in subsection (a) of this section and/or other requirements as determined by the State Director.

40:50-1-11. Approved ignition interlock devices

(a) Any ignition interlock device, approved by the Board as meeting the above requirements, by resolution, at an open meeting of the Board as well as the following models are hereby approved for legally required IID installations.

- ~~(a)~~ 1 Draeger ~~Interlock~~ (Dräger) Model 920 and Model XT
- ~~(b)~~ 2 ~~CSI~~ CST, Inc., Model 1001A
- ~~(c)~~ 3 Guardian Interlock System AMS 2000
- ~~(d)~~ 4 ~~Lifesaver~~ Lifesaver Interlock System Model FC100
- ~~(e)~~ 5 SmartStart Instrument Model SSI-1000 and SSI20/20

(b) The Board shall maintain a list of all said IIDs, available for public review at the administrative office of the Board during regular office hours.

[OAR Docket #08-751; filed 4-28-08]

**TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE
CHAPTER 65. OKLAHOMA QUALITY JOBS PROGRAM**

[OAR Docket #08-786]

RULEMAKING ACTION:
PERMANENT Final Adoption

Permanent Final Adoptions

RULE:

150:65-1-2 [AMENDED]
150:65-1-3 [AMENDED]
150:65-1-4 [AMENDED]

AUTHORITY:

The legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq., and the Oklahoma Quality Jobs Program.

DATES:

Comment period:

February 1, 2008 through March 3, 2008

Public hearing:

March 4, 2008

Adoption:

March 4, 2008

Submitted to Governor:

March 7, 2008

Submitted to House:

March 7, 2008

Submitted to Senate:

March 7, 2008

Gubernatorial approval:

April 8, 2008

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 1, 2008.

Final adoption:

May 1, 2008

Effective:

June 12, 2008

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

This action is to clarify the existing Oklahoma Quality Jobs Program rules and to incorporate recent legislative changes in the Oklahoma Quality Jobs Program.

CONTACT PERSON:

Donald R. Hackler, Jr. (405) 815-5359

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2008:

SUBCHAPTER 1. QUALITY JOBS PROGRAM

150:65-1-2. Definitions

For purposes of this chapter, the following words and terms shall have the following meaning unless the context clearly indicates otherwise.

"Application date" means the date on which the establishment's application is first received and stamped by a Quality Jobs representative at the Oklahoma Department of Commerce.

"Approval date" means the date on which the Executive Director of the Oklahoma Department of Commerce issues the offer to an establishment to receive incentive benefits pursuant to the Oklahoma Quality Jobs Program.

"Baseline employment" means an establishment's total number of jobs, which existed in this state prior to the application date of the establishment to approval of the establishment's application by the Oklahoma Department of Commerce. A job shall be deemed to exist in this state prior to

approval of an establishment's application if the activities and functions for which the particular job exists have been ongoing at anytime within six (6) months prior to such approval of the establishment. Upon approval of an application or upon the start date of a project if it is more than sixty days six months later than the application approval date, the Department may shall determine an establishment's baseline employment to be its then current employment or its average employment over the last four quarters and may adjust the average wage requirement to meet the most current average wage requirement.

"Change in control event" means the transfer to one or more unrelated establishments or unrelated persons, of either:

(A) beneficial ownership of more than fifty percent (50%) in value and more than fifty percent (50%) in voting power of the outstanding equity securities of the transferred establishment, or

(B) more than fifty percent (50%) in value of the assets of an establishment. A transferor shall be treated as related to a transferee if more than fifty percent (50%) of the voting interests of the transferor and transferee are owned, directly or indirectly, by the other or are owned, directly or indirectly, by the same person or persons, unless such transferred establishment has an outstanding class of equity securities registered under Sections 12(b) or 15(d) of the Securities Exchange Act of 1934, as amended, in which event the transferor and transferee will be treated as unrelated; provided, an establishment applying for the Oklahoma Quality Jobs Program Act as a result of a change of control event is required to apply within one hundred eighty (180) days of the change in control event to qualify for consideration. An establishment entering the Oklahoma Quality Jobs Program Act as the result of a change of control event shall be required to maintain a level of new direct jobs as agreed to in its contract with the Department of Commerce and to pay new direct jobs an average annualized wage which equals or exceeds one hundred twenty-five percent (125%) of the average county wage as that percentage is determined by the Oklahoma State Data Center based upon the most recent U.S. Department of Commerce data for the county in which the new jobs are located. For purposes of this paragraph, healthcare premiums paid by the applicant for individuals in new direct jobs shall not be included in the annualized wage. Such establishment entering the Quality Jobs Program Act as the result of a change of control event shall be required to retain the contracted average annualized wage and maintain the contracted maintenance level of new direct jobs numbers as certified by the Oklahoma Tax Commission. If the required average annualized wage or the required new direct jobs numbers do not equal or exceed such contracted level during any quarter, the quarterly incentive payments shall not be made and shall not be resumed until such time as such requirements are met. An establishment described in this paragraph shall be required to repay

all incentive payments received under the Quality Jobs Program Act if the establishment is determined by the Oklahoma Tax Commission to no longer have business operations in the state within three (3) years from the beginning of the calendar quarter for which the first incentive payment claim is filed. [68 O.S. § 3603 (A)(2)].

"Combination" means an establishment, provided it meets the requirements of 68 O.S. ~~Supp.—1994~~, Section 3601 et seq. and the requirements set out in 150:65-1-13 of this chapter.

"Commission" means the Oklahoma Tax Commission established pursuant to 68 O.S. Section 102, and any successor agencies thereto.

"Cost-benefit analysis" means the analysis the Oklahoma Department of Commerce is required to perform to determine the estimated direct state benefits and estimated direct state costs.

"Date of determination" means the date assigned by the Department on the Incentive Offer on which a subunit and the entity of which the subunit is a part, must demonstrate a net increase in total employment in accordance with 150:65-1-12 (b) and (c) of this chapter.

"Employment of the remainder of the entity of which the subunit is a part" means the total number of jobs of an entity of which the subunit is a part which existed in this state prior to the application date approval of the subunit as an establishment by to the Oklahoma Department of Commerce. Such jobs shall be deemed to exist in this state prior to approval of a ~~subunit subunit's application as an establishment~~ if the activities and functions for which the particular job exists have been ongoing at any time within six (6) months prior to approval ~~of the subunit as an establishment~~. Upon approval of an application ~~or upon the start date of a project~~ of a subunit as an establishment, if it is more than ~~sixty days~~ six (6) months later than the ~~approval~~ application date, the Department ~~shall~~ may determine the employment of the remainder of the entity of which the subunit is a part to be its then current employment or its average employment over the last four quarters, ~~whichever is greater~~ and may adjust the average wage requirement to meet the then current average wage.

"Entity of which the subunit is a part" means the business or governmental entity of which a subunit is a separate part as described in 68 O.S. ~~Supp.—1994~~, Section 3603(8)(a) and 150:65-1-12 of this chapter.

"Estimated direct state benefits" means the tax revenues projected...to accrue to the state as a result of new direct jobs.[68:3603(A)(4)] Such revenues shall include:

(A) State income tax receipts from employees holding new direct jobs. The Oklahoma Department of Commerce will determine the estimated direct state benefit from personal income tax receipts by reviewing:

- (i) historical data on similar or existing projects;
- (ii) information provided by the establishment;

(iii) data from federal agencies such United States Bureau of the Census and the United States Department of Labor;

(i) the most recent historical data from the Oklahoma Tax Commission on average personal tax rates by income class; and,

(v) private sector financial reports; and

(B) State sales and use tax receipts, excise tax receipts, gasoline tax receipts and other anticipated tax receipts resulting from purchases by employees holding new direct jobs. The Department will determine the estimated direct state benefit from such taxes by reviewing:

(i) information supplied by the establishment;

(ii) data from federal agencies such as the United States Department of Labor;

(iii) Oklahoma Tax Commission sales and use tax reports; and,

(iv) private sector financial reports.

"Estimated direct state costs" means the costs projected to accrue to the state as a result of new direct jobs employing new state residents and/or new state service beneficiaries. Such costs shall include:

(A) The costs of educating new state resident children. The Oklahoma Department of Commerce will determine the estimated direct state costs of such educations by using:

(i) information supplied by the establishment;

(ii) the most recent average student allocation per pupil formula provided by the Oklahoma Department of Education; and,

(iii) United States Department of Labor statistics;

(B) The costs of government services such as public health, public safety and transportation provided to new residents and/or state service beneficiaries. The Department will determine the estimated direct state costs for such government costs by examining the state's per capita cost of providing non-common education services and estimating the amount of the state's excess capacity; and

(C) The costs of any industrial access road paid for with state funds and provided by the Oklahoma Department of Transportation; provided, the road is clearly from the facility to the thoroughfare and is clearly and primarily utilized by the establishment.

"Estimated net direct state benefits" means the estimated direct state benefits less the estimated direct state costs. [68:3603(A)(5)]

"Extraordinary adverse business circumstance" is an unforeseen event or series of events that adversely impact a business' ability to participate in the Oklahoma Quality Jobs Program. Such events shall not include market, economic, or business factors, but be limited to Acts of God, acts of terrorism, and civil unrest.

"Full-time equivalent employment" means employment which has a minimum six-month duration during any

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twelve-month time period, regardless whether the same employee holds the employment for said time.

"Line of business" means the SIC code that is reflected by the end product or services of a given project resulting in new direct jobs.

"Negative economic event" means (1) a man-made disaster or natural disaster as defined in 63 O.S. § 683.3, resulting in the loss of a significant number of jobs within a particular county of this state, or (2) an economic circumstance in which a significant number of jobs within a particular county of this state have been lost due to an establishment changing its structure, consolidating with another establishment, closing or moving all or part of its operations out of this state.

"Net benefit rate" is set forth at 68 O.S. § 3603(A)(67) as determined by the Oklahoma Department of Commerce.

"New direct job":

(A) *means full-time-equivalent employment in this state in an establishment which has qualified to receive an incentive payment pursuant to the provisions of Section 3601 et seq. of this title [68 O.S. § 3601] which employment did not exist in this state prior to the date of approval by the Department of the application of the establishment pursuant to the provisions of Section 3604 of this title [68 O.S. § 3604]; provided, that if an application of an establishment is approved by the Department of Commerce after a change in control event and the Director of the Department of Commerce determines that the jobs located at such establishment are likely to leave the state, "new direct job" shall include employment that existed in this state prior to the date of application which is retained in this state by the new establishment following a change in control event, if such job otherwise qualifies as a new direct job, and*

(B) *shall include full-time-equivalent employment in this state of employees who are employed by an employment agency or similar entity other than the establishment which has qualified to receive an incentive payment and who are leased or otherwise provided under contract to the qualified establishment, if such job did not exist in this state prior to the date of approval by the Department of the application of the establishment or the job otherwise qualifies as a new direct job following a change in control event. A job shall be deemed to exist in this state prior to approval of an application if the activities and functions for which the particular job exists have been ongoing at any time within six (6) months prior to such approval. With respect to establishments defined in division (10) of subparagraph a of paragraph 1 of this subsection, [NAICS 2111] new direct jobs shall be limited to those jobs directly comprising the corporate headquarters of or directly relating to administrative, financial, engineering, surveying, geological or geophysical services performed by the establishment. Under no circumstances shall employment relating to drilling or field services be considered new direct jobs. [68 O.S. § 3603(3)] But does not include jobs*

which constitute an establishment's baseline employment as determined by the Oklahoma Department of Commerce pursuant to the definitions of this section. An establishment must maintain a total number of jobs equal to its baseline employment number before any job of the establishment shall be considered a new direct job.

"Quality jobs representative" means an Oklahoma Department of Commerce professional or economic development professional, trained in the Oklahoma Quality Jobs Program, who is so designated by the Executive Director, and whose responsibilities in the program include direct contact with applicants and clients, analysis of data, initiation of project proposals, preparation of project profiles and preparation of incentive offers.

"Significant number of jobs" means full-time-equivalent employment in a county equal to or in excess of three percent (3%) of the total amount of full-time-equivalent employment in that county for the calendar year, or most recent twelve-month period in which employment is measured, preceding the event.

"Subunit" means an establishment, provided it meets all requirements of 68 O.S. ~~Supp. 1994~~, Section 3601 et seq. and the requirements set out in 150:65-1-12 of this chapter.

150:65-1-3. Eligible entities

Eligible entities which may apply for the Oklahoma Quality Jobs Program are establishments that:

- (1) Meet the definition of a "basic industry" as set forth in Section 3603 of Title 68 of the Oklahoma Statutes;
- (2) Offer medical benefits to the holders of new direct jobs through a health benefits plan meeting the requirements of the Oklahoma Quality Jobs Program Act and this chapter;
- (3) Have an annual gross payroll for new direct jobs projected to equal or exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) within three (3) years of the date of the first incentive payment. Provided, that for establishments applying as a ~~Central Administrative Office~~ under NAICS 551114 only payroll from those jobs associated with the ~~Central Administrative Office corporate headquarters~~ function shall be allowed; and
- (4) Have a number of full-time employees working an average of thirty (30) or more hours per week in new direct jobs equal to or in excess of eighty percent (80%) of the total number of new direct jobs. Provided, full-time employees provided through lease or contract by a third party employer may be included if they meet the definition of new direct jobs of the applicant.
- (5) Industry Group Numbers 3111 through 3119 of the NAICS Manual shall be required to meet the requirements set forth at 68 O.S. § 3604(D).
- (6) An establishment which locates its principal business activity on a site containing at least ten (10) acres which, that meets the requirements set forth in 68 O.S. § 3604(E)(1) shall be required to meet the requirements set forth in 68 O.S. § 3604(E)(2) through 68 O.S. § 3604(E)(4).

(7) New direct jobs must be paid an annualized wage which equals or exceeds the thresholds set forth in 68 O.S. § 3604(F)(1) and (2), except for those otherwise qualified establishments that locate in an opportunity zone as set forth in 68 O.S. § 3604(G).

(8) An establishment which meets the requirements set forth at 68 O.S. § 3603(A)(6)(e) may apply under those provisions.

150:65-1-4. Application

(a) A project profile shall be prepared for establishments that meet the requirements of 150:65-1-3. In order to prepare a project profile the establishment shall be required to provide the following information:

- (1) The calendar year and quarter in which the project first starts,
- (2) The employment resulting from the project over ~~ten~~ five (10 5) years,
- (3) The first and third year average salary of the new workers hired in the new direct jobs,
- (4) A description of the establishment's operations and the lines of business and operations of the project for which an application is being submitted, and
- (5) Such other information as may be required by the Department.

(b) A preliminary analysis and the estimate of the net benefit rate and the total possible incentive available to the establishment, will be sent to the eligible establishment for review.

(c) The establishment shall also provide a copy of its basic health benefits plan offered to employees or a description of the plan that will be offered within one hundred and eighty (180) days of the date of ~~application~~ employment.

[OAR Docket #08-786; filed 5-2-08]

**TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE
CHAPTER 110. OKLAHOMA SPECIALIZED QUALITY INVESTMENT ACT**

[OAR Docket #08-787]

RULEMAKING ACTION:

PERMANENT Final Adoption

RULE:

150:110-1-1 [AMENDED]
150:110-1-2 [AMENDED]

AUTHORITY:

The legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq., and Section 1 of House Bill 1619 of the 2nd Session of the 50th Oklahoma Legislature, executed by the Governor on February 21, 2006 and effective July 1, 2007.

DATES:

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Failure of the Legislature to disapprove the rules resulted in approval on May 1, 2008.

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SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

150:110-1-1 [AMENDED]
150:110-1-2 [AMENDED]

Gubernatorial approval:

September 1, 2007

Register publication:

25 Ok Reg 57

Docket number:

07-1378

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

This action is to clarify the name of the Oklahoma Specialized Quality Investment Act program so it will not be confused with the new Oklahoma Quality Investment Act Program.

CONTACT PERSON:

Donald R. Hackler, Jr. (405) 815-5359

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2008:

150:110-1-1. Purpose and scope

The purpose of these rules is to implement the Oklahoma Specialized Quality Investment Act at the Oklahoma Department of Commerce.

150:110-1-2. Definitions

For purposes of the Oklahoma Specialized Quality Investment Act:

"Capital costs" means costs for land, buildings, improvements to buildings, fixtures and for machinery, equipment and other personal property used in and for the manufacturing process incurred by a qualified establishment, on or after the effective date of this act, with respect to the manufacturing site located in this state and specified in a quality investment agreement. [68 O.S. § 4103]

"Commission" means the Oklahoma Tax Commission established pursuant to 68 O.S. Section 102, and any successor agencies thereto. [68 O.S. § 4103]

"Department" means the Oklahoma Department of Commerce. [68 O.S. § 4103]

"Director" means the duly appointed and acting Director of the Department or during any period of time that the position of Director is vacant; such term shall refer to the person serving as the acting director.

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"Fiscal year" means the state fiscal year, which shall begin on July 1 of a calendar year and end on June 30 of the next calendar year. [68 O.S. § 4103]

"Qualified establishment" means a business entity engaged in the activity described by Industry Number 3011, Industry Group Number 301, Major Group 30 of the Standard Industrial Classification manual, latest revision. No establishment that has been certified as eligible to participate in the Oklahoma Quality Jobs Incentive Leverage Act incentive program shall be eligible for any investment payment pursuant to the Oklahoma Specialized Quality Investment Act. A qualified establishment shall enter into a quality investment agreement pertaining to a single manufacturing site as that term is defined in Section 1352 of Title 68 of the Oklahoma Statutes. No combination of other locations of an establishment or any related entities of an establishment shall be included in a quality investment agreement. An establishment may enter into additional quality investment agreements for additional sites. [68 O.S. § 4103]

"Quality investment agreement" means an agreement with duration, for purposes of computing the total incentive payment amount, of not more than five (5) years entered into between a qualified establishment and the Department. [68 O.S. § 4103]

"Start date" means the date on which a qualified establishment begins accruing benefits because of investment of new capital costs in a manufacturing site that is designated in a quality investment agreement with the Oklahoma Department of Commerce. [68 O.S. § 4103]

[OAR Docket #08-787; filed 5-2-08]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE CHAPTER 130. OKLAHOMA QUALITY INVESTMENT ACT

[OAR Docket #08-788]

RULEMAKING ACTION:

PERMANENT Final Adoption

RULES:

- 150:130-1-1 Purpose [NEW]
- 150:130-1-2 Definitions [NEW]
- 150:130-1-3 Eligible entities [NEW]
- 150:130-1-4 Application and required information [NEW]
- 150:130-1-5 Quality investment contract [NEW]
- 150:130-1-6 Transmittal of information [NEW]
- 150:130-1-7 Claim for incentive payments [NEW]
- 150:130-1-8 Prohibition on receiving other credits or exemptions [NEW]

AUTHORITY:

The legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq., and the Oklahoma Quality Investment Act 68 O.S. §§ 4201-4210.

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SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

- 150:130-1-1 Purpose [NEW]
- 150:130-1-2 Definitions [NEW]
- 150:130-1-3 Eligible entities [NEW]
- 150:130-1-4 Application and required information [NEW]
- 150:130-1-5 Quality investment contract [NEW]
- 150:130-1-6 Transmittal of information [NEW]
- 150:130-1-7 Claim for incentive payments [NEW]
- 150:130-1-8 Prohibition on receiving other credits or exemptions [NEW]

Gubernatorial approval:

July 13, 2007

Register publication:

24 Ok Reg 2813

Docket number:

07-1320

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

This action is to set forth the processes and procedures for applying for and receiving the incentive provided under the Oklahoma Quality Investment Act.

CONTACT PERSON:

Donald R. Hackler, Jr. (405) 815-5359

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2008:

150:130-1-1. Purpose

The purpose of these rules is to implement the Oklahoma Quality Investment Act at the Oklahoma Department of Commerce.

150:130-1-2. Definitions

In addition to those terms defined elsewhere in this chapter, the following words and terms when used in this subchapter shall have the following meaning unless the context clearly indicates otherwise.

"At-risk establishments" are those manufacturing establishments, presently existing in Oklahoma which the Quality Investment Committee, as described in paragraph 6 of this section, finds would be lost within the state based on changes in global economies, establishment structure, consolidation of establishments, and which are structurally noncompetitive but which could regain a competitive position with new investment if incentives are offered. [68 O.S. § 4203(1)]

"Capital costs" means costs for land, building, improvements to buildings, fixtures and for machinery and equipment as those terms are described in Section 2902 of Title 68 of the Oklahoma Statutes. [68 O.S. § 4203(2)]

"Economic impact" means economic impact as described in analyses that identify the value in terms of sales tax and income tax revenues to the state and to the local community of the establishment that the retention and expansion or modernization of the manufacturing site provides. The Oklahoma Department of Commerce may contract for the performance of an economic impact analysis to aid it in determining whether to recommend entering into a Quality Investment Contract with a particular establishment. [68 O.S. § 4203(3)]

"Historical contributions trends" means historical contributions of an establishment as described in analyses of direct and indirect historical contributions to the state and local economies that an establishment has had on jobs and tax base growth, and on payroll and tax revenue inputs and growth. Analyses shall include consideration of positive trends attributable to suppliers of the establishment. The Oklahoma Department of Commerce may contract for the performance of an historical contributions analysis to aid the Quality Investment Committee in determining whether to recommend entering into a Quality Investment Contract with a particular establishment. [68 O.S. § 4203(4)]

"Local community" means the town or city and the county of the location of the establishment; provided, a city or town and a county may jointly constitute the "local community". [68 O.S. § 4203(5)]

"Quality Investment Committee" means the independent committee referenced in paragraph 6 of Section 23 of Article X of the Oklahoma Constitution that consists of the following members:

- (A) the Director of the Oklahoma Department of Commerce,
- (B) the Dean of Engineering of Oklahoma State University,
- (C) the Director of the Oklahoma Alliance for Manufacturing Excellence,
- (D) the Dean of the Price Business College of the University of Oklahoma,
- (E) the Executive Director for the Oklahoma Center for the Advancement of Science and Technology,
- (F) one small business representative from the Oklahoma Science and Technology Research and Development Board, and
- (G) the State Director of Career Technology Education. [68 O.S. § 4203(6)]

"Tax revenues projections" means a projection of anticipated tax revenues based upon an analysis of historic taxes collected from the establishment in the local community and in the state overall over the previous ten (10) years in order to determine:

- (A) the average of the growth percentages to determine the projected growth in such revenues to the community and the state over the following ten (10) years if no retooling occurs but retention is assumed to be a constant and remains stagnant,
- (B) the modernization or retooling project's estimated impact on tax revenues and growth rates over the following ten (10) years, and

(C) the projections of loss in tax revenues should the plant location close and operations, in whole or in part, are removed from the state. The Oklahoma Department of Commerce may contract with the Oklahoma Tax Commission for performance of tax revenues projections analyses to aid it in determining whether to enter into an agreement upon recommendation of the Quality Investment Committee. [68 O.S. § 4203(7)]

"Establishment" means a manufacturer that is a partnership, limited partnership, corporation, limited liability company, limited liability partnership, or sole proprietorship. The establishment may enter into a Quality Investment Contract pertaining to only one manufacturing site as that term is defined in Section 1352 of Title 68 of the Oklahoma Statutes. No combination of other locations of the establishment, or any related entities of the establishment is contemplated. An establishment may have multiple contracts due to multiple sites or multiple expansions due to retooling and modernization at one site. [68 O.S. § 4203(8)]

"NAICS" Manual" means any manual book or other publication containing the North American Industry Classification System, United States, 1997, or as updated or amended from time to time, promulgated by the Office of Management and Budget of the United States of America. [68 O.S. § 4203(9)]

"Start date" means the date on which an establishment may begin accruing benefits for investment of new capital costs in a manufacturing site that is assigned in the agreement with the Oklahoma Department of Commerce. [68 O.S. § 4203(10)]

"Commission" means the Oklahoma Tax Commission established pursuant to 68 O.S. Section 102, and any successor agencies thereto.

"Department" means the Oklahoma Department of Commerce.

150:130-1-3. Eligible entities

Eligible entities to make application to the Oklahoma Department of Commerce under the Oklahoma Quality Investment Act are establishments as defined at 68 O.S. § 4203(8).

150:130-1-4. Application and required information

(a) An establishment shall prepare a written application following the guidelines, forms, and procedures as set forth in the application prepared by the Oklahoma Department of Commerce and approved by the Quality Investment Committee. An establishment shall be required to provide the following information:

- (1) The location of the project and if the location is an economically distressed area of the State.
- (2) The number of jobs that are at risk and the average salary of the jobs at risk.
- (3) The calendar year and quarter in which the investment begins.
- (4) The projected employment and investment resulting from the project over three (3) years.

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(5) The third year average salary of the new workers hired in the new direct jobs.

(6) A description of the establishment's operations and the lines of business and operations of the project for which an application is being submitted.

(7) NAICS code number for the establishment.

(8) Business plans.

(9) Feasibility studies.

(10) Financing proposals.

(11) Financial statements for the previous three (3) years.

(12) Marketing plans.

(13) Registration with the Oklahoma Secretary of State.

(14) Registration with the Commission.

(15) Such other information as may be required by the Department for a full and detailed analysis of the project.

(b) The establishment shall also provide a copy of its basic health benefits plan offered to employees or a description of the plan that will be offered within twelve (12) months of the date that it enters into a Quality Investment Contract.

150:130-1-5. Quality investment contract

An establishment which meets the qualifications specified in the Oklahoma Quality Investment Act may apply to enter into a Quality Investment Contract with the Oklahoma Department of Commerce to receive annual incentive payments over a five-year period from the Oklahoma Tax Commission pursuant to the provisions of the Oklahoma Quality Investment Act pursuant to the requirements set forth in 68 O.S. § 4204, with the following specific requirements more fully set forth:

(1) Be engaged in manufacturing in activities described under Industry Group Nos. 31 through 33 of the NAICS Manual;

(2) Incur capital costs for new retooling or modernization projected to equal or exceed One Million Dollars (\$1,000,000.00) within twenty-four (24) months of the start date; and

(3) Apply to and enter into a Quality Investment Contract specifying:

(A) The amount of capital investment the establishment must make within twenty-four (24) months of the start date in order to remain in the Oklahoma Quality Investment Program.

(B) The total minimum amount of Oklahoma taxable payroll it will maintain in this state during the course of the agreement.

(C) The total amount in incentive payments it may receive.

(D) If applicable, the amount of local revenues a county or municipality intends to apportion to the establishment annually, and

(E) That it will offer "basic health insurance" as defined in the Oklahoma Quality Jobs Program Act, within twelve (12) months of entering into a Quality Investment Contract.

150:130-1-6. Transmittal of information

The Department shall notify the Commission of each approved Quality Investment Contract. The Department shall provide the Commission with a copy of each approved Quality Investment Contract.

150:130-1-7. Claim for incentive payments

At the end of a calendar year for which an establishment has qualified to receive an incentive payment, the establishment shall file a claim with the Commission following the requirements and procedures established by the Commission and the requirements set forth at 68 O.S. § 4205.

150:130-1-8. Prohibition on receiving other credits or exemptions

Notwithstanding any other provision of law, if a qualified establishment receives an incentive payment pursuant to the provisions of the Oklahoma Quality Investment Act, neither the qualified establishment nor its contractors or subcontractors shall be eligible to receive the credits or exemptions provided for at 68 O.S. § 4207.

[OAR Docket #08-788; filed 5-2-08]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE

CHAPTER 135. OKLAHOMA BIOENERGY CENTER ACT

[OAR Docket #08-789]

RULEMAKING ACTION:

PERMANENT Final Adoption

RULES:

150:135-1-1 [NEW]

150:135-1-2 [NEW]

150:135-1-3 [NEW]

150:135-1-4 [NEW]

150:135-1-5 [NEW]

150:135-1-6 [NEW]

150:135-1-7 [NEW]

150:135-1-8 [NEW]

150:135-1-9 [NEW]

AUTHORITY:

The legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq., and the Oklahoma Bioenergy Center Act 74 O.S. §§ 5009.11 - 5009.16.

DATES:

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

This action is to comply with 74 O.S. § 5009.13(F) which mandates the promulgation of rules regarding the procedures of the Oklahoma Bioenergy Center.

CONTACT PERSON:

Donald R. Hackler, Jr. (405) 815-5359

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2008:

150:135-1-1. Purpose

The rules of this Chapter provide the general procedures for the structure and operations of the Oklahoma Bioenergy Center pursuant to the requirements of Oklahoma Bioenergy Center Act.

150:135-1-2. Mission

The mission of the Oklahoma Bioenergy Center is to serve as a strategic partnership that will focus the collective resources of Contributing Institutions in the field of bioenergy research to:

- (1) Strategically coordinate resources and research programs in Oklahoma to address and undertake complex research facing the biofuels and bioenergy industry in Oklahoma and in the nation;
- (2) Assist Oklahoma in being a recognized leader in the fields of research and production of biofuels, bioenergy and related biobased products;
- (3) Advance the research capacity in Oklahoma in the fields of biofuels and bioenergy development and production along the biofuel, bioenergy and biobased product production/value chain, from field to conversion to utilization;
- (4) Serve as a focal point and resource for the emerging agriculture-based biofuels and bioenergy industry in Oklahoma; and
- (5) Conduct research through its contributing institutions and partnerships to deliver practical outcomes to:
 - (A) enable the competitive and sustainable production of liquid biofuels, including ethanol, in Oklahoma, and
 - (B) contribute to the national research effort to enable the United States to achieve prescribed levels of petroleum independence.[74 O.S. § 5009.12]

150:135-1-3. Rules and regulations

The Oklahoma Bioenergy Center shall have those powers necessary to adopt rules and regulations required to accomplish its mission, goals, plans, purposes and programs and to amend same from time to time as it deems necessary or as required by the Oklahoma Bioenergy Act.

150:135-1-4. Definitions

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

"Board" means, collectively, those individuals initially appointed to the Oklahoma Bioenergy Center Board pursuant to 74 O.S. § 5009.13, and any individuals subsequently appointed pursuant to the Oklahoma Bioenergy Center Policies and Procedures, as permitted by the Oklahoma Bioenergy Center Act.

"Contributing institutions" means those institutions that make material contributions to the purpose, objectives and research coordinated by the Oklahoma Bioenergy Center. The Contributing Institutions shall initially consist of the University of Oklahoma, Oklahoma State University and The Samuel Roberts Noble Foundation, Inc. Other institutions may become Contributing Institutions in the sole discretion of the Board.

"Oklahoma Bioenergy Center" means that strategic partnership created within the Oklahoma Department of Commerce pursuant to the Oklahoma Bioenergy Center Act.

"Oklahoma Bioenergy Center Act" means 74 O.S. §§ 5009.11, et seq., and any subsequent amendments thereto or renumbering thereof, as may be deemed appropriate, from time to time, by the Oklahoma Legislature. To the extent the Oklahoma Bioenergy Center Act is amended or renumbered as contemplated hereby, references to specific sections contained in this Chapter shall refer to the corresponding amended or renumbered sections.

"Oklahoma Bioenergy Center Policies and Procedures" means the internal policies and guidelines governing the organizational procedures and the day-to-day operations of the Oklahoma Bioenergy Center, which shall comply with all requirements and limitations of the Oklahoma Bioenergy Center Act and which shall be formally adopted and amended from time to time, as necessary, by the Board. The Oklahoma Bioenergy Center Policies and Procedures shall be amended to comply with amendments to the Oklahoma Bioenergy Center Act, as necessary.

150:135-1-5. Management

(a) The Oklahoma Bioenergy Center shall be administered and governed by the Board.

(b) The Board shall appoint an Executive Director to serve as the chief executive officer of the Oklahoma Bioenergy Center in accordance with the provisions of 74 O.S. § 5009.14. The Executive Director shall be selected and shall serve the Oklahoma Bioenergy Center pursuant to the Oklahoma Bioenergy Center Act, the Oklahoma Bioenergy Center Policies and Procedures, and these promulgated rules.

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150:135-1-6. Board membership

Pursuant to 74 O.S. § 5009.13 the Board shall initially consist of seven (7) members. Appointment of Board members and additions to the Board shall be governed by the Oklahoma Bioenergy Center Act and the Oklahoma Bioenergy Center Policies and Procedures.

150:135-1-7. Powers and duties

(a) To implement and accomplish the statutorily stated objectives of the Oklahoma Bioenergy Center, the Board shall have, exercise and perform those powers and duties generally provided in 74 O.S. § 5009.13 through 5009.15 and specifically set forth in the Oklahoma Bioenergy Center Policies and Procedures.

(b) The Board shall prepare, or have prepared, and distribute, or have distributed, an annual report in accordance with 74 O.S. § 5009.13.

150:135-1-8. Policies and procedures

The Board shall adopt the Oklahoma Bioenergy Center Policies and Procedures to govern the organizational procedures and the day-to-day operations of the Oklahoma Bioenergy Center, pursuant to the provisions of the Oklahoma Bioenergy Center Act, these promulgated rules, and all applicable federal, state and local laws, codes and regulations unless otherwise expressly exempted from same pursuant to provisions of the Oklahoma Bioenergy Center Act.

150:135-1-9. Limited liability

Liability of all Board members, or any person acting on behalf of the Board or the Oklahoma Bioenergy Center, shall be limited pursuant to 74 O.S. § 5009.13(J) and as otherwise set forth in the Oklahoma Bioenergy Center Policies and Procedures.

[OAR Docket #08-789; filed 5-2-08]

TITLE 165. CORPORATION COMMISSION CHAPTER 30. MOTOR CARRIERS

[OAR Docket #08-791]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Chapter 30. Motor Carriers [AMENDED]

AUTHORITY:
Article IX, §§ 18, 19, Oklahoma Constitution; 47 O.S §§ 230.24, 230.32, and 1166.

DATES:
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Failure of the Legislature to disapprove the rules resulted in approval on April 3, 2008.

Final Adoption:

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None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

Amendments and additions to existing agency rules in Chapter 30 were needed to comply with state statutes and federal requirements regarding the registration of motor carriers, and to specify procedures practiced by the agency's Transportation Division for the administration of the Uniform Carrier Registration Agreement and the International Registration Plan. Corrections of typographical and language errors were also required for ease in reading and comprehending the existing rules.

CONTACT PERSON:

Kathy Nelson @ 522-1638.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2008:

SUBCHAPTER 1. GENERAL PROVISIONS

165:30-1-2. Definitions

In addition to terms defined in 47 O.S., Sections 161 through 180m et seq. and the Motor Carrier Act of 1995, the following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Alliance" means the Alliance for Uniform Hazardous Material Transportation Procedures, a confederation of state, local industry and environmental representatives for the purpose of administering and enforcing a uniform hazardous materials transporters program as established by HMTUSA.

"Authority" means a general term referring to permission issued by the Commission to a motor carrier to perform operations under the jurisdiction of the Commission. The term authority is not applicable to vehicle registrations or fuel permits.

"Base state" means the state selected by a motor carrier according to the procedures established by a uniform program.

"CFR" means the Code of Federal Regulations.

"COD" means collect on delivery.

"Commission" means the Oklahoma Corporation Commission.

"Corporate family" means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly one hundred percent (100%) interest.

"Environmental restoration" means restitution for loss, damage, or destruction of natural resources arising out of the

accidental discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse, or body of water, of any commodity transported by a motor carrier. This includes the cost of removal and the cost of necessary measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish and wildlife.

"Exceeding authority" means a motor carrier operating outside or beyond the purview of an issued license, certificate, permit, registration or other authority issued by the Commission or a reciprocal state.

"FMCSA" means the Federal Motor Carrier Safety Administration.

"Gross Combination Weight Rating" (GCWR) means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

"Gross Vehicle Weight" (GVW) means the registered weight of the vehicle or any lawful registered combination weight (Gross Combination Weight or GCW).

"Gross Vehicle Weight Rating" (GVWR) means the value specified by the manufacturer as the loaded weight of a single vehicle (gross vehicle weight rating) and may include any lawful combination.

"Hazardous waste" means any material that is subject to the "Hazardous Waste Manifest Requirements" of the United States Environmental Protection Agency specified in Title 40, CFR, Part 262.

"Hazardous waste permit" means the document issued by a participating state which represents a specific motor carrier's registration to transport hazardous waste in states that participate in the uniform hazardous waste program.

"HMTUSA" means the Hazardous Materials Transportation Uniform Safety Act of 1990.

"ICC" means the ~~Interstate Commerce Commission/Federal Highway Administration~~ Interstate Commerce Commission or its successor agency.

"Identification device" means an annual, fee-paid, non-transferable device issued by the Commission to be carried in each and every vehicle.

"Intercorporate hauling" means the transportation of property, passengers or household goods by motor vehicle, for compensation, by a carrier which is a member of a corporate family, as defined in this Section, when said transportation for compensation is provided for other members of the corporate family.

"Interstate" means a shipment having an origin or destination into, out of or through two or more states.

~~**"Interstate Registration Certificate (IRC)"** means a document issued by the Commission granting permission to operate as a motor carrier upon the highways of the State of Oklahoma in ICC exempt interstate commerce.~~

"Intrastate" means a shipment having an origin and destination wholly within one state.

~~**"IRC"** means an Interstate Registration Certificate.~~

"IRP" means the International Registration Plan as administered by the Commission or other states.

"Letter of filing" means a document issued by the Commission to a motor carrier as evidence of temporary compliance with the hazardous waste uniform program.

"Motor carrier" means a for-hire motor carrier or a private motor carrier operating in interstate or intrastate commerce.

"Motor carrier of household goods" means a person holding a valid certificate or permit requiring public convenience and necessity transporting for hire used personal effects and property of a dwelling.

"NAIC" means the National Association of Insurance Commissions.

"Participating state" means a state electing to participate in a uniform program by entering into a base state agreement.

"PIN" means personal identification number.

"Principal place of business" means a single location that serves as the motor carrier's or private carrier's headquarters and where it maintains or can make available its operational records.

"Private motor carrier" means a person who operates a commercial motor vehicle and is not a for-hire motor carrier.

"Process agent" means a representative upon whom court papers may be served in any proceeding brought against a motor carrier, broker, or freight forwarder.

"Public convenience and necessity" means a determination of fact arrived at by the Commission in its expertise and discretion based upon evidentiary proceedings. It denotes a need for transportation service which may be less than absolute, but more than simple convenience or desire of shippers or consignees of freight. It presupposes a present or definite future requirement not already adequately met or will be met. The Commission's determination of fact is whether a proposed transportation service will serve a useful public purpose, responsive to a public demand or need, and whether this purpose can and will be served by the proposed service without unnecessarily endangering or impairing the operations of existing services contrary to the public interest as it applies to motor carriers of household goods.

"Registration" means the identification of hazardous waste transporters through a national base state system.

"Reciprocal state" means a jurisdiction with which the Commission has entered into a reciprocal agreement regarding the uniform registration, licensing or permitting of motor carriers.

"Trip permit" means a temporary authorization issued by the Commission granting permission to conduct operations as a motor carrier in intrastate and/or interstate commerce.

"Truck yard pit" means any pit used to store or catch fluids or wash fluids in a truck terminal or maintenance facility as the result of transportation related activities.

"Uniform application" means a uniform motor carrier registration, licensing or permit application form established under a uniform program.

"Uniform program" means any law, rule, policy, practice and/or all combinations thereof which pertain to the regulation of motor carriers by motor vehicle operating in interstate or intrastate commerce over the highways of Oklahoma and is recognized, adopted and enforced or administered by the

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Transportation Division only when in concert and reciprocal ~~with~~ with one or more states which adopt, recognize, administer and enforce the exact same rule, law, policy, practice and/or all combinations thereof.

"Unprocessed agricultural commodities" means all products raised or produced by tillage and cultivation of the soil, pasture grasses, orchard products, trees in their raw state and products produced by livestock (such as milk, wool, eggs, honey and manure). The term also includes those products embraced within the above definition which have been processed for purposes of handling, storage, preservation or transportation (such as washing, cleaning, wrapping, packaging, boxing, baling, trimming, drying, sorting, sizing, grading, cooling, spraying and fumigating). The term does not include those products embraced within the above definition which, as a result of some treatment or processing, have been so changed that they are no longer in their natural or raw state, but possess new forms, qualities, or properties or result in combinations.

"USDOT" means the United States Department of Transportation.

SUBCHAPTER 3. INTRASTATE MOTOR CARRIERS

PART 1. APPLYING FOR A LICENSE

165:30-3-1. Obtaining a license

(a) No intrastate motor carrier shall operate upon any street, road, public highway or dedicated public thoroughfare of this State for the transportation of passengers or property for hire without first obtaining from the Commission a license as provided in this Section. A license issued under this Subchapter shall not include transportation as a motor carrier of household goods. Motor carriers of household goods must comply with Subchapter 13 of this Chapter.

(1) An applicant for a license shall file with the Commission a written application on the appropriate form prescribed by the Commission (TDF 1), and shall tender with the application a filing fee as prescribed by law or by Commission rule.

(2) The application shall be assigned a personal identification number (PIN), which shall be the permanent identification number for all matters relating to authority granted therein. Any application thereafter filed to amend the license by the same applicant shall be filed in the same cause under the original PIN, and otherwise shall be governed by the provisions of this Chapter relating to an application for license. Each subsequent application shall also bear a sub-number in sequence.

(3) A license shall be personal to the holder thereof, and shall be issued only to an individual, a corporation, a limited liability corporation, a partnership or some other legally recognized entity.

(4) The filing of an application for a license does not of itself authorize any motor carrier operations by the applicant. Such operations are prohibited until after all

requirements have been met, and a license has been issued. All requirements for compliance with this Chapter shall be met within thirty (30) days from date of receipt of a motor carrier license application by the Commission. Failure to comply will result in dismissal of the application for a license. Licenses issued shall be valid for a maximum of one year and may be renewed after application has been filed as provided by this Chapter.

(5) No license for intrastate operations shall be issued until after the applicant has provided a satisfactory USDOT safety rating or the applicant has demonstrated its ability to conduct operations in a safe and reasonable manner and applicant is in compliance with all applicable rules and laws of the State of Oklahoma; has furnished proper proof of all insurance required by this Chapter and all applicable state statutes; and has purchased an appropriate number of identification devices.

(6) The notarized application shall require the following:

(A) Name, single trade name (if any), mailing address, physical address, telephone number and domicile county of the applicant.

(B) The type of applicant (indicating if sole proprietorship, partnership, corporation or other legal entity), specifying the names of all partners, officers and/or directors listing the addresses of each.

(C) The type of operations the applicant is applying for.

(D) The name and address of the motor carrier's process agent in Oklahoma (if the motor carrier does not maintain its principal place of business or a terminal in Oklahoma).

(E) Declaration of its USDOT number, safety rating and a safety summary report which details its safety program and lists all safety violations identified within the prior twelve (12) months. Motor carriers without a USDOT number must attach a copy of its previously submitted application for a USDOT number. The applicant shall notify the Commission in writing of its USDOT number once issued, unless the USDOT number is issued by the Commission.

(F) A size and weight summary report which details its size and weight compliance program and lists all size and weight violations identified within the prior twelve (12) months.

(G) A listing of all power vehicles and trailers to be used, detailing the model, make and capacity of each vehicle and denoting whether each vehicle is owned or leased.

(H) A description of all terminal and dock facilities.

(I) A declaration that the applicant is in full compliance with all other state laws, rules and regulations.

(J) Any other information the Commission deems pertinent.

(7) Every person operating under the Motor Carrier Act of 1995 and the rules of this Commission shall possess a copy of this Chapter governing the operations of motor carriers.

(8) A motor carrier desiring to modify its license operations shall file a sub application (TDF 1). Sub applications to include hazardous materials must comply with the provisions in this Section. Sub applications to modify other types of operations shall be exempt from (5) and (6)(D)-(H) of this subsection.

(9) A copy of the current license under which a motor carrier operates shall be carried at all times in each power unit by the motor carrier.

(b) A motor carrier engaged in intercorporate hauling shall be subject to this Subchapter.

(c) Motor carrier operations are exempt from this Subchapter when:

(1) Conducted strictly within a municipality, or

(2) Conducted by a federal, state or local government.

(d) Motor carriers of passengers shall be exempt from this Subchapter when:

(1) Utilizing vehicles designed to carry ten (10) or less passengers (including the driver); and,

(2) Operations are not conducted between two or more cities or towns, when duly licensed by a municipal corporation in which they are doing business.

(ee) Applicant may be issued a provisional intrastate license not to exceed ninety (90) days from the date application is filed, provided all other requirements for the intrastate license have been met. Applicant must provide a written request for the provisional intrastate license to the Director of the Transportation Division. If the provisional intrastate license is issued, a copy of the provisional intrastate license must be carried in each vehicle operated by the Applicant.

(ef) The Commission may grant or deny the motor carrier license application or may impose conditions, stipulations and limitations on the license. If the Commission deems a hearing on the application to be necessary, the hearing shall be set within 30 days of receipt of a complete application.

(eg) No intrastate motor carrier license shall be issued to an applicant until all outstanding fines or judgments due the Commission or other state(s) regulatory agencies have been satisfied.

(fh) All proceedings subsequent to the application, shall be governed by applicable provisions of the Commission's Rules of Practice, OAC 165:5.

PART 13. SUSPENSION OR CANCELLATION OF LICENSE

165:30-3-103. Reinstatement of certificate or permit, or license ~~or IRC~~

(a) A motor carrier whose certificate, ~~or~~ permit, license, or a portion thereof, ~~license or IRC or a private carrier whose license~~ has been cancelled by law or by order of the Commission, may file with the Commission a written application for reinstatement on the appropriate form prescribed by the Commission (TDF 8), and shall tender with the application a filing fee as prescribed by law or by Commission rule.

(b) The application for reinstatement must be filed within three (3) months from the date the certificate, ~~or~~ permit, ~~or~~

license ~~or IRC~~ was cancelled by law or by Commission order and may be approved by the Director for Administrative reinstatement. Applications not approved for administrative reinstatement may be set for hearing.

(c) The application shall be filed under the PIN as assigned to the certificate, ~~or~~ permit, ~~or~~ license ~~or IRC~~, with appropriate sub-number designation.

(d) If the authority was revoked due to lack of insurance on file and the carrier cannot furnish proper proof of continuous insurance, the Commission may reinstate the certificate, ~~or~~ permit, ~~or~~ license ~~or IRC~~ only after a hearing has been held and notice thereof has been given as prescribed by the Oklahoma Corporation Commission's Rules of Practice, OAC 165:5.

(e) No reinstatement shall be issued until all requirements of the certificate, ~~or~~ permit, ~~or~~ license ~~or IRC~~ have been fulfilled and a reinstatement fee as prescribed by law or Commission rule has been tendered.

165:30-3-104. Violations

(a) Every for-hire motor carrier, shipper, private motor carrier, their employees or any other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of law or of any requirements of ~~Subchapters 3, 9, 11, 13 or 15 of this Chapter;~~ or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part or provision thereof, of the Commission, or who procures, aids, or abets any corporation or person in its refusal or willful failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation, or part of provision thereof, after notice and hearing, is guilty of contempt of the Commission and is subject to a fine not to exceed Five Hundred (\$500.00) Dollars per violation per day or as otherwise provided for by law.

(b) All motor carriers must yield for inspection as directed by a duly authorized motor carrier enforcement officer or by posted road signs.

(c) Motor carrier enforcement officers may hold and detain equipment operated by a motor carrier for violations of applicable laws in the Oklahoma Statutes or rules of ~~this Agency the~~ Commission.

(d) If, in the judgment of a motor carrier enforcement officer, a detained vehicle poses an inherent risk to public health, public safety or welfare, upon direction of the Transportation Division Director or his designee, the motor carrier enforcement officer may arrange for impoundment of the detained vehicle at the expense of the motor carrier.

(e) Contents of impounded equipment must be inventoried, with any inventory expense incurred at the sole cost of the motor carrier.

SUBCHAPTER 7. PROCEDURAL RULES

165:30-7-5. Forms

The following forms of the Commission relate to this Chapter:

- (1) **Intrastate license forms.**

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- (A) TDF 1 - Application for Intrastate Motor Carrier For-Hire or Private Carrier License
- (B) TDF 2 - Application for renewal of Intrastate Motor Carrier License
- (C) TDF 3 - Application for Change of Name on Intrastate Carrier License
- (2) **Intrastate certificate or permit forms.**
 - (A) MCF 1 - Application For Common Carrier Household Goods Certificate and Necessity or Contract Carrier Household Goods Permit
 - (B) MCF 3 - Application to Transfer Motor Carrier Certificate or Permit of Household Goods
 - (C) MCF 4 - Motion For Temporary Authority Accompanying Application For Intrastate Carrier Household Goods Certificate of Convenience and Necessity or Permit
 - (D) MCF 4-A - Motion for Temporary Authority to Transfer Household Goods Certificate or Permit Accompanying MCF 3 Application to Transfer Intrastate Authority
 - (E) MCF 5 - Application for Change of Name on Intrastate Certificate or Permit
 - (F) MCF 6 - Application to Temporarily Operate Motor Carrier Household Goods Certificate or Permit As Representative of Estate
 - (G) MCF 7 - Application For Voluntary Suspension or Discontinuance Of Service of and Intrastate Household Goods Certificate or Permit
 - (H) MCF 7-A - Application to Reactivate A Household Goods Certificate or Permit Under Voluntary Suspension
 - ~~(I) MCF 8 - Tariff Affidavit~~
 - ~~(J) MCF 9 - Annual Report~~
 - ~~(K) Form H - Uniform Motor Carrier Cargo Certificate of Insurance~~
 - ~~(L) Form J - Uniform Motor Carrier Cargo Surety Bond~~
- ~~(3) Intrastate and federal authority exempt interstate forms.~~
 - ~~(A) TDF 8 - Application for Reinstatement~~
 - ~~(B) TDF 14 - Application For a Deleterious Substance Transport Permit~~
 - ~~(C) TDF 16 - Application for Identification Devices~~
 - ~~(D) TDF 17 - Application for Address Change~~
 - ~~(E) TDF 18 - Affidavit of No Operations~~
 - ~~(F) TDF 19 - Carrier Identification Report~~
 - ~~(G) Form E - Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance~~
 - ~~(H) Form K - Uniform Notice of Cancellation of Motor Carrier Insurance Policies~~
 - ~~(I) Form G - Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond~~
 - ~~(J) Form L - Uniform Notice of Cancellation of Motor Carrier Surety Bonds~~
- (4) **Exempt from federal authority registration forms.**
 - (A) TDF 24 - Application for Exempt Interstate Change of Name
 - (B) Form A 1 - Application for Registration of Interstate Motor Carrier Operations Exempt from FMCSA Authority Regulations
- ~~(5) Federal authority registration forms.~~
 - ~~(A) RS 1 - Uniform Application for Single State Registration For Motor Carriers Operating Under Authority Issued by the FMCSA~~
 - ~~(B) RS 2 - Single State Registration System Registration Receipt Application Form~~
 - ~~(C) BOC 3 - Designation of Agents~~
 - ~~(D) BMC 91 - Motor Carrier Automobile Bodily Injury and Property Damage Liability Certificate of Insurance (full coverage)~~
 - ~~(E) BMC 91X - Motor Carrier Automobile Bodily Injury and Property Damage Liability~~
 - ~~(F) BMC 91MX - Motor Carrier Certificate of Insurance (Aggregate limits)~~
 - ~~(G) BMC 90 - Endorsement for Motor Carrier Policies~~
 - ~~(H) MCS 82 - Motor Carrier Public Liability Surety Bond~~
 - ~~(I) BMC 35 - Notice of Cancellation Motor Carrier Policies of Insurance~~
 - ~~(J) BMC 36 - Notice of Cancellation Motor Carrier Surety Bonds~~
- (3) **Interstate Form - Unified Carrier Registration**
- ~~(6) Hazardous Waste forms.~~
 - (A) UPW - Part I - Registration
 - (B) UPW - Part II - Permit
 - (C) UPW - Part III - Other Information
 - (D) UPW - Part IV - Certification
 - (E) UPW - Uniform Program Fee Worksheet (Schedules A-D and Summary)
- ~~(7) IFTA/IRP forms.~~
 - (A) IRP Schedule A - International Registration Plan Original Application-Schedule A
 - (B) IRP Schedule B - International Registration Plan- Schedule B
 - (C) IRP Schedule C - International Registration Plan Supplemental Application-Schedule C
 - (D) IRP Schedule G - International Registration Plan Declaration of Estimated Miles-Schedule G
 - (E) IRP Misc 1 - International Registration Plan Affidavit for Lost/Stolen Tag and Additional Cab Cards
 - (F) IRP TAP - International Registration Plan Application for Temporary Permit
 - (G) IFTA Application - International Fuel Tax Agreement Registration Application
 - (H) IFTA QTR - International Fuel Tax Agreement Quarterly Report
- ~~(8) Miscellaneous forms.~~
 - ~~(A) TDF 25 - Application for Motor Carrier Rules and Regulations~~
 - ~~(B) TDF 26 - Motor Carrier Rules and Regulations Update Notification~~

- ~~(C)~~ TDF 27 - Motor Carrier Rules and Regulations Change of Address Notification
- (A) TDF 8 - Application for Reinstatement
- (B) TDF 14 - Application For a Deleterious Substance Transport Permit
- (C) TDF 16 - Application for Identification Devices
- (D) TDF 17 - Application for Address Change
- (E) TDF 18 - Affidavit of No Operations
- (F) TDF 19 - Carrier Identification Report
- (G) Form E - Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance
- (H) Form K - Uniform Notice of Cancellation of Motor Carrier Insurance Policies
- (I) Form G - Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond
- (J) Form L - Uniform Notice of Cancellation of Motor Carrier Surety Bonds
- ~~(K)~~ TDF 15 - Application to Construct or Enlarge a Truck Yard Pit
- ~~(L)~~ TDF 15T - Application to Transfer a Truck Yard Pit Permit
- (M) TDF 25 - Application for Motor Carrier Rules and Regulations
- (N) TDF 26 - Motor Carrier Rules and Regulations Update Notification
- (O) TDF 27 - Motor Carrier Rules and Regulations Change of Address Notification
- ~~(P)~~ TDF 28 - Vehicle Information Request Form

- (g) Applications may be denied due to outstanding monies owed to the Commission or other state or federal agencies.
- (h) Interstate authority, fuel permits and registration cannot be issued to a motor carrier whose ability to operate in interstate commerce has been denied or revoked.

165:30-7-11. USDOT number

- (a) Every person operating or intending to operate as a motor carrier in intrastate or interstate commerce shall obtain a USDOT number.
- (b) Every person registering a commercial motor vehicle for apportionment shall obtain a USDOT number.
- (c) Every person applying for an IFTA license shall obtain a USDOT number.
- (d) USDOT numbers for interstate operations can be obtained utilizing a MCS-150 form available from FMCSA.
- (e) USDOT numbers for intrastate only operations can be obtained utilizing a Corporation Commission TDF-19 form.
- (f) Motor carriers, registrants and licensees obtaining a USDOT number for interstate operations shall comply with all provisions of 49 C.F.R. 390.19.
- (g) Motor carriers operating intrastate only shall file an updated TDF 19 application in conjunction with their for-hire or private carrier license renewal.
- (h) Motor carriers of household goods operating intrastate only shall file an updated TDF 19 application a minimum of once every two years.
- (i) Motor carriers operating intrastate only shall file a TDF 19 when they cease operations to inactivate their USDOT number.

165:30-7-6. Applications and requests

- (a) All intrastate motor carrier, private carrier, ~~interstate exempt, single state~~, deleterious, hazardous waste, registration and fuel permit applications must bear an original acceptable signature of the applicant. The applicant must be a legal entity with an optional single trade name listed that is not a legal entity. If signed by an attorney or agent in lieu of the applicant, a copy of the power of attorney must be attached to the application.
- (b) Acceptable signatures on applications for authority are as follows:
 - (1) Sole proprietorship - sole proprietor.
 - (2) Partnership - one of the partners.
 - (3) Corporation - one of the officers or directors.
 - (4) Limited liability company - the manager.
- (c) A name change relating to a partnership or a request to cancel a partnership must be signed by all partners.
- (d) All applications filed by an applicant which does not maintain a terminal in Oklahoma must file and maintain a current listing of a valid Oklahoma process agent on behalf of the applicant.
- (e) All authority applications shall contain the USDOT number of the operating motor carrier. Applications for registration shall additionally contain the USDOT number of the owner of each vehicle, and the registrant.
- (f) Failure to properly complete any application may result in delay or denial of the relief sought.

SUBCHAPTER 9. INTERSTATE EXEMPT MOTOR CARRIERS [REVOKED]

PART 1. APPLYING FOR AN IRC AND IRC REQUIREMENTS [REVOKED]

165:30-9-1. Obtaining an Interstate Registration Certificate (IRC) [REVOKED]

- ~~(a) No motor carrier shall conduct ICC exempt interstate motor carrier operations in Oklahoma without first obtaining an IRC from the Commission.~~
- ~~(b) An ICC regulated interstate motor carrier properly registered under Subchapter 11 of this Chapter, need not register as an ICC exempt interstate motor carrier under this Subchapter. An applicant for an IRC shall file with the Commission a written application on the appropriate form prescribed by the Commission (Form A-1), and shall tender with the application a filing fee as prescribed by law or by Commission rule.~~
- ~~(d) The application shall be assigned a PIN which shall be the permanent identification number for all matters relating to authority granted therein.~~
- ~~(e) An application for an IRC shall contain the carrier's USDOT number, if issued, or a copy of the carrier's application for a USDOT number previously submitted.~~

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(f) An IRC shall be personal to the holder thereof, and shall be issued only to an individual, a corporation, a partnership or some other legally recognized entity.

(g) Motor carriers engaged in intercorporate hauling must obtain an IRC from the Commission.

(h) No IRC shall be issued until proper certificates of insurance have been filed with the Commission and identification devices have been obtained, when required. No operations shall commence until an IRC has been issued. IRCs are non-transferable.

(k) No IRC shall be issued to an applicant until all outstanding fines or judgments due the Commission or other state(s) regulatory agencies have been satisfied.

(j) A copy of the current IRC under which an interstate carrier operates shall be carried at all times in each power unit operated by the motor carrier.

(k) All IRCs previously issued under a docket number shall be reassigned under the Applicant's PIN.

165:30-9-2. Insurance [REVOKED]

(a) All motor carriers engaged in ICC exempt interstate commerce shall comply with all provisions of OAC 165:30-3-11, except (c), (f), and the minimum limits as specified in (b) of the Section.

(b) Every motor carrier engaged in ICC exempt interstate commerce shall file with, and must be approved by, the Commission a certificate, or certificates, on Form E or G certifying that there is in effect a valid bond or insurance policy covering obligations in Oklahoma to protect the public against loss of life, injury and property damage in minimum amounts as set forth in Title 49 of the CFR Part 387.

165:30-9-3. Identification device [REVOKED]

(a) All motor carriers engaged in ICC exempt interstate commerce shall comply with all provisions of 165:30-3-12.

(b) Any vehicle operating ICC exempt interstate only and covered by a reciprocal agreement of the Commission with another state shall not be required to obtain an annual identification device.

165:30-9-5. Current address [REVOKED]

All motor carriers engaged in ICC exempt interstate commerce shall comply with all provisions of 165:30-3-16.

165:30-9-6. Markings [REVOKED]

All motor carriers engaged in ICC exempt interstate commerce shall comply with all provisions of 49 CFR 390.21

165:30-9-7. Deleterious Substance Transport Permit [REVOKED]

All interstate motor carriers transporting any deleterious substance(s) shall comply with all provisions of 165:30-3-13.

PART 3. CONDUCTING OPERATIONS [REVOKED]

165:30-9-21. Compliance with laws and regulations [REVOKED]

(a) All motor carriers engaged in ICC exempt interstate commerce shall conduct their operations in accordance with all applicable laws of the State of Oklahoma and all applicable rules of the Commission. All IRCs heretofore or hereafter filed with the Commission are subject to applicable provisions of law and of the rules of this Subchapter as fully as if those laws and rules were set forth verbatim therein.

(b) No motor carrier engaged in ICC exempt interstate commerce shall operate or allow to be operated on the public highways of the State of Oklahoma any equipment for hire that does not comply with safety criteria established by the Statutes of Oklahoma or by the Department of Public Safety. No motor carrier shall permit any person to operate a motor vehicle for hire when such person is intoxicated or under the influence of alcohol or under the influence of amphetamines, stimulants or other drugs. Any vehicle which fails to meet safety criteria, or which is operated by a person under the influence of alcohol, amphetamines, stimulants or other drugs, shall be prevented from continued use of the public highways of the State of Oklahoma.

(c) Violation of the rules of this Subchapter shall be grounds for cancellation of an IRC or any other penalties deemed appropriate by the Commission pursuant to authority granted to the Commission.

165:30-9-22. Legal possession of cargo [REVOKED]

All motor carriers engaged in ICC exempt interstate commerce will be required to carry at all times documents that establish legal possession of cargo.

165:30-9-23. Leasing of equipment [REVOKED]

All motor carriers engaged in ICC exempt interstate commerce will be required to carry a copy of the lease contract in each and every power unit.

PART 5. MISCELLANEOUS [REVOKED]

165:30-9-41. Name changes [REVOKED]

(a) An application to change the name or business name of the holder of an IRC, without any change in the legal identity of the holder or any change in the ownership of the IRC, shall be filed on the appropriate form prescribed (TDF 24), under the permanent PIN of the holder with appropriate sub number designation and with such filing fee as prescribed by law or by Commission rule.

(b) Any change in legal identity of the holder of an IRC, except as provided in (c) of this Section, including but not limited to incorporation or dissolution of a corporation, formation or dissolution of a partnership, or creation or dissolution of a trust shall not be deemed a name change, but rather, the holder must apply as a new applicant.

(c) Incorporation by a sole proprietor in which the sole proprietor is the sole shareholder of the corporation shall be deemed a name change. Incorporation by a partnership in

which the partners are the sole shareholders of the corporation shall be deemed a name change.

165:30-9-42. Pollution abatement [REVOKED]

All motor carriers engaged in ICC exempt interstate commerce shall comply with all provisions of 165:30-3-92.

165:30-9-43. Suspension or revocation of an IRC [REVOKED]

(a) Any IRC may be suspended or revoked by the Commission, or the holder thereof assessed a fine or other lawful punishment for violation of, or failure to comply with, any requirement or provision of law or of the rules of this Subchapter, including but not limited to the following:

- (1) Violation of municipal or state traffic laws, rules, regulations and rules of the road with evidence of conviction of the driver or of the carrier; provided, however, that an IRC shall not be suspended or revoked upon this ground alone, unless it is shown that such violations were of such serious or continuing nature that further operations by the motor carrier would constitute a hazard to public safety.
- (2) Failure to maintain on file with the Commission proper certificates of insurance as required by law and the rules of this Subchapter, or current address.
- (3) Failure to secure or display identification devices, or violation of any provision of the rules of this Subchapter relating to identification devices.
- (4) Upon the third violation proven by the Commission for illegal disposal of a deleterious substance within any calendar year, for a period of up to one (1) year.

(b) An application to revoke or suspend an IRC may be filed by a member of the staff of the Commission or by a person adversely affected by the acts alleged. It shall be in the form of an application and proceedings thereon, including notice and hearing if required, shall be as prescribed in the Oklahoma Corporation Commission Rules of Practice, OAC 165:5.

(c) Any violation of other state statutes or regulations shall be cause to initiate an application for suspension or revocation by staff or other adversely affected persons.

(d) A request by the holder to cancel or revoke an IRC shall be in writing.

165:30-9-44. Contempt complaint [REVOKED]

In addition to the procedures set forth in the Oklahoma Statutes and in the Oklahoma Corporation Commission Rules of Practice, OAC 165:5 regarding the procedure in proceedings as for contempt, the procedures as set forth in 165:30-3-76 may be followed for violation of any requirement or provision of law or the rules of this Subchapter.

165:30-9-45. Reinstatement of an IRC [REVOKED]

An interstate exempt motor carrier whose IRC has been cancelled by law or by order of the Commission may make application for reinstatement in accordance with the provisions as set forth in 165:30-3-103.

165:30-9-46. Violations [REVOKED]

(a) Every for hire motor carrier, shipper, private motor carrier, their employees or any other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of law or of any requirements of Subchapters 3, 9, 11, 13 or 15 of this Chapter; or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part or provision thereof, of the Commission, or who procures, aids, or abets any corporation or person in its refusal or willful failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation, or part of provision thereof, after notice and hearing, is guilty of contempt of the Commission and is subject to a fine not to exceed Five Hundred (\$500.00) Dollars per violation per day or as otherwise provided by law.

(b) All motor carriers must yield for inspection as directed by a duly authorized motor carrier enforcement officer or by posted signs.

(c) Motor carrier enforcement officers may hold and detain equipment operated by a motor carrier for violations of applicable laws in the Oklahoma Statutes or rules of this Agency.

(d) If, in the judgment of a motor carrier enforcement officer, a detained vehicle poses an inherent risk to public health, safety or welfare, upon direction of the Transportation Division Director or his designee, the motor carrier enforcement officer may arrange for impoundment of the detained vehicle at the expense of the motor carrier.

(e) Contents of impounded equipment must be inventoried, with any inventory expense incurred at the sole cost of the motor carrier.

SUBCHAPTER 10. INTERSTATE MOTOR CARRIERS

PART 1. COMPLIANCE

165:30-10-1. USDOT number required

(a) All motor carriers engaged in interstate commerce, operating a commercial motor vehicle as defined by 49 C.F.R. 390.5, must obtain its their USDOT number prior to commencing operations.

(b) Motor carriers required to obtain a USDOT number may not engage in interstate commerce within, into or out of Oklahoma without having an active USDOT number.

(c) All motor carriers engaged in interstate commerce shall comply with all provisions of 49 C.F.R. 390.21 with regard to vehicle markings.

(d) All motor carriers engaged in interstate commerce must comply with 49 C.F.R. 390.19.

PART 5. VIOLATIONS

165:30-10-32. Violations

(a) Every for-hire motor carrier, shipper, private motor carrier, their employees or any other person who violates or fails

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to comply with or procures, aids or abets in the violation of any provision of law or of any requirement of this Chapter; or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part or provision thereof, of the Commission, or who procures, aids, or abets any corporation or person in its refusal or willful failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation, or part of provision thereof, after notice and hearing, is guilty of contempt of the Commission and is subject to a fine not to exceed Five Hundred (\$500.00) Dollars per violation per day or as otherwise provided for by law.

(b) All motor carriers must yield for inspection as directed by a duly authorized motor carrier enforcement officer or by posted road signs.

(c) Motor carrier enforcement officers may hold and detain equipment operated by a motor carrier for violations of applicable laws in the Oklahoma Statutes or rules of this Agency.

(d) If, in the judgment of a motor carrier enforcement officer, a detained vehicle poses an inherent risk to public health, public safety or welfare, upon direction of the Transportation Division Director or his designee, the motor carrier enforcement officer may arrange for impoundment of the detained vehicle at the expense of the motor carrier.

(e) Contents of impounded equipment must be inventoried, with any inventory expense incurred at the sole cost of the motor carrier.

PART 7. INTERSTATE MOTOR CARRIERS OPERATING IN INTRASTATE COMMERCE

165:30-10-45. Miscellaneous

(a) An interstate motor carrier with valid intrastate authority issued pursuant to OAC 165:30-3 or OAC 165:30-15, must maintain liability insurance on file as prescribed in OAC 165:30-3-11 or OAC 165:30-15-6, to retain its intrastate authority.

(b) If a motor carrier's authorization to operate interstate is canceled, whether voluntary or involuntary, the motor carrier must immediately make application to the Commission for intrastate authority renewal and identification devices. Failure to make application within sixty (60) days shall cause the motor carrier's intrastate license to expire.

(c) Power units operating intrastate only, under an intrastate for-hire or private carrier license that were excluded from the UCR fee, must obtain and display a current year identification device.

SUBCHAPTER 11. INTERSTATE REGULATED MOTOR CARRIERS [REVOKED]

PART 1. GENERAL PROVISIONS [REVOKED]

165:30-11-1. Purpose [REVOKED]

~~The rules in this Subchapter are intended to implement Section 4005 of the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. No. 102-240 (ISTEA) and 49 C.F.R. Parts 1023 and 1662, pertaining to registration of ICC regulated interstate motor carriers with eligible states and to carry out the Commission's statutory duty of regulation in the public interest. In case of doubt as to the meaning of any language of the rules in this Subchapter, the construction should be adopted which is consistent with federal law.~~

165:30-11-2. Definitions [REVOKED]

~~In addition to terms defined in the Motor Carrier Act of 1995, 47 O.S. § 161 et seq., and this Chapter, the following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise:~~

~~"Applicant" means a person in whose name the uniform application is filed for the purpose of complying with the standards promulgated under Public Law 102-240.~~

~~"Eligible state" means each jurisdiction that as of January 1, 1991, charged or collected a fee for a vehicle identification stamp or number in accordance with Public Law 89-170.~~

~~"Registrant" means a person who holds a valid registration issued by a registration state.~~

~~"Registration state" means the jurisdiction where the registrant maintains its principal place of business.~~

PART 3. REGISTRATION OF AUTHORITY AND REGISTRATION REQUIREMENTS [REVOKED]

165:30-11-11. Initial registration of ICC authority [REVOKED]

~~(a) No motor carrier shall conduct ICC regulated interstate motor carrier operations in Oklahoma without first registering with its registration state.~~

~~(b) An ICC regulated interstate motor carrier shall file annually between the 1st day of August and the 30th day of November of the year preceding the registration year, an application for registration of all ICC regulated interstate operations with the Commission. Application shall be made on the appropriate form prescribed by the ICC.~~

~~(c) The application shall be completed in its entirety. An initial application must additionally be accompanied by the following:~~

~~(1) A full copy of its interstate certificate(s) of authority or permit(s) issued by the ICC. Motor carriers receiving emergency temporary authority (ETA) or temporary authority (TA) from the ICC for a duration of 120 days or less are not required to provide this copy.~~

~~(2) A copy of the designation of agent(s) for service of process using the ICC Form BOC-3.~~

~~(3) A registration receipt application form accompanied by the proper amount of fees in guaranteed funds.~~

~~(d) The motor carrier's full name including all owner names and any fictitious name or d/b/a and business address must be~~

identical to the applicant name and business address on the registration application and the most recent order of the ICC.

(e) No application for registration shall be deemed to be complete until the applicant has complied with all provisions of this Subchapter. Any application that contains any misrepresentation, misstatement or omission of required information shall be deemed incomplete. When an application is deemed to be incomplete, the Commission may hold the application and all attachments until the application is complete or the application and attachments may be returned.

(f) All vehicles operated under an ICC regulated interstate motor carrier's authority (whether owned or leased) shall be operated solely under the motor carrier's registration receipt.

(g) If the applicant's principal place of business is located in a jurisdiction that is not a participating state, the applicant shall apply for registration in the State in which the applicant will operate the largest number of motor vehicles during the next registration year. If the motor carrier will operate the largest number of vehicles in more than one state, the applicant or registrant shall choose which participating state will be the carrier's registration state. Once the registration state jurisdiction is determined, this designation shall be effective until the registrant changes its principal place of business.

165:30-11-12. Annual or supplemental registration [REVOKED]

(a) An annual or supplemental registration shall be filed with the Commission on the appropriate form prescribed by the ICC. The application form shall be accompanied by the registration receipt application form and the proper amount of fees in guaranteed funds.

(b) Any changes to the authority granted by the ICC after the initial registration in the registration state will be filed with the registration state as soon as they are issued. Changes include, but are not limited to, additional grants of authority, name change and/or address change.

165:30-11-13. Change of registrant's principal place of business [REVOKED]

(a) An ICC regulated motor carrier may not change its registration state unless it changes its principal place of business or its registration state ceases or commences participation in the Single State Registration System (SSRS).

(b) When a registrant changes its principal place of business to another participating state before the annual registration period, the registrant may move its registration to the new registration state at the next registration period. Notification shall be made by the registrant to both the old and the new registration states.

(c) When a registrant changes its principal place of business to a non eligible state, the registrant shall retain the current registration state designation for registration purposes.

165:30-11-14. Insurance [REVOKED]

(a) The applicant or registrant shall cause to be filed and maintained proof of public liability insurance in accordance with the rules of this Subchapter.

(b) Proof of public liability or surety bond must be filed by an insurance company authorized to do business in any state and is eligible as an excess or surplus lines insurer in any state in which business is written.

(c) The level of insurance coverage required is the same as required by 49 C.F.R. 1043.2.

(d) Insurance forms required by the Commission are set forth in 165:30-7-5.

(e) All ICC regulated interstate motor carriers must show a minimum level of coverage of \$750,000 unless the motor carrier indicates in writing that all equipment operated has a gross vehicle weight rating of 10,000 pounds or less.

(f) When proof of insurance is provided by more than one insurer, a BMC 91X or BMC 91MX is required of each insurer.

(g) Proof of insurance shall be issued in the full and correct name of the registrant.

(h) If insurance lapses because a proof of insurance has not been filed in the registration state with the correct name and/or business address, the motor carrier's registration will be suspended until proper proof of insurance is filed.

(i) Registration is automatically suspended when proper insurance is not on file. No operations of motor vehicles under an ICC regulated interstate motor carrier registration shall be conducted when proper insurance is not on file and in full force and effect.

(j) An ICC regulated interstate motor carrier's registration shall be automatically revoked when proper proof of liability insurance lapses in excess of one hundred thirty four (134) days.

(k) The Commission shall receive notification of cancellation of the registrant's bodily injury and property damage liability insurance when similar notice is provided to the ICC. The effective date of the cancellation notice shall be the date as shown on the notice filed with the ICC.

(l) The Form BMC 90 or MCS 90 shall be attached to the insurance policy and shall form a part of it. When insurance is provided by more than one insurer to aggregate coverage, a separate endorsement is required of each insurer. True copies of the policy with the endorsements attached shall be maintained at the motor carrier's principal place of business.

(m) The endorsement is an amendment to an insurance policy and must be attached to that policy. The endorsement cannot be cancelled without cancellation of the policy or policies and cancellation of the proof of insurance filed in the Commission.

(n) Certificates of insurance or surety bonds shall be replaced and cancelled by more recent certificates of insurance or surety bonds. The liability of the retiring insurer shall be terminated as of the effective date of the replacement certificate of insurance or surety bond provided the replacement is filed in accordance with the rules of this Subchapter.

(o) An ICC regulated interstate motor carrier that has received approval to be self insured with the ICC shall file with the Commission a copy of the ICC order approving the self insurance plan. The registrant shall immediately notify the Commission if the self insurance plan is suspended, revoked or modified in any way by order of the ICC.

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~~(p) If the ICC regulated motor carrier is transporting hazardous materials, the amount of coverage indicated on the proof of insurance filed in the registration state must be the same as the amount of coverage stated on the registration application form.~~

~~(q) If proof of insurance is received during the registration period and indicates a level of coverage that does not agree with the amount previously indicated on the registration application form, the new filing will cancel and replace the old filing and the registrant will be in noncompliance for failure to have the proper level of coverage on file. The motor carrier's registration will then be suspended. When an additional filing is received that provides full coverage to the limits required or the registration application is amended, the motor carrier's registration will be reinstated.~~

165:30-11-15. Registration receipts [REVOKED]

~~(a) The applicant shall use the prescribed registration receipt application to indicate the amount of fees due for each vehicle and each state of travel.~~

~~(b) The applicant shall submit the appropriate amount of fees, by cashier's check, money order or other type of guaranteed funds, for each motor vehicle based on the number of motor vehicles by states of travel. Motor vehicles shall be authorized to travel only in those participating states in which the motor carrier has paid the appropriate fees.~~

~~(c) An ICC regulated interstate motor carrier whose principal place of business is located in a state not eligible to participate in the SSRS may not use its designation of a registration state to afford itself any benefits of reciprocal agreements of the registration state.~~

~~(d) Upon determination the applicant is in good standing (active proper insurance, designation of process of agent, copies of interstate authority on file, complete registration application and proper payment of fees), the Commission will issue an original registration receipt.~~

~~(e) The original registration receipt must be retained by the motor carrier at its principal place of business for a period of three years. The motor carrier shall make the necessary copies for the number of vehicles for which fees have been paid.~~

~~(f) The registration receipt shall not be altered by the motor carrier in any way. Alteration of the receipt shall subject the motor carrier's registration to revocation in accordance with rules of this Subchapter. Any enforcement officer is authorized to confiscate the altered copy on sight. The confiscated receipt will then be returned to the registration state after any court action is completed by the state in which it was confiscated.~~

~~(g) The registration receipt shall qualify the registrant to operate in all jurisdictions indicated on the registration receipt without any further registration requirements.~~

~~(h) A registrant in good standing may add equipment and states of travel by payment of fees, by cashier's check, money order or other type of guaranteed funds, and the filing of a supplemental application.~~

~~(i) When a supplement registration form is received for additional states of travel from a registrant in good standing, the Commission will issue a new original registration receipt for~~

~~only those additional states required. Copies of all supplemental registration receipt(s) must be carried in the cab of the motor vehicle with copies of the original receipt.~~

~~(j) An ICC regulated interstate motor carrier may transfer its registration receipts or copies of the receipt from vehicles taken out of service to their replacement vehicles. The motor carrier may not operate more motor vehicles in a participating state than the number to which fees have been paid.~~

~~(k) The Commission shall not replace a lost or stolen receipt except when the carrier fails to receive the registration receipt mailed by the Commission. An application for replacement without charge must be accompanied by an affidavit detailing the facts supporting it.~~

~~(l) All registration receipts shall become effective on January 1st and expire on December 31st of the registration year for which they were issued.~~

~~(m) The driver of a motor vehicle operated by an ICC regulated interstate motor carrier must present a copy of a receipt for inspection by any authorized government personnel on demand.~~

~~(n) There shall be no refunds or credits of fees paid.~~

165:30-11-16. Change of name, address and/or ownership of registrant [REVOKED]

~~(a) If a registrant changes its name after the registration receipt has been issued, the registrant shall submit to the Commission a copy of the reentitlement issued by the ICC. The Commission shall require proof of insurance, in accordance with the rules of this Subchapter, to be resubmitted in the new name prior to a replacement registration receipt being issued. All old copies of the registration receipt carried in the cab of the motor vehicles must be destroyed and replaced with new copies of the replacement registration receipt.~~

~~(b) A change of ownership is not considered a name change. The current registrant (prior owners) must notify the Commission to cancel its registration. New owners shall register as an initial registrant.~~

~~(c) If the registrant changes its business address, the Commission will require filing of a copy of the notice (letter from the motor carrier to the ICC) submitted to the ICC. New proof of insurance is required to be filed, in accordance with the rules of this Subchapter, with the Commission. New proof of insurance is not required provided only the street, route or box number changed.~~

165:30-11-17. Markings [REVOKED]

~~All motor carriers engaged in ICC regulated interstate commerce shall comply with all provisions of 49 CFR 390.21.~~

165:30-11-18. Deleterious Substance Transport Permit [REVOKED]

~~All interstate motor carriers transporting any deleterious substance(s) shall comply with all provisions of 165:30-3-13.~~

PART 5. CONDUCTING OPERATIONS [REVOKED]

165:30-11-31. Compliance with laws and regulations [REVOKED]

(a) All motor carriers engaged in ICC regulated interstate commerce shall conduct their operations in accordance with all applicable laws of the State of Oklahoma and all applicable rules of the Commission. All registrations heretofore or hereafter filed with the Commission are subject to applicable provisions of law and of the rules of this Subchapter as fully as if those laws and rules were set forth verbatim therein.

(b) No motor carrier engaged in ICC regulated interstate commerce shall operate or allow to be operated on the public highways of the State of Oklahoma any equipment for hire that does not comply with safety criteria established by the Statutes of Oklahoma or by the Department of Public Safety. No motor carrier shall permit any person to operate a motor vehicle for hire when such person is intoxicated or under the influence of alcohol or under the influence of amphetamines, stimulants or other drugs. Any vehicle which fails to meet safety criteria, or which is operated by a person under the influence of alcohol, amphetamines, stimulants or other drugs, shall be prevented from continued use of the public highways of the State of Oklahoma.

(c) Violation of the rules of this Subchapter shall be grounds for cancellation of an ICC regulated interstate registration or any other penalties deemed appropriate by the Commission pursuant to authority granted to the Commission.

165:30-11-32. Legal possession of cargo [REVOKED]

All motor carriers engaged in ICC regulated interstate commerce shall be required to carry at all times documents that establish legal possession of cargo.

165:30-11-33. Leasing of equipment

All motor carriers engaged in ICC regulated interstate commerce shall be required to carry a copy of the lease agreement or contract in each and every power unit.

PART 7. MISCELLANEOUS [REVOKED]

165:30-11-41. Pollution abatement [REVOKED]

All motor carriers engaged in ICC regulated interstate commerce shall comply with all provisions of 165:30-3-92.

165:30-11-42. Suspension or revocation of an ICC regulated registration [REVOKED]

(a) Any ICC regulated interstate motor carrier registration may be suspended or revoked by the Commission, or the holder thereof assessed a fine or other lawful punishment for violation of, or failure to comply with, any requirement or provision of law or of the rules of this Subchapter, including but not limited to the following:

- (1) Violation of municipal or state traffic laws, rules, regulations and rules of the road with evidence of conviction of the driver or of the carrier; provided, however, that an ICC regulated interstate motor carrier registration shall

not be suspended or revoked upon this ground alone, unless it is shown that such violations were of such serious or continuing nature that further operations by the motor carrier would constitute a hazard to public safety.

(2) Expiration of proper certificates of insurance as required by law and the rules of this Subchapter shall cause a registration to be automatically suspended.

(3) Expiration of proper certificate of insurance as required by law and the rules of this Subchapter in excess of one hundred and thirty four (134) days shall cause a registration to be automatically revoked.

(4) Operation of motor vehicles under an ICC regulated interstate motor carrier registration when proper insurance is not in full force and effect.

(5) Failure to pay sufficient fees for the number of motor vehicles operating under the registration receipt; allowing another motor carrier to use or purchase a registration receipt issued to the registrant; or alteration of the registration receipt.

(6) Failure to maintain current address on file or a current listing of designation of process agent.

(7) Upon cancellation of a certificate or permit issued by the ICC, upon which the registration is based.

(8) Upon the third violation proven by the Commission for illegal disposal of a deleterious substance within any calendar year, for a period of up to one (1) year.

(9) Upon the expiration of an ETA or TA without permanent authority being granted by the ICC or the motor carrier failing to file a copy of the permanent grant of authority with the Commission prior to the expiration date of the ETA or TA.

(b) An application to revoke or suspend an ICC regulated interstate motor carrier registration may be filed by a member of the staff of the Commission or by a person adversely affected by the violation charged. It shall be in the form of a complaint and proceedings thereon, including notice and hearing if required, shall be as prescribed in the Oklahoma Corporation Commission Rules of Practice, OAC 165:5.

(c) A request by the holder to cancel an ICC regulated interstate motor carrier registration shall be in writing.

165:30-11-43. Contempt complaint [REVOKED]

In addition to the procedures set forth in the Oklahoma Statutes and in the Oklahoma Corporation Commission Rules of Practice, OAC 165:5 regarding the procedure in proceedings as for contempt, the procedures as set forth in 165:30-3-76 may be followed for violation of any requirement or provision of law of the rules of this Subchapter.

165:30-11-44. Reinstatement of an ICC regulated registration [REVOKED]

(a) If the registrant believes the Commission has revoked its registration without good cause, the registrant may petition the Commission for relief, as prescribed in the Oklahoma Corporation Commission Rules of Practice, OAC 165:5.

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(b) If an ICC regulated interstate motor carrier registration has been suspended for expiration of insurance, the registration shall be reinstated upon filing of proper proof of liability insurance, as provided in the rules of this Subchapter, provided proper proof is filed within one hundred thirty four (134) days from the date of insurance expiration.

165:30-11-45. Auditing of ICC regulated interstate motor carrier [REVOKED]

- (a) Any registration state may audit any ICC regulated interstate motor carrier to ensure correct payment of fees or to detect alteration of the registration receipt. The Commission shall revoke a motor carrier's registration for failure to pay the required per motor vehicle fees.
- (b) The motor carrier shall maintain records and source documents supporting fee payments and the original receipt issued by the registration state for a period of three (3) years.
- (c) Audits may be conducted at the principal place of business of the carrier. The registration state may also require the carrier to submit documentation for audit purposes.

165:30-11-46. Cooperation with other participating states [REVOKED]

The Commission will cooperate with other participating states in the Single State Registration System in exchanging information and transmitting funds relating to ICC regulated interstate motor carriers.

165:30-11-47. Violations [REVOKED]

- (a) Every for hire motor carrier, shipper, private motor carrier, their employees or any other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of law or of any requirements of Subchapters 3, 9, 11, 13 or 15 of this Chapter; or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part or provision thereof, of the Commission, or who procures, aids, or abets any corporation or person in its refusal or willful failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation, or part of provision thereof, after notice and hearing, is guilty of contempt of the Commission and is subject to a fine not to exceed Five Hundred (\$500.00) Dollars per violation per day or as otherwise provided for by law.
- (b) All motor carriers must yield for inspection as directed by a duly authorized motor carrier enforcement officer or by posted road signs.
- (c) Motor carrier enforcement officers may hold and detain equipment operated by a motor carrier for violations of applicable laws in the Oklahoma Statutes or rules of this Agency.
- (d) If, in the judgment of a motor carrier enforcement officer, a detained vehicle poses an inherent risk to public health, safety or welfare, upon direction of the Transportation Division Director or his designee, the motor carrier enforcement officer may arrange for impoundment of the detained vehicle at the expense of the motor carrier.

(e) Contents of impounded equipment must be inventoried, with any inventory expense incurred at the sole cost of the motor carrier.

SUBCHAPTER 12. UNIFIED CARRIER REGISTRATION

165:30-12-1. Unified Carrier Registration

- (a) The Commission shall comply with the provisions of the procedures adopted by the UCR Board.
- (b) An interstate motor carrier, freight forwarder, leasing company or broker subject to UCR shall be known as a UCRant.
- (c) A UCRant shall pay its applicable UCR fee to its base state, in accordance with the UCR procedures.
- (d) Failure of a UCRant to pay its applicable UCR fee to its base state shall subject the UCRant to contempt complaint proceedings.
- (e) Interstate carriers excluding vehicles operating intrastate only from the UCR fee must comply with 165:30-10-45.

SUBCHAPTER 13. INTRASTATE CERTIFICATES OR PERMITS

PART 3. CERTIFICATE OR PERMIT REQUIREMENTS

165:30-13-12. Identification device

- (a) Every motor carrier operating upon the public highways of the State of Oklahoma shall ~~purchase and place within or upon~~ obtain and display a current identification device, issued by this Commission, for each power unit, ~~on the outside upper left hand corner of the driver's door,~~ operated by said motor carrier, ~~an identification device issued by this Commission.~~
- (1) Only one (1) identification device is required for each power unit.
 - (2) The annual fee for each identification device will be as prescribed by law or Commission rule.
 - (3) Identification devices expire on December 31st of each calendar year, unless the motor carrier additionally holds an intrastate motor carrier license.
- (b) No identification device may be sold or otherwise transferred; except if such motor carrier provides a newly acquired vehicle in substitution therefore, each identification device on the discontinued vehicle, if such device is still in the possession of the motor carrier, may be transferred to the substitute vehicle or any subsequently substituted vehicle.
- (c) It is the duty of every motor carrier to remove and destroy identification devices upon transfer or sale of a power vehicle.
- (d) Identification devices found to be in the possession of a carrier not authorized will be confiscated and returned to the Commission by a motor carrier enforcement officer.

(e) No identification devices will be issued to any motor carrier who does not meet all statutory, regulatory and Commission requirements.

PART 11. SUSPENSION OR CANCELLATION OF AUTHORITY

165:30-13-94. Violations

(a) Every for-hire motor carrier, shipper, private motor carrier, their employees or any other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of law or requirements of ~~Subchapters 3, 5, 9, 11, 13, or 15 of this Chapter~~; or who fails to obey, observe or comply with any order, decision, rule, regulation, direction, demand or requirement, or any part or provision thereof, of the Commission, or who procures, aids, or abets any corporation or person in its refusal or willful failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation, or part of provision thereof, after notice and hearing, is guilty of contempt of the Commission and is subject to a fine not to exceed Five Hundred (\$500.00) Dollars per violation per day or as otherwise provided for by law.

(b) All motor carriers must yield for inspection as directed by a duly authorized motor carrier enforcement officer or by posted signs.

(c) Motor carrier enforcement officers may hold and detain equipment operated by a motor carrier for violations of applicable laws in the Oklahoma Statutes or the rules of this Agency.

(d) If, in the judgment of a motor carrier enforcement officer, a detained vehicle poses an inherent risk to public health, safety or welfare, upon direction of the Transportation Division Director or ~~his~~ his/his/her designee, the motor carrier enforcement officer may arrange for impoundment of the detained vehicle at the expense of the motor carrier.

(e) Contents of impounded equipment must be inventoried, with any inventory expense incurred at the sole cost of the motor carrier.

SUBCHAPTER 15. INTRASTATE PRIVATE CARRIERS

PART 3. OBTAINING A PRIVATE CARRIER LICENSE AND LICENSE REQUIREMENTS

165:30-15-9. Identification device

(a) Every private motor carrier operating upon the public highways of the State of Oklahoma shall ~~place within or upon~~ obtain and display a current identification device issued by this Commission, for each power unit operated by said private motor carrier ~~an identification device issued by this Commission~~, and make it available for inspection upon request.

(1) Only one (1) identification device is required for each power unit.

(2) The annual fee for each identification device will be as prescribed by law or Commission rule.

(3) Identification devices shall expire simultaneously with the expiration date of the annual license issued to the motor carrier.

(b) No identification device may be sold or otherwise transferred.

(c) Identification devices found to be in the possession of a carrier not authorized will be confiscated and returned to the Commission by the motor carrier enforcement officer.

(d) No identification devices will be issued to any private motor carrier who does not meet all statutory, regulatory and Commission requirements.

(e) Identification device(s) must be acquired prior to the expiration of each annual expiration of a multiple year renewal license to extend the motor carrier license. Failure to timely acquire the identification device(s) will cause the motor carrier license to expire. Failure to acquire the identification device(s) within 30 days of the expiration of the license will cause the motor carrier license to automatically expire and become subject to reinstatement rules as prescribed in OAC 165:30-3-103.

PART 7. VIOLATIONS, SUSPENSION OR CANCELLATION

165:30-15-34. Violations

(a) Every for-hire motor carrier, shipper, private motor carrier, their employees or any other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of law or of any requirements of ~~Subchapters 3, 9, 11, 13 or 15 of this Chapter~~; or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part or provision thereof, of the Commission, or who procures, aids, or abets any corporation or person in its refusal or willful failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation, or part of provision thereof, after notice and hearing, is guilty of contempt of the Commission and is subject to a fine not to exceed Five Hundred (\$500.00) Dollars per violation per day or as otherwise provided for by law.

(b) All motor carriers must yield for inspection as directed by a duly authorized motor carrier enforcement officer or by posted signs.

(c) Motor carrier enforcement officers may hold and detain equipment operated by a motor carrier for violations of applicable laws in the Oklahoma Statutes or rules of this Agency.

(d) If, in the judgment of a motor carrier enforcement officer, a detained vehicle poses an inherent risk to public health, safety or welfare, upon direction of the Transportation Division Director or his designee, the motor carrier enforcement officer may arrange for impoundment of the detained vehicle at the expense of the motor carrier.

(e) Contents of impounded equipment must be inventoried, with any inventory expense incurred at the sole cost of the motor carrier.

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SUBCHAPTER 19. REGISTRATION PURSUANT TO THE INTERNATIONAL REGISTRATION PLAN

165:30-19-2. Definitions

In addition to terms defined in the IRP, the Uniform Operational Audit Procedure Guidelines, and the IRP Polices and Procedures Manual, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Applicant" means any person making an application with the Oklahoma Corporation Commission seeking to register a vehicle or vehicles pursuant to the IRP.

"Application" means a filing with the Oklahoma Corporation Commission, seeking to register a vehicle or vehicles with the Commission pursuant to the IRP.

"Apportioned registration" means the proportional registration of a vehicle pursuant to the terms of the IRP and this Subchapter.

"Carrier" means a fleet operator which engages in the transportation of passengers or property for compensation or hauls its own commodity.

"Credentials" means identification plates and cab cards.

"Established account" means any prorate account for which a properly completed original application has been received by the IFTA/IRP Section and all corresponding and assessed fees have been paid in full.

"Grace period" means two months following the expiration of the registration year.

"Interstate" means between or through two or more jurisdictions.

"Intrastate" means from one point within a jurisdiction to another point within the same jurisdiction.

"IRP" means the International Registration Plan. The IRP is a licensing and reciprocity agreement between states of the United States and provinces of Canada that sets forth the procedures for registration and operation of vehicles traveling in two or more member jurisdictions.

"New operation" means a vehicle or fleet of vehicles not previously registered pursuant to the provisions of the IRP. "New operation" does not include an existing fleet that is expanding the number of vehicles or area of operation.

"Operations" means actual movement of a vehicle. For purposes of this Subchapter, operations may be classified as interstate or a combination of interstate and intrastate.

"Proportional registration" means registration of an apportionable vehicle pursuant to the terms of the IRP and this Subchapter.

"Records" means and includes operational records.

"Registration agent" means a person hired by ~~a registrant~~ an applicant or registrant to prepare and/or file applications, supplemental applications, and other documents required for proportional registration in Oklahoma.

"Normal Regular business hours" means 8:30 a.m. to 4:30 p.m. local time.

"Mileage ~~reporting~~ Reporting period" or "mileage year" means the period of twelve (12) consecutive months

immediately prior to July 1 of the year preceding the year of registration or license.

165:30-19-3. Registration

(a) **General requirements for registration.** Before a vehicle can be proportionally registered in the state of Oklahoma the applicant or registrant must:

(1) Have an established place of business located in Oklahoma, ~~or satisfy the requirements for registration as an owner-operator.~~ Absent an established place of business in any IRP jurisdiction, an applicant must satisfy the residency requirements in 165:30-19-6, prior to being allowed to base plate in Oklahoma.

(2) Complete the application, all required schedules, and provide backup documentation required by the Commission to verify the information submitted by the applicant;

(A) The application must include the mailing address and telephone number of the applicant, ~~for verification purposes.~~ In addition to providing the applicant's telephone number, the applicant may provide the telephone number of a third party who has knowledge of the applicant's whereabouts and is able to contact the applicant within a reasonable period of time upon request. An applicant or registrant may not utilize a telephone listing indicating the same telephone number as that of any other person in this state as a qualifying telephone number under this Section.

(B) If the application is signed by someone other than the applicant or registrant, pursuant to a power of attorney, the name or names of the individuals to whom such authority is granted must be included in the power of attorney executed by the applicant.

(3) Provide proof of payment (or suspension from levy) of Federal Heavy Vehicle Use Tax;

(4) Provide proof of financial responsibility pursuant to 47 O.S. § 7-602 (liability insurance);

(5) Motor vehicles operated by a motor carrier with valid liability insurance on file with FMCSA or this Commission are exempt from subsection (a) (4) of this Section;

~~(6) If the applicant is leased to a motor carrier, the applicant must provide a copy of the lease to satisfy Oklahoma's financial responsibility requirements (47 O.S. § 7-602).~~

~~(6) 7) Provide proof of ownership;~~

~~(7) 8) Provide proof of payment of prior registration fees, if the vehicle was registered pursuant to the IRP in another jurisdiction; and~~

~~(8) 9) Pay all applicable fees to complete registration.~~

~~(9) 10) Provide both (where different) the USDOT numbers of the registrant and the motor carrier responsible for safety on the IRP application. Provide the USDOT number of the registrant on the IRP application. Where the USDOT number of the registrant and the carrier responsible for safety are different, BOTH must be provided on the IRP application.~~

(b) **Registration periods.** Application for registration may be made at any time during a registration year.

(c) **Where to make application.** Application for registration may be submitted through the mail to the IFTA/IRP Section, Transportation Division, Oklahoma Corporation Commission, P.O. Box 52948, Oklahoma City, Oklahoma, 73152-2948, or by applying in person at 2101 N. Lincoln Blvd., in Oklahoma City. A list of other locations where application may be submitted is available from the IFTA/IRP Section or the Commission website under the Transportation Division (<http://www.occeweb.com>).

(d) **Incomplete applications.** No application for proportional registration shall be processed unless the applicant has submitted the documentation required in (a) of this Section. Failure to submit the required documentation shall result in denial of the application.

(e) **IRP Plan Compliance.** Since registration with the Plan can ~~effect~~ affect other jurisdictions' registration fees and tax receipts, the Transportation Division must be diligent in ensuring that those registrants with Oklahoma as their base jurisdiction are indeed entitled to base in Oklahoma.

(1) If after approval of the application and during the registration year, the Transportation Division has reason to believe that critical account information submitted on an application has changed, the Transportation Division shall allow the registrant 30 days to provide the updated information. If the information is not provided within that time or is deemed insufficient, the Transportation Division shall revoke the registrants' credentials in accordance with OAC 165:5-25.

(2) If after approval of the application and during the registration year the Transportation Division has evidence that critical account information submitted on an application was submitted erroneously or falsely, the Transportation Division shall revoke the registrants' credentials in accordance with OAC 165:5-25.

165:30-19-4. Title requirements and proof of ownership

(a) Owners of vehicles registered in Oklahoma must possess an Oklahoma title as proof of ownership unless the vehicle has been previously registered in another jurisdiction and engaged in interstate commerce.

(b) Proof of ownership must be submitted for all vehicles being registered through an original or supplemental application. Documents necessary to prove ownership include:

- (1) If titled in Oklahoma, a copy of the front and back of the title or vehicle registration in the owner's name;
- (2) If previously registered in another jurisdiction and engaged in interstate commerce, a copy of another jurisdiction's IRP cab card and a copy of the front and back of the out of state title;
- (3) A lease-purchase agreement by which the applicant or registrant, under the terms of the agreement, is to become the owner of the vehicle at the end of the lease period for nominal or no additional consideration, and the vehicle is currently titled in the name of the leasing company and

has been registered for interstate commerce with another jurisdiction.

165:30-19-5. Established place of business

(a) **General provisions.** To verify a ~~an~~ applicant's or registrant's established place of business in Oklahoma, the applicant or registrant must provide proof of a physical structure, designated by a street number or road location and open during ~~normal~~ regular business hours, which contains within it:

- ~~(1) A telephone or telephones publicly listed in the name of the fleet registrant;~~
- ~~(2)~~ (1) A person or persons conducting the fleet applicant's or registrant's business; and
- ~~(3)~~ (2) The operational records of the fleet, unless such records can be made available in accordance with the provisions of Section 1602 of the International Registration Plan.

(b) **Specific compliance provision** (IRP Decis. 99-4). An "established place of business" as utilized in these rules and in ~~Sections 210 and 218~~ Section 305 of the International Registration Plan cannot be provided for the applicant or registrant by or in the form of a registration agent or other third party.

(c) **Physical structure.** A physical structure, owned, leased, or rented by the applicant or registrant, wherein operational records of the fleet can be made available for audit purposes, must be evidenced by:

- (1) A current real estate tax bill;
- (2) Photocopies of rent receipts or mortgage payments which indicate the business address;
- (3) A current real estate rental contract and an original power of attorney conforming with Section 20 of Title 16 of the Oklahoma Statutes, if the contract is signed by someone other than the applicant or registrant; or,
- (4) Proof of insurance coverage.

~~(d) Publicly listed telephone. A telephone or telephones, located in the structure, which is publicly listed in the name of the fleet registrant, must be evidenced by one of the following:~~

- ~~(1) A telephone bill in the registrant's name, indicating the business address; or~~
- ~~(2) A copy of a current listing in the current telephone book, or verification of a current, active directory listing for the registrant's business address from a telephone company.~~

~~(e) Specific compliance provision (IRP Decis. 99-4). A registrant may not utilize a telephone listing indicating the same telephone number as that of any other person in this state as a qualifying telephone listing under subsection (d).~~

~~(f)~~ (d) **Person or persons conducting applicant's or registrant's business.** The person conducting the trucking-related business of the applicant or registrant must be in the permanent employment of the applicant or registrant, as evidenced by submission of the applicant's or registrant's federal employer's identification or other identification number and verification by the Commission that the applicant or registrant is an employer for the purposes of Oklahoma Withholding.

~~(g)~~ (e) **Specific compliance provision** (IRP Decis. 99-4). An applicant or registrant may not utilize a registration agent or its employees to satisfy the requirement of the presence of

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a person or persons in this state conducting the applicant's or registrant's business.

(~~h~~f) **Use of registration agent.** Nothing in this Section shall be construed as prohibiting a registration agent from preparing or filing proportional registration applications or other documents for ~~a~~ an applicant or registrant who meets the requirements set forth in this Section.

(~~i~~g) **Resubmission of documentation.** Registrants with accounts in good standing may not be required to resubmit the established place of business indicia each year, provided that the established place of business remains unchanged since previously documented to the satisfaction of the Commission. To avail itself of this provision, the registrant must certify to the Commission under penalties of perjury that the registrants' established place of business has not changed. Nothing herein shall prevent the Commission from periodically requiring registrants to re-submit documentation of their established place of business. Registrants will periodically be required to resubmit established place of business documentation in accordance with the schedule established by the Commission.

(~~j~~h) **False or fraudulent submission.** Applicants who knowingly provide false or fraudulent information or abuse the provisions of 165:30-19-3 shall have their registration credentials immediately revoked and will be denied further application.

165:30-19-6. Registration as ~~an owner-operator a~~ resident

(a) **General requirements.** ~~An owner operator is a registrant who provides proof of ownership pursuant to OAC 165:30-19-4, and leases the vehicle with a driver to a carrier. Owner operators who cannot fully comply with Section 218 of the International Registration Plan and OAC 165:30-19-5~~ Applicants who have no established place of business in any IRP jurisdiction may register in Oklahoma once they prove to the satisfaction of the Commission that they are residents of the State of Oklahoma. Such applicants may register in Oklahoma, provided that the owner operator furnishes they furnish a street address, and a telephone number, and satisfactorily ~~demonstrates~~ demonstrate that the owner operator applicant is indeed a resident of the State of Oklahoma and can be located in Oklahoma for purposes of audit.

(b) **Street address.** The street address in Oklahoma must be the street address where the ~~owner operator's~~ applicant's records are maintained or where the records will be delivered for the purpose of audit. An ~~owner operator applicant~~ applicant may not utilize the address of a registration agent to satisfy the requirement of an address in Oklahoma, ~~unless the owner operator's records are maintained at the registration agent's address, or there is a continuing relationship between the owner operator and the registration agent under which the records are to be provided for audit at the registration agent's address.~~

(~~e~~) **Telephone number.** ~~The telephone number shall be the telephone number of the owner operator or of a person who has knowledge of the owner operator's whereabouts and is able to contact the owner operator within a reasonable time upon request.~~

(~~d~~c) **Owner-operator Applicant can be located.** The ~~owner operator applicant~~ applicant must submit documentation that indicates the ~~owner operator applicant~~ applicant can be located in Oklahoma for purposes of audit. Documentation acceptable for meeting the requirements of this subsection includes:

- (1) Proof of Oklahoma residency, such as an Oklahoma-issued driver's license, current Oklahoma Income Tax filing, proof of an Oklahoma homestead exemption, or other evidence of bona fide residency;
- (2) Ownership of real property in Oklahoma.

(~~d~~) **Qualifying determination.** The Transportation Division shall make its decision on whether the applicant has met its burden of proof based on the totality of the evidence presented.

(~~e~~) **Lease requirements.** ~~An owner operator must submit an executed copy of the lease between the owner operator and the motor carrier, for a term which is of substantially the same duration as the period of registration being sought. The lease terms may not provide for operation of the vehicle independent of the motor carrier.~~

165:30-19-10. Renewal applications

When an application for renewal of proportional registration is not received on or before the first day of the month of expiration, the applicant cannot be assured that a registration cab card and plate will be issued for display of credentials prior to the enforcement date. Registrants whose renewal application is not received on or before the expiration date must renew all vehicles in their fleet unless proof of disposition of these vehicles is provided. If this proof shows that the vehicle(s) were disposed of after expiration, those vehicles must be included in the renewal fleet. Registrants whose renewal application is not received on or before the expiration date shall be subject to enforcement for display of credentials on the day following the expiration date.

165:30-19-12. Supplemental application

(a) After an original application has been filed, vehicles can be added, deleted, or registration weight increased by filing a supplemental application form.

(b) Registration fees for supplemental applications are calculated from the date of purchase or lease, unless the vehicle was previously registered in the fleet, then the fees shall be calculated upon an annual rate.

(c) When a supplemental application is filed to add a unit and delete a similar unit, a credit of the registration fees paid on the deleted unit will be given toward registration of the added unit for those states that allow credit. In order for credit to be given on the registration fees, the cab card and license plate for the deleted vehicle must be returned with the supplemental application, or an affidavit of destruction must be submitted with the supplemental application. Under no circumstances can a license plate be transferred from one vehicle to another. No refund for the unused portion will be given for a deleted vehicle.

(d) If the license plate is lost, an ~~Affidavit~~ affidavit may be submitted in lieu of the plate.

165:30-19-13. Amended mileage/adding states

- (a) If the operations of a registrant change to include additional states during the registration year, the additional states can be added to the fleet. The states must be added to all vehicles in the fleet. The original mileage percentages cannot be changed. The addition of a state or states will result in a total fee assessment in excess of One Hundred percent (100%).
- (b) To apply to add states, the registrant must complete Schedule B and submit Schedule A or a list of currently registered vehicles. The appropriate space on the form should be marked to show the type of transaction and mileage must be shown for each state added. If there is actual mileage for a state being added, actual miles must be included. If not, estimated must be used.
- (c) Estimated mileage must be based on reasonable proposed operations of the fleet during the entire calendar year for which a state is being added. The applicant shall be required to substantiate the estimation by submitting a full statement of the proposed method of operation on a form provided by the Commission. The statement shall include reasonable information relating to origin, destination, and number of trips. If requested, subsequent to initial review and prior to disapproval, the applicant shall submit supporting documentation, which may include verifiable contracts or brokerage agreements, or both. Alternatively, owner-operators may provide a copy of the miles reported by the carrier with which the vehicle and driver have a valid lease agreement. Additionally, the Division may independently substantiate mileage through other sources available to the Commission.
- (d) In the absence of a full statement of the proposed method of operation, the Commission shall require the applicant to utilize the ~~2nd year~~ estimated mileage chart established by the Commission. ~~The chart mileage shall be multiplied by the number of registered vehicles.~~
- (e) Once the fees are paid, new IRP cab cards will be issued reflecting the additional state(s).

165:30-19-14. Audits

The Transportation Division of the Commission has the responsibility of ~~the~~ conducting audits of the operational records of a registrant ~~that~~ are not maintained at a location within the State of Oklahoma and cannot be made available for audit at a location within Oklahoma. ~~the~~ ~~The~~ registrant will be required to reimburse the State of Oklahoma for expenses incurred by ~~its auditor(s) for expenses incurred by it's~~ its auditor(s) for performance of an audit at a location outside Oklahoma.

165:30-19-15. Mileage

- (a) If an applicant for proportional registration operated for ninety (90) or more days during the mileage reporting period of the preceding year, actual operated miles must be filed. For those jurisdictions where there is no mileage to report, but for which proration is desired, estimated miles must be filed.
- (b) If an applicant for proportional registration is new, or the applicant did not operate for ninety (90) days or more during the reporting period, estimated miles must be ~~files~~ filed for all jurisdictions for which proration is sought.

- (c) Estimated mileage will not be accepted after the first year of prorated registration in Oklahoma. Provided, in cases where actual operation was less than ninety (90) days during the mileage reporting year, estimated mileage will also be accepted for the second year.
- (d) Estimated mileage must be based on reasonable proposed operations of the fleet during the entire calendar year for which proportional registration is being sought. The applicant shall be required to substantiate the estimation by submitting a full statement of the proposed method of operation on a form provided by the Commission. The statement shall include reasonable information relating to origin, destination, and number of trips. If requested, subsequent to initial review and prior disapproval, the applicant shall submit supporting documentation, which may include verifiable contracts and/or brokerage agreements. Alternatively, owner-operators may provide a copy of the miles reported by the carrier with which the vehicle and driver have a valid lease agreement. Additionally, the Division may independently substantiate mileage through other sources available to the Commission.
- (e) In the absence of a full statement of the proposed method of operation, the Commission shall require the applicant to utilize the estimated mileage chart provided by the Commission. The chart shall be developed and updated annually by dividing the total actual miles for each member jurisdiction reported by Oklahoma registrants by the total number of vehicles registered with actual miles for the jurisdiction.
- (f) Failure to provide a full statement of the proposed method of operation, or in the alternative, to submit the application based upon the estimated mileage chart developed by the Commission shall result in denial of the application for proportional registration.

165:30-19-16. Application disapproval

- (a) An application will be denied if it is not properly completed. It is the responsibility of the applicant or registrant to submit all information required by the application instructions and attach all necessary documentation.
- (b) The applicant or registrant or his agent will be notified if an application is denied and the reasons therefore or if additional information is needed.
- (c) An application that has been denied may be resubmitted by the applicant or registrant but will be processed as a new application upon receipt of the resubmission.
- (d) If the applicant believes that the application was wrongfully denied, the ~~registrant~~ applicant may, within thirty (30) days of the mailing or hand-delivery of the notice of denial, file a written protest of the denial with the Transportation Division under the provisions of OAC 165:5.
- (e) No extensions, temporary operating authority, or temporary credentials will be issued for vehicles listed on a denial application.

165:30-19-17. Temporary registration

New fleet vehicles, or vehicles being added to any existing fleet, must have some form of temporary registration prior to operation if permanent IRP credentials have not been issued.

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Oklahoma offers three (3) forms of temporary registration. All forms of temporary registration are valid for the period shown and will be honored by all IRP jurisdictions when properly completed and validated.

(1) **Temporary registration.** Temporary registration may be obtained directly from the IFTA/IRP Section, Transportation Division, Oklahoma Corporation Commission, P.O. Box 52948, Oklahoma City, Oklahoma, 73152-2948. The ~~permit temporary registration~~ shall be completed in full by the applicant and validated by the IFTA/IRP Section at the time the application and appropriate fees are presented to the section. The temporary registration should be completed as follows:

(A) Enter the assigned Oklahoma IRP account number or leave a blank if no previous number has been assigned.

(B) Mark the appropriate section indicating the type of application on which the vehicle(s) is listed for registration and the date application was filed.

(C) List the vehicles being authorized by license plate number (leave blank if not assigned), equipment number, year model, make and the vehicle identification number. Unused vehicle listing spaces must be lined out.

(D) List jurisdictional weights for the vehicles. A separate form must be completed for vehicles which are not to be qualified at identical weights in the same jurisdiction. State with no entry must be lined out.

(E) Enter the registrant's name and business address as reported on schedule A or C application.

(F) Jurisdiction and weight information entered on the form must be consistent with those reported on the Schedule A or C form.

(G) Temporary registration for established accounts may also be obtained directly from any person that has entered into an agreement with Commission for distribution and issuance of temporary registration. This registration must be completed in the same manner described in paragraph (1) of this subsection. Misuse of any temporary registration may result in denial of temporary registration privileges.

(2) **Required payment of fees.** Temporary registration or credentials may only be issued to new accounts after all required fees are paid.

(3) **Wires of temporary registration.** Wires of temporary registration may be requested from the IFTA/IRP Section in the following manner:

(A) **Where to apply.** Wires of ~~operating authority temporary registration~~ may be requested through the IFTA/IRP Section, Transportation Division, Oklahoma Corporation Commission, P.O. Box 52948, Oklahoma City, Oklahoma, 73152-2948, during normal business hours, Monday through Friday.

(B) **Application procedure.** A properly completed and signed Schedule C application must be mailed to the IFTA/IRP Section, Transportation Division, Oklahoma Corporation Commission, P.O. Box 52948, Oklahoma City, Oklahoma, 73152-2948, prior

to issuance of the wire request. The applicant must contact the appropriate wire service agency to determine the proper amount of fees due and the location to remit the fees.

(4) **Self-issue ~~permits temporary registration~~.** Self-issue ~~permits temporary registrations~~ are available only to established Oklahoma-based IRP registrants, and may be used for vehicle(s) added to the fleet, duplicate cab cards, substitute license plates, state add and weight increase applications to the registrant's account. Self-issue ~~permits temporary registrations~~ may not be used for renewal vehicles. Self-issue ~~permits temporary registrations~~ may not be issued by a registrant to another registrant or to an applicant or potential applicant for Oklahoma proportional registration.

(A) **Self-issued ~~Self-issue temporary permits registrations~~.** Self-issued ~~Self-issue temporary permits registrations~~ or authorizations may be issued up to a maximum of twenty-five percent (25%) of the registrant's fleet. Any registrant with a fleet of less than six (6) vehicles may be assigned one (1) self-issue ~~permit temporary registration~~.

(B) **Application procedure.** Properly completed ~~permits temporary registrations~~ allow for immediate temporary registration for vehicles added to the fleet, duplicate cab cards, substitute license plates, state add and weight increase applications. Upon issuance, the original ~~permit temporary registration~~ should be placed in the vehicle, and one copy mailed immediately to the IFTA/IRP Section, Transportation Division, Oklahoma Corporation Commission, P.O. Box 52948, Oklahoma City, Oklahoma, 73152-2948. Within fifteen (15) days of issuance, another copy of the temporary registration must be submitted, along with a completed Schedule C.

(C) **Violations.** Misuse of the ~~permits temporary registration~~ or failure to maintain proper accountability may result in the Prorate Section's refusal to issue the registrant self-issue ~~permits temporary registrations~~.

(5) **Issuance of temporary registration.**

(A) The issuance of temporary registration creates a debt to the State of Oklahoma who is then indebted to the participating jurisdictions of the International Registration Plan. Registrants must pay registration fees for the remainder of the registration year for which a temporary registration is issued.

(B) In addition to collection actions, failure to pay the fees described in (A) above will cause the loss of apportioned registration privileges

165:30-19-18. Compliance confirmation

(a) New registrants may be contacted within six (6) months of registration to determine if required records are being maintained and give guidance on maintaining proper records. Initial contact will be by telephone or in writing. If the initial contact is unsuccessful, contact will be made by visiting the registrant's established place of business or ~~place of business~~ residence.

- (b) New registrants who are not maintaining proper records at the time of initial contact will be provided guidance on maintaining proper records.
- (c) The Commission will then notify the registrant who has received guidance pursuant to subsection (b), in writing, of the date on which proper second-year operational records must be made available by the registrant for inspection.
- (d) If at that time, the registrant is unable to provide proper second-year operational records, the registrant will not be allowed to apportionally register in Oklahoma for the third year without a complete pre-registration audit of the renewal application.

165:30-19-19. Trip permits

- (a) **Purpose of permit; validity.** The 72-hour trip permit provides full registration to trucks, truck-tractors, trailers, semi trailers, and motorbuses, which are not registered in Oklahoma. The permit is valid for either interstate or intrastate movement. This permit cannot be issued for a vehicle, which has been apprehended by law enforcement officers for improper registration.
- (b) **Eligible out of state vehicles.** Out of state vehicles eligible for apportioned registration, but not registered as such, will be required to purchase a 72-hour trip permit before proceeding through the State of Oklahoma.
- (c) **Where permit may be obtained; costs.** Trip permits are available from ~~local tag agencies and from~~ the Transportation Division of the Commission ~~and Commission contracted wire services.~~ The cost of the permit is set forth by statute ~~and Commission rule.~~
- (d) **Effect of expired, altered, or undated permit.** An operator of a motor vehicle possessing an expired, altered, or undated temporary permit shall be deemed to be operating an unregistered motor vehicle and shall be subject to full registration and penalty.
- (e) **Newly purchased trucks to be registered in another state.** A permit must be issued on newly purchased trucks carrying a load and driving ~~in~~ to another state for registration.
- (f) **Receipt.** Only one (1) copy of a 72-Hour Permit receipt will be given to applicant.

165:30-19-20. Incorporation by reference

- (a) **Reference to the International Registration Plan ("IRP").** When reference is made to the International Registration Plan or "IRP", it shall mean, unless the context clearly indicates otherwise, the registration reciprocity agreement among the various states of the United States and the provinces of Canada, including the Audit Procedures Manual, which provides for payment of license fees for apportionable vehicles on the basis of fleet miles operated in the various jurisdictions, to which Oklahoma is a signatory state, as published by International Registration Plan, Inc., as ~~amended through October 1, 2003~~ currently amended.
- (b) **Incorporation.** The following Articles are, unless otherwise specifically provided, incorporated by reference in their entirety:

- (1) Articles I through XXIII of the International Registration Plan ("IRP"); and,
- (2) The International Registration Plan Audit Procedures Manual.
- (c) **Inclusion of IRP citations and definitions.** When a provision of the IRP is incorporated by reference, all citations and definitions contained therein are also incorporated by reference.
- (d) **Inconsistencies or duplication.** In the case of any inconsistency or duplication between the requirements of those provisions incorporated by reference in this Section, and the rules set out in this Subchapter, the provisions incorporated by reference shall prevail, except where rules set out in this Subchapter are more particular. The provisions incorporated by reference are subject to any limitations provided by Oklahoma law.

SUBCHAPTER 21. INTERNATIONAL FUEL TAX AGREEMENT

165:30-21-13. Reporting requirements

- (a) Every person licensed under 68 § 607 shall make and transmit to the Commission, on or before the last day of April, July, October and January of each year, upon a form prescribed and furnished by the Commission, a verified quarterly report, showing the total distance traveled by the licensee in all jurisdictions and the total volume (in gallons) of motor fuel or diesel fuel purchased or received in each jurisdiction on which the motor fuel tax levied by that jurisdiction has been paid to that jurisdiction. The report will also show the total distance and the total taxable distance traveled by the licensee in each IFTA jurisdiction, and the total volume (in gallons) of motor fuel or diesel fuel consumed in each IFTA jurisdiction. The total volume (in gallons) of motor fuel or diesel fuel purchased or received in each IFTA jurisdiction shall be deducted from the total number of gallons of motor fuel or diesel fuel consumed by the licensee in each jurisdiction to determine the number of gallons of motor fuel or diesel fuel upon which each jurisdictions' motor fuel tax is be computed and paid.
- (b) Every person licensed under this article who travels less than ten thousand (10,000) miles distance per year in Oklahoma may, at the option of the Commission, file an annual report in lieu of filing the quarterly report.

165:30-21-15. Penalty

- (a) When any licensee fails to submit to the Commission any report required or the full amount of the tax due hereunder before the delinquency date, the licensee shall pay, in addition to the interest provided for herein, a penalty of Fifty Dollars (\$50.00) or 10% of the tax due, whichever is greater, for each occurrence.
- (b) Penalty may be waived by the Commission for good cause shown when requested in writing by the licensee within 30 days of assessment or the filing of a return showing penalty due. The Transportation Division is authorized by the Commission to waive penalty amounts equal to or less than \$1,000

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for good cause shown. Good cause while not limited to the items below may include:

- (1) Commission error causing the delinquency,
 - (2) Extended history of timely filing (at least two years) and payments prior to the delinquency, or
 - (3) Natural disaster causing the delinquency.
- (c) ~~Licensee's~~ Licensees who desire a waiver of penalty amounts greater than \$1,000 must file an appeal with the Court Clerk's Office in accordance with ~~OCC~~ Commission administrative procedures.

[OAR Docket #08-791; filed 5-2-08]

TITLE 165. CORPORATION COMMISSION CHAPTER 35. ELECTRIC UTILITY RULES

[OAR Docket #08-844]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
165:35-1-2. Definitions [AMENDED]
Subchapter 34. Competitive Procurement
165:35-34-1. Purpose of this Subchapter [AMENDED]
165:35-34-2. Confidential Information [AMENDED]
165:35-34-3. RFP Competitive Bidding Procurement Process [AMENDED]

AUTHORITY:

Article IX, §§ 18, Oklahoma Constitution
17 O.S. §152.

DATES:

Comment Period:

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March 4, 2008

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Submitted to the Governor:

March 12, 2008

Submitted to the House:

March 12, 2008

Submitted to Senate:

March 12, 2008

Gubernatorial approval:

April 17, 2008

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 7, 2008.

Final Adoption:

May 7, 2008

Effective Date:

July 1, 2008

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The amendment to OAC 165:35-1-2 is needed because the current definition of Long Term requires a utility to competitively bid fuel contracts that are one year in length. This causes those short term contracts to be captured by the competitive bidding rules causing them to be subject to those additional processing and evaluation requirements when the original intent was for only long term contracts to be subject to the rules. The change in the definition will allow one year contracts to no longer be subject to competitive bidding requirements.

The amendment to OAC 165:35-34-1 is needed because certain electric utilities have no generation plant within the boundaries of Oklahoma and have a very small customer base within the state. This change in essence exempts

those utilities from the rules since they procure all their fuel and purchased power in other jurisdictions.

The amendment to OAC 165:35-34-2(b) is needed because it was proven by various utilities that the public disclosure of the terms of winning bids was causing a chilling of competition, contrary to the intent of those competitive bidding rules. Bidders were electing not to participate in bids, or were withdrawing bids when disclosure of their winning terms was a possibility. This amendment causes bids submitted in accordance with the Competitive Procurement rules, and the contracts resulting therefrom, to be considered confidential information rather than to be disclosed, but does include terms that allow that information to be available for review under certain conditions. In addition, a safeguard is included which provides that, on a case-by-case basis, certain information about winning bids and their resulting contracts shall be publicly disclosed so long as such disclosure does not reveal confidential proprietary material or information.

The amendment to OAC 165:35-34-3(b) is needed because an ambiguity in the prior language arguably could be read to require that the Commission itself compensate any Independent Evaluator that it may retain under the provisions of Subchapter 34. The new language provides that the Commission may arrange for compensation of the Independent Evaluator, which would allow the Commission to order that those costs should be paid by a utility.

The amendment to OAC 165:35-34-3(d) is needed because the current rule language could arguably be read to provide that bids should not be opened by a utility unless the specified parties under the rule, the Independent Evaluator, Commission and the Attorney General, were in attendance. The amended rule provides that the utility can proceed at the appointed time and place whether or not those parties are present. In addition, it was discovered over time that the benchmark for evaluation of bids contained in the rule was incorrect and should be deleted so that bids could be evaluated on each bid's specific terms, on a case by case basis.

The amendment to OAC 165:35-34-3(e) is needed because the language contained in that rule was potentially subject to multiple interpretations and the amendment clarified the intent of the rule and the use of the waiver process permitted under the rule.

The amendment to OAC 165:35-34-3(f) is needed because the bidding rules provide for an expedited period for bidders to decide whether to file a challenge to a utility's bid award decision. The amended language requires that additional information as to the rationale and analysis used for the selection of the winning bid is to be provided to non-winning bidders, which should help reduce pre-emptive challenges while bidders wait for more information regarding a bid award.

CONTACT PERSON:

Kathy Nelson @ 522-1638.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2008:

SUBCHAPTER 1. GENERAL PROVISIONS

165:35-1-2. Definitions

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

"Affiliate" means any person, entity, business section, or division that directly or through one or more intermediaries controls, is controlled by, or is under the control of an entity that is regulated by this Commission. Control includes, but is not limited to, the direct or indirect possession of authority to direct a direction of the management or policies of a person or entity, whether such authority is the result of acting alone or in conjunction with others. Control may be exercised through management, ownership of voting securities or other right to

vote, by contract, or otherwise. A voting interest or ownership of five percent (5%) or more creates a presumption of control.

"ANSI" means the American National Standards Institute.

"Capacity" means the quantity of electric power produced by a generating facility at a point in time, as measured in kilowatts or megawatts.

"Commission" means the Oklahoma Corporation Commission and the Commission's staff operating under its direction.

"Company submeter" means kWh measuring device provided by the utility located on line beyond the point of delivery of electrical service providing service to another consumer. Usage from these meters is deducted from the meter at point of delivery.

"Competitive bidder" means any entity that submits a competitive bid in response to a request.

"Competitive bidding process" means a process to solicit offers to provide fuel supplies, electric generation service, fuel transportation services, and other goods or services related to a utility's provision of electric service to end users.

"Complaint" means an expression of dissatisfaction regarding the utility's billings, service procedures, or employee conduct which requests or requires some remedial or corrective action be taken by the utility. Complaints may be made by the consumer or other interested party. A complaint may be made orally, electronically or in writing, but must be made or received at the utility's offices.

"Consumer" means any person, member of a cooperative, firm, corporation, municipality or agency, other political subdivision of the United States, or the State of Oklahoma receiving electric service of any nature from a utility.

"Corporate support services" or "Shared Services" ~~are~~ means human resources, procurement services, information technology, regulatory services, administrative services, real estate services, legal services, accounting, environmental services, research and development, internal audit, community relations, corporate communications, financial services, financial planning and management support services shared between or among a utility, its parent holding company or an affiliated entity and such other services authorized by the Commission on a case-by-case basis.

"Customer submeter" means a kWh measuring device provided by the customer and located on line beyond the point of delivery of electrical service.

"Demand-side program" means any program or measure conducted by the utility to modify the net consumption of electricity on the retail customer's side of the electric meter, including, but not limited to energy efficiency measures, load management, interruptible load, and on-site generation.

"Disconnection" means electric service has been discontinued by consumer request or by the utility.

"Economy energy" means electric energy that is purchased during the course of a day to take advantage of the opportunity to purchase power from unexpected surpluses on or available to the grid more cheaply than producing it oneself or purchasing power under existing contracts.

"Electric consuming facility" means anything that utilizes electric energy from a central station source.

"Electric energy" means the quantity of electric power that is generated over a specific interval of time, measured in kilowatt-hours or megawatt-hours.

"Electric plant" means facilities and equipment owned or operated by a utility, including but not limited to generating stations, substations, transformers, towers, poles, conductors, transportation equipment, conduits, meters, motors, real estate, buildings, and dams.

"Electric service" means the supply of electricity, including generation, transmission, distribution and ancillary services (e.g. spinning and supplemental reserves) for ultimate consumption.

"Electricity" means electric power and energy produced, transmitted, distributed, or furnished by a utility.

"End-use measure" means an energy efficiency measure or an energy management measure.

"FERC" means the Federal Energy Regulatory Commission.

"Fuel procurement plan" means a plan that (1) establishes the parameters of a fuel supply portfolio for a utility and (2) strikes an appropriate balance between fuel costs and the related risks to which ratepayers are exposed (e.g., fuel cost increases and supply disruptions) over the term of the resource plan.

"Fuel supplies" means the coal, oil, natural gas and other fuels that generation facilities consume to produce electricity and the transportation and transmission services used to deliver those fuels.

"Generation facility" means a machine or machines capable of producing capacity, energy or other electricity products.

"Generation service" means the production of energy, capacity and other electricity products to meet customer demands for electricity.

"Generation supplier" means an entity capable of providing generation service.

"Independent power producer" means any generation supplier that is not a utility or an affiliate thereof.

"Integrated resource plan" means a utility's plan as further defined and established in Commission rules found at OAC 165:35-37 to ensure that sufficient supply- and demand-side resources are available to meet its obligation to serve and to achieve public policy objectives, including those prescribed by law, rule, or Commission order.

"Interested party" means any individual or entity with appropriate authority to act on behalf of a particular consumer or group of consumers, or any other party involved in, or affected by, the provision of electric generation service.

"kW" means kilowatts, and "kWh" means kilowatt-hours.

"Legal holiday(s)" means those days declared to be legal holidays by the Chief Executive of the State of Oklahoma.

"Long-term" means ~~one year or longer~~ than one year.

"Meter" means any device or devices used to measure or register electric power and energy.

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"Meter shop" means a shop used for the inspection, testing, and repair of meters.

"Municipality" means an incorporated city or town in the State of Oklahoma.

"MW" means megawatts, and **"MWh"** means megawatt-hours.

"Planned interruption" means electric service that has been suspended by the utility.

"Planning period" means the ten (10) year period that begins on the date that the utility files its plan with the Commission.

"Premises" means any piece of land or real estate, any building or other structure or portion thereof, or any facility where electric service is furnished to a consumer.

"Prudence review" means a comprehensive review that examines as fair, just, and reasonable, a utility's practices, policies, and decisions regarding an investment or expense at the time the investment was made or expense was incurred; including direct or indirect maximization of its positive impacts and mitigation of adverse impact upon its ratepayers, without consideration of its ultimate used and useful nature.

"Purchased-power procurement plan" means a plan that establishes the parameters of a purchased-power portfolio for a utility that meets the utility's planning objectives and strikes an appropriate balance between power supply costs and the related risks to which ratepayers are exposed (e.g., purchased-power cost increases and power supply disruptions) over the term of the resource plan.

"Records" means documentation maintained by the utility either in electronic or paper form.

"Residence" means any dwelling unit containing kitchen appliances, permanent sewer or septic facilities, and water service. A weekend cabin and a mobile home are residences when used as such. An individual room in a hotel or motel is not a residence.

"Resources" means supply-side generating facilities including life extension and repowering projects for such facilities (and the output thereof), and demand-side program and end use measures.

"RFP" means "request for proposal," the document that publicly opens a competitive bidding process by describing the utility's needs and seeking bids to fulfill those needs.

"Risk management plan" means a systematic method utilized by a utility to, among other things:

- (A) Identify risks inherent in procuring and obtaining a supply portfolio;
- (B) Establish the means by which the utility plans to address and balance or hedge the identified risks related to cost, price volatility and reliability; and
- (C) Address the fuel, purchased-power and utility supply costs implicit in the utility's supply portfolio, and also demand-side programs as a potential hedge against risk.

"RUS" means the Rural Utilities Service.

"Special contract" means a written agreement between a utility and a consumer providing for furnishing electric service on terms different from those prescribed in approved tariffs.

"Stakeholder" means an interested party, as defined above.

"Subdivision" means any land, wherever located, whether improved or unimproved, contiguous or not, which is divided into lots or proposed to be divided for the purpose of disposition pursuant to a common promotional scheme or plan of advertising for disposition.

"Subsidize" means to furnish financial support by the utility to the affiliate.

"Tariff" includes every rate schedule, or provision thereof, and all terms, conditions, rules, and regulations for furnishing electric service.

"Unplanned or emergency interruption" means service has been suspended due to circumstances beyond the control of the utility.

"Utility" means any person, firm, partnership, or corporation furnishing electric service to the public in Oklahoma and subject to the regulatory jurisdiction of the Commission.

SUBCHAPTER 34. COMPETITIVE PROCUREMENT

165:35-34-1. Purpose of this Subchapter

(a) This Subchapter establishes a fair, just, and reasonable process that best serves the public interest of all electricity consumers and that will complement and improve the state's economic growth by, among other things, making the most efficient use of Oklahoma's coal, natural gas, and power generation and transmission assets and furthers the policy of the Commission that a competitive procurement process is among the most effective means to achieve these objectives. All utilities shall employ a competitive bidding process when purchasing long-term electric generation or long-term fuel supply for self-generation of electricity. The competitive bidding process shall be open to Commission scrutiny, as are other regulated utility practices. The provisions of this Subchapter must be followed unless the utility obtains a waiver pursuant to 165:35-34-3(e).

(b) It is the intent of the Commission to create an open, transparent, fair and nondiscriminatory competitive bidding process for the utility to meet its needs. It should not be construed that this Subchapter absolves or relieves any utility or competitive bidder from any duty prescribed by the laws of the State of Oklahoma or the United States including, but not limited to, the federal Public Utility Regulatory Policies Act (Public Law 95-617, as amended) and any other state or federal law regarding contractual rights and obligations, antitrust enforcement or liability, or laws against improper restraint of trade or "takings" of property.

(c) This Subchapter also establishes reasonable standards of conduct for transactions between utilities and their affiliates and standards for transactions between utilities and competitive bidders conducting business within the State of Oklahoma.

(d) This Subchapter shall not be applicable to a utility with no generation plant within the boundaries of Oklahoma and less than ten percent of its customers within the state.

(e) Wherever Independent Evaluator is referred to in this subchapter, it is understood that particular reference is only applicable if an Independent Evaluator has been retained by the Commission.

165:35-34-2. Confidential Information

(a) A person or entity may file a motion with the Commission for an order to protect confidential information pursuant to 51 O.S., Section 24A.22.

(b) ~~A bid, which is determined to be a successful bid, pursuant to the competitive bidding process of this Subchapter, must be publicly disclosed and shall not be subject to the confidentiality provisions of this Subchapter unless otherwise ordered by the Commission. The soliciting utility will provide the non-winning bidders the rationale used for the selection of the winning bid.~~Bids submitted in a competitive bidding process and the resulting contracts shall be considered confidential information. Such bidding documents and contracts shall be available for review subject to a protective order issued by the Commission except that such protective order may limit access to appropriate non-competitive representatives such as lawyers and consultants, of bidders participating in the RFP, so that such persons may review the details of all the bids, the bid process and the bid evaluation-related materials. The Commission may determine, on a case-by-case basis, that certain information about the winning bid and resulting contract shall be publicly disclosed so long as such disclosure does not reveal confidential information.

(c) Pending a determination by the Commission regarding any protective order, the person or entity seeking the protective order, the Commission, the Attorney General and the Independent Evaluator may, at their option, review the information claimed to be confidential at a mutually agreed upon location.

165:35-34-3. RFP Competitive Bidding Procurement Process

(a) Competitive Bidding Structure and Process Guidelines.

(1) The soliciting utility shall notify the Commission of its intent to engage in a competitive bidding process at least 45 days before or as soon as reasonably practicable but not less than 30 days before drafting a request for proposal ("RFP"), as required by subsection (4) below.

(2) The soliciting utility shall prepare the initial draft of the RFP documents, including but not limited to RFP procedures, and a pro forma power purchase agreement that, to the maximum extent practicable, utilizes industry standard contractual terms and contains all expected material terms and conditions and a solicitation schedule (collectively, the "RFP Document").

(3) In addition to the information required by (1) of this Section, the RFP and RFP Document, at a minimum, shall identify clearly:

- (A) Term;
- (B) Amount of megawatts, if applicable, and types of products being solicited;

(C) All price and non-price evaluation factors to be considered;

(D) Respective weight for each price and non-price evaluation factor; and

(E) Utility's preliminary analysis of transmission availability and the utility's plan for evaluation of transmission availability for each proposal received, including, but not limited to:

(i) Description of the role of transmission analysis to be conducted by the utility in the bid evaluation process. This analysis should use publicly available tools provided by the controlling entity, such as the Southwest Power Pool Scenario Analyzer, and

(ii) Role of the transmission analysis to be conducted by the controlling entity, currently the Southwest Power Pool, in the bid evaluation process.

(4) The draft of the RFP Document, supporting documentation, and bid evaluation procedures shall be provided to the Commission, Attorney General, and Independent Evaluator for review prior to the planned issue date of the RFP. After receiving input from all interested parties, which may include the Commission, Attorney General, and Independent Evaluator, and holding a technical conference regarding the bidding process, the soliciting utility shall post the draft RFP Document and comments of the Commission, Attorney General, and Independent Evaluator, on the soliciting utility's website or electronic bulletin board, or by some other publicly accessible method and solicit comments from interested parties concerning the draft RFP Document. The soliciting utility will post the final RFP Document on its website or electronic bulletin board, or by other publicly accessible method. RFPs shall include the Southwest Power Pool's time requirements to conduct transmission analyses, i.e. the aggregate study.

(b) Independent Evaluator.

(1) ~~The Commission may, at its discretion, retain and compensate~~arrange compensation for an Independent Evaluator to monitor the RFP and competitive bidding process. Notwithstanding the foregoing, the Commission shall retain an Independent Evaluator to monitor the RFP and competitive bidding process in the following instances: (i) when an affiliate of the utility is anticipated to participate in the competitive bidding process; (ii) when the RFP and bid resulting therefrom is expected to have a material impact on the utilities' cost of providing electricity to its customers, or (iii) when it is anticipated that the utility may participate as a bidder in the competitive bidding process. The Commission shall establish the minimum qualifications and requirements for an Independent Evaluator and ensure the Independent Evaluator is financially and substantively independent from any soliciting electric utility or affiliate thereof, complaining entity, and any potential bidder.

(2) The Independent Evaluator will report to the Commission and the Attorney General.

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(3) If the Independent Evaluator's conclusion is different from the conclusion of the soliciting utility about the winning bidder(s), the Independent Evaluator and utility may attempt to resolve such differences. In the event the Independent Evaluator and utility cannot resolve their differences, the soliciting utility will determine which bid(s) is successful. The Independent Evaluator shall submit its independent evaluation to the Commission.

(4) As part of its contract with the Independent Evaluator, the Commission shall require the Independent Evaluator, to enter into an agreement to keep all information confidential that pertains to the disclosure and use of any models, analytical tools, data, or other materials of a confidential or proprietary nature provided or made available by the soliciting utility in conjunction with the competitive bidding process.

(c) **Affiliate Bidders' Requirements.**

(1) Each soliciting utility affiliate that intends to bid shall disclose publicly, in writing, the names and titles of the members of the affiliate's "Bid Team." Each soliciting utility shall disclose publicly, in writing, the names and titles of the members of its "Evaluation Team." A Bid Team develops the affiliate's bid and, to assure fairness, is not involved, directly or indirectly, in the evaluation or selection of bids. An Evaluation Team evaluates bids, selects the successful bidder and, to assure fairness, is not involved, directly or indirectly, in the development of the affiliate's bid.

(2) Each soliciting utility and bidding affiliate shall assure that the Bid Team and the Evaluation Team and any member of either do not engage in any communications, either directly or indirectly, regarding the RFP or the competitive bidding process. For bidder and Commission assurance, the soliciting utility and bidding affiliate shall execute an acknowledgement that the utility and affiliate have not and will not in the future so communicate, other than to submit and receive the bid at the appropriate time. The Bid Team and Evaluation Team may communicate as part of a bidding technical conference of which potential bidders or all actual bidders, if bids have already been submitted, are given adequate notice and opportunity to attend.

(3) The Evaluation Team shall report to the Independent Evaluator, any contact or communications by any bidder, including the Bid Team, and advise the bidder any future contact must be directed to the Independent Evaluator. Bidders and the Evaluation Team may communicate as part of a bidding technical conference of which potential bidders or all actual bidders, if bids have already been submitted, are given adequate notice and opportunity to attend.

(d) **Evaluation of Responses to the RFP.**

(1) The evaluation of the responses to the RFP will proceed as follows:

(A) The soliciting utility will evaluate all timely submitted bids to determine the lowest reasonable cost for long-term reliable power or reliable long-term fuel sought that minimizes ratepayer cost, including

but not limited to charges for or costs relating to long-term fuel supply, long-term fuel transport, long-term fuel storage, long-term fuel processing, or increased cost of capital, consistent with the principles and procedures contained in this Subchapter and in the utility's resource plan and associated procurement plans.

(B) The Commission, Attorney General, and Independent Evaluator will be included in the evaluation of all bids submitted to the soliciting utility. The soliciting utility shall include within the RFP the time and place for the opening of the bids so that the Commission, Attorney General and the Independent Evaluator may attend and monitor the opening of bids. Bids shall be opened by the soliciting utility at the time and place so indicated in the RFP whether or not any or all of those parties are in attendance.

(2) All bids shall be evaluated on the basis of the bidder's final best offer. No bidder shall be permitted to unilaterally submit a refreshed bid unless all bidders are given a meaningful opportunity to submit a refreshed bid as a result of some material, documented change. The Independent Evaluator shall be charged with evaluating any such changes and ensuring that the changes are substantive and not an attempt to influence the final selection process in favor of a particular bidder.

(3) Should any bid be unclear to such extent that the lack of clarity could impact the outcome of the bidding, the soliciting utility, Commission, Attorney General, or Independent Evaluator may request further information from any bidder regarding its bid, provided, any such communication between or among the soliciting utility, Commission, Attorney General, or Independent Evaluator and bidder should be conducted through an open process in which the utility, Independent Evaluator, Commission and Attorney General are given adequate notice and an opportunity to attend.

(4) The Commission, Attorney General and Independent Evaluator, as well as the soliciting utility, may rely on the Southwest Power Pool to conduct all necessary transmission analyses concerning bids received. Southwest Power Pool analyses provided to the Commission, Attorney General, or Independent Evaluator shall be equivalent in quality and content to that provided to the soliciting utility. No bidder, including any bidder that is an affiliate (including the Bid Team) of the soliciting utility, shall communicate with the Southwest Power Pool Transmission group during the course of the competitive bidding process regarding any aspect of the RFP or process.

(5) In conducting the evaluation of the responses, the soliciting utility shall not:

(A) Waive or otherwise modify any evaluation factor or evaluation weight for any bidder;

(B) Add any adjustments on the basis of expected effects on the utility's cost of capital if not already contained in the RFP;

(C) Impose any penalty on the price of purchased power; or

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[OAR Docket #08-836]

(D) Include any discount for utility self-generation on the basis of reliability as part of the utility's resource mix.

~~(6) The variable cost of the utility producing power through self generation will serve as the benchmark for comparing bids. Only bids below the benchmark will be eligible for acceptance.~~

(e) Prior to a utility taking long-term procurement action other than ~~that contemplated by these rules~~ the competitive procurement process set forth in this Subchapter, ~~as such~~ utility shall seek a waiver of all or any part of these competitive bidding rules by filing a cause with the Commission.

(f) The utility shall promptly ~~file~~ submit its decision concerning the successful bid with the Commission and mail copies of such filingsubmission to all bidders, the Independent Evaluator, and the Attorney General, ~~identifying the successful bidder, which filing shall include a copy of the successful bid~~ Included within that mailing, the utility shall provide the non-winning bidders the rationale and analysis used for the selection of the winning bid.

(1) Any unsuccessful bidder, the Independent Evaluator, or the Attorney General shall have fifteen (15) days following filingsubmission of the successful bid decision with the Commission to file with the Commission a complaint challenging the decision as not meeting the criteria for decision specified in this subchapter or waiver previously obtained pursuant to 165:35-34-3(e) and the RFP document and bid evaluation procedures developed pursuant to 165:35-34-3(a).

(2) In the event of the filing of such a complaint, after notice to all bidders and hearing, the Commission shall determine whether the utility's decision reveals either a clear departure from the criteria stated in these rules or previously obtained waiver, the RFP Document and bid evaluation procedures for decision or is erroneous, in which event the utility shall be required immediately to rebid, in accordance with this Subchapter, the items which were the subject of such determination.

(g) Upon determination of the successful bidder, the utility and successful bidder shall promptly proceed to finalize contracts necessary to implement the bid.

(1) The contract shall contain appropriate guarantees, as set by the Commission, regarding the reliability of services.

(2) At the request of either party and upon notice and hearing, the Commission shall have authority to determine any disputes between the parties as to terms incidental to the bid. All matters to be determined by the Commission under this provision shall be heard on an expedited basis and a decision rendered thereon within thirty (30) days from filing.

[OAR Docket #08-844; filed 5-7-08]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
210:10-1-5. Audits [AMENDED]

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

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Subchapter 1. General Provisions
210:10-1-5. Audits [AMENDED]

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January 14, 2008

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25 Ok Reg 629

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08-115

INCORPORATION BY REFERENCE:

N/A

ANALYSIS:

The purpose of the proposed rule change is to clarify and limit the number of parent-teacher conference days that can be counted for attendance purposes as regular school days.

CONTACT PERSON:

Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2008:

SUBCHAPTER 1. GENERAL PROVISIONS

210:10-1-5. Audits

(a) **Financial audit.** All schools are required to make available, to personnel of the State Department of Education, all

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records pertaining to Federal programs, state aid appropriations and expenditures from the general fund of the previous year; making it possible to complete an audit on all funds. Public officials, members of the boards of education, superintendents, principals, and any other persons, whose duty it is to make appropriations and/or expenditures in accordance with the provisions of the state aid law, the federal law and regulations of the State Board of Education, will be held responsible for any misappropriation or illegal expenditure of such funds.

(b) **Penalty.** If it is discovered that a school district is unable to pay its current year's obligations through careless handling of funds by the school administrator, the State Board of Education may require the administrator to show cause why his administrator's certificate should not be revoked.

(c) **Student attendance record audits.**

(1) Regional Accreditation Officers of the State Department of Education are required to audit the student attendance records of all Oklahoma public school districts.

(2) In addition to the Statistical Report, the official document for student attendance accounting and auditing is the Student Attendance Register. All other student attendance documents, reports and summaries only support the accuracy of the Student Attendance Register and the Statistical Report.

(3) A school or program within a district that has a different school year from the district must present a separate Statistical Report and Attendance information reflecting the different school year for that school or program. The school or program will be audited separately from the district.

(4) Each person who keeps a Student Attendance Register is required to make all entries in ink, record the attendance data for each pupil each day, keep the Register in a safe place and understand that the Register is subject to audit at any time.

(5) If the attendance records show that school was maintained for less than a full annual term without approval of the State Board of Education, state aid will be reduced accordingly unless it can be shown that the attendance records as originally presented were in error.

(6) When attendance, membership or transportation is deducted for any reason by the audit, state aid will be reduced accordingly. Factual information may be presented by the school within ninety (90) calendar days from the date of the audit showing acceptable evidence that indicates the audit is in error.

(d) **Enrollment.**

(1) Enrollment means recording the name of a pupil on a class roll. Total Enrollment for an attendance period or for the year, whether for a class or for an entire school is the number of all enrollments so recorded. If a student is promoted or moves from one district or school to another during a school year, the student's name will be recorded on each class roll concerned. A record of that student's enrollment will be included in the original and every subsequent roll even though the pupil will be dropped from the original roll and every subsequent roll except the current one.

(2) All students attending any school within a school district, including underage, overage, nongraded, non-resident, tuition and nontransferred students, shall have their names entered in the attendance register and have their attendance recorded in the same manner as any other student. Students are to be placed on roll the first day that the student actually attends class.

(e) **Entry, gain and loss.**

(1) Source of Entry will always be placed on both the Register and the Master Roster. The Source of Entry will be entered on the date that the child begins school and it consists of a letter and a number. The letter indicates whether the student is entering a public school in this state for the first time during the current school year. The number identifies where the student was previously enrolled. Both the letter and number are to be used for Source of Entry.

(2) A student cannot be an Original Entry more than once during any one school year. The student only has one Original Entry regardless of the number of different classrooms, schools or school districts in which the pupil enrolls or attends during the year. Entry codes are recorded on the first day the student actually attends class. There are two kinds of entry codes:

(A) E1 - A student entering a public school for the first time during the current school year. The student has not been enrolled in Oklahoma or any other state. However, a student transferring from a private or parochial school during the current school year is also classified as an E1.

(B) E2 - A student entering a public school in Oklahoma from another state. The student has previously been enrolled in a public school in another state during the current school year.

(3) When a pupil enrolls in a public school classroom in this state a second or succeeding time during the current school year, the student is called a Gain. A student can be a Gain more than once during the same school year. The number of Gains in a school or school district do not decrease during the current school year. Gain codes are recorded on the first day the student actually attends class. There are four kinds of gains:

(A) G1 - A student enters a classroom by transfer or promotion from another school in the same school district.

(B) G2 - A student enters from another school district in Oklahoma.

(C) G3 - A student reenters the same school after a withdrawal due to illness, suspension, necessity to work, truancy, or temporary absence from the district.

(D) G4 - A student reenters the same school system after an apparent permanent withdrawal.

(4) A Loss code is recorded each time a student withdraws from school. Loss codes are to be recorded on the date when the loss occurred. A student is not considered to be off roll until a Loss code is recorded. There are four kinds of Losses:

- (A) L1 - A student is promoted to another grade or transferred to another school in the same school district.
- (B) L2 - A student moves to another school district in Oklahoma.
- (C) L3 - A student leaves school due to sickness, suspension, necessity to work, truancy or temporary absence from the district.
- (D) L4 - A student leaves school due to passing compulsory school age, graduation, dropping out, moving to another state, attending a nonpublic school or death.
- (5) All Entries, Gains and Losses are to be entered in the Student Attendance Register on the day that the trans-action occurs. Students are not considered on roll until they actually attend class. Students are always considered on roll until a loss code is entered.
- (f) **Attendance and absence.**
- (1) A student is to be considered present only on those days when in actual attendance in school or when participating in scheduled school activities under the direction and supervision of a regular member of the faculty. A student who is excused from attending school during an examination period or because of sickness or for any other reason shall not be counted in attendance.
- (2) All student attendance, absence and transportation information is compiled on a half-day basis with the exception of attendance, absence and transportation information for half-day early childhood or kindergarten programs which are recorded on a full-day basis. A student must be in attendance two of the first three hours of the school day to be recorded present for one-half day; likewise, a student must be in attendance two of the final three hours to be recorded present for one-half day.
- (3) School hours are different from school periods. A school day must consist of six hours not including a lunch period. The six-hour school day can be divided into periods as the school deems appropriate.
- (4) A student who is suspended out of school for any length of time is to be dropped as an L3 on the first day of the suspension. The suspended student is to be recorded as a G3 when the student returns to class. A student who is absent from the classroom without excuse ten consecutive days is to be recorded as absent each day. On day eleven, the pupil is to be dropped (L3) from the roll. All withdrawals are to be recorded on the date that the student is no longer in attendance.
- (5) A school day for kindergarten or early childhood can either be two and one-half or six hours long. However, kindergarten and early childhood absence and attendance is always recorded on a full day basis. Nongraded pupils who are on a partial day schedule are to be counted on roll and in attendance when present.
- (6) As a condition of receiving accreditation from the State Board of Education, all students in Grades nine through twelve shall enroll in a minimum of six periods, or the equivalent in block scheduling, of rigorous academic and/or rigorous vocational courses each day, which may include arts, vocal and instrumental music, speech classes, and physical education classes.
- (g) **School activities.** School activities may take place either on the school premises or off the school premises. In order for a student to be counted in attendance, the school activity must be under the direction and supervision of a teacher. Students dismissed and not under the direction and supervision of a teacher cannot be considered as participating in a school activity and cannot be counted in attendance. A student serving as a legislative page is to be counted in attendance at the school.
- (h) **Parent-teacher conference days.** Only students active in membership are to be counted in attendance on parent-teacher conference days. Only one parent-teacher conference day per semester will be counted for attendance purposes as a regular school day and included as part of the 175 days of required classroom instruction. Other days are encouraged above the one day per semester for parent-teacher conferences, but will not be counted for attendance purposes as regular school days.
- (i) **Concurrent enrollment.** A school district may receive full average daily attendance on a high school student who is participating in concurrent enrollment. In determining a legal school day for a student who is concurrently enrolled the district can use a combination of local school enrollment, college enrollment, and travel time. A student participating in concurrent enrollment is considered present when traveling to or from and while attending the college.
- (j) **Professional meeting day.**
- (1) The State Board of Education has defined a professional meeting day to be any day on which the faculty of a school district is engaged in the educational planning for improvement of the local school system; or that the faculty engages in a local, county, district or state education planning workshop or teacher's meeting. Such a day shall be identified as a professional day in each attendance register on the day the meeting occurred.
- (2) Days used to work at the beginning or at the end of the school year shall not be counted as professional development activities. Preparing the classroom for instruction, grading papers, recording grades, completing report cards or enrolling students are not examples of professional development activities.
- (k) **Transportation.**
- (1) A student must reside one and one-half miles or more by commonly traveled road from the school attended to be considered transported. Students living less than one-and one-half miles from the school may be transported but shall not be counted as transported pupils on the Transportation Report for state aid purposes.
- (2) Transportation may be provided for early childhood and kindergarten students to and from school during the normally scheduled morning and afternoon bus operation. Districts may also provide additional transportation, at local expense, for either early childhood or kindergarten students at midday. However, the school district is not required to provide midday transportation to either early

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childhood or kindergarten students. Midday transportation for early childhood and kindergarten pupils shall not be recorded on the Transportation Report.

(3) A legally transferred or tuition student residing outside of the school district's approved transportation area may be transported to the school provided the student meets the bus within the transporting district's approved transportation area. However, tuition students may not be counted as transported students on the Transportation Report.

(l) **Authority for birth.**

(1) Documentation that can be used to verify school age. Examples of Authority for Birth are:

- (A) Birth certificate
- (B) Attending physician's certificate
- (C) Permanent school record
- (D) Family bible
- (E) Parent statement
- (F) Last year's attendance register
- (G) Other official scholastic record

(2) Birth certificates, if available, must be provided for kindergarten and first grade students who are first-time enrollees. Each different Authority for Birth must have its own unique code on the Master Roster.

(m) **Basis of admission.**

(1) A student is admitted to school because the student meets certain criteria. Examples of Basis of Admission are:

- (A) The student's parents are residents of the district
- (B) The student has a valid transfer
- (C) The student is a 9-12th grade pupil who resides in an elementary school district
- (D) The student is a nonresident pupil that pays tuition in order to attend this school

(2) Each different Basis of Admission must have its own unique code on the Master Roster.

(n) **Career and Technology Center.** Students are considered in attendance when traveling to or from and while attending a Career and Technology Center.

(o) **Home-based program.** An educational program for special education students who are unable to participate in a full-day educational program at school. Home-based pupils are considered on roll and in attendance.

(p) **Nongraded.** Students who are below school age, but at least three years old, who are required by law to be served by the public schools. Also, students who have passed compulsory attendance age and are required by law to be served by the public schools may be classified as nongraded. Nongraded students are carried on roll and in attendance.

(q) **Out-of-home placement.** A student who is not a resident of the district but is housed and educated in a residential child facility or a treatment center located in the district. Out-of-home placement students are carried on roll and in

attendance and are considered resident students during the time the students are at the facility.

[OAR Docket #08-836; filed 5-7-08]

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

[OAR Docket #08-837]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Priority Academic Student Skills

Part 26. Personal Financial Literacy [NEW]

210:15-3-198. Overview of Personal Financial Literacy for Grades 7-12 [NEW]

210:15-3-199. Personal Financial Literacy for Grades 7-12 [NEW]

AUTHORITY:

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

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Subchapter 3. Priority Academic Student Skills

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25 Ok Reg 725

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N/A

ANALYSIS:

The proposed rules will revise the core curriculum to comply with the requirements set forth in Title 70 O. S. 11 § 11-103.6h (*Passport to Financial Literacy Act of 2007*).

CONTACT PERSON:

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING RULES ARE CONSIDERED
FINALLY ADOPTED AS SET FORTH IN O. S. 75,**

SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2008:

SUBCHAPTER 3. PRIORITY ACADEMIC STUDENT SKILLS

PART 26. PERSONAL FINANCIAL LITERACY

210:15-3-198. Overview of Personal Financial Literacy for Grades 7-12

(a) Personal Financial Literacy is designed for students in grades 7-12. These standards of learning are priority, essential, and necessary for all Oklahoma students. Learning the ideas, concepts, knowledge, and skills will enable students to implement personal financial decision-making skills; to become wise and knowledgeable consumers, savers, investors, users of credit, money managers, and to be participating members of a global workforce and society.

(b) The intent of personal financial literacy education is to inform students how individual choices directly influence occupational goals and future earnings potential. Effective money management is a disciplined behavior and much easier when learned earlier in life. The fourteen areas of instruction designated in the PASSPORT TO FINANCIAL LITERACY ACT OF 2007 (70 O.S. § 11-103.6h) are designed to provide students with the basic skills and knowledge needed to effectively manage their personal finances. Basic economic concepts of scarcity, choice, opportunity cost, and cost/benefit analysis are interwoven throughout the standards and objectives. This systematic way of making personal financial decisions will provide students a foundational understanding for making informed personal financial decisions.

(c) Real world topics covered by these standards include the following:

- (1) Earning an income;
- (2) Understanding state and federal taxes;
- (3) Banking and financial institutions;
- (4) Balancing a checkbook;
- (5) Savings and investing;
- (6) Planning for retirement;
- (7) Understanding loans and borrowing money, including predatory lending and payday loans;
- (8) Understanding interest, credit card debt, and online commerce;
- (9) Identify fraud and theft;
- (10) Rights and responsibilities of renting or buying a home;
- (11) Understanding insurance;
- (12) Understanding the financial impact and consequences of gambling;
- (13) Bankruptcy; and
- (14) Charitable giving.

(d) The examples in parentheses (e.g., the relationship between interest rates and credit scores) are provided in various places within the standards and objectives in order to explain more clearly, what is intended to be taught in regards to that

standard or objective. The examples are only suggestions of what specific content should be used to help teach the concept, knowledge, and/or skill. The examples are not all inclusive. Classroom instruction should include the suggested examples but should not be limited to just those specific suggestions.

(e) All personal financial literacy standards and objectives must be taught and assessed by the local district.

(f) Book icons identify Information Literacy skills. Students are best served when these are taught in collaboration and cooperation between the classroom teacher and the library media specialist.

(g) Included in this publication is a suggested list of basic academic personal financial literacy terms. This suggested list is provided in order to help students continue building their basic academic vocabulary.

(h) Personal finance terms used here appear with appropriate definitions and examples at the end of this section of PASS in the glossary.

210:15-3-199. Personal Financial Literacy for Grades 7-12

(a) **Standard 1.** The student will describe the importance of earning an income and explain how to manage personal income using a budget.

(1) Evaluate how career choices, educational/vocational preparation, skills, and entrepreneurship affect income and standard of living (e.g., postsecondary degree/certification, needs versus wants, and ability to live on less than you earn).

(2) Identify the components of a personal/family budget (e.g., income, savings/investments, taxes, emergency fund, expenses, and charitable giving) based on short, medium, and long term goals (e.g., financial, personal, educational, and career).

(3) Explain how taxes, employee benefits, and payroll deductions affect income.

(b) **Standard 2.** The student will identify and describe the impact of local, state, and federal taxes upon income and standard of living.

(1) Identify and explain types of taxes (e.g., personal income, sales, and property taxes) and explain the reasons for taxation at the local, state, and federal levels (e.g., roads, water/sanitation services, social services, schools, and law enforcement).

(2) Explain the importance of meeting tax obligations and describe possible consequences of failing to meet those obligations (e.g., fees, penalties, interest, garnishment of wages, and imprisonment).

(c) **Standard 3.** The student will describe the functions and uses of banks and other financial service providers.

(1) Identify and compare the basic types of financial institutions (e.g., banks, mortgage companies, credit unions, brokerage firms, and finance companies).

(2) Describe and compare the most common financial products and services (e.g., checking, credit cards, Automated Teller Machines (ATMs), savings, loans, investments, and insurance).

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(d) **Standard 4.** The student will demonstrate the ability to balance a checkbook and reconcile financial accounts.

(1) Explain the reasons for balancing a checkbook and reconciling an account statement.

(2) Develop and apply banking account management skills (e.g., correctly write, endorse, and deposit checks; balance a checkbook, including debit withdrawals and fees; and reconcile and monitor checking and savings account statements).

(e) **Standard 5.** The student will analyze the costs and benefits of saving and investing.

(1) Explain reasons for saving and investing to meet goals and build wealth (e.g., opportunity cost, return on investment, emergencies, major purchases, down payments, and education).

(2) Identify and compare the costs and benefits of various investment strategies (e.g., compound interest, tax implications, account liquidity, and investment diversification) and how inflation affects investment growth.

(f) **Standard 6.** The student will explain and evaluate the importance of planning for retirement.

(1) Describe the necessity of accumulating financial resources needed for specific retirement goals, activities, and lifestyles, based on life expectancy.

(2) Explain the roles of Social Security, employer retirement plans, and personal investments (e.g., annuities, IRAs, real estate, stocks, and bonds) as sources of retirement income.

(g) **Standard 7.** The student will identify the procedures and analyze the responsibilities of borrowing money.

(1) Identify and analyze sources of credit (e.g., financial institutions, private lenders, and retail businesses) and credit products (e.g., student loans, credit cards, and car loans).

(2) Identify standard loan practices, predatory lending practices (e.g., rapid tax return, rapid access loans, and payday loans), and legal debt collection practices.

(3) Explain the importance of establishing a positive credit history (e.g., maintaining a reasonable debt to income ratio), describe information contained in a credit report, and explain the factors that affect a credit score (e.g., the relationship between interest rates and credit scores).

(4) Explain how the terms of a loan (e.g., interest rates, fees, and repayment schedules) affect the cost of credit.

(h) **Standard 8.** The student will describe and explain interest, credit cards, and online commerce.

(1) Compare costs and benefits of using credit cards and making online purchases (e.g., interest rates, fees, repayment schedules, and personal information protection).

(2) Evaluate options for payments on credit cards (e.g., minimum payment, delayed payments, or payment in full).

(i) **Standard 9.** The student will identify and explain consumer fraud and identify theft.

(1) Describe unfair, deceptive, or fraudulent business practices (e.g., pyramid schemes, bait and switch, and phishing).

(2) Describe ways to recognize and avoid identity theft (e.g., review monthly financial statements and annual credit reports; and protect personal information and online passwords).

(3) Describe methods to correct problems arising from identity theft and fraudulent business practices (e.g., contact national credit bureaus and local/state law enforcement agencies).

(j) **Standard 10.** The student will explain and compare the responsibilities of renting versus buying a home.

(1) Compare the costs and benefits of renting versus buying a home.

(2) Explain the elements of a standard lease agreement (e.g., deposit, due date, grace period, late fees, and utilities).

(3) Explain the elements of a mortgage (e.g., down payment, escrow account, due date, late fees, and amortization table); types of lenders; and fixed or adjustable rate mortgage loans.

(k) **Standard 11.** The student will describe and explain how various types of insurance can be used to manage risk.

(1) Identify common risks to life and property (e.g., illness, death, natural catastrophe, and accident).

(2) Explain the purpose and importance of insurance protection as a risk management strategy (e.g., life, health, property, liability, disability, and automobile).

(3) Examine appropriate amounts of insurance and how insurance deductibles work.

(l) **Standard 12.** The student will explain and evaluate the financial impact and consequences of gambling.

(1) Analyze the probabilities involved in winning at games of chance.

(2) Evaluate costs and benefits of gambling to individuals and society (e.g., family budget; addictive behaviors; and the local and state economy).

(m) **Standard 13.** The student will evaluate the consequences of bankruptcy.

(1) Assess the costs and benefits of bankruptcy to individuals, families, and society.

(2) Examine ways to prevent bankruptcy and identify alternatives to bankruptcy (e.g., budget management, debt management, refinancing, and financial counseling).

(3) Explain the importance of re-establishing a positive credit history and steps to improve a credit score after bankruptcy.

(n) **Standard 14.** The student will explain the costs and benefits of charitable giving.

(1) Identify types of charitable giving (e.g., monetary gifts, gifts-in-kind, and volunteer service).

(2) Describe the impact of charitable giving on the individual (e.g., budget, time, personal satisfaction, and tax benefits) and the community.

(3) Identify tools to research a charitable organization's mission/purpose, activities, and recipients (e.g., specific organizations' Web sites, Guidestar[®], and regulatory agencies). 70 O.S. § 11-103.6h

[OAR Docket #08-837; filed 5-7-08]

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

[OAR Docket #08-838]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 30. Supplemental Educational Service Providers [NEW]
- 210:15-30-1. Purpose [NEW]
- 210:15-30-2. Local educational agency role and responsibilities [NEW]
- 210:15-30-3. SES provider responsibilities [NEW]
- 210:15-30-4. Removal of an SES provider [NEW]

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

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- Subchapter 30. Supplemental Educational Service Providers [NEW]
- 210:15-30-1. Purpose [NEW]
- 210:15-30-2. Local educational agency role and responsibilities [NEW]
- 210:15-30-3. SES provider responsibilities [NEW]
- 210:15-30-4. Removal of an SES provider [NEW]

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N/A

ANALYSIS:

The new rule for Supplemental Educational Service providers will establish roles and responsibilities of the local educational agency and the Supplemental Educational Services provider and criteria to deny approval or to remove an SES provider from the approved Oklahoma state list.

CONTACT PERSON:

Connie Holland, 405-521-3308

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING RULES ARE CONSIDERED
FINALLY ADOPTED AS SET FORTH IN O. S. 75,
SECTION 308.1(A), WITH AN EFFECTIVE DATE
OF JUNE 12, 2008:**

**SUBCHAPTER 30. SUPPLEMENTAL
EDUCATIONAL SERVICE PROVIDERS**

210:15-30-1. Purpose

The purpose of this rule is to define the roles, responsibilities and requirements of the local educational agency and the Supplemental Educational Service (SES) provider.

210:15-30-2. Local educational agency role and responsibilities

(a) Local educational agencies (LEAs) with schools in their second year of school improvement shall:

- (1) Identify eligible students;
- (2) Notify parents about the availability of services and the process for obtaining supplemental educational services for their child(ren) in an understandable and uniform format that includes identifying approved providers whose services are in the school district or within a reasonable proximity of the district;
- (3) Help parents choose a provider, if such help is requested;
- (4) Determine which students should receive services when all students cannot be served;
- (5) Enter into an agreement with a provider selected by parents of an eligible student;
- (6) Provide quality information to the SDE so that it can monitor the quality and effectiveness of the services offered by providers;
- (7) Offer the opportunity for supplemental services until the school in question is no longer identified for school improvement according to the requirements of the NO CHILD LEFT BEHIND ACT OF 2001; and
- (8) Protect the privacy rights of students who receive supplemental educational services.

(b) Districts shall submit semi-annual programmatic and fiscal reports to SDE due the last Friday in January and the last Friday in June. The report shall include:

- (1) Information on each student served during the semester by provider; including test, demographic, and attendance data;
- (2) Pre- and posttesting information from the school district for each student eligible for supplemental educational services based on the annual Oklahoma Core Curriculum Tests in reading and mathematics;
- (3) Details of any complaints received from parents or SES providers;
- (4) Summary of any announced or unannounced monitoring visits to SES provider sites conducted during the semester.
- (5) Any updates or revisions to information submitted to the SDE regarding SES implementation (i.e., timelines, additional schools, changes in Title I per pupil allocation, etc.); and
- (6) Information on the fiscal expenditures of Title I funds for SES, indicating the payments made by the district to each provider for the reporting period. If a student's services are terminated during the SES reporting period,

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the costs should be reported in accordance with the percentage of the program completed prior to termination of services.

(c) Districts failing to submit timely and complete reports shall be cited for noncompliance and requested to submit a corrective action plan. Upon receipt of such notice of noncompliance, districts shall have thirty (30) days to submit a corrective action plan, addressing all cited issues of noncompliance.

(d) Each district required to offer supplemental educational services shall maintain documentation relating to the provision of SES for state and federal monitoring and evaluation purposes. Districts should make the following information, at minimum, available for state, federal, or third-party evaluator review:

(1) Annual Notice for SES, including how parents can access services; a listing of approved providers; brief description of provider services, qualifications, and demonstrated effectiveness of the providers;

(2) Description of LEA procedures for determining eligibility of students;

(3) Description of LEA process for prioritizing availability of services if demand is greater than available allocation;

(4) Copies of the district's contracts with SES providers.

210:15-30-3. SES provider responsibilities

(a) All approved SES providers shall abide by a code of ethics consisting of the following requirements:

(1) Providers shall describe services as approved in state application to consumers in terms that are easy to understand and jargon-free.

(2) Providers shall submit a sample of SES program promotional materials and advertisements, (such as brochures, flyers, and posters) to the school district(s) in which they wish to serve and/or the SDE, upon request.

(3) Providers shall not misrepresent to anyone the location of a provider's program or its approval status.

(4) Providers shall not compensate district employees in exchange for access to facilities or to obtain student lists. School personnel may be hired for instructional purposes only.

(5) Providers shall not directly or indirectly use incentives as a method of promoting selection of their services by parents or guardians of eligible children. Rewards may be offered for eligible children to reward attendance, to reward continued participation, or achievement related to a provider's services:

(A) if the reward has no redeemable monetary value to the eligible child or his parent/guardian and is otherwise consistent with accepted classroom incentives, such as pizza parties, ice cream parties, school supplies having nominal value, or the opportunity to order discounted instructional material for the eligible child's personal use; and

(B) parents or guardians of an eligible child or children consent to offering such rewards.

(6) Providers shall not encourage or induce students or parents to switch providers once students have been enrolled into another program.

(7) Providers shall not enroll students in an SES program without prior authorization from the district.

(8) For students under 13, providers proposing to utilize web-based instruction must obtain parental permission before communicating with students via e-mail or the Internet as per Title XIII - Children's Online Privacy Protection Act of 1998.

(b) An approved provider shall report annually to the SDE and each district served. The report shall include the following information: number of students served, pre- and posttest data, attendance, percentage of students meeting the academic goals set for in the Individual Learning Plans, details of any complaints received from teachers or parents; and an updated assurance that all information within the provider's approved application remains true and correct.

(c) Providers shall maintain records for a period of five years. Documentation shall be made available, upon request by the SDE, for monitoring reviews or audit purposes.

(d) Providers shall cooperate with any assessments or evaluations conducted by the SDE.

210:15-30-4. Removal of an SES provider

A Supplemental Educational Service (SES) provider may not be approved to be listed as an Oklahoma SES provider or may be removed from the list of Oklahoma SES providers for any of the following:

(1) Company owners and employees are subject to background checks. Any owner or employee who has a felony conviction will be grounds for removal.

(2) Providers that use materials that are misleading or provide false information.

(3) Providers working with schools not eligible for Supplemental Educational Services funding but using that program as their advertising.

(4) Providers that provide incentives to students, parents, or school persons to gain advantage in signing up students.

(5) Providers that fail to turn in their end of the year reports.

(6) A provider must be able to deliver supplemental educational services to school districts in which the provider is approved by the state. If a state-approved provider withdraws from offering services to students in a school district in which it is approved and in which it has signed either a contract to provide services or a letter of intent and the minimums per site set by the provider have been met, the school district must report the provider to the SDE. The provider shall be immediately removed from the state-approved list for the current school year for that school district. Upon the second such withdrawal in any school district, the provider shall be ineligible to provide services in the state the following year.

(7) The SDE may consider contractual violations for purposes of provider renewal if provider fails to meet LEA contract for services.

(8) If compliance issues are raised about a provider and his/her services the following may occur depending upon the issue raised:

(A) Provider's services may be immediately suspended if it commits a felony or misdemeanor; has substantial noncompliance; or if an LEA or SDE determines that a threat exists to the health or safety of students.

(B) A provider may be removed from the State-approved list upon written notice if the provider has engaged in illegal or deceptive practice, violated any assurance or aspect of its application to SDE, falsified any information on its application or other reports to SDE, or otherwise violated State or federal law.

(9) Federal programs complaint procedures for Title I, Part A, (210:10-17-1) apply to SES programs.

[OAR Docket #08-838; filed 5-7-08]

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

[OAR Docket #08-839]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 33. Celebrate Freedom Week [NEW]
210:15-33-1. Purpose [NEW]
210:15-33-2. Celebrate Freedom Week requirements [NEW]

AUTHORITY:

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

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Superseded rules:

Subchapter 33. Celebrate Freedom Week [NEW]
210:15-33-1. Purpose [NEW]
210:15-33-2. Celebrate Freedom Week requirements [NEW]

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INCORPORATION BY REFERENCE:

N/A

ANALYSIS:

Public schools will provide certain required activities during the Celebrate Freedom Week, which is the week in which November 11 falls. For purposes of this subsection, Sunday shall be considered the first day of the week.

CONTACT PERSON:

Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2008:

SUBCHAPTER 33. CELEBRATE FREEDOM WEEK

210:15-33-1. Purpose.

Public schools will provide certain required activities during the Celebrate Freedom Week that is the week in which November 11 falls. Sunday shall be considered the first day of the week.

210:15-33-2. Celebrate Freedom Week requirements.

(a) By December 31, 2007, each public school district in the state will include as a part of a social studies class, during Celebrate Freedom Week, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the United States Constitution, including the Bill of Rights, in their historical contexts.

(b) The religious references in the writings of the founding fathers shall not be censored.

(c) The study of the Declaration of Independence will include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the United States Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

(d) During Celebrate Freedom Week students in grades three through twelve will study and recite the text quoted below:

(1) "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed."

(2) Students may be excused from the recitation of the text, if:

(A) The parent or guardian of the student submits to the school district a written request that the student be excused;

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- (B) As determined by the school district, the student has a conscientious objection to the recitation;
or
(C) The student is a child of a representative of a foreign government to whom the United States government extends diplomatic immunity.

[OAR Docket #08-839; filed 5-7-08]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF

[OAR Docket #08-840]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

210:20-9-99. National Board certification [AMENDED]

210:20-9-99.1. National certification bonus for school psychologists, speech-language pathologists, and audiologists [AMENDED]

AUTHORITY:

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

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Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

210:20-9-99. National Board certification [AMENDED]

210:20-9-99.1. National certification bonus for school psychologists, speech-language pathologists, and audiologists [AMENDED]

Gubernatorial approval:

October 22, 2007

Register Publication:

25 Ok Reg 216

Docket Number:

07-1472

INCORPORATION BY REFERENCE:

N/A

ANALYSIS:

The purpose of the rule amendments is to define full-time for National Board certified teachers, psychologists who are nationally certified by the National School Psychology Certification Board, or a speech-language pathologist or audiologist who holds a Certificate of Clinical Competence

awarded by the American Speech-Language Hearing Association and are eligible for the bonus prescribed in Oklahoma Statute 70 O.S. § 6-204.2 and 70 O.S. § 6-206.

CONTACT PERSON:

Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2008:

SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION AND CERTIFICATION

PART 9. TEACHER CERTIFICATION

210:20-9-99. National Board certification

(a) Subject to availability of funds, a bonus in the amount prescribed in 70 O.S. § 6-204.2, shall be provided to Oklahoma teachers holding National Board certification.

(b) If adequate funding is not available for a full bonus to be provided, the bonus amount may be prorated.

(c) To document having a current National Board certificate and being employed full time as a classroom teacher in the public schools of Oklahoma, as of January 1 of the year the bonus is to be awarded, a verification form will be sent to each National Board certified teacher identified by the Oklahoma Commission for Teacher Preparation to be signed by the teacher and the superintendent of the local school district and returned to the State Department of Education before the bonus is awarded.

(d) Other National Board certified teachers, submitting, as of January 1 of the year the bonus is to be awarded, a verification form documenting having a National Board certificate and being employed as a full-time teacher in Oklahoma, shall receive a bonus. The verification form, signed by the National Board certified teacher and the superintendent of the local school district shall be submitted to the State Department of Education before the bonus is awarded. Full-time equates to a minimum of 175 contracted days and a minimum of 6 hours per day, Monday through Friday, and must be correctly reported to the State Department of Education through school personnel records as a full-time equivalency of 1.0, and the individual must be coded as a full-time instructional position.

210:20-9-99.1. National certification bonus for school psychologists, speech-language pathologists, and audiologists

(a) Subject to availability of funds, a bonus in the amount prescribed in 70 O.S. § 6-206, shall be provided to individuals currently providing service to children and who are an Oklahoma school psychologist who has been designated as a nationally certified school psychologist by the National School Psychology Certification Board, or a speech-language pathologist or audiologist who holds a Certificate of Clinical

Competence awarded by the American Speech-Language Hearing Association.

(b) If adequate funding is not available for a full bonus to be provided, the bonus amount may be prorated.

(c) Psychologists, speech-language pathologists, or audiologists eligible for the bonus are those individuals currently employed full-time in the public schools of Oklahoma and are carried on the school personnel report submitted to the State Department of Education. Full-time equates to a minimum of 175 contracted days and a minimum of 6 hours per day, Monday through Friday, and must be correctly reported to the State Department of Education through school personnel records as a full-time equivalency of 1.0, and the individual must be coded as a speech-language pathologist, psychologist, or audiologist only. Individuals may be employed in multiple districts as long as full-time equivalency equals 1.0.

(d) To document having a current national certificate, being employed full-time by a public school district, and are currently providing services to children as a psychologist, speech-language pathologist, or audiologist, as of January 1 of the year the bonus is to be awarded, a verification form will be sent to each nationally certified person to be signed by the psychologist, speech-language pathologist, or audiologist and the superintendent of the local school district and returned to the State Department of Education before the bonus is awarded.

(e) Verification of national certification shall be provided to the State Department of Education prior to the bonus being awarded.

[OAR Docket #08-840; filed 5-7-08]

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

[OAR Docket #08-841]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 9. Professional Standards: Teacher Education and Certification
- Part 17. Full (Subject Matter) Competencies for Licensure and Certification
- 210:20-9-172. Full (subject matter) competencies for licensure and certification [AMENDED]

AUTHORITY:

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

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Subchapter 9. Professional Standards: Teacher Education and Certification

Part 17. Full (Subject Matter) Competencies for Licensure and Certification

210:20-9-172. Full (subject matter) competencies for licensure and certification [AMENDED]

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07-1473

INCORPORATION BY REFERENCE:

N/A

ANALYSIS:

The rule amendments will add computer science as a licensure/certification area and would establish the teacher competencies for the licensure/certification.

CONTACT PERSON:

Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2008:

SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION AND CERTIFICATION

PART 17. FULL (SUBJECT MATTER) COMPETENCIES FOR LICENSURE AND CERTIFICATION

210:20-9-172. Full (subject matter) competencies for licensure and certification

Full (subject matter) competencies are listed in (1) through ~~(41)~~(42) by subject/content area.

(1) **Art education.** The candidate for licensure and certification:

- (A) Has a sound philosophical understanding of visual art education and is able to support, justify, and implement the visual art curriculum.
- (B) Has an understanding of past, current, and future trends and issues in art education as well as art education research.
- (C) Has a knowledge of developmentally appropriate visual art content including aesthetics, art criticism, and art history, around a core of art production.
- (D) Has a working knowledge of and has had experience in integration of the arts with other fine arts areas as well as other academic disciplines.

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- (E) Understands and has experience in the application of the elements and principles of art and design.
- (F) Understands art history including various styles, periods, ethnic groups, and cultures from around the world.
- (G) Has a knowledge of aesthetics (the field of study that relates to beauty in the arts) and art criticism (art review and commentary), along with teaching strategies appropriate for both areas that involve a variety of media and awareness of developmental levels.
- (H) Understands and has experience in various methods of art production and creative development including drawing, figure drawing, color and design, painting, printmaking, sculpture, clay, applied design, and technology. Additional experience should involve metal, stone, fiber, papermaking, wood, and mixed media.
- (I) Has proficiency in teaching strategies that are developmentally appropriate and inclusive of various student learning styles and is sensitive to the needs of diverse ethnic and cultural groups and those with disabilities.
- (J) Develops a portfolio of his/her own artwork.
- (K) Understands that contests and competitions have a valuable place in art education; however, they should not drive the development of the local curriculum.
- (L) Has a knowledge of a wide variety of arts resources including community resources, materials, equipment, and information about exhibitions and/or major collections.
- (M) Recognizes the important role of technology in education and that it may serve as a supportive tool in art education.
- (N) Understands the art-related competencies in the Oklahoma core curriculum and knows how to incorporate them into various art classes.
- (2) **Business education.** Competencies for business education are fulfilled by meeting competencies for vocational business.
- (3) **Driver/safety education.** The candidate for licensure and certification:
- (A) Applies, models, and teaches appropriate learning strategies for the safe operation of motor vehicles.
- (B) Understands the social and emotional forces that influence the psychological makeup of young drivers and how these forces affect their driving behavior.
- (C) Understands basic driving maneuvers including the universal concepts of defensive driving.
- (D) Understands the physical laws of nature and the statutory laws that govern the safe operation of motor vehicles.
- (E) Has an understanding of the basic mechanical systems that make up a motor vehicle and their influence on its operational limits.
- (4) **Early childhood education (pre-kindergarten-third grade).** The competencies related to Early Childhood Education relate more specifically to the processes of learning and/or information processing than presentation of specific subject matter. The candidate for licensure and certification knows, understands, and uses:
- (A) Factors that influence the development of young children, the sequence and interdependency of all areas, (i.e., physical, social, emotional, cognitive, and language) and uses that knowledge to meet the needs and characteristics of the group and individual children (birth to eight years of age) while respecting their unique rates of development.
- (B) Positive child guidance strategies which help children learn to make responsible decisions regarding their own behavior and contributes to the development of self-control, self-motivation, and self-respect.
- (C) The knowledge of how young children think, process information, and develop concepts in content areas including language, literacy, mathematics, science, health, safety, nutrition, social studies, art, music, drama, and movement.
- (D) Integrative approaches (e.g., themes, topics, projects) to enable children to see and experience content areas and make meaningful connections to the child's life experience.
- (E) Curriculum in regards to the children's needs and interests, as well as, developmentally appropriate skills and concepts.
- (F) Developmentally appropriate strategies when planning, implementing, articulating, and evaluating (e.g., play, independent work, small group projects, group discussions, cooperative learning, open-ended questions, inquiry, and problem solving experiences.)
- (G) A bias-free learning environment (indoors and outdoors) which is physically and psychologically safe for young children through the use of a balanced schedule, learning centers, and appropriate transitions and routine.
- (H) Curriculum strategies, schedules, and the environment to meet the specific needs, interests, and experiences of all children with complex characteristics (i.e., adapting for those with disabilities, developmental delays, diverse cultures, or special abilities).
- (I) Collaboration strategies regularly with families and other agencies in the community to enhance and support children's learning and development.
- (J) Behaviors that recognize and respect diversity, how it influences learning, and builds connections among children's families, communities, and schools.
- (K) Performance assessment (i.e., observation and documentation) and formal assessment to evaluate young children's development and learning for the purpose of planning appropriate and challenging programs, environments, and interactions and adapting for individual differences.

- (L) Formative and summative evaluation measures to ensure comprehensive quality of the total program for children, in reciprocal partnerships, with families, and the community.
- (M) The historical, social, and ethical foundations of early childhood education which enables the teacher to articulate a philosophy and rationale for appropriate principles and practices.
- (N) Self evaluation of teaching techniques and outcomes and modifies curriculum, strategies, schedules and environment to maximize the learning environment and enhance psychological safety for children.
- (O) Knowledge to advocate for children by articulating to family, community and others the goals and methods used in the early childhood classroom.
- (P) Instructional strategies/plans based on the Oklahoma core curriculum.
- (Q) Understands and applies the following competencies in reading instruction as appropriate to the abilities of the student.
- (i) Knows the stages of language development and the structure of the English language and alphabetic writing system including phonology, morphology, and orthography and their relationships to spelling and meaning.
 - (ii) Understands that primary language (oral) directly impacts the secondary languages (reading, writing, spelling). Knows and applies knowledge of implicit and explicit instruction in developing oral language. Knows the relationship of oral language to literacy.
 - (iii) Knows the developmental process of reading in order to assess, interpret, describe, develop appropriate instruction, monitor, reteach and reassess student's reading performance for concepts about print, phonological and phonemic awareness, phonics, spelling, word recognition, vocabulary, comprehension, fluency, and writing.
 - (iv) Identifies and applies all developmental levels of phonemic awareness to provide appropriate instruction in understanding words are made up of phonemes and that phonemes can be rearranged and manipulated to make different words that compose oral speech.
 - (v) Knows and provides appropriate systematic explicit and implicit phonological instruction for the application of spelling-sound correspondences for word analysis and for structural analysis for word recognition and word meaning development.
 - (vi) Knows and applies the relationships between spelling patterns and sounds of speech; knows how to support the student at each stage of spelling development; knows how to focus direct and indirect instruction to guide the student toward spelling proficiency.
 - (vii) Knows and applies knowledge of appropriate explicit and implicit instruction for vocabulary development (e.g., singular and plural).
 - (viii) Knows and applies strategies that promote comprehension and strategies to support children's understanding for the various elements of the different genres of text.
 - (ix) Knows and applies strategies and instructional approaches to support response to text and promote comprehension for literal, inferential, and critical/evaluative level (e.g., guided reading, literature and research circles).
 - (x) Knows and applies knowledge of instructional techniques to assist students with self-monitoring and self-corrections, (i.e., semantics, syntax, and graphophonics).
 - (xi) Knows and applies the instructional strategies which contribute to the development of fluent reading.
 - (xii) Knows how to promote children's interest and engagement in reading and writing.
- (R) Understands and applies the following competencies in mathematics instruction as appropriate to the abilities of the student.
- (i) Builds on children's natural interest in mathematics and uses it to make sense of their physical and social worlds.
 - (ii) Establishes mathematics curriculum based on current knowledge of young children's cognitive, linguistic, physical and social-emotional development that builds on children's varying experiences.
 - (iii) Uses teaching practices that enhance children's problem-solving and reasoning processes which includes representing, communicating, and connecting mathematical ideas.
 - (iv) Understands that the curriculum should be coherent and compatible with known relationships and sequences of important mathematical ideas and that provides for children's deep and lasting interaction with key mathematical ideas.
 - (v) Introduces mathematical concepts, methods, and language through a variety of appropriate experiences and teaching strategies, including integrating mathematics with other activities and allowing ample time, materials and teacher support for children to explore and manipulate mathematical ideas.
 - (vi) Enhances children's mathematical knowledge, skills and strategies by providing an ongoing process of collecting information from multiple sources to determine a student's strengths and weaknesses in order to plan appropriate educational services.
- (S) Understands and applies the following competencies in science instruction as appropriate to the abilities of the student.

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- (i) Plans an inquiry-based science program that develops a curriculum design to meet the interests, knowledge, understanding, abilities, and experiences of students in a framework of yearlong and short-term goals for students.
 - (ii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.
 - (iii) Guides and facilitates learning through focused interaction with students, recognizes and responds to student diversity, and encourages and models the skills of inquiry in order for all students to participate in science learning.
 - (iv) Uses ongoing multiple methods and systematically gathers data about students understanding and abilities.
 - (v) Designs and manages learning environments that provide students with the time, space and resources needed for developing science skills.
 - (vi) Uses a variety of instructional strategies to implement an integrated/interdisciplinary curriculum and understands the interaction between the sciences and the process skills.
- (T) Understands and applies the following competencies in social studies instruction as appropriate to the abilities of the student.
- (i) Designs and manages learning environments that provide opportunities for students to exhibit traits of good citizenship in a variety of settings and situations.
 - (ii) Selects teaching and assessment strategies that support the development of student understanding of their community and culture.
- (U) Understands and applies the following competencies in the use of technology as appropriate to the abilities of the student.
- (i) Bases the use of technology on the knowledge of how young children think, process information and develop concepts in content areas.
 - (ii) Enhances children's cognitive and social abilities through the appropriate use of technology.
 - (iii) Integrates technology into the learning environment and uses it as one of many options to support children's learning.
 - (iv) Promotes equitable access to technology for all children and their families.
 - (v) Advocates in collaboration with parents for more appropriate technology applications for all children.
- (5) **Elementary education.** The competencies developed in specific subject areas such as mathematics, art, science, etc., have been developed on a prekindergarten through 12th grade continuum. Because of this, it is unnecessary for the elementary education competencies to address anything more than the processes through which the subject matter competencies will be presented in the classroom. The candidate for licensure and certification:
- (A) Understands his/her role and the variety of approaches to the organization of elementary schools.
 - (B) Understands the essential nature and importance of interaction and communication with students, parents, community members and colleagues.
 - (C) Models the role of the lifelong learner.
 - (D) Understands the role of the teaching profession in curriculum change and school improvement.
 - (E) Understands the link between child development, curriculum, and instruction.
 - (F) Understands and uses a variety of strategies to:
 - (i) select methods of assessment appropriate to each of the subject matter areas and to the age, development, and characteristics of students,
 - (ii) interpret and communicate assessment results accurately and ethically, and
 - (iii) integrate information gained from assessments into instructional plans.
 - (G) Has a knowledge of current research findings about teaching and learning.
 - (H) Analyzes his/her teaching practices through a variety of techniques.
 - (I) Understands appropriate classroom management systems and discipline practices.
 - (J) Understands the selection and use of materials, resources, and technology appropriate to individual differences.
 - (K) Creates an environment that facilitates learning experiences which make subject matter meaningful to students.
 - (L) Understands the subject matter areas common to the elementary curriculum and the integration of those subject matter areas.
 - (M) Facilitates learning groups as appropriate to the needs and/or interests of students and the goals of the lesson.
 - (N) Understands and applies the following competencies in reading instruction.
 - (i) Knows the stages of language development and the structure of the English language and alphabetic writing system including phonology, morphology, and orthography and their relationships to spelling and meaning.
 - (ii) Understands that primary language (oral) directly impacts the secondary languages (reading, writing, spelling). Knows and applies knowledge of implicit and explicit instruction in developing oral language. Knows the relationship of oral language to literacy.
 - (iii) Knows the developmental process of reading in order to assess, interpret, describe, develop appropriate instruction, monitor, reteach and reassess student's reading performance for concepts about print, phonological and phonemic awareness, phonics, spelling, word recognition, vocabulary, comprehension, fluency, and writing.

- (iv) Identifies and applies all developmental levels of phonemic awareness to provide appropriate instruction in understanding words are made up of phonemes and that phonemes can be rearranged and manipulated to make different words that compose oral speech.
- (v) Knows and provides appropriate systematic explicit and implicit phonological instruction for the application of spelling-sound correspondences for word analysis and for structural analysis for word recognition and word meaning development.
- (vi) Knows and applies the relationships between spelling patterns and sounds of speech; knows how to support the student at each stage of spelling development; knows how to focus direct and indirect instruction to guide the student toward spelling proficiency.
- (vii) Knows and applies knowledge of appropriate explicit and implicit instruction for vocabulary development, e.g., prefixes, suffixes and roots.
- (viii) Knows and applies strategies that promote comprehension and strategies to support children's understanding for the various elements of the different genres of text.
- (ix) Knows and applies strategies and instructional approaches to support response to text and promote comprehension for literal, inferential, and critical/evaluative level, e.g., guided reading, literature and research circles.
- (x) Knows and applies knowledge of instructional techniques to assist students with self-monitoring and self-corrections, i.e., semantics, syntax, and graphophonics.
- (xi) Knows and applies the instructional strategies which contribute to the development of fluent reading.
- (xii) Knows how to promote children's interest and engagement in reading and writing.
- (O) Understands interdisciplinary teaching and collaboration.
- (P) Understands that all students can develop proficiencies in the Oklahoma core curriculum.
- (6) **English.** The candidate for licensure and certification:
 - (A) Maintains current knowledge of content-area concepts of written and oral communication, literature, and language systems (phonetic, semantic, syntactic, pragmatic). For purposes herein, language systems and what they mean or include are:
 - (i) **"Phonetic"** means the letter/sound system of a particular language.
 - (ii) **"Pragmatic"** means the use of particular language and its conventions that convey meaning in a cultural context.
 - (iii) **"Semantic"** means the meaning system of a given language.
 - (iv) **"Syntactic"** means the structure, order, and organization of a given language.
 - (B) Applies comprehension, analysis, interpretation, synthesis and evaluation of auditory, written, and visual messages. For purposes herein, these terms have the following meaning and include:
 - (i) **"Auditory messages"** means spoken language, intonation.
 - (ii) **"Visual messages"** means visual graphics such as illustrations, pictures, photographs, symbols, and signs, body language, facial expressions.
 - (iii) **"Written messages"** means connected discourse, text.
 - (C) Applies appropriate learning strategies for reading, writing, studying, and researching.
 - (D) Communicates effectively in speaking and writing, using appropriate language conventions. For purposes herein, "language conventions" means grammar, figurative language, mechanics, specialized vocabulary, technical terms.
 - (E) Understands the influences of social and historical contexts and culture on language and literature and adapts instruction accordingly.
 - (F) Uses the understanding of language acquisition and language learning processes to develop student proficiencies and to modify instruction for second-language learners.
 - (G) Establishes a reflective and creative learning environment.
 - (H) Uses a variety of assessment strategies to evaluate student proficiencies in the language arts and to modify instruction appropriately.
 - (I) Uses technology to accomplish professional goals and to develop student's literacy proficiencies.
 - (J) Understands and teaches strategies appropriate to a variety of forms (genres), text organizations, and structures, including functional print and informational print. For purposes herein:
 - (i) **"Functional print"** means environmental print messages (i.e., signs, logos, labels, directions);
 - (ii) **"Genre"** means a particular type of literature (i.e., short story, novel, poem, essay, drama)
 - (iii) **"Informational print"** includes reference materials, telephone books, almanacs, dictionaries.
 - (K) Understands the literacy process (i.e., reading process and writing process), and provides effective instruction in literacy skills and strategies.
 - (L) Understands, teaches, and implements Oklahoma's core curriculum.
- (7) **Family and consumer sciences.** Competencies for family and consumer sciences are fulfilled by meeting competencies for vocational family and consumer sciences.
- (8) **Foreign languages.** The candidate for licensure and certification will possess competencies as specified in (A) through (G).

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(A) **Listening (K-12).** The candidate for licensure and certification:

- (i) Understands main ideas and supporting details of oral presentations and conversations (e.g., prepared speeches, news broadcasts, interviews, short lectures).
- (ii) Understands spontaneous speech on a variety of basic topics.
- (iii) Comprehends sustained conversation or narrative of general topics (secondary only).

(B) **Speaking (K-12).** The candidate for licensure and certification:

- (i) Narrates and describes events, objects, and activities with supporting details.
- (ii) Participates in spontaneous, face-to-face conversation involving more complicated skills and social situations, such as elaborating, apologizing, debating.
- (iii) Initiates, sustains, and closes a general conversation.
- (iv) Displays some ability to support opinions, explain in detail, and make assumptions (secondary only).
- (v) Uses varied strategies, such as paraphrasing or restating, to facilitate communication in the language being studied (secondary only).

(C) **Reading (K-12).** The candidate for licensure and certification:

- (i) Reads authentic (from the culture of the language studied) materials, such as selected short stories, poetry, and other literary works, articles, personal correspondence, and simple technical material written for the general reader.
- (ii) Comprehends facts in authentic (from the culture of the language studied) texts and materials and makes appropriate inferences.
- (iii) Comprehends authentic (from the culture of the language studied) communications via various media and technology.

(D) **Writing (K-12).** The candidate for licensure and certification:

- (i) Communicates by writing simple facts and ideas.
- (ii) Expresses narratives and descriptions of a factual nature.
- (iii) Writes professional and social correspondence (secondary only).

(E) **Culture (K-12).** The candidate for licensure and certification:

- (i) Is knowledgeable about the products of the culture of the language being taught.
- (ii) Is knowledgeable about practices of the culture of the language being taught.
- (iii) Is able to compare and contrast local culture and cultures of the language being taught.

(F) **Second language acquisition (K-12).** The candidate for licensure and certification:

(i) Is knowledgeable about first language development and its relation to second language learning.

(ii) Is knowledgeable about varied teaching approaches, methods, and strategies.

(iii) Is knowledgeable about varied second language assessment strategies and techniques that are developmentally appropriate.

(G) **The Oklahoma core curriculum (K-12).** The candidate for licensure and certification:

(i) Understands Oklahoma's core curriculum for languages, and

(ii) Implements the skills and knowledge appropriate to the level(s) taught.

(9) **Journalism.** The candidate for licensure and certification:

(A) Maintains current knowledge of concepts, theories, and practical application of such in the field of journalism, including those associated with print media, news gathering, writing, research, graphic design, photography, technology, law, and ethics.

(B) Applies comprehension, analysis, interpretation, and evaluation of auditory, written, and visual communication. Projects can be created based on this knowledge, i.e., newspapers, yearbooks, magazines, or broadcasts.

(C) Applies appropriate learning strategies for research, writing, organization, editing, and presentation of written and visual messages to different audiences.

(D) Communicates effectively in oral presentation, written communication, and visual design.

(E) Understands the influence of social and historical context of culture on journalism and adapts instruction accordingly.

(F) Understands the impact and importance of cultural diversity on the communication process.

(G) Establishes a reflective and creative learning environment.

(H) Uses a variety of assessment strategies and teaching methods to encourage creativity, to inspire critical thinking to develop problem-solving techniques, and to establish and maintain excellence in all journalism pursuits.

(I) Uses technology to accomplish professional goals and to develop students' journalistic proficiencies in all aspects of the subject, including, but not limited to, desktop publishing, photojournalism, written communication, graphic design, and research.

(J) Understands and can teach strategies appropriate to a variety of journalistic areas, including print media, graphic arts, printing technology, broadcast media, electronic media, advertising, business management practices, public relations, and professional writing.

(K) Is prepared to teach students in the following areas:

- (i) desktop publishing;

- (ii) writing for print and electronic media;
 - (iii) editing;
 - (iv) photography and videography;
 - (v) graphic design and typography;
 - (vi) headline, preview, promotion, and caption writing.
- (L) Is prepared to teach
- (i) research skills;
 - (ii) interviewing;
 - (iii) ethics, law, and responsibilities of the press;
 - (iv) journalism history;
 - (v) television, video, radio and multimedia production;
 - (vi) staff management, organization and leadership techniques;
 - (vii) business management and accounting procedures.
- (M) Is knowledgeable of professional resources, including state, regional, and national scholastic press associations, workshops, conferences, contests, and publications.
- (N) Understands the importance of effective verbal and visual communication skills.
- (O) Understands the role of co-curricular and extracurricular activities in the development of student interests as an extension of classroom instruction.
- (P) Understands, teaches, and implements Oklahoma's core curriculum.
- (10) **Library-media specialist.** The candidate for licensure and certification:
- (A) Defines a program of information literacy and integrates it into the curriculum
 - (B) Defines a school library media program emphasizing information problem-solving skills and integrates it into the curriculum.
 - (C) Motivates and guides students and faculty in recognizing literature as an essential base of cultural and practical knowledge and in reading for pleasure as well as for information.
 - (D) Communicates effectively with students, faculty, staff, administrators, parents, other colleagues, and the general public by the ability to:
 - (i) exhibit communication skills necessary for collaborative planning with teachers.
 - (ii) develop and implement an effective public relations program to communicate library media program goals, needs, and accomplishments.
 - (E) Applies basic principles of evaluating and selecting resources and equipment to support the educational goals of the school by the ability to:
 - (i) develop selection policies which reflect curricular and instructional objectives, and informational and recreational needs of students and teachers.
 - (ii) develop criteria for evaluating and selecting specific print and non-print materials and equipment.
 - (iii) develop a collection of bibliographic aids, tools, and other sources to obtain current reviews and information about materials and equipment.
 - (iv) develop and implement procedures for preview, evaluation, selection, and acquisition of materials and equipment consistent with the district policy.
 - (v) reevaluate and maintain materials and equipment.
 - (F) Uses resources to support the personal, developmental, and curricular needs of students, and the instructional development needs of the faculty by the ability to:
 - (i) use a variety of ways to access information, including the use of new technologies.
 - (ii) provide specific information and resources in response to reference requests and recommend resources which support the curriculum.
 - (iii) conduct programs that include guidance in reading, listening, and viewing experiences.
 - (iv) assist students and staff in identifying, obtaining, using and/or producing media in appropriate formats for specific learning objectives.
 - (v) supervise students and staff in media production and equipment operation.
 - (vi) advocate resource-based learning through work with other faculty to identify appropriate instructional strategies and creative uses of resources.
 - (G) Recognizes the value of new technologies for information and instruction and assists faculty and students in their use by the ability to:
 - (i) recognize the importance of technological advancement to the education process.
 - (ii) demonstrate an understanding of the basic concepts, terminology, and applications of emerging technology.
 - (iii) recognize curricular implications that result from emerging technology and educational trends.
 - (iv) provide leadership in incorporating innovations into education.
 - (v) identify sources of information related to technological advancements.
 - (vi) provide technical advice and services for educational access to technology.
 - (H) Implements policies and procedures for effective and efficient acquisition, cataloging, processing, circulating, and maintaining equipment and resources to ensure access by the ability to:
 - (i) classify and catalog all print and nonprint media according to professionally accepted systems.
 - (ii) organize and maintain a current catalog and shelf list of all media.
 - (iii) implement procedures for initial processing, circulation, maintenance, service, and inventory of equipment and materials.

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(I) Develops, implements, and evaluates school library media programs, including management of personnel, resources, and facilities by the ability to:

- (i) assess the informational and instructional needs of students and faculty.
- (ii) establish short- and long-range goals based on identified needs, the goals and objectives of the school district, state and national guidelines, and research findings.
- (iii) prepare, justify, and administer a library media program budget.
- (iv) prepare plans for new or renovated library media facilities.
- (v) develop policies that assure optimum use of materials, equipment, facilities, and staff to support the curriculum.
- (vi) train, supervise, and evaluate support staff, volunteers, and student helpers.
- (vii) apply federal and state laws pertaining to media including those regarding copyright, privacy, and access to materials.
- (viii) prepare statistical records and written reports.
- (ix) assess and implement the use of new technologies for library media center management, educational applications, and information retrieval.
- (x) evaluate the library media program based on established goals and standards.
- (xi) apply effective management principles.
- (xii) advocate, initiate, and implement agreements for resource sharing.

(J) Serves as a learning facilitator within schools and as a leader of faculty, administration, and students in the development of effective strategies for teaching and learning with the ability to:

- (i) teach traditional and electronic skills in the retrieval, evaluation, and utilization of information to enable students to become independent learners.
- (ii) plan and implement professional development programs.

(K) Demonstrates a commitment to professionalism by the ability to:

- (i) exhibit comprehension of the roles, interrelationships, and interdependency of all types of libraries and information agencies.
- (ii) exhibit an understanding of the role of the school library media program as a central element in the intellectual life of the school.
- (iii) demonstrate a commitment to promoting intellectual freedom.
- (iv) demonstrate professional integrity through ethical behavior.
- (v) apply appropriate research findings and conduct action research to improve the library media program.
- (vi) develop selection criteria that reflect relevant theories of learning and instruction.

(vii) apply basic principles of instructional design in producing resources for specified learning goals or objectives.

(11) **Elementary mathematics.**

(A) **Overview.** The goal of teacher preparation programs in mathematics, in partnership with common education, is to prepare future teachers for the twenty-first century. Teacher preparation programs must recognize the changes in society to prepare adaptive teachers who are capable of providing equitable schooling for all students of the twenty-first century. Teacher preparation programs must recognize that learning to teach effectively does not consist solely of acquiring content skills. Theory alone cannot create an effective teacher. Effective teaching also must include the processes or pedagogy of teaching that incorporate actual experiences with students and other teacher candidates within a body or bodies of knowledge. Teacher preparation programs are challenged with providing a rigorous body of content which is not isolated from the strategies of teaching and the application of that content.

(B) **Commitment.** The candidate for licensure and certification recognizes the individuality and worth of each student, believes that all students can learn and apply mathematics, and demonstrates these beliefs in practice.

(C) **Knowledge of students, mathematics and teaching.** The candidate for licensure and certification:

- (i) Uses knowledge of child development and knowledge about the effects of this development on the learning of mathematics to guide curricular and instructional decisions. This will include primary, intermediate, and middle level philosophy, structure, organization, and child development.
- (ii) Understands students' environment and cultural background, individual learning differences, student attitudes and aspirations, and community expectations and values on the learning of their students.
- (iii) Has a broad and deep knowledge of the concepts, principles, techniques, and reasoning methods of mathematics that is used to set curricular goals and shape teaching.
- (iv) Understands significant connections among mathematical ideas and the applications of these ideas to problem-solving in mathematics, in other disciplines, and in the world outside of school.
- (v) Has experiences with practical applications of mathematical ideas and is able to incorporate these in their curricular and instructional decisions.
- (vi) Is proficient in, at least, the mathematics content needed to teach the mathematics skills described in Oklahoma's core curriculum from multiple perspectives. This includes, but is not

limited to, a concrete and abstract understanding of number systems and number sense, geometry, measurement, statistics and probability, functions, and algebra necessary to effectively teach the mathematics content skills addressed in the first through eighth grade as well as the mathematics process skills of problem-solving, reasoning, communication, and connections.

(vii) Is proficient in the use of a variety of instructional strategies to include, but not limited to, cooperative learning, use of concrete materials, use of technology (i.e., calculators and computers), and writing strategies to stimulate and facilitate student learning.

(viii) Is proficient in the design of instructional units which incorporate the mathematical processes of problem-solving, reasoning, communication, and connections into the instruction of content skills.

(ix) Has knowledge of how to teach and use this knowledge to make curriculum decisions, design instructional strategies and assessment plans, and choose materials and resources for mathematics instruction.

(x) Stimulates and facilitates student learning by using a wide range of formats, strategies, technologies, and procedures, and assuming a variety of roles to guide students' learning of mathematics.

(xi) Helps students learn mathematics by creating a safe and positive environment in which they take responsibility for learning.

(xii) Develops students' abilities to reason and think mathematically, to investigate and explore patterns, to discover structures and relationships, to formulate and solve problems, and to justify and communicate conclusions.

(xiii) Employs a range of formal and informal assessment methods to evaluate student learning in light of well-defined goals. Results should be used to guide the teaching process and provide opportunities for students to reflect on the strengths and weaknesses of individual performance.

(D) **Reflection and growth.** The candidate for licensure and certification:

(i) Regularly reflects on what one teaches and how one teaches.

(ii) Keeps informed of changes in mathematics and in the teaching of mathematics, continually seeking to improve his/her knowledge and practice.

(iii) Supports the involvement of families in their children's education, helps the community understand the role of mathematics and mathematics instruction in today's world, and, to the extent possible, involves the community in support of instruction.

(iv) Collaborates with peers and other education professionals to strengthen their school's

programs, advance knowledge, and contribute to improving practice within the field.

(12) **Intermediate mathematics.**

(A) **Overview.** The goal of teacher preparation programs in mathematics, in partnership with common education, is to prepare future teachers for the twenty-first century. Teacher preparation programs must recognize the changes in society to prepare adaptive teachers who are capable of providing equitable schooling for all students of the twenty-first century. Teacher preparation programs must recognize that learning to teach effectively does not consist solely of acquiring content skills. Theory alone cannot create an effective teacher. Effective teaching also must include the processes or pedagogy of teaching that incorporate actual experiences with students and other teacher candidates within a body or bodies of knowledge. Teacher preparation programs are challenged with providing a rigorous body of content which is not isolated from the strategies of teaching and the application of that content.

(B) **Commitment.** The candidate for licensure and certification recognizes the individuality and worth of each student, believes that all students can learn and apply mathematics, and incorporates these beliefs into practice.

(C) **Knowledge of students, mathematics and teaching.** The candidate for licensure and certification:

(i) Has an understanding of middle level philosophy, structure, organization, and child development as well as an understanding of secondary level structure and child development.

(ii) Uses knowledge of child development and knowledge about the effects of this development on the learning of mathematics to guide curricular and instructional decisions.

(iii) Understands students' environment and cultural background, individual learning styles, student attitudes and aspirations, and community expectations and values on the learning of students.

(iv) Has a broad and deep knowledge of the concepts, principles, techniques, and reasoning methods of mathematics that is used to set curricular goals and shape teaching.

(v) Understands significant connections among mathematical ideas and the applications of these ideas to problem-solving in mathematics, in other disciplines, and in the world outside of school.

(vi) Has experiences with practical applications of mathematical ideas and is able to incorporate these in curricular and instructional decisions.

(vii) Is proficient in, at least, the mathematics content needed to teach the mathematics skills described in Oklahoma's core curriculum from multiple perspectives. This includes, but is not

limited to, a concrete and abstract understanding of number systems and number theory, geometry and measurement, statistics and probability, functions, algebra, discrete mathematics, and calculus necessary to effectively teach the mathematics skills addressed in the sixth through eighth grade as well as the core and extended core skills in the algebra, geometry, functions, statistics, and probability sections of grades 9-12 in Oklahoma's core curriculum. This would also include the process skills and core skills addressed in the trigonometry and calculus sections of grades 9-12 in the Oklahoma core curriculum.

(viii) Is proficient in the use of a variety of instructional strategies to include, but is not limited to, cooperative learning, use of concrete materials, use of technology (i.e., calculators and computers), and writing strategies to stimulate and facilitate student learning.

(ix) Is proficient in the design of instructional units which incorporate the mathematical processes of problem-solving, reasoning, communication, and connections into the instruction of content skills.

(x) Has knowledge of how to teach and uses this knowledge in making curriculum decisions, designing instructional strategies and assessment plans, and choosing materials and resources for mathematics instruction.

(xi) Helps students learn mathematics by creating a safe and positive environment in which they take responsibility for learning.

(xii) Uses content knowledge and pedagogy to develop students' abilities to reason and think mathematically, to investigate and explore patterns, to discover structures and relationships, to formulate and solve problems, and to justify and communicate conclusions.

(xiii) Employs a range of formal and informal assessment methods to evaluate student learning in light of well-defined goals. Results should be used to guide the teaching process and provide opportunities for students to reflect on the strengths and weaknesses of individual performance.

(D) **Reflection and growth.** The candidate for licensure and certification:

(i) Keeps informed of changes in mathematics and in the teaching of mathematics, continually seeking to improve knowledge and practice. He/she regularly reflects on what is taught and how it is taught.

(ii) Supports the involvement of families in their children's education, helps the community understand the role of mathematics and mathematics instruction in today's world, and, to the extent possible, involves the community in support of instruction.

(iii) Collaborates with peers and other education professionals to advance knowledge and contribute to improving practice within the field.

(13) **Advanced/secondary mathematics.**

(A) **Overview.** The goal of teacher preparation programs in mathematics, in partnership with common education, is to prepare future teachers for the twenty-first century. Teacher preparation programs must recognize the changes in society to prepare adaptive teachers who are capable of providing equitable schooling for all students of the twenty-first century. Teacher preparation programs must recognize that learning to teach effectively does not consist solely of acquiring content skills. Theory alone cannot create an effective teacher. Effective teaching also must include the processes or pedagogy of teaching that incorporate actual experiences with students and other teacher candidates within a body or bodies of knowledge. Teacher preparation programs are challenged with providing a rigorous body of content which is not isolated from the strategies of teaching and the application of that content.

(B) **Commitment.** The candidate for licensure and certification recognizes the individuality and worth of each student, believes that all students can learn and apply mathematics, and incorporates these beliefs into practice.

(C) **Knowledge of students, mathematics and teaching.** The candidate for licensure and certification:

(i) Has an understanding of the middle level philosophy, structure, organization, and child development as well as an understanding of the secondary level structure and child development.

(ii) Uses knowledge of child development and knowledge about the effects of this development on the learning of mathematics to guide curricular and instructional decisions.

(iii) Understands students' environment and cultural background, individual learning styles, student attitudes and aspirations, and community expectations and values on the learning of students.

(iv) Has a broad and deep knowledge of the concepts, principles, techniques, and reasoning methods of mathematics that is used to set curricular goals and shape teaching.

(v) Understands significant connections among mathematical ideas and the applications of these ideas to problem solving in mathematics, in other disciplines, and in the world outside of school.

(vi) Has experiences with practical applications of mathematical ideas and is able to incorporate these in curricular and instructional decisions.

(vii) Is proficient in, at least, the mathematics content needed to teach the mathematics skills described in Oklahoma's core curriculum from

multiple perspectives. This includes, but is not limited to, a concrete and abstract understanding of number systems and number theory, geometry and measurement, statistics and probability, functions, algebra, discrete mathematics, and calculus necessary to effectively teach the mathematics skills addressed in the sixth through twelfth grade in the Oklahoma core curriculum. (The depth and breadth of knowledge should be much greater than for the Intermediate Mathematics certification.)

(viii) Is proficient in the use of a variety of instructional strategies to include, but is not limited to, cooperative learning, use of concrete materials, use of technology (i.e., calculators and computers), and writing strategies to stimulate and facilitate student learning.

(ix) Is proficient in the design of instructional units which incorporate the mathematical processes of problem-solving, reasoning, communication, and connections into the instruction of content skills.

(x) Has knowledge of how to teach and uses this knowledge in making curriculum decisions, designing instructional strategies and assessment plans, and choosing materials and resources for mathematics instruction.

(xi) Helps students learn mathematics by creating a safe and positive environment in which they take responsibility for learning.

(xii) Uses content knowledge and pedagogy to develop students' abilities to reason and think mathematically, to investigate and explore patterns, to discover structures and relationships, to formulate and solve problems, and to justify and communicate conclusions.

(xiii) Employs a range of formal and informal assessment methods to evaluate student learning in light of well-defined goals. Results should be used to guide the teaching process and provide opportunities for students to reflect on the strengths and weaknesses of individual performance.

(D) **Reflection and growth.** The candidate for licensure and certification:

(i) Keeps informed of changes in mathematics and in the teaching of mathematics, continually seeking to improve knowledge and practice. He/she regularly reflects on what is taught and how it is taught.

(ii) Supports the involvement of families in their children's education, helps the community understand the role of mathematics and mathematics instruction in today's world, and, to the extent possible, involves the community in support of instruction.

(iii) Collaborates with peers and other education professionals to advance knowledge and contribute to improving practice within the field.

(14) **Middle level personnel.** The competencies developed here focus on middle level philosophy, structure, organization, and student development. Subject matter competencies can be pulled from the K-12 competencies developed by the subject matter committees. The candidate for licensure and certification:

(A) Understands the history, philosophy, principles, structure, and organization of middle level education as it relates to early adolescence.

(B) Uses methods and materials for interdisciplinary instruction at the middle school level.

(C) Demonstrates an understanding of child-centered versus content-centered methodologies to meet the individual needs of middle level students.

(D) Has knowledge and skills pertaining to classroom management, organization, and student discipline at the middle school level.

(E) Understands the unique developmental characteristics and needs of the early adolescent, focusing on cognitive, physical, and social development.

(F) Establishes an environment using active participation to teach problem-solving and communication skills (reading, listening, writing, and speaking) as an integral part of all instruction.

(G) Understands curriculum-based teacher advisory programs, which foster character, responsibility, respect for others, and active community involvement.

(H) Understands the need to work collaboratively with other teachers, staff members, parents, resource persons, and community groups to enhance and support the education of young adolescents.

(I) Uses a variety of instructional strategies that address different learning styles to meet the needs of early adolescents.

(J) Models the role of the lifelong learner.

(K) Insures that all students develop proficiencies in the Oklahoma core curriculum.

(15) **Instrumental/general music.** The candidate for licensure and certification:

(A) Understands the basic philosophy of music education and is able to justify music within the school curriculum.

(B) Understands how music and fine arts experiences enhance student life experience and can promote music and the other arts in the community as well as within the school (including group motivational strategies and group management methods).

(C) Participates in ongoing professional development which includes involvement with professional associations and current experiences in performing endeavors.

(D) Has knowledge of effective methodologies and practices for encouraging self-analysis and musical independence.

(E) Has mastery of a major instrument, including appropriate techniques of breathing, embouchure (mouth position), posture, and hand position.

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- (F) Has a broad understanding of music history, including various styles and musical contributions of different cultural and ethnic groups.
- (G) Has the ability to play an instrument(s) and teach a beginning instrumental music class, using current methods and quality music literature (collection of written music) for band, small ensemble, and solo.
- (H) Is able to recognize and evaluate the sequential development of students, including those with disabilities.
- (I) Has knowledge of where to locate printed musical resources and professional consultants.
- (J) Has a working knowledge of how music integrates with all other academic disciplines, including other fine arts areas.
- (K) Has the skill to collaborate and coordinate experiences with teachers of other academic disciplines, including other fine arts areas.
- (L) Has competency in conducting techniques.
- (M) Is able to teach basic fundamentals of embouchure (mouth position), hand position, technique and other related skills, of all the standard band and orchestra instruments at a basic Grade 6-8 level, including making a characteristic sound.
- (N) Is able to sing a diatonic melody at sight, using a consistent sight-singing method, and the skill to teach that method appropriately at each grade level. "Diatonic" means relating to a musical scale having eight tones to the octave and using a fixed pattern of intervals without chromatic deviation.
- (O) Is able to count rhythms using a consistent rhythm reading system and demonstrates the skill to teach that method appropriately at each grade level.
- (P) Has knowledge of music education approaches such as Carl Orff, Zoltar Kodaly and Jaques-Dalcroze and is able to prepare and teach a lesson according to each of these approaches.
- (Q) Has basic proficiency in piano, including a knowledge of keyboard harmony and is able to play functional progressions and simple accompaniments.
- (R) Has the ability to use technology in the music classroom, such as basic knowledge of MIDI (musical instrument digital interface), sequencing and notational software programs, sound system set-up, and to make successful recordings of music ensembles.
- (S) Understands basic laws of copyright pertaining to the correct use of copyrighted printed music and related responsibilities.
- (T) Understands the competencies in General Music in Oklahoma's core curriculum and exhibits the skill to incorporate them into various instrumental music classes.
- (16) **Vocal/general music.** The candidate for licensure and certification:
- (A) Understands the basic philosophy of music education and is able to justify music within the school curriculum.
- (B) Understands how music and fine arts experiences enhance student life experience and can promote music and the other arts in the community as well as within the school (including group motivational strategies and group management methods).
- (C) Has knowledge of effective methodologies and practices for encouraging self-analysis and musical independence.
- (D) Understands proper breathing techniques and tone production techniques.
- (E) Has a knowledge of quality literature (collection of written music), both choral and solo, as well as folk songs appropriate for children.
- (F) Understands the changing voice, both male and female.
- (G) Has knowledge of where to locate professional consultants and printed music resources, such as music stores, music publisher catalogues, and textbook companies.
- (H) Has a working knowledge of how to coordinate vocal music with all academic disciplines including other fine arts areas.
- (I) Has proficiency in piano, including knowledge of scales, chords and the ability to warm up a choir and play simple accompaniments.
- (J) Participates in ongoing professional development which includes involvement with professional associations.
- (K) Has the ability to recognize and evaluate sequential musical development for all students, including those with disabilities.
- (L) Has competency in conducting, including the ability to show musical nuance (subtle distinction or variation).
- (M) Is able to prepare a series of lesson plans appropriate to each teaching level K-12.
- (N) Has the ability to sing a diatonic melody at sight, using a consistent sight singing method and the skill to teach that method appropriately at each grade level. "Diatonic" means relating to a musical scale having eight tones to the octave and using a fixed pattern of intervals without chromatic deviation.
- (O) Has the ability to count rhythms using a consistent rhythmic reading system and the skills to teach that method appropriately at each grade level.
- (P) Has knowledge of the music education approaches such as Carl Orff, Zoltar Kodaly and Jaques-Dalcroze and is able to prepare and teach a lesson according to each of these approaches.
- (Q) Has broad knowledge and understanding of music history including various styles, periods and cultures.
- (R) Has broad knowledge and understanding of a variety of music and musical practices representative of different cultural and ethnic groups.
- (S) Has the ability to use technology in the music classroom, such as basic knowledge of MIDI (musical

instrument digital interface), sequencing and notational software programs, sound system set-up, and to make successful recordings of music ensembles.

(T) Understands basic laws of copyright pertaining to the correct use of copyrighted printed music and related responsibilities.

(U) Understands the competencies in General Music in Oklahoma's core curriculum and exhibits the skill to incorporate them into various vocal music classes.

(17) **Physical education/health/safety.** Competencies specified in both (A) Physical Education/Safety and (B) Health/Safety are required for licensure and certification:

(A) **Physical education/safety.** The candidate for licensure and certification:

(i) Understands the Oklahoma core curriculum and is able to develop instructional strategies/plans based on the Physical Education Section of the Oklahoma core curriculum.

(ii) Knows the developmental levels of growth and coordination of children (Grades K-12) and provides appropriate learning opportunities that support the physical and intellectual development of all students.

(iii) Understands and uses a variety of both psychomotor and cognitive assessment strategies to evaluate and modify the teaching/learning process.

(iv) Understands and utilizes physical education activities for curriculum integration.

(v) Applies movement concepts and principles to the learning and development of rhythm and motor skills for the following:

- (I) locomotor movement
- (II) nonlocomotor movement
- (III) manipulative skills

(vi) Promotes participation and involvement in age-appropriate physical activities/sports suitable for lifelong participation in the following areas:

- (I) lifetime activities/sports (i.e., skiing, camping, hiking, clogging)
- (II) individual activities/sports (i.e., golf, tennis, self-defense, spelunking)
- (III) nontraditional team activities/sports (i.e., korfball, lacrosse, square dancing)
- (IV) traditional team activities/sports (i.e., basketball, volleyball, softball)

(vii) Understands adaptive learning activities for students with special needs.

(viii) Knows and can demonstrate appropriate fitness, wellness, and personal management components including:

- (I) Fitness. Fitness includes: flexibility; muscular strength; cardiovascular fitness endurance; contraindicated exercises (traditional exercises which have been proven, through research, to be damaging to the body); nutrition.
- (II) Wellness. Wellness encompasses: body composition; stress management; safety

and accident prevention; designing and assessing personal fitness program; weight control; consumer education.

(III) Personal management skills: cooperation; sportsmanship; self-discipline; goal setting; following rules.

(ix) Uses information technology to enhance learning and to enhance personal productivity:

(I) Demonstrates knowledge of current technologies and their application in Physical Education.

(II) Designs, develops, and implements student learning activities that integrate information technology.

(III) Uses technologies to communicate, network, locate resources, and enhance continuing professional development.

(B) **Health/safety.** The candidate for licensure and certification:

(i) Communicates the concepts, purposes, and importance of health education; as evidenced by the following indicators:

(I) Describes the discipline of health education within the school setting.

(II) Describes the interdependence of health education and the other components of a coordinated school health program.

(III) Delivers accurate and up-to-date information about the most common comprehensive school health education components; including but not limited to: community and environmental health; consumer health; disease prevention and control; healthy communication; human growth and development; mental and emotional health; nutrition; personal health; safety and injury prevention; substance abuse.

(IV) Provides a rationale for health education, grades 1-12.

(V) Understands the variables that shape decisions about health behaviors.

(VI) Defines the role of the health education teacher within a coordinated school health program.

(VII) Explains the importance of health education.

(VIII) Identifies the kinds of school and community support necessary to implement a coordinated school health education program.

(IX) Understands the importance of ongoing professional development for health education teachers.

(X) Describes the importance of modeling positive, healthful behaviors.

(ii) Assesses the health education needs and interests of students.

(I) Uses information about health needs and interests of students.

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- (II) Recognizes behaviors that promote or compromise health.
- (iii) Plans school health instruction.
 - (I) Selects realistic program goals and objectives.
 - (II) Identifies a scope and sequence plan for school health instruction.
 - (III) Plans health education lessons which reflect the abilities, needs, interests, developmental levels, and cultural backgrounds of students.
 - (IV) Describes effective ways to promote cooperation with and feedback from administrators, parents, and other community members.
 - (V) Determines procedures which are compatible with school policy for implementing curricula.
 - (VI) Develops activities to meet program goals and objectives based on the Health/Safety, and for grades 7-12, HIV/AIDS Prevention Education Sections of Oklahoma's core curriculum and on the National Health Education Standards.
- (iv) Implements school health instruction.
 - (I) Employs a variety of strategies to facilitate implementation of a school health education curriculum; strategies include: provides a core health education curriculum; integrates health and other content areas; uses technology as a strategy to deliver health education; involves parents, guardians, or custodians of students in the teaching/learning process.
 - (II) Incorporates appropriate resources and materials including: selects valid and appropriate sources of information about health; uses school and community resources within a comprehensive program; refers students to valid and appropriate sources of health information.
 - (III) Employs appropriate strategies for dealing with health issues.
 - (IV) Adapts existing health education curricular models to community and student needs and interests.
- (v) Evaluates the effectiveness of school health instruction.
 - (I) Uses appropriate criteria and methods unique to health education for evaluating student achievement.
 - (II) Interprets and applies student evaluation results to improve health instruction.
- (18) **Psychometrist.** The candidate for licensure and certification:
 - (A) Understands and integrates into practice the philosophical, historical, and legal foundations of special education as applicable to the role of the psychometrist/educational diagnostician, in the following areas, including laws, regulations, and policies/procedures related to special education assessment, placement, and due process.
- (B) Demonstrates knowledge, understanding, and application of ethical issues and standards of professional practice within the educational setting, in the following areas:
 - (i) ethical conduct and legal issues of the profession
 - (ii) role and function of the psychometrist/educational diagnostician
 - (iii) confidentiality
 - (iv) professional issues/standards
 - (v) training standards for particular instruments and procedures
 - (vi) continuing professional growth/development
- (C) Demonstrates knowledge and skills in assessment, diagnosis, evaluation, and eligibility determination within the multidisciplinary team process for children with disabilities who may require special education services or early childhood intervention services, as follows:
 - (i) collection of assessment data for infants through school-age children, including the selection, administration, accurate scoring, and reporting of instruments and procedures appropriate to the areas of concern such as basic academic skills, cognitive/intellectual, developmental, perception, language, adaptive behavior, and classroom behavior
 - (ii) the adequacy, appropriate use, and limitations of assessment and evaluation instruments and procedures to be used by the psychometrist/educational diagnostician for educational purposes and recommendations
 - (iii) nondiscriminatory assessment strategies for culturally and linguistically diverse children
- (D) Has knowledge and skills in effective communication and collaboration within the multidisciplinary team process, in the following areas:
 - (i) consultation for instructional interventions and problem-solving
 - (ii) educational recommendations and decision-making
- (E) Understands and integrates into practice basic psychological foundations, including:
 - (i) cultural diversity
 - (ii) child and adolescent development
 - (iii) human exceptionalities
 - (iv) learning/educational psychology
- (F) Understands and integrates into practice educational foundations, including:
 - (i) education of the exceptional learner
 - (ii) instructional and remedial techniques
 - (iii) the educational service delivery system
- (19) **Reading specialist.** The candidate for licensure and certification shall possess the competencies specified in (A) through (D) of this paragraph:

(A) Reading philosophy and professional roles.

Competencies are:

- (i) Provides reading instructions so as to facilitate the process of reading development in which teacher and learner work together as members of a community of readers.
- (ii) Has knowledge of the linguistic, dialectal, and developmental differences in readers that may affect instructional strategies.
- (iii) Knows the principles and issues of major theories of language development as they relate to reading instruction.
- (iv) Applies flexible approaches to reading instruction that recognize the uniqueness of individual students.
- (v) Develops strategies for working with school staff, other reading specialists, and professionals within and beyond the school to foster reading development for individuals and groups.
- (vi) Understands reading as a constructive process in which the experience of the reader, the text, and the requirements of the reading event interact in the creation of meaning.
- (vii) Identifies appropriate interaction with staff members (e.g., content, special, classroom teachers) to facilitate reading development for all students.
- (viii) Recognizes factors and procedures related to the involvement of parents and/or school and community groups at all stages of reader development.
- (ix) Identifies and understands procedures involved in determining curriculum needs for reading programs.
- (x) Identifies criteria and/or procedures involved in planning reading curriculum.
- (xi) Identifies appropriate methods and resources related to the reading process for promoting professional growth for self and school staff.

(B) Instructional practices. Competencies are:

- (i) Understands emergent literacy development and the types of experiences and concepts that support learning to read.
- (ii) Applies knowledge of and provides appropriate instruction of graphophonemic relationships.
- (iii) Understands the relationship among word knowledge (i.e., word attack and word recognition), reading fluency, and comprehension.
- (iv) Identifies various word attack strategies (i.e., semantic clues, syntactic clues, graphophonemic clues), and various word recognition strategies (i.e., those that promote meaningful vocabulary growth).
- (v) Provides appropriate instruction of strategies that promote comprehension at the literal, inferential, and critical/evaluative levels for both narrative and expository texts.

- (vi) Understands the importance of adjusting reading strategies for different reading purposes.
- (vii) Provides appropriate instruction of various techniques and study strategies (i.e., locating, organizing, and interpreting information).
- (viii) Identifies content area reading strategies that activate and/or develop background knowledge.
- (ix) Assists students in applying reading-related strategies to new learning situations.
- (x) Understands the issues and procedures involved in teacher modeling, teacher-guided application, and independent practice.
- (xi) Develops proficiencies in providing instruction associated with a variety of reading instructional approaches, including phonics, language experience, basal (basic) readers, and literature-based.
- (xii) Implements cooperative learning strategies during reading instruction.
- (xiii) Analyzes the strengths and weaknesses of the use of readability formulas in assessing instructional materials.
- (xiv) Identifies appropriate criteria for selecting instructional materials (e.g., textbooks, reference books, computer software).
- (xv) Analyzes issues and procedures involved in modifying curriculum to meet the needs of individual students.
- (xvi) Recognizes the factors involved in organizing reading instruction to encourage individual student success.
- (xvii) Promotes meaningful parent/guardian-child interaction related to reading.
- (xviii) Creates a reading environment to increase student's motivation to read widely and independently and to promote reading as a lifelong habit.

(C) Reading diagnosis. Competencies are:

- (i) Identifies factors that contribute to reading difficulties.
- (ii) Understands the nature of reading difficulties (e.g., students' knowledge and strategies, factors embedded in the reading materials, instructional factors).
- (iii) Implements, interprets, and uses informal and formal assessment and evaluation procedures for identifying and diagnosing reading difficulties (e.g., observation, criterion-referenced tests, norm-referenced tests, miscue analysis, informal reading inventories, anecdotal records).
- (iv) Understands, analyzes, and creates case studies for diagnostic purposes.
- (v) Identifies issues, procedures, and limitations involved in using oral diagnostic tests, silent diagnostic tests, visual and auditory screening, and observational diagnostic techniques.

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(vi) Identifies activities and/or strategies appropriate for individual or group instruction for students with reading difficulty.

(D) **Evaluation and assessment.** Competencies are:

(i) Identifies characteristics, strengths, and weaknesses of formal and informal tests and instruments (i.e., criterion-referenced, norm-referenced, achievement tests, diagnostic tests, checklists, observations, and anecdotal records.)

(ii) Analyzes issues involved in the use of tests and other evaluation instruments for classification or placement, diagnosis, or other evaluative purposes.

(iii) Selects tests or other instruments appropriate for a given evaluation purpose.

(iv) Understands the principles and/or procedures involved in the interpretation of test results.

(v) Identifies procedures for cooperating with various professionals in assessment, evaluation, and instructional planning for students with special needs.

(vi) Identifies criteria for evaluating reading programs.

(20) **Reserve Officers' Training Corps (ROTC).** Competency for ROTC certification will be verified by a recommendation from the appropriate ROTC Regional Headquarters.

(21) **School counselor.**

(A) The candidate for licensure and certification:

(i) Uses an understanding of human development to provide a comprehensive, developmental guidance and counseling program.

(ii) Understands the impact of environmental influences on students' development and achievement, and helps students develop strategies to resolve or cope with situations that may hinder learning.

(iii) Demonstrates an appreciation of human diversity by providing equitable guidance and counseling services for all students and by promoting a climate of mutual respect that helps students value themselves and others.

(iv) Uses effective leadership skills to plan, implement, and evaluate a comprehensive, developmental guidance and counseling program to address the needs of all students.

(v) Provides guidance and counseling services to address the needs and concerns of students and to help students develop skills to use in future situations.

(vi) Facilitates the educational and career development of individual students to help all students achieve success.

(vii) Uses formal and informal assessment to provide information about and to students, to monitor student progress, and to recommend changes to the student's educational environment.

(viii) Consults with parents and school personnel, provides professional expertise, and establishes collaborative relationships that foster a support system for students, parents, and the school community.

(ix) Establishes strong and positive ties with the home and the community to promote and support students' growth in school and beyond the school setting.

(x) Has knowledge of professional ethical codes, the importance of professional development, and the need to work with colleagues to advance the profession.

(B) Competency for School Counselor certification may also be verified by the Nationally Certified School Counselor (NCSC) credential.

(22) **School nurse.** Competency for School Nurse certification will be verified by a current registered nurse's license issued by the Oklahoma State Board of Nurse Registration and Nursing Education.

(23) **School psychologist.**

(A) The candidate for licensure and certification:

(i) Understands and integrates into practice the principles of professional school psychology, including:

(I) ethical conduct and legal issues

(II) confidentiality

(III) role and function of the school psychologist

(IV) service delivery models

(V) professional issues/standards

(VI) history and foundations

(VII) continuing professional growth/development

(ii) Demonstrates knowledge and skills in a comprehensive range of assessment, diagnosis, evaluation, and eligibility or intervention determination within the multidisciplinary team process, including:

(I) for children with disabilities who may require special education, early childhood intervention services, or other exceptional needs

(II) assessment for interventions

(III) collection of assessment data for infants through school-age children, including the selection, administration, accurate scoring, reporting, and interpretation of instruments and procedures appropriate to the areas of concern

(IV) the adequacy, appropriate uses, and limitations of assessment and evaluation instruments and procedures to be used by the school psychologist

(V) nondiscriminatory assessment strategies for culturally and linguistically diverse children

(iii) Demonstrates knowledge and skills in prevention, intervention, consultation, and counseling, including:

- (I) behavioral and social skills
 - (II) cognitive/intellectual
 - (III) child developmental
 - (IV) academic learning/instructional
 - (V) mental health needs
 - (VI) crisis prevention/intervention
- (iv) Demonstrates knowledge and skills in effective communication and collaboration, including:
- (I) consultation for interventions and problem-solving
 - (II) recommendations and decision-making concerning educational and mental health needs of children
 - (III) working with families, children, professionals, and other service systems
- (v) Demonstrates knowledge and application of statistics, research methodologies/designs, measurement, and program evaluation.
- (vi) Understands and integrates into practice psychological foundations including:
- (I) biological bases of behavior (developmental, neuropsychological, physiological, and other biological influences on behavior)
 - (II) social bases of behavior (social psychology and development)
 - (III) cultural diversity and cultural bases of behavior
 - (IV) child and adolescent development
 - (V) human exceptionalities and individual differences
 - (VI) human learning
- (vii) Understands and integrates into practice educational foundations, including:
- (I) education of the exceptional learner
 - (II) instructional and remediation techniques/intervention methods
 - (III) organization and operation of the schools
 - (IV) the educational and alternative service delivery systems
- (B) Competency for School Psychologist certification may also be verified by the Nationally Certified School Psychologist (NCSP) credential.
- (24) **Elementary science.** The candidate for licensure and certification:
- (A) Is able to plan an inquiry-based science program for students using as a framework, Oklahoma's core curriculum. In doing this, one
- (i) Develops a framework of yearlong and short-term goals for students.
 - (ii) Understands curriculum design to meet the interests, knowledge, understanding, abilities, and experiences of students.
 - (iii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.
 - (iv) Works with colleagues within and across disciplines and grade levels.
- (B) Is able to guide and facilitate learning. In doing this, one
- (i) Focuses and supports inquiries while interacting with students.
 - (ii) Facilitates discussion among students about scientific ideas.
 - (iii) Challenges students to accept and share responsibility for their own learning.
 - (iv) Recognizes and responds to student diversity and encourages all students to participate fully in science learning.
 - (v) Encourages and models the skills of scientific inquiry, as well as the curiosity, openness to new ideas and data, and questioning that characterizes science.
- (C) Is able to engage in ongoing assessment of one's own teaching and of student learning. In doing this, one
- (i) Uses multiple methods and systematically gathers data about student understanding and ability.
 - (ii) Analyzes assessment data to guide teaching.
 - (iii) Guides students in the evaluation of their work.
 - (iv) Uses student data, observations of teaching, and interaction with colleagues to reflect on and improve teaching practice.
 - (v) Uses student assessment information and classroom observation to report student achievement to students and parents.
- (D) Is able to design and manage learning environments that provide students with the time, space, and resources needed for developing science skills. In doing this, one
- (i) Structures the time so that students are able to engage in extended investigations.
 - (ii) Creates a setting for student work that is flexible and supportive of science inquiry.
 - (iii) Ensures a safe working environment.
 - (iv) Makes the available science tools, materials, media, and technological resources accessible to students.
 - (v) Identifies and uses resources outside the school.
 - (vi) Engages students in designing the learning environment.
- (E) Is able to develop communities of science learners that reflect the intellectual rigor of scientific inquiry and the climate conducive to science learning. In doing this, one
- (i) Respects the diverse needs, skills, and experiences of all students.
 - (ii) Enables students to have a significant voice in decisions about the content and context of their

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work and prepares students to take responsibility for learning.

- (iii) Encourages collaboration among students.
- (iv) Structures and facilitates ongoing formal and informal discussion based on a shared understanding of rules of scientific discourse.
- (v) Models and emphasizes the skills and value of scientific inquiry.

(F) Is able to use a variety of instructional strategies to implement an integrated/ interdisciplinary curriculum.

(G) Is able to teach with a broad understanding of all content areas and to understand the interaction between the sciences and the process skills. Content areas and concepts within each are listed in subparagraphs (A) through (C) herein:

- (i) Physical science content
 - (I) Properties of objects and materials
 - (II) Properties and changes of properties in matter
 - (III) Position and motion of objects
 - (IV) Motion and force
 - (V) Light, heat, electricity, and magnetism
 - (VI) Transfer of energy
- (ii) Earth/space content
 - (I) Properties of earth materials
 - (II) Objects in the sky
 - (III) Changes in earth and sky
 - (IV) Structure of the earth system
 - (V) Earth's history
 - (VI) Earth in the solar system
- (iii) Life science content
 - (I) The characteristics of organisms
 - (II) The life cycle of organisms
 - (III) Organisms and environment
 - (IV) Structure and function in living systems
 - (V) Reproduction and heredity
 - (VI) Regulation and behavior
 - (VII) Population and ecosystem
 - (VIII) Diversity and adaption of organisms

(H) Is able to develop conceptual understanding for science content using the process skills listed in Oklahoma's core curriculum, in Grades K through 8. Identified science concepts and/or science content areas are:

- (i) System, order and organization
- (ii) Constancy, change, equilibrium and measurement
- (iii) Form and function
- (iv) Abilities of technological design
- (v) Abilities to distinguish between natural objects and objects made by humans
- (vi) Understanding about science and technology
- (vii) Science as a human endeavor
- (viii) Nature of science
- (ix) History of science

- (x) Personal health
- (xi) Characteristics and changes in populations
- (xii) Population, resources, and environment
- (xiii) Types of resources
- (xiv) Natural hazards
- (xv) Changes in environments
- (xvi) Science and technology in local challenges
- (xvii) Risk and benefits
- (xviii) Science and technology in society

(25) **Earth science 6-12.** The candidate for licensure and certification:

(A) Is able to plan an inquiry-based science program for students using as a framework, Oklahoma's core curriculum. In doing this, one

- (i) Develops a framework of yearlong and short-term goals for students.
- (ii) Understands curriculum design to meet the interests, knowledge, understanding, abilities and experiences of students.
- (iii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.
- (iv) Works with colleagues within and across disciplines and grade levels.

(B) Is able to guide and facilitate learning. In doing this, one:

- (i) Focuses and supports inquiries while interacting with students.
- (ii) Facilitates discussion among students about scientific ideas.
- (iii) Challenges students to accept and share responsibility for their own learning.
- (iv) Recognizes and responds to student diversity and encourages all students to participate fully in science learning.
- (v) Encourages and models the skills of scientific inquiry, as well as the curiosity, openness to new ideas and data, and questioning that characterizes science.

(C) Is able to engage in ongoing assessment of own teaching and of student learning. In doing this, one

- (i) Uses multiple methods and systematically gathers data about student understanding and ability.
- (ii) Analyzes assessment data to guide teaching.
- (iii) Guides students in the evaluation of their work.
- (iv) Uses student data, observations of teaching, and interaction with colleagues to reflect on and improve teaching practice.
- (v) Uses student assessment information and classroom observation to report student achievement to students and parents.

(D) Is able to design and manage learning environments that provide students with the time, space, and

resources needed for developing science skills. In doing this, one

- (i) Structures the time so that students are able to engage in extended investigations.
- (ii) Creates a setting for student work that is flexible and supportive of science inquiry.
- (iii) Ensures a safe working environment.
- (iv) Makes the available science tools, materials, media, and technological resources accessible to students.
- (v) Identifies and uses resources outside the school.
- (vi) Engages students in designing the learning environment.

(E) Is able to develop communities of science learners that reflect the intellectual rigor of scientific inquiry and the climate conducive to science learning.

In doing this, one

- (i) Respects the diverse needs, skills, and experiences of all students.
- (ii) Enables students to have a significant voice in decisions about the content and context of their work and prepares students to take responsibility for learning.
- (iii) Encourages collaboration among students.
- (iv) Structures and facilitates ongoing formal and informal discussion based on a shared understanding of rules of scientific discourse.
- (v) Models and emphasizes the skills, attitudes, and value of scientific inquiry.

(F) Is able to use a variety of instructional strategies to implement an integrated interdisciplinary curriculum.

(G) Is able to teach with a broad understanding of all content areas and understand the interaction between the sciences and the process skills. Identified Earth/Space Science content areas are:

- (i) Structure of the earth system
- (ii) Earth's history
- (iii) Earth in the solar system
- (iv) Energy in the Earth system
- (v) Geochemical cycles
- (vi) The universe and Earth's system

(H) Is able to develop conceptual understanding for science content using the process skills listed in Oklahoma's core curriculum, in Grades 6 through 12. Identified science concepts and/or science content areas are:

- (i) System, order and organization
- (ii) Evidence, models and explanation
- (iii) Constancy, change, equilibrium and measurement
- (iv) Form and function
- (v) Abilities of technological design
- (vi) Understanding about science and technology
- (vii) Science as a human endeavor
- (viii) Nature of science

- (ix) Nature of scientific knowledge
- (x) History of science
- (xi) Historical perspectives
- (xii) Personal health
- (xiii) Personal and community health
- (xiv) Population, resources, and environments
- (xv) Population growth
- (xvi) Natural hazards
- (xvii) Natural resources
- (xviii) Risks and benefits
- (xix) Environmental quality
- (xx) Natural and human induced hazards
- (xxi) Science and technology in society
- (xxii) Science and technology in local, national, and global challenges

(26) **Biological sciences 6-12.** The candidate for licensure and certification:

(A) Is able to plan an inquiry-based science program for students using as a framework, Oklahoma's core curriculum. In doing this, one:

- (i) Develops a framework of yearlong and short-term goals for students.
- (ii) Understands curriculum design to meet the interests, knowledge, understanding, abilities, and experiences of students.
- (iii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.
- (iv) Works with colleagues within and across disciplines and grade levels.

(B) Is able to guide and facilitate learning. In doing this, one:

- (i) Focuses and supports inquiries while interacting with students.
- (ii) Facilitates discussion among students about scientific ideas.
- (iii) Challenges students to accept and share responsibility for their own learning.
- (iv) Recognizes and responds to student diversity and encourages all students to participate fully in science learning.
- (v) Encourages and models the skills of scientific inquiry, as well as the curiosity, openness to new ideas and data, and questioning that characterizes science.

(C) Is able to engage in ongoing assessment of own teaching and of student learning. In doing this, one:

- (i) Uses multiple methods and systematically gathers data about student understanding and ability.
- (ii) Analyzes assessment data to guide teaching.
- (iii) Guides students in the evaluation of their work.
- (iv) Uses student data, observations of teaching, and interaction with colleagues to reflect on and improve teaching practice.

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- (v) Uses student assessment information and classroom observation to report student achievement to students and parents.
- (D) Is able to design and manage learning environments that provide students with the time, space and resources needed for developing science skills. In doing this, one:
 - (i) Structures the time so that students are able to engage in extended investigations.
 - (ii) Creates a setting for student work that is flexible and supportive of science inquiry.
 - (iii) Makes the available science tools, materials, media, and technological resources accessible to students.
 - (iv) Engages students in designing the learning environment.
- (E) Is able to develop communities of science learners that reflect the intellectual rigor of scientific inquiry and the climate conducive to science learning. In doing this, one:
 - (i) Respects diverse needs, skills, and experiences of all students.
 - (ii) Enables students to have a significant voice in decisions about the content and context of their work and prepares students to take responsibility for learning.
 - (iii) Encourages collaboration among students.
 - (iv) Structures and facilitates ongoing formal and informal discussion based on a shared understanding of rules of scientific discourse.
 - (v) Models and emphasizes the skills and value of scientific inquiry.
- (F) Is able to use a variety of instructional strategies to implement an integrated interdisciplinary curriculum.
- (G) Is able to teach with a broad understanding of all content areas and understands the interaction between the sciences and the process skills. Identified Biological Sciences content areas are:
 - (i) Structure and function in living systems
 - (ii) Reproduction and heredity
 - (iii) Regulation and behavior
 - (iv) Population and ecosystem
 - (v) Diversity and adaptation of organisms
 - (vi) The cell
 - (vii) The molecular basis of heredity
 - (viii) Biological adaptation
 - (ix) The interdependence of organisms
 - (x) Matter, energy, organization in living systems
 - (xi) Behavior of organisms
- (H) Is able to develop conceptual understanding for science content using the process skills listed in Oklahoma's core curriculum, in Grades 6 through 12. Identified Science concepts and content areas are:
 - (i) System, order, and organization
 - (ii) Evidence, models, and explanation

- (iii) Constancy, change, equilibrium, and measurement
 - (iv) Form and function
 - (v) Abilities of technological design
 - (vi) Understanding about science and technology
 - (vii) Science as a human endeavor
 - (viii) Nature of science
 - (ix) Nature of scientific knowledge
 - (x) History of science
 - (xi) Historical perspectives
 - (xii) Personal health
 - (xiii) Personal and community health
 - (xiv) Population, resources, and environments
 - (xv) Population growth
 - (xvi) Natural hazards
 - (xvii) Natural resources
 - (xviii) Risks and benefits
 - (xix) Environmental quality
 - (xx) Natural and human induced hazards
 - (xxi) Science and technology in society
 - (xxii) Science and technology in local, national, and global challenges
- (27) **Physical sciences 6-12.** The candidate for licensure and certification:
- (A) Is able to plan an inquiry-based science program for students using as a framework, Oklahoma's core curriculum. In doing this, one:
 - (i) Develops a framework of yearlong and short-term goals for students.
 - (ii) Understands curriculum design to meet the interests, knowledge, understanding, abilities, and experiences of students.
 - (iii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.
 - (iv) Works with colleagues within and across disciplines and grade levels.
 - (B) Is able to guide and facilitate learning. In doing this, one:
 - (i) Focuses and supports inquiries while interacting with students.
 - (ii) Facilitates discussion among students about scientific ideas.
 - (iii) Challenges students to accept and share responsibility for their own learning.
 - (iv) Recognizes and responds to student diversity and encourages all students to participate fully in science learning.
 - (v) Encourages and models the skills of scientific inquiry, as well as the curiosity, openness to new ideas and data, and questioning that characterizes science.
 - (C) Is able to engage in ongoing assessment of own teaching and of student learning. In doing this, one:

- (i) Uses multiple methods and systematically gathers data about student understanding and ability.
 - (ii) Analyzes assessment data to guide teaching.
 - (iii) Guides students in the evaluation of their work.
 - (iv) Uses student data, observations of teaching, and interaction with colleagues to reflect on and improve teaching practice.
 - (v) Uses student assessment information and classroom observation to report student achievement to students and parents.
- (D) Is able to design and manage learning environments that provide students with the time, space, and resources needed for developing science skills. In doing this, one:
- (i) Structures the time so that students are able to engage in extended investigations.
 - (ii) Creates a setting for student work that is flexible and supportive of science inquiry.
 - (iii) Ensures a safe working environment.
 - (iv) Makes the available science tools, materials, media, and technological resources accessible to students.
 - (v) Identifies and uses resources outside the school.
 - (vi) Engages students in designing the learning environment.
- (E) Is able to develop communities of science learners that reflect the intellectual rigor of scientific inquiry and the climate conducive to science learning. In doing this, one:
- (i) Respects the diverse needs, skills, and experiences of all students.
 - (ii) Enables students to have a significant voice in decisions about the content and context of their work and prepares students to take responsibility for learning.
 - (iii) Encourages collaboration among students.
 - (iv) Structures and facilitates ongoing formal and informal discussion based on a shared understanding of rules of scientific discourse.
 - (v) Models and emphasizes the skills and value of scientific inquiry.
- (F) Is able to use a variety of instructional strategies and use integrated and interdisciplinary curriculum.
- (G) Is able to teach with a broad understanding of all content areas and understands the interaction between the sciences and the process skills. Identified Physical Science concepts and content areas are:
- (i) Properties and changes of properties in matter
 - (ii) Motions and force
 - (iii) The structure of atoms
 - (iv) Structure and properties of matter
 - (v) Chemical reactions
 - (vi) Conservation of energy
 - (vii) Interactions of energy and matter
 - (viii) The earth system
 - (ix) The Universe
- (H) Is able to develop conceptual understanding for science content using the process skills listed in Oklahoma's core curriculum, in Grades 6 through 12. Identified Science concepts and content areas are:
- (i) System, order, and organization
 - (ii) Evidence, models, and explanation
 - (iii) Constancy, change, equilibrium, and measurement
 - (iv) Form and function
 - (v) Abilities of technological design
 - (vi) Understanding about science and technology
 - (vii) Science as a human endeavor
 - (viii) Nature of science
 - (ix) Nature of scientific knowledge
 - (x) History of science
 - (xi) Historical perspectives
 - (xii) Personal health
 - (xiii) Personal and community health
 - (xiv) Population, resources, and environments
 - (xv) Population growth
 - (xvi) Natural hazards
 - (xvii) Natural resources
 - (xviii) Risks and benefits
 - (xix) Environmental quality
 - (xx) Natural and human induced hazards
 - (xxi) Science and technology in society
 - (xxii) Science and technology in local, national, and global challenges
- (28) **Chemistry 6-12.** The candidate for licensure and certification:
- (A) Is able to plan an inquiry-based science program for students using as a framework, Oklahoma's core curriculum. In doing this, one:
- (i) Develops a framework of yearlong and short-term goals for students.
 - (ii) Understands curriculum design to meet the interests, knowledge, understanding, abilities, and experiences of students.
 - (iii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.
 - (iv) Works with colleagues within and across disciplines and grade levels.
- (B) Is able to guide and facilitate learning. In doing this, one:
- (i) Focuses and supports inquiries while interacting with students.
 - (ii) Facilitates discussion among students about scientific ideas.
 - (iii) Challenges students to accept and share responsibility for their own learning.

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- (iv) Recognizes and responds to student diversity and encourages all students to participate fully in science learning.
 - (v) Encourages and models the skills of scientific inquiry, as well as the curiosity, openness to new ideas and data, and questioning that characterizes science.
- (C) Is able to engage in ongoing assessment of own teaching and of student learning. In doing this, one:
- (i) Uses multiple methods and systematically gathers data about student understanding and ability.
 - (ii) Analyzes assessment data to guide teaching.
 - (iii) Guides students in the evaluation of their work.
 - (iv) Uses student data, observations of teaching, and interaction with colleagues to reflect on and improve teaching practice.
 - (v) Uses student assessment information and classroom observation to report student achievement to students and parents.
- (D) Is able to design and manage learning environments that provide students with the time, space, and resources needed for developing science skills. In doing this, one:
- (i) Structures the time so that students are able to engage in extended investigations.
 - (ii) Creates a setting for student work that is flexible and supportive of science inquiry.
 - (iii) Ensures a safe working environment.
 - (iv) Makes the available science tools, materials, media, and technological resources accessible to students.
 - (v) Identifies and uses resources outside the school.
 - (vi) Engages students in designing the learning environment.
- (E) Is able to develop communities of science learners that reflect the intellectual rigor of scientific inquiry and the climate conducive to science learning. In doing this, one:
- (i) Respects the diverse needs, skills, and experiences of all students.
 - (ii) Enables students to have a significant voice in decisions about the content and context of their work and prepares students to take responsibility for learning.
 - (iii) Encourages collaboration among students.
 - (iv) Structures and facilitates ongoing formal and informal discussion based on a shared understanding of rules of scientific discourse.
 - (v) Models and emphasizes the skills and value of scientific inquiry.
- (F) Is able to use a variety of instructional strategies and use integrated and interdisciplinary curriculum.

(G) Is able to teach with a broad understanding of all content areas and understands the interaction between the sciences and the process skills. Identified Chemistry concepts and content areas are:

- (i) Structures and properties of matter
- (ii) Chemical reactions
- (iii) Transfer of energy
- (iv) The structure of atoms
- (v) Properties and changes of properties in matter

(H) Is able to develop conceptual understanding for science content using the process skills listed in Oklahoma's core curriculum, in Grades 6 through 12. Identified Science concepts and content areas are:

- (i) System, order, and organization
- (ii) Evidence, models, and explanation
- (iii) Constancy, change, equilibrium, and measurement
- (iv) Form and function
- (v) Abilities of technological design
- (vi) Understanding about science and technology
- (vii) Science as a human endeavor
- (viii) Nature of science
- (ix) Nature of scientific knowledge
- (x) History of science
- (xi) Historical perspectives
- (xii) Personal health
- (xiii) Personal and community health
- (xiv) Population, resources, and environments
- (xv) Population growth
- (xvi) Natural hazards
- (xvii) Natural resources
- (xviii) Risks and benefits
- (xix) Environmental quality
- (xx) Natural and human induced hazards
- (xxi) Science and technology in society
- (xxii) Science and technology in local, national, and global challenges

(29) **Physics 6-12.** The candidate for licensure and certification:

(A) Is able to plan an inquiry-based science program for students using as a framework, Oklahoma's core curriculum. In doing this, one:

- (i) Develops a framework of yearlong and short-term goals for students.
- (ii) Understands curriculum design to meet the interests, knowledge, understanding, abilities, and experiences of students.
- (iii) Selects teaching and assessment strategies that support the development of student understanding and encourage a community of science learners.
- (iv) Works with colleagues within and across disciplines and grade levels.

(B) Is able to guide and facilitate learning. In doing this, one:

- (i) Focuses and supports inquiries while interacting with students.
 - (ii) Facilitates discussion among students about scientific ideas.
 - (iii) Challenges students to accept and share responsibility for their own learning.
 - (iv) Recognizes and responds to student diversity and encourages all students to participate fully in science learning.
 - (v) Encourages and models the skills of scientific inquiry, as well as the curiosity, openness to new ideas and data, and questioning that characterizes science.
- (C) Is able to engage in ongoing assessment of own teaching and of student learning. In doing this, one:
- (i) Uses multiple methods and systematically gathers data about student understanding and ability.
 - (ii) Analyzes assessment data to guide teaching.
 - (iii) Guides students in the evaluation of their work.
 - (iv) Uses student data, observations of teaching, and interaction with colleagues to reflect on and improve teaching practice.
 - (v) Uses student assessment information and classroom observation to report student achievement to students and parents.
- (D) Is able to design and manage learning environments that provide students with the time, space, and resources needed for developing science skills. In doing this, one:
- (i) Structures the time so that students are able to engage in extended investigations.
 - (ii) Creates a setting for student work that is flexible and supportive of science inquiry.
 - (iii) Ensures a safe working environment.
 - (iv) Makes the available science tools, materials, media, and technological resources accessible to students.
 - (v) Identifies and uses resources outside the school.
 - (vi) Engages students in designing the learning environment.
- (E) Is able to develop communities of science learners that reflect the intellectual rigor of scientific inquiry and the climate conducive to science learning. In doing this, one:
- (i) Respects the diverse needs, skills, and experiences of all students.
 - (ii) Enables students to have a significant voice in decisions about the content and context of their work and prepares students to take responsibility for learning.
 - (iii) Encourages collaboration among students.
 - (iv) Structures and facilitates ongoing formal and informal discussion based on a shared understanding of rules of scientific discourse.
 - (v) Models and emphasizes the skills and value of scientific inquiry.
- (F) Is able to use a variety of instructional strategies and use integrated and interdisciplinary curriculum.
- (G) Is able to teach with a broad understanding of all content areas and understands the interaction between the sciences and the process skills. Identified Physics concepts and content areas are:
- (i) Motions and forces
 - (ii) Conservation of energy
 - (iii) Transfer of energy
 - (iv) Interactions of energy and matter
- (H) Is able to develop conceptual understanding for science content using the process skills listed in Oklahoma's core curriculum, in Grades 6 through 12. Identified Science concepts and content areas are:
- (i) System, order, and organization
 - (ii) Evidence, models, and explanation
 - (iii) Constancy, change, equilibrium, and measurement
 - (iv) Form and function
 - (v) Abilities of technological design
 - (vi) Understanding about science and technology
 - (vii) Science as a human endeavor
 - (viii) Nature of science
 - (ix) Nature of scientific knowledge
 - (x) History of science
 - (xi) Historical perspectives
 - (xii) Personal health
 - (xiii) Personal and community health
 - (xiv) Population, resources, and environments
 - (xv) Population growth
 - (xvi) Natural hazards
 - (xvii) Natural resources
 - (xviii) Risks and benefits
 - (xix) Environmental quality
 - (xx) Natural and human induced hazards
 - (xxi) Science and technology in society
 - (xxii) Science and technology in local, national, and global challenges
- (30) **Social Studies**
- (A) **United States History/Oklahoma History/government/economics.** The candidate for licensure and certification:
- (i) Knows the major themes of United States history and their interrelatedness.
 - (ii) Understands how the political growth, major events, and individuals affected the development of the United States.
 - (iii) Examines and analyzes historical documents which contributed to the establishment and growth of the government of the United States.
 - (iv) Identifies and describes events, trends, individuals, and movements which shaped the social, economic, and cultural development of the United States.

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- (v) Analyzes events and identifies individuals who defined and continue to impact the role of the United States in world affairs.
 - (vi) Knows the roles and function of government and the foundations, structure, and function of American government.
 - (vii) Identifies and explains the rights and responsibilities of citizens of the United States.
 - (viii) Describes the characteristics of local and state governments and the national government, and the relationships among the different levels of government.
 - (ix) Analyzes how the American political process works and the relationship of the process to the individual as a citizen of the state and the nation.
 - (x) Identifies and analyzes the events which led to Oklahoma's historical, political, economic, and cultural development.
 - (xi) Identifies important individuals and groups which have had an influence on Oklahoma's heritage.
 - (xii) Identifies the diverse geographic features and resources found in Oklahoma and describes their influence on Oklahoma's historical development and economy.
 - (xiii) Understands basic application of economic theories.
 - (xiv) Interprets economic trends in historical, political, and geographic contexts.
 - (xv) Analyzes the influence of the past on the present and uses a knowledge of history and government to anticipate and plan for the future, evaluating alternative courses of action.
 - (xvi) Applies the skills of analysis, interpretation, research, and decision-making to develop an understanding of history, government, and economic concepts.
 - (xvii) Knows the content of the Oklahoma core curriculum for United States History, Oklahoma History, government, and economics.
- (B) **World History/geography.** The candidate for licensure and certification:
- (i) Compares and contrasts differing sets of ideas, personalities, and institutions of world cultures and major historical periods.
 - (ii) Analyzes the cause and effect of relationships, multiple causation and perspectives, including the importance of the individual on historical events.
 - (iii) Analyzes the influence of the past on the present and uses a knowledge of history and geography to anticipate and plan for the future, evaluating alternative courses of action.
 - (iv) Interprets given historical data in order to evaluate information in its context.
 - (v) Knows the six elements of geographic organization: the world in spatial terms, places

and regions, physical systems, human systems, environment and society, and application of geographic data, and applies them to developing an understanding of geography concepts.

- (vi) Applies the skills of analysis, interpretation, research, and decision-making to develop an understanding of history and geographic concepts.
- (vii) Knows the content of the Oklahoma core curriculum for World History and Geography.

(C) **Psychology/sociology.** The candidate for licensure and certification:

- (i) Exhibits a basic intellectual grasp of psychological and sociological theories, vocabulary, history, and recent trends in the fields of psychology and sociology.
- (ii) Understands basic concepts relative to social, developmental, abnormal and clinical psychology, learning theory (classical, operant, and cognitive), and other significant areas in the discipline of psychology, such as the scientific method.
- (iii) Knows basic brain-based research and theory, and how biology and behavior interact.
- (iv) Recognizes the differences among experimental, classical, and conditioning approaches to the study of psychology.
- (v) Analyzes and interprets how today's psychologists view behavior in the following areas: the biological, the cognitive, the person-centered, and the psycho-dynamic perspectives.
- (vi) Knows the theories and measurement of intelligence testing.
- (vii) Knows basic concepts relative to group behavior, ethnicity, social mores, crime, demographics and current social issues.
- (viii) Knows and analyzes culture, social structure, social stratification, social institutions, socialization, social movements, and social problems, as sociological concepts.
- (ix) Knows and applies the basic sociological research processes, e.g., hypothesis formulations, sampling

(31) **Special Education (birth through twelfth grade).**

For purposes of providing special education services and identifying competencies deemed necessary for licensure and certification, four areas of disabilities have been identified within the overall field of special education; these are Blind/Visual Impairment, Deaf/Hard of Hearing, Mild-Moderate Disabilities, and Severe-Profound/Multiple Disabilities. Competencies identified at the early childhood level and deemed common to all areas of disabilities are addressed in (A) and apply to all candidates for licensure and certification in any area of special education. Additional competencies in each of the four areas listed above in this paragraph are addressed in (B) through (E).

(A) **Competencies common to all areas of disabilities.** The candidate for licensure and certification:

- (i) Understands the historical, social, and ethical foundations; legal and regulatory; and current trends and issues of early childhood, early childhood special education, and special education.
- (ii) Identifies specific/common disabilities in children and the implications for development and learning.
- (iii) Plans and implements programming and curricula using current best practices and principles of early childhood education.
- (iv) Understands typical and atypical development and the interdependency of all developmental areas, and respects each child's unique characteristics and their implications for learning.
- (v) Demonstrates knowledge and skills in selection and administration of developmental screening, assessment, and evaluation instruments and methods which are comprehensive, nondiscriminatory for linguistic and cultural differences, formal and informal, and appropriate for children with early childhood disabilities.
- (vi) Participates and collaborates with all team members in conducting the evaluation/assessment within the multidisciplinary team process.
- (vii) Understands and demonstrates knowledge of the individualized family service plan (IFSP)/individualized education program (IEP) process by:
 - (I) using assessment results, in partnership with the family and other team members, to develop the IFSP/IEP
 - (II) monitoring IFSP/IEP progress
- (viii) Understands and implements early childhood curricula by adapting educational strategies, schedules and environments (individual, group, home settings) to meet the specific needs, interests, and experiences of all children.
- (ix) Understands and participates in the transition process across programs and service systems by:
 - (I) planning for and linking current developmental learning experiences and teaching strategies with those of the next educational setting
 - (II) communicating options for programs and services at the next level, while assisting the family in planning for transition.
- (x) Develops and uses formative and summative program evaluation to ensure comprehensive quality of programs and services for children and their families.
- (xi) Collaborates and consults regularly with families, other team members, and agencies to enhance and support children's learning and development by:
 - (I) assisting families in identifying resources, priorities, and concerns, and in accessing appropriate services
 - (II) respecting parents' choices and goals for their children
 - (III) implementing services for children and their families, consistent with laws, regulations, and procedural safeguards
- (xii) Uses positive and supportive early childhood guidance, teaching, and behavioral strategies which help all children learn to make responsible decisions regarding their own behavior and contribute to the development of self-control, self-motivation, and self-worth.
- (xiii) Demonstrates professionalism and ethical practice, including:
 - (I) advocacy on behalf of young children and their families to improve quality of programs and services for young children and for early childhood special education
 - (II) implementation of a professional development plan which incorporates best practices and principles.
- (xiv) Understands and applies the following competencies in reading instruction.
 - (I) Knows the stages of language development and the structure of the English language and alphabetic writing system including phonology, morphology, and orthography and their relationships to spelling and meaning.
 - (II) Understands that primary language (oral) directly impacts the secondary languages (reading, writing, spelling). Knows and applies knowledge of implicit and explicit instruction in developing oral language. Knows the relationship of oral language to literacy.
 - (III) Knows the developmental process of reading in order to assess, interpret, describe, develop appropriate instruction, monitor, reteach and reassess student's reading performance for concepts about print, phonological and phonemic awareness, phonics, spelling, word recognition, vocabulary, comprehension, fluency, and writing.
 - (IV) Identifies and applies all developmental levels of phonemic awareness to provide appropriate instruction in understanding words are made up of phonemes and that phonemes can be rearranged and manipulated to make different words that compose oral speech.
 - (V) Knows and provides appropriate systematic explicit and implicit phonological instruction for the application of spelling-sound correspondences for word analysis and for structural analysis for word recognition and word meaning development.
 - (VI) Knows and applies the relationships between spelling patterns and sounds of speech; knows how to support the student at each stage of spelling development; knows how to focus

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direct and indirect instruction to guide the student toward spelling proficiency.

(VII) Knows and applies knowledge of appropriate explicit and implicit instruction for vocabulary development, e.g., prefixes, suffixes and roots.

(VIII) Knows and applies strategies that promote comprehension and strategies to support children's understanding for the various elements of the different genres of text.

(IX) Knows and applies strategies and instructional approaches to support response to text and promote comprehension for literal, inferential, and critical/evaluative level, e.g., guided reading, literature and research circles.

(X) Knows and applies knowledge of instructional techniques to assist students with self-monitoring and self-corrections, i.e., semantics, syntax, and graphophonics.

(XI) Knows and applies the instructional strategies which contribute to the development of fluent reading.

(XII) Knows how to promote children's interest and engagement in reading and writing.

(B) **Blind/visual impairment.** The candidate for licensure and certification:

(i) Understands the philosophical, historical, and legal foundations of special education for students with visual impairment including:

- (I) trends and issues in special education
- (II) special education policies and procedures
- (III) laws and regulations regarding special education

(ii) Demonstrates knowledge of characteristics of students with visual impairments.

(iii) Demonstrates knowledge and skills in assessment, diagnosis, evaluation, and eligibility determination within the multidisciplinary team process for students with visual impairments including:

- (I) procedures relevant to the impact of specific visual disorders on learning and experience, as well as procedures used for screening, prereferral, referral, and identification of students with visual impairments:
- (II) vision screening methods
- (III) functional vision assessment
- (IV) learning media assessment
- (V) orientation and mobility
- (VI) independent living skills
- (VII) vocational skills
- (VIII) assistive technology
- (IX) recreation and leisure skills
- (X) classroom observation

(iv) Understands and demonstrates knowledge of the individualized education programs (IEP) process by:

(I) using assessment results, in partnership with team members, to develop the IEP

(II) monitoring IEP progress

(v) Demonstrates knowledge and skills to plan and implement appropriate and effective individualized education programs for students with visual impairments, based upon knowledge of subject matter and adaptation of curriculum and materials to meet individual abilities and sensory, conceptual and communication needs, including:

- (I) social interaction skills
- (II) recreation and leisure skills
- (III) use of assistive technology
- (IV) prerequisite skills and concepts for orientation and mobility instruction
- (V) independent living skills
- (VI) career education
- (VII) visual efficiency skills
- (VIII) literacy skills
- (IX) organizational skills

(vi) Plans and manages supportive educational environments relative to the student's specific visual condition, including:

- (I) acquisition and use of unique assistive technology (e.g., computers, printers, scanners, screen access, note-taking devices, software, speech output devices, CCTV, etc.)
- (II) acquisition and use of specialized equipment and materials (Braille writer, abacus, slate and stylus, paper, Braille/large print/cassette textbooks, tactile maps, charts, graphs, optical, and nonoptical aids, etc.)
- (III) modification of the physical environment
- (IV) implementation of appropriate instructional strategies
- (V) incorporation of basic orientation and mobility skills

(vii) Demonstrates knowledge and applies skills relative to the management of student behavior and social interaction skills unique to students with visual impairments, including:

- (I) influences of the disability (ies) and other factors impacting the child's behavior and social skills
- (II) instruction in social interaction skills, adaptive behavior, and appropriate behaviors
- (III) appropriate behavior management and ethical considerations using a variety of interventions and techniques

(viii) Demonstrates knowledge and skills in communication and collaborative partnerships, including:

- (I) communication with families, professionals, ancillary personnel, student peers, and community members to improve the quality of education for students with visual impairments

- (II) interrelationships of resource and related service providers
 - (III) educational activities regarding specific visual conditions through inservice, consultation, etc.
 - (IV) transition planning
 - (ix) Demonstrates knowledge and skills to promote successful transitions at all levels of the education process and in various environments, including:
 - (I) completion of secondary level program/postsecondary planning
 - (II) transitions across programs and service delivery systems
 - (x) Demonstrates knowledge and skills in providing an appropriate education for students in the least restrictive environment, including the full continuum of placement alternatives
 - (xi) Demonstrates management skills pertaining to the various service delivery models representing the full continuum of placement options for students with visual impairments, including:
 - (I) time management and scheduling
 - (II) record keeping
 - (III) prioritizing caseload
 - (IV) roles and responsibilities
 - (V) travel issues relevant to service delivery
 - (VI) site specific climate and culture
 - (xii) Demonstrates professional and ethical conduct and advocacy for the unique needs of all students with visual impairments regardless of the availability of services.
- (C) **Deaf/hard of hearing.** The candidate for licensure and certification:
- (i) Understands the philosophical, historical, and legal foundations of special education for students who are deaf or hard of hearing, including:
 - (I) trends and issues in special education
 - (II) special education policies and procedures
 - (III) laws and regulations regarding special education
 - (ii) Demonstrates knowledge of characteristics and development of students who are deaf or hard of hearing, including:
 - (I) communication features (visual, spatial, tactile, auditory) necessary to enhance cognitive, emotional, and social development
 - (II) etiologies (causes) of hearing loss
 - (III) effects of onset, age of identification, and provision of services
 - (iii) Demonstrates knowledge and skills in assessment, diagnosis, evaluation, and eligibility determination within the multidisciplinary team process for students who are deaf or hard of hearing, including
 - (I) use of the natural/native/preferred language or mode of communication of the student
 - (II) interpretation of results for use in educational programming
 - (iv) Understands and demonstrates knowledge of the individualized education program (IEP) process by:
 - (I) using assessment results, in partnership with team members, to develop the IEP
 - (II) monitoring IEP progress
 - (v) Demonstrates knowledge and skills to plan and implement appropriate and effective instruction for students who are deaf or hard of hearing based upon knowledge of subject matter, curriculum goals, and students' individual abilities and needs by use of:
 - (I) multimedia skills
 - (II) techniques for modifying and adapting curriculum and materials to meet physical, sensory, cognitive, cultural, and communication needs in various learning environments
 - (vi) Plans and manages supportive teaching and learning environments that maximize opportunities for visually oriented and/or auditory learning and facilitate participation of students who are deaf or hard of hearing using:
 - (I) knowledge of current devices and assistive technology, including their application and resources (e.g., captioning, computers, augmentative communication devices, etc.)
 - (II) classroom management techniques
 - (vii) Demonstrates knowledge and skills in managing student behavior and social interaction skills, including:
 - (I) appropriate behavioral management and ethical considerations using a variety of interventions and techniques
 - (II) influences of the disability(ies) and other factors impacting the child's behavior and social interaction skills
 - (viii) Understands how language develops naturally and that early comprehensible communication influences the development of the whole child.
 - (ix) Demonstrates proficiency in the languages and modes of communication that are used in the instruction of students who are deaf or hard of hearing.
 - (x) Understands the social and cultural aspects of the deaf perspective and deaf experience.
 - (xi) Demonstrates knowledge and skills in communication and forming collaborative partnerships with families, professionals, and community members to improve the quality of education for students who are deaf or hard of hearing.
 - (xii) Demonstrates knowledge and skills to promote successful transitions at all levels of the

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education process and in various environments, including:

(I) completion of secondary level program/postsecondary planning

(II) transitions across programs and service delivery systems

(xiii) Demonstrates knowledge and skills in providing an appropriate education for students in the least restrictive environment, including the full continuum of placement alternatives.

(xiv) Demonstrates professional and ethical conduct in matters related to the education of students who are deaf or hard of hearing.

(D) **Mild-moderate disabilities.** The candidate for licensure and certification will demonstrate his/her mastery of these standards through the master of the Council for Exceptional Children's (CEC) Core Knowledge and Skills and through the mastery of the CEC Knowledge and Skill Base for Teachers of Students in Individualized General Curriculums. The candidate:

(i) Understands the philosophical, evidence-based principals and theories, historical and legal foundations of special education, and how these influence professional practices. These would include:

(I) trends and issues in special education;

(II) special education policies and procedures;

(III) laws and regulations regarding special education;

(IV) issues of human diversity and its relevance to special education;

(V) human issues that influence the field of special education; and

(VI) relationships of special education to the organization and functions of schools, school systems, and agencies.

(ii) Understands the similarities and differences in human development, the characteristics of all learners, and how exceptional conditions interact with the domains of human development to respond to varying abilities and behaviors of individuals with disabilities while demonstrating respect for their students.

(iii) Understands the effects that a disability (including aspects of cognition, communication, physical, medical, and social/emotional) can have on learning and how primary language, culture and familial background can interact with the student's disabilities to impact academic, and social abilities, attitudes, values, interests and career options. The understanding of these learning differences and their possible interactions provide the foundation upon which a special educator individualizes instruction to provide meaningful and challenging learning for students with disabilities.

(iv) Possesses a repertoire of evidenced-based instructional strategies to individualize instruction for students with disabilities and emphasizes the development, maintenance, and generalization of knowledge and skills across environments, settings, and the life span. These evidenced-based instructional strategies should:

(I) promote positive learning results in the general curriculum in age-appropriate settings;

(II) promote multiple methods for teaching reading;

(III) modify learning environments;

(IV) enhance critical thinking, problem solving and performance skills;

(V) promote self-determination;

(VI) enhance integration and coordination of related services for educational benefit; and

(VII) promote transition.

(v) Demonstrates knowledge and skills in creating positive and safe learning environments for students with disabilities, and that also foster active engagement of students with disabilities. In addition, special educators foster environments that:

(I) value diversity;

(II) promote independence and productivity;

(III) assist general education colleagues in integrating students with disabilities;

(IV) use direct motivational and instructional interventions;

(V) utilize positive behavior supports and crisis management techniques;

(VI) guide and direct paraprofessionals and others; and

(VII) provide specialized school health practices and techniques for health and safety.

(vi) Understands typical and atypical language development and uses strategies to enhance language development and teach communication skills to students with disabilities. This is accomplished by using:

(I) effective language models;

(II) augmentative, alternative and assistive technologies;

(III) communication strategies and resources to facilitate understanding of subject matter for students with disabilities and those students with disabilities whose primary language is not English; and

(IV) matching communication methods to the student's language proficiency and cultural and linguistic differences.

(vii) Develops long- and short-range instructional plans anchored in both general and special education curricula emphasizing:

(I) effective modeling;

(II) efficient guided practice;

- (III) modifications based on ongoing analysis of the individuals learning progress;
 - (IV) collaboration;
 - (V) individualized transition plans;
 - (VI) use of appropriate technologies; and
 - (VII) positive behavior supports.
- (viii) Understands legal policies and ethical principals of multiple types of assessment information related to referral, eligibility, program planning, instruction and placement of students with disabilities including those from culturally and linguistically diverse backgrounds. Special educators use assessment information to identify supports and adaptations required for students with disabilities to access general and special curricula and participate in school, system and statewide assessment programs. Special educators regularly monitor students' progress and use appropriate technologies to support assessments. Special educators must understand:
- (I) measurement theory and practices for addressing validity, reliability, norms, bias, and interpretation of assessment results and
 - (II) appropriate use and limitations of various assessment.
- (ix) Demonstrates knowledge and skills regarding legal, professional, and ethical practices including:
- (I) sensitivity to the many aspects of diversity;
 - (II) engaging in professional growth as lifelong learners;
 - (III) keeping current with evidence-based effective practices; and
 - (IV) participating in professional activities that benefit individuals with disabilities and their families.
- (x) Routinely and effectively collaborates with families, colleagues, related service providers, community agencies and other resources in positive and culturally responsive ways to assure that the needs of students with disabilities are addressed including facilitation of successful transitions of students with disabilities across settings and services.
- (E) **Severe-profound/multiple disabilities.** The candidate for licensure and certification will demonstrate his/her mastery of these standards through the mastery of the Council for Exceptional Children's (CEC) Core Knowledge and Skills and through the mastery of the CEC Knowledge and Skill Base for Teachers of Students in Independence Curriculums. The candidate:
- (i) Understands the philosophical, evidence-based principals and theories, historical and legal foundations of special education, and how these influence professional practices. These would include:
 - (I) trends and issues in special education;
 - (II) special education policies and procedures;
 - (III) laws and regulations regarding special education;
 - (IV) issues of human diversity and its relevance to special education;
 - (V) human issues that influence the field of special education; and
 - (VI) relationships of special education to the organization and functions of schools, school systems, and agencies.
 - (ii) Understands the similarities and differences in human development, the characteristics of all learners, and how exceptional conditions interact with the domains of human development to respond to varying abilities and behaviors of individuals with disabilities while demonstrating respect for their students.
 - (iii) Understands the effects that a disability (including aspects of cognition, communication, physical, medical, and social/emotional) can have on learning and how primary language, culture and familial background can interact with the student's disabilities to impact academic, and social abilities, attitudes, values, interests and career options. The understanding of these learning differences and their possible interactions provide the foundation upon which a special educator individualizes instruction to provide meaningful and challenging learning for students with disabilities.
 - (iv) Possesses a repertoire of evidenced-based instructional strategies to individualize instruction for students with disabilities and emphasizes the development, maintenance, and generalization of knowledge and skills across environments, settings, and the life span. These evidenced-based instructional strategies should:
 - (I) promote positive learning results in general and special curricula in age-appropriate settings, especially functional curricula;
 - (II) modify learning environments;
 - (III) utilize community-based instruction and vocational instruction;
 - (IV) enhance communication skills;
 - (V) enhance critical thinking, problem solving and performance skills;
 - (VI) promote self-determination;
 - (VII) enhance integration and coordination of related services for educational benefit; and
 - (VIII) promote transition.
 - (v) Demonstrates knowledge and skills in creating positive and safe learning environments for students with disabilities, and that also foster active engagement of students with disabilities. In addition, special educators foster environments that:
 - (I) value diversity;

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- (II) promote independence and productivity;
 - (III) assist general education colleagues in integrating students with disabilities;
 - (IV) use direct motivational and instructional interventions;
 - (V) utilize positive behavior supports and crisis management techniques;
 - (VI) guide and direct paraprofessionals and others; and
 - (VII) provide specialized school health practices and techniques for health and safety.
- (vi) Understands typical and atypical language development and uses strategies to enhance language development and teach communication skills to students with disabilities. This is accomplished by using:
- (I) effective language models;
 - (II) augmentative, alternative and assistive technologies;
 - (III) communication strategies and resources to facilitate understanding of subject matter for students with disabilities and those students with disabilities whose primary language is not English; and
 - (IV) matching communication methods to the student's language proficiency and cultural and linguistic differences.
- (vii) Develops long- and short-range instructional plans anchored in both general and special education curricula emphasizing:
- (I) effective modeling;
 - (II) efficient guided practice;
 - (III) modifications based on ongoing analysis of the individuals learning progress;
 - (IV) collaboration;
 - (V) individualized transition plans;
 - (VI) use of appropriate technologies; and
 - (VII) positive behavior supports.
- (viii) Understands legal policies and ethical principals of multiple types of assessment information related to referral, eligibility, program planning, instruction and placement of students with disabilities including those from culturally and linguistically diverse backgrounds. Special educators use assessment information to identify supports and adaptations required for students with disabilities to access general and special curricula and participate in school, system and statewide assessment programs. Special educators regularly monitor students' progress and use appropriate technologies to support assessments. Special educators must understand:
- (I) measurement theory and practices for addressing validity, reliability, norms, bias, and interpretation of assessment results and
 - (II) appropriate use and limitations of various assessments.
- (ix) Demonstrates knowledge and skills regarding legal, professional, and ethical practices including:
- (I) sensitivity to the many aspects of diversity;
 - (II) engaging in professional growth as lifelong learners;
 - (III) keeping current with evidence-based effective practices; and
 - (IV) participating in professional activities that benefit individuals with disabilities and their families.
- (x) Routinely and effectively collaborates with families, colleagues, related service providers, community agencies and other resources in positive and culturally responsive ways to assure that the needs of students with disabilities are addressed including facilitation of successful transitions of students with disabilities across settings and services.
- (32) **Speech/drama/debate (Secondary).** The candidate for licensure and certification:
- (A) Maintains a current knowledge of concepts of the field of speech communication including: oral interpretation of literature, theater, the electronic media, public speaking, argumentation, and critical thinking skills.
 - (B) Applies comprehension, analysis, interpretation, synthesis, and evaluation of vocal, verbal and nonverbal messages.
 - (C) Applies appropriate learning strategies for critical thinking, research, organization, and presentation of messages appropriate to participation in a democratic society.
 - (D) Communicates effectively in interpersonal, small group, and public communication situations using appropriate language and nonverbal signals.
 - (E) Understands the influence of social and historical contexts, and culture on public address and literature of the theater.
 - (F) Understands the impact of cultural diversity upon the communication process.
 - (G) Establishes a communication climate which encourages reflection, creativity, and critical thinking.
 - (H) Uses differing assessment strategies to evaluate student competencies in a variety of speaking/listening situations.
 - (I) Uses technology (i.e., videotaping of presentations, computers to generate visual aids and as a research tool) to enhance instruction.
 - (J) Understands and uses teaching strategies appropriate for the analysis and presentation of a variety of forms (genres) of public address and literature of the theater, available in electronic media and from printed sources.

- (K) Understands the importance of effective communication skills in the personal and professional arenas.
- (L) Understands the role of co-curricular and extracurricular activities in the development of student interest as an extension of the classroom instruction.
- (M) Understands, teaches, and implements Oklahoma's Core Curriculum.
- (33) **Speech-language pathologist.**
- (A) The candidate for licensure and certification:
- (i) Understands the models, theories and philosophies that provide the basis for the practice of speech/language pathology, in the following knowledge areas:
- (I) content areas in speech/language pathology (language, articulation, voice, fluency, augmentative communication)
- (II) etiologies which may contribute to communication impairments
- (III) a working understanding of other assessments (medical, psychological, audiological, etc.)
- (IV) modality (spoken, written, sign)
- (ii) Accommodates the individual learning styles and communication/educational needs of the student.
- (iii) Demonstrates the ability to screen, evaluate, and diagnose students with suspected communication impairments using a variety of formal and informal procedures.
- (iv) Plans and implements intervention strategies and the appropriate service delivery models for students with communication impairments, including:
- (I) determines least restrictive environment
- (II) provides ongoing assessment and monitors IEP progress
- (III) develops individualized education program (IEP)
- (v) Facilitates the development of the student's functional and literate communication skills (i.e., how communication occurs including written language) across environments, including:
- (I) developing modifications/adaptations
- (II) determining transition service needs
- (vi) Recognizes and understands the relationship among behavior, social interaction and communication impairments, and is able to determine realistic expectations for the student's personal and social behavior in various settings.
- (vii) Uses collaborative strategies in working with parents, school, and community to address the needs of students with communication impairments.
- (viii) Promotes and maintains competence and integrity in the practice of speech/language pathology as follows:
- (I) develops a plan for professional development
- (II) identifies community agencies and resources
- (ix) Implements practices that recognize the multicultural issues and the effect of cultural and linguistic diversity on students' communication skills and learning styles.
- (x) Demonstrates knowledge of laws and regulations pertaining to students with communication impairments.
- (B) Competency for Speech-language Pathologist certification may also be verified by the Certificate of Clinical Competence (C.C.C.) from the American Speech-Language Hearing Association (ASHA).
- (34) **Agricultural education.** The candidate for licensure and certification shall possess the competencies specified in (A) through (F).
- (A) **Agricultural business/marketing.** The candidate for licensure and certification understands the fundamental principles of agricultural business/marketing and management including principles of basic recordkeeping and methods for acquiring and managing agricultural finances.
- (B) **Animal science.** The candidate for licensure and certification:
- (i) Selects and handles livestock, recognizes factors related to the safe handling of animals and animal products which become food for human consumption, and understands the importance of alternative agricultural enterprises.
- (ii) Understands concepts and principles of animal reproduction and the importance of livestock health and nutrition.
- (C) **Plant and soil science.** The candidate for licensure and certification:
- (i) Understands concepts, principles, and laboratory skills related to plant and soil science including the importance of traditional crops and alternative enterprises.
- (ii) Knows factors related to the safe handling of plants and plant products which become food for human consumption and identifies causes and characteristics of common plant pests and diseases.
- (D) **Agricultural mechanics.** The candidate for licensure and certification practices:
- (i) shop safety, including the operation and knowledge of hand/power tools,
- (ii) basic principles/concepts of power and machinery, metals and metal processes, and
- (iii) basic principles of building construction.
- (E) **Natural resources.** The candidate for licensure and certification:
- (i) Evaluates the relationship between agriculture and the management of water, land, and air quality, and

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- (ii) Understands concepts and principles of plant and animal environmental factors including the handling of chemicals.
- (F) **Communications/leadership.** The candidate for licensure and certification:
 - (i) Acknowledges the foundations of agricultural education including its purpose, functions, and the background of Future Farmers of America (FFA).
 - (ii) Demonstrates an understanding of basic parliamentary procedure, effective oral and written communication skills, and promotes teamwork, motivation, and leadership principles.
- (35) **Marketing education.** The candidate for licensure and certification shall possess the competencies specified in (A) through (N).
 - (A) **Orientation.** The candidate for licensure and certification applies principles of job search and preparation skills relating to resume and portfolio development, proper completion of application forms, interview preparation, career ladder analysis, and computer technology skills relating to word-processing and computerized presentations.
 - (B) **Marketing.** The candidate for licensure and certification:
 - (i) Applies principles and concepts related to marketing.
 - (ii) Interprets the importance of the marketing concept and functions, how marketing affects society, factors to consider in selecting a channel of distribution, and the concept of target marketing.
 - (C) **Mathematical skills.** The candidate for licensure and certification:
 - (i) Applies basic mathematical operations used in the marketing profession as it pertains to balancing a cash drawer and the automatic and manual methods of making change.
 - (ii) Identifies the uses of basic algebra in marketing.
 - (D) **Human relations.** The candidate for licensure and certification:
 - (i) Applies principles of communications, decision-making, and crisis management.
 - (ii) Identifies characteristics of professionalism on the job and the importance of social skills.
 - (E) **Sales.** The candidate for licensure and certification:
 - (i) Applies principles relating to sales, product information, customer buying decisions, motives for buying, and sales approaches.
 - (ii) Demonstrates methods of handling customer/client complaints and objections.
 - (iii) Explains the concept and use of sales quotas.
 - (F) **Security precautions.** The candidate for licensure and certification:
 - (i) Identifies and explains prevention measures for the security problems of shoplifting, internal theft, burglary, robbery, and fraud.
 - (ii) Identifies common types of fraud.
 - (iii) Recognizes steps necessary to ensure security in shipping and receiving areas.
 - (iv) Identifies precautions for safety on the job.
 - (G) **Economics.** The candidate for licensure and certification:
 - (i) Applies principles related to the classification of goods and services and the types of economic resources.
 - (ii) Compares the types of economic systems and their relationship to the economy.
 - (iii) Identifies the factors which affect economics including economic utility (form, place, time, possession), competition, supply and demand, and the role of government in business.
 - (iv) Understands the characteristics and importance of a private enterprise system and international trade.
 - (v) Identifies the measure and importance of the gross domestic product (GDP) to marketing.
 - (H) **Promotion.** The candidate for licensure and certification:
 - (i) Applies principles related to the use of promotional activities, including the use of media, design and display arrangements, and the print ad.
 - (ii) Explains the role of the promotional plan.
 - (I) **Merchandising.** The candidate for licensure and certification applies principles related to shipping and receiving, inventory control systems, calculation of inventory shrinkage, and industrial purchasing.
 - (J) **Business ownership/entrepreneurship.** The candidate for licensure and certification:
 - (i) Identifies the common types of business ownership in a free enterprise system and the advantages/disadvantages of each.
 - (ii) Discusses the importance of marketing strategies to businesses as they apply the principles of the product mix, product/service planning, marketing decisions for a proposed business, structuring a business, and using four "Ps" of marketing - product, pricing, place, and promotional strategies.
 - (K) **Applied management.** The candidate for licensure and certification:
 - (i) Applies principles of selecting store personnel, recruiting applicants for job openings, interviewing job candidates, and reducing labor turnover.
 - (ii) Recognizes the importance of new-employee orientation.
 - (iii) Understands knowledge of employee motivational theories.
 - (L) **Credit.** The candidate for licensure and certification:

- (i) Applies principles of extending credit to business and customers and the three Cs of credit: character, capacity to pay, and capital.
- (ii) Identifies the reasons for extending credit.
- (M) **Business and industry.** The candidate for licensure and certification:
 - (i) Develops relationships with business and industry through advisory committees, surveys, work-site learning opportunities, curriculum, and program visits.
 - (ii) Communicates with business and industry regarding student competencies/credentials and job performance.
- (N) **Student organizations and activities.** The candidate for licensure and certification:
 - (i) Understands the role of student organizations in developing student professionalism and assists student organizations by coaching, chaperoning, and supervising activities.
 - (ii) Encourages student participation through instruction and recognition of student achievements.
- (36) **Technology education.** The candidate for licensure and certification shall possess the competencies specified in (A) through (J):
 - (A) **Fundamentals of technology.** The candidate for licensure and certification:
 - (i) Understands the fundamentals of technology including important events, developments, components, and current and future trends of technology.
 - (ii) Defines the terms, systems, characteristics, interrelationships, and economics of technology, and their utilization in modern business and industry.
 - (iii) Identifies general laboratory and personal safety practices.
 - (B) **Problem-solving techniques.** The candidate for licensure and certification:
 - (i) Identifies problem-solving techniques.
 - (ii) Understands and applies problem-solving techniques.
 - (C) **Career opportunities.** The candidate for licensure and certification:
 - (i) Explores career opportunities based on career clusters and identifies related terms and definitions.
 - (ii) Identifies activities that develop employability skills.
 - (iii) Recognizes educational requirements and paths for occupational attainment.
 - (D) **Communication systems.** The candidate for licensure and certification:
 - (i) Understands the principles, processes, and functions of communication.
 - (ii) Identifies types of communication technologies.
 - (E) **Construction systems.** The candidate for licensure and certification:
 - (i) Understands and applies the principles of construction technology.
 - (ii) Identifies construction technologies, their effects on society, basic principles of project planning, and steps in the construction process.
 - (F) **Manufacturing systems.** The candidate for licensure and certification:
 - (i) Understands principles of manufacturing and their application.
 - (ii) Identifies materials, equipment, processes, and strategies utilized in manufacturing technologies.
 - (iii) Analyzes the role, function, and responsibilities of manufacturing in a contemporary society.
 - (G) **Energy, power and transportation systems.** The candidate for licensure and certification:
 - (i) Understands the principles and applications of energy, power, and transportation.
 - (ii) Identifies forms of energy, their classification, and their characteristics.
 - (iii) Analyzes power systems and transportation technologies, as well as their characteristics.
 - (iv) Analyzes environmental and economic effects on society.
 - (H) **Technology education delivery systems.** The candidate for licensure and certification:
 - (i) Understands basic principles, terminology, system design, and issues related to technology education delivery systems and telecommunication.
 - (ii) Identifies terms, features, relationships, and procedures associated with the selection, operation, and maintenance of computer systems and technology education software.
 - (iii) Analyzes factors affecting the selection of computer hardware and software.
 - (I) **Business and industry.** The candidate for licensure and certification develops relationships with business and industry through advisory committees, curriculum, and work-site learning opportunities.
 - (J) **Student organizations and activities.** The candidate for licensure and certification:
 - (i) Understands the role of student organizations in encouraging student participation and implementing activities that develop leadership traits.
 - (ii) Integrates student activities in instruction and recognizes student achievements.
- (37) **Vocational business.** The candidate for licensure and certification shall possess competencies specified in (A) through (D).
 - (A) **Business foundations.** The candidate for licensure and certification:
 - (i) Understands important events, developments and trends in the history of business.

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- (ii) Understands business organizational structures, organizational design and their implications.
 - (iii) Understands the basic principles of business law and the types and characteristics of legal instruments.
 - (iv) Analyzes legal issues related to business.
 - (v) Understands business communication.
- (B) **Business management.** The candidate for licensure and certification:
- (i) Understands principles of business management and their applications in the decision-making process
 - (ii) Applies procedures for managing human resources.
 - (iii) Analyzes issues related to economic and social responsibilities in business.
 - (iv) Analyzes factors affecting business marketing decisions.
- (C) **Technology systems.** The candidate for licensure and certification:
- (i) Understands basic principles and terminology related to computer technology.
 - (ii) Understands principles of computer system design.
 - (iii) Applies principles of computer technology to solve problems involving information gathering and analysis.
 - (iv) Applies principles of computer technology to solve problems related to project and business management.
 - (v) Understands information processing systems.
 - (vi) Analyzes data storage, retrieval and transmission systems.
 - (vii) Understands principles of telecommunications and applications of telecommunications in business.
 - (viii) Analyzes ethical and security issues involving technology systems.
- (D) **Business finance and economics.** The candidate for licensure and certification:
- (i) Understands basic principles and applications of accounting.
 - (ii) Applies procedures for processing accounting data.
 - (iii) Understands advanced accounting concepts and procedures.
 - (iv) Understands basic principles and applications of macroeconomics.
 - (v) Analyzes business situations in terms of microeconomic theory.
 - (vi) Applies basic principles of consumer economics and finance.
- (38) **Vocational family and consumer sciences.** The candidate for licensure and certification shall possess the competencies specified in (A) through (I).
- (A) **Child development.** The candidate for licensure and certification:
- (i) Applies child development concepts and guidance techniques in the care of infants, toddlers, preschool and school-age children, as well as children in crisis or with special needs.
 - (ii) Analyzes issues related to children's well-being, parenting, pregnancy, prenatal care, child birth, child care services, and community resources.
- (B) **Foods and nutrition.** The candidate for licensure and certification:
- (i) Analyzes the relationship between food, nutrients, and the body through the application of food science principles, and healthy food choices.
 - (ii) Understands proper food storage/handling techniques, recipe use, food product information, serving/dining etiquette, and consumer skills.
- (C) **Consumer economics and management.** The candidate for licensure and certification:
- (i) Applies principles related to money management, personal financial management, time management, and economics.
 - (ii) Analyzes advertising influences, factors related to housing selection and maintenance, factors related to motor vehicle selection and maintenance, wills, funerals, and consumer credit.
 - (iii) Applies consumer protection practices and skills.
- (D) **Housing and interior design.** The candidate for licensure and certification:
- (i) Plans living space for human needs through the evaluation of housing and financial alternatives.
 - (ii) Applies elements and principles of interior design including exterior styles, interior spaces, interior treatments, furniture, accessories, and appliances.
- (E) **Interpersonal relationships.** The candidate for licensure and certification:
- (i) Applies principles of communications, decision making, and crisis management.
 - (ii) Discusses factors and issues related to parenting, family life, and aging.
 - (iii) Identifies the importance of self-respect and of practicing socially accepted behavior.
- (F) **Clothing and textiles.** The candidate for licensure and certification:
- (i) Applies wardrobe planning and grooming skills.
 - (ii) Applies clothing selection skills, methods of stretching the clothing dollar, care and maintenance practices, construction techniques, and knowledge of types of textiles.
- (G) **Careers.** The candidate for licensure and certification:
- (i) Investigates careers as they relate to personal and career goals.

- (ii) Understands the job application process, factors related to work etiquette, the use of technology in the workplace, and economic principles.
- (H) **Business and industry.** The candidate for licensure and certification:
 - (i) Develops partnerships with business and industry through advisory committees, surveys, work-site learning opportunities, curriculum, and program visits.
 - (ii) Communicates with business and industry regarding student competencies/credentials and job performance.
- (I) **Student organizations and activities.** The candidate for licensure and certification:
 - (i) Understands the role of student organizations in the recognition of student achievements through curricular activities.
 - (ii) Encourages student participation and the development of leadership traits.
- (39) **Occupational agriculture, occupational family and consumer sciences, trade and industrial education, and vocational health occupations.** Competency for occupational agriculture, occupational family and consumer sciences, trade and industrial education, and vocational health occupations will be verified by passing a state or national licensure examination developed specifically to the occupation and/or occupational testing approved by the Oklahoma Department of Vocational and Technical Education. Non-degreed vocational teachers certified under rules promulgated by the State Board of Education are exempt from the provisions of House Bill 1549, except for those provisions concerning professional development programs.
- (40) **Dance education.** The candidate for licensure and certification:
 - (A) Has a sound philosophical understanding and knowledge of dance education and creative movement and can support, justify and implement the dance education.
 - (B) Has a thorough knowledge of a sequential dance/creative movement curriculum that is developmentally appropriate for each grade level and inclusive of various student learning styles and those with special needs.
 - (C) Understands the history of dance and its role in culture and the arts worldwide.
 - (D) Has a working knowledge of dance integration and values the art-related competencies in Oklahoma's core curriculum.
 - (E) Recognizes and respects diversity and establishes environments where individuals dance content and learning are held in high regard.
 - (F) Understands the process of critical thinking and implements problem solving activities, analysis, reflection, decision making and creative exploration in dance.
 - (G) Understands the elements of dance and technical skills in performing dance including:
 - (i) time (i.e., fast slow, even, uneven, accent, meters)
 - (ii) space (i.e., levels, direction, pathways)
 - (iii) force (i.e., energy, weight, flow)
 - (iv) locomotor movements (i.e., walk, run, skip, hop, jump, slide, gallop, leap)
 - (v) nonlocomotor movements (i.e., bend, stretch, twist, swing)
 - (vi) rhythmic activities and musicality
 - (vii) proper skeletal alignment
 - (viii) efficiency and mastery of technical skills in a variety of dance forms.
- (H) Understands the principals of choreography (i.e., dance improvisation, composition, and choreography).
- (I) Understands the components of healthy living and fitness and the benefits of daily participation in dance activities.
 - (i) fitness components
 - (I) flexibility
 - (II) muscular strength
 - (III) agility
 - (IV) motor skills development and coordination
 - (V) body awareness, control, and balance
 - (VI) development and mastery of dance skills
 - (VII) weight control
 - (ii) wellness components
 - (I) release of stress and tension through positive dance activity
 - (II) positive self esteem and self-expression
 - (III) lifelong well being
 - (IV) weight control
- (J) Has a working knowledge of dance choreography and teaching strategies to help students create, study, interpret and evaluate works of art.
- (K) Has knowledge of dance resources including community resources, materials, equipment, and proper facilities, and can adapt a variety of resources and materials that supports students as they learn through and about dance.
- (L) Promotes the understanding of dance as an artistic, kinesthetic, educational, social, cultural and theatrical experience.
- (M) Provides a safe environment and creates a setting for productive learning.
- (N) Collaborates with colleagues, artists and agencies in the community to promote arts education opportunities.
- (O) Recognizes the important role of technology in dance education.
- (P) Uses a variety of assessment and evaluation methods and can evaluate student learning.
- (41) **English as a second language (ESL) PK-12.** The candidate for licensure and certification:

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(A) **Language.** The candidate for licensure and certification:

- (i) Demonstrates knowledge, understanding, and application of the fundamentals of linguistics as related to the development of listening, speaking, reading, and writing for social and academic purposes.
- (ii) Understands and applies knowledge of current theories and practices that facilitate second language acquisition and literacy development in the classroom.
- (iii) Understands the role of the primary language in acquiring English as a new language.
- (iv) Understands and applies knowledge of how sociocultural variables effect individual learners in facilitating the process of learning English.

(B) **Culture.** The candidate for licensure and certification:

- (i) Knows, understands, and uses the major concepts, principles, theories, and research related to the nature and role of culture in language development and academic achievement that support individual student's learning.
- (ii) Understands and applies knowledge about home/school communication to enhance ESL teaching and build partnerships with students' families.
- (iii) Knows, understands, and uses knowledge of how cultural groups and ESL students' cultural identities affect language learning and school achievement.
- (iv) Understands and applies knowledge about world events that have an impact on ESL students' learning.
- (v) Knows and uses teaching strategies that are developmentally appropriate and inclusive of various learning styles and is sensitive to the needs of diverse cultural groups.

(C) **Planning, implementation, and managing instruction.** The candidate for licensure and certification:

- (i) Knows, understands, and applies concepts, research, and best practices to plan standards-based instruction based on language development and the Oklahoma core curriculum that provides for students of varying educational backgrounds in a supportive and accepting environment.
- (ii) Knows, manages, and implements instruction around standards-based subject matter and language learning objectives that incorporates a variety of activities and learning opportunities that integrate listening, speaking, reading, writing, and comprehension for a variety of academic and social purposes.
- (iii) Knows and is able to use a variety of resources and instructional strategies to teach ESL students the English language and content areas.

(iv) Understands and applies the following competencies in reading instruction as appropriate to the abilities of the student.

(I) Knows the stages of language development and the structure of the English language and alphabetic writing system including phonology, morphology, and orthography and their relationships to spelling and meaning.

(II) Understands that primary language (oral) directly impacts the secondary languages (reading, writing, spelling). Knows and applies knowledge of implicit and explicit instruction in developing oral language. Knows the relationship of oral language to literacy.

(III) Knows the developmental process of reading in order to assess, interpret, describe, develop appropriate instruction, monitor, reteach and reassess student's reading performance for concepts about print, phonological and phonemic awareness, phonics, spelling, word recognition, vocabulary, comprehension, fluency, and writing.

(IV) Identifies and applies all developmental levels of phonemic awareness to provide appropriate instruction in understanding words are made up of phonemes and that phonemes can be rearranged and manipulated to make different words that compose oral speech.

(V) Knows and provides appropriate systematic explicit and implicit phonological instruction for the application of spelling-sound correspondences for word analysis and for structural analysis for word recognition and word meaning development.

(VI) Knows and applies the relationships between spelling patterns and sounds of speech; knows how to support the student at each stage of spelling development; knows how to focus direct and indirect instruction to guide the student toward spelling proficiency.

(VII) Knows and applies knowledge of appropriate explicit and implicit instruction for vocabulary development (e.g., prefixes, suffixes, roots, singular, and plural).

(VIII) Knows and applies strategies that promote comprehension and strategies to support children's understanding for the various elements of the different genres of text.

(IX) Knows and applies strategies and instructional approaches to support response to text and promote comprehension for literal, inferential, and critical/evaluative level (e.g., guided reading, literature and research circles).

(X) Knows and applies knowledge of instructional techniques to assist students with self-monitoring and self-corrections; (i.e., semantics, syntax, and graphophonics).

- (XI) Knows and applies the instructional strategies which contribute to the development of fluent reading.
- (XII) Knows how to promote children's interest and engagement in reading and writing.
- (D) **Assessment.** The candidate for licensure and certification:
- (i) Understands various issues of standardized assessments as they affect ESL students' learning and academic performance.
 - (ii) Understands different types of assessments and their purposes.
 - (iii) Understands and is able to use a variety of language proficiency assessment instruments.
 - (iv) Interprets and integrates assessment information into instructional plans.
 - (v) Understands the importance of different assessment strategies and uses them in the evaluation and modification of teaching and learning.
- (E) **Professionalism.** The candidate for licensure and certification:
- (i) Demonstrates knowledge of history, research, and current practices in the field of ESL and applies this knowledge to improve teaching and student achievement.
 - (ii) Pursues personal professional growth opportunities and serves as a professional resource to colleagues.
 - (iii) Serves as a resource liaison and advocate for ESL students and builds partnerships with students' families.
 - (iv) Demonstrate English fluency in listening, speaking, reading, and writing the English language.
- (42) **Computer Science.** The candidate for licensure and certification shall possess the competencies specified in (A) through (E).
- (A) **Programming and algorithm design.** The candidate for licensure and certification will demonstrate programming proficiency in a modern high-level programming language. The candidate will:
- (i) Demonstrate knowledge of and skill regarding the syntax and semantics of a high-level programming language, its control structures, and its basic data representations.
 - (ii) Demonstrate knowledge of and skill regarding common data abstraction mechanisms (e.g., data types or classes such as stacks, trees, lists, etc.).
 - (iii) Demonstrate knowledge of and skill regarding program correctness issues and practices (e.g., testing program results, test data design).
- (B) **Multiple paradigms.** The candidate for licensure and certification will demonstrate an understanding of and flexibility with differing approaches/paradigms in programming (e.g., imperative, functional, object-oriented). The candidate will

design, implement, and test programs in languages from two different programming paradigms in a manner appropriate to each paradigm.

(C) **Computer systems - components, organization, and operation.** The candidate for licensure and certification will demonstrate in-depth knowledge of how computer systems work individually and collectively. The candidate will:

(i) Use a variety of computing environments (e.g., various operating systems)

(ii) Describe the operation of a computer system-CPU and instruction cycle, peripherals, operating system, network components, and applications indicating their purposes and interactions among them.

(D) **Data representation and information organization.** The candidate for licensure and certification will demonstrate an understanding of data and information representation and organization at a variety of levels--machine level representation (for program correctness), data structures (for program implementation), problem representation (for solution design), files and databases (for general applications), and interactions among systems and people (for overall system design and effectiveness). The candidate will:

(i) Describe how data is represented at the machine level (e.g., character, boolean, integer, floating point).

(ii) Identify and provide usage examples of the various data structures and files provided by a programming language (e.g., objects, various collections, files).

(iii) Describe the elements (people, hardware, software, etc.) and their interactions within information systems (database systems, the Web, etc.).

(E) **Social aspects of computing.** The candidate for licensure and certification will conduct independent learning on specific, unfamiliar topics in general areas central to computer science and provide their candidates with opportunities to do the same. The candidate will:

(i) Demonstrate awareness of social issues related to the use of computers in society and principles for making informed decisions regarding them (e.g., security, privacy, intellectual property, equitable access to technology resources, gender issues, cultural diversity, differences in learner needs, limits of computing, rapid change).

(ii) Analyze various social issues involving computing, producing defensible conclusions.

(iii) Demonstrate an understanding of significant historical events relative to computing.

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

[OAR Docket #08-842]

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PERMANENT final adoption

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Subchapter 7. Additional Standards for Middle Level Schools

Part 9. Standard V: The School Staff

210:35-7-44. Staff qualifications [AMENDED]

Subchapter 9. Additional Standards for Secondary Schools

Part 9. Standard V: The School Staff

210:35-9-44. Staff qualifications [AMENDED]

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Subchapter 9. Additional Standards for Secondary Schools

Part 9. Standard V: The School Staff

210:35-9-44. Staff qualifications [AMENDED]

Gubernatorial approval:

January 28, 2008

Register Publication:

25 Ok Reg 727

Docket Number:

08-228

INCORPORATION BY REFERENCE:

N/A

ANALYSIS:

The rule amendments will require all coaches to take a course of care and prevention of athletic injuries and have valid teaching certificates.

CONTACT PERSON:

Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2008:

SUBCHAPTER 7. ADDITIONAL STANDARDS FOR MIDDLE LEVEL SCHOOLS

PART 9. STANDARD V: THE SCHOOL STAFF

210:35-7-44. Staff qualifications

(a) Each teacher assigned to teach in an accredited middle level school must hold an Elementary Certificate, or Elementary-Secondary, or Secondary Certificate with a credential in the area, Library Media Specialist (Librarian) or Speech-Language Pathology License/Certificate. Teachers of seventh or eighth grade mathematics who are certified after September 1, 1999, shall be required to have intermediate mathematics certification or advanced/secondary mathematics certification. Teachers of seventh or eighth grade mathematics who are certified prior to September 1, 1999, shall be required to have intermediate mathematics or advanced/secondary mathematics certification prior to September 1, 2003. Teachers holding an Elementary Certificate shall be eligible to teach only grades 7 and 8 in an accredited junior high school. Teachers teaching in the ninth grade must hold a secondary credential in the specific subject taught.

(b) School counselors shall hold a valid Oklahoma School Counselor Certificate appropriate for the grade levels to which they are assigned.

(c) The library media specialist (librarian) shall hold a valid Oklahoma Library Media Specialist (Librarian) Certificate.

(d) The middle school principal or assistant principal shall hold a valid Oklahoma Elementary or Secondary Principal's Certificate. The junior high principal or assistant principal shall hold a valid Oklahoma Secondary Principal's Certificate. A teaching principal or assistant teaching principal shall have a Principal's Certificate appropriate to the grade level of the school; shall teach at the school site and organizational level where the administrative assignment occurs; and shall devote a portion of the day to administration and supervision.

(e) All athletic coaches, being assigned coaching duties as of ~~1975-76, shall have completed 2 semester hours in the care and prevention of athletic injuries or hold an athletic coaching endorsement.~~ shall have completed a course in the care and prevention of athletic injuries.

(f) All coaches and athletic directors shall be employed by the school district and shall hold a valid teaching certificate. Their names shall appear on the class schedule.

SUBCHAPTER 9. ADDITIONAL STANDARDS FOR SECONDARY SCHOOLS

PART 9. STANDARD V: THE SCHOOL STAFF

210:35-9-44. Staff qualifications

(a) Teachers at the secondary level shall hold valid Oklahoma teaching licenses/certificates and endorsements appropriate to the specific subjects taught.

- (b) Teachers who instruct Remedial Reading a major portion of the day shall hold a valid Reading Specialist Certificate. Other Remedial Reading teachers shall hold a minimum of 6 semester hours in one or more of the following areas of specialization and a language arts credential: Diagnosis and Correction of Reading Disabilities, Foundations or Survey of Reading, Clinical or Practicum in Reading, or comparable courses approved by the State Department of Education, Accreditation Section. Beginning and/or reassigned teachers as of 1975-76 shall comply with this requirement.
- (c) Any teacher who instructs Aeronautics shall have a private pilot license or a basic ground instruction certificate issued by the F.A.A. or a minimum of 8 semester hours in physics with a college course in Aeronautics.
- (d) Any teacher who instructs Careers shall hold a Secondary or Elementary-Secondary License/Certificate.
- (e) Any teacher who instructs Computer Education shall hold a valid certificate. The employing district will make the assignment based on expertise as determined by the local school board.
- (f) Instructors for Military Science (Jr. ROTC) shall hold a certificate of special provision granted by the State Board of Education.
- (g) Any teacher who instructs Photography shall hold a valid Secondary Certificate with a college course in photography.
- (h) ~~All athletic coaches, being assigned coaching duties as of 1975-76, shall have completed 2 semester hours in the care and prevention of athletic injuries or hold an athletic coaching endorsement, shall have completed a course in the care and prevention of athletic injuries.~~
- (i) All coaches and athletic directors shall be employed by the school district and shall hold valid teaching certificates. Their names shall appear on the class schedule and Application for Accreditation.

[OAR Docket #08-842; filed 5-7-08]

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

[OAR Docket #08-843]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 9. Additional Standards for Secondary Schools
 Part 7. Standard IV: Curriculum, Instruction, Assessment and Climate
 210:35-9-31. Program of studies and graduation requirements
 [AMENDED]

AUTHORITY:

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

DATES:

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Superseded rules:

Subchapter 9. Additional Standards for Secondary Schools
 Part 7. Standard IV: Curriculum, Instruction, Assessment and Climate
 210:35-9-31. Program of studies and graduation requirements
 [AMENDED]

Gubernatorial approval:

October 22, 2007

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07-1474

INCORPORATION BY REFERENCE:

N/A

ANALYSIS:

The rule amendments revise the core curriculum to comply with the requirements set forth in 70 O. S. § 11-103.6h. Beginning with the 2008-2009 school year the law requires public schools to provide personal financial literacy education in Grades 7-12. The law outlines 14 areas of instruction that the student must demonstrate satisfactory completion in order to obtain a *Passport to Financial Literacy*, which will be required to graduate with a standard diploma.

CONTACT PERSON:

Connie Holland, 405-521-3308

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING RULES ARE CONSIDERED
FINALLY ADOPTED AS SET FORTH IN O. S. 75,
SECTION 308.1(A), WITH AN EFFECTIVE DATE
OF JUNE 12, 2008:**

**SUBCHAPTER 9. ADDITIONAL STANDARDS
FOR SECONDARY SCHOOLS**

**PART 7. STANDARD IV: CURRICULUM,
INSTRUCTION, ASSESSMENT AND CLIMATE**

210:35-9-31. Program of studies and graduation requirements

Every student at every high school shall have the opportunity to acquire all the competencies to matriculate at a comprehensive graduate institution of the Oklahoma State System of Higher Education without the necessity of enrolling at the university in secondary-level courses. Each student will have the opportunity to attain proficiency in the Priority Academic Student Skills.

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(1) Effective with the school year 2000-2001 through 2001-2002 a high school student must demonstrate competency in at least 21 units of credit or sets of competencies in Grades 9-12 which must include the state-mandated curriculum (Priority Academic Student Skills) and meet all other state and local mandates to be eligible for graduation.

- (A) Language Arts: 4 units or sets of competencies
- (B) Science: 2 units or sets of competencies
- (C) Mathematics: 3 units or sets of competencies
- (D) Social Studies: 2 units or sets of competencies (must include American History and Oklahoma History)
- (E) The Arts: 2 units or sets of competencies (Visual Art and General Music)
- (F) Total minimum Core Curriculum: 13 units or sets of competencies
- (G) Total minimum Elective courses: 8 units or sets of competencies
- (H) Total minimum graduation requirements: 21 units or sets of competencies

(2) Beginning with students graduating from high school in the school year 2002-2003, graduation requirements specified in subsection (1) of this section are superseded by requirements specified in this subsection. Units of credit required for high school graduation with a Standard Diploma (effective 2002-2003 and thereafter) are:

- (A) Language Arts: 4 units or sets of competencies, to consist of 1 unit or set of competencies of grammar and composition, and 3 units or sets of competencies which may include, but are not limited to, the following courses: American Literature, English Literature, World Literature, Advanced English Courses, or other English courses with content and/or rigor equal to or above grammar and composition;
- (B) Mathematics: 3 units or sets of competencies, to consist of 1 unit or set of competencies of Algebra I or Algebra I taught in a contextual methodology, and 2 units or sets of competencies which may include, but are not limited to, the following courses: Algebra II, Geometry or Geometry taught in a contextual methodology, Trigonometry, Math Analysis or Precalculus, Calculus, Statistics and/or Probability, Computer Science, or other mathematics courses with content and/or rigor equal to or above Algebra I. Provided credit may be granted for Applied Mathematics I and II and Computer Science whether taught at the comprehensive high school or at a career and technology center;
- (C) Science: 3 units or sets of competencies, to consist of 1 unit or set of competencies of Biology I or Biology I taught in a contextual methodology, and 2 units or sets of competencies in the areas of life, physical, or earth science or technology which may include, but are not limited to, the following courses: Chemistry I, Physics, Biology II, Chemistry II, Physical Science, Earth Science, Botany, Zoology,

Physiology, Astronomy, Applied Physics, Principles of Technology, qualified agricultural education courses, or other science courses with content and/or rigor equal to or above Biology I. Provided, credit may be granted for Applied Biology/Chemistry, Physics, and Principles of Technology whether taught at the comprehensive high school or at a career and technology center;

(D) Social Studies: 3 units or sets of competencies, to consist of 1 unit or set of competencies of United States History, 1/2 to 1 unit or set of competencies of United States Government, 1/2 unit or set of competencies of Oklahoma History, and 1/2 to 1 unit or set of competencies which may include, but are not limited to, the following courses: World History, Geography, Economics, Anthropology, or other social studies courses with content and/or rigor equal to or above United States History, United States Government, and Oklahoma History; and

(E) Arts: 2 units or sets of competencies which may include, but are not limited to, courses in Visual Arts and General Music.

(F) Personal Financial Literacy Passport.

(i) Effective with the 2008-2009 school year and beginning with the seventh grade, students shall fulfill the requirements for a Personal Financial Literacy Passport in order to graduate from a public high school accredited by the State Board of Education with a standard diploma. The requirements for a Personal Financial Literacy Passport shall be the satisfactory completion and demonstration of satisfactory knowledge in all 14 areas of instruction during grades seven through twelve. The fourteen (14) areas of instruction are:

- (I) understanding interest, credit card debt, and online commerce;
- (II) rights and responsibilities of renting or buying a home;
- (III) savings and investing;
- (IV) planning for retirement;
- (V) bankruptcy;
- (VI) banking and financial services;
- (VII) balancing a checkbook;
- (VIII) understanding loans and borrowing money, including predatory lending and payday loans;
- (IX) understanding insurance;
- (X) identity fraud and theft;
- (XI) charitable giving;
- (XII) understanding the financial impact and consequences of gambling;
- (XIII) earning an income; and
- (XIV) understanding state and federal taxes.

(ii) Instruction in these fourteen areas must align and meet the Personal Financial Literacy PRIORITY ACADEMIC STUDENT SKILLS (PASS) as adopted by the Oklahoma State Board of Education.

- (iii) School districts shall have the option of determining when each of the 14 areas of instruction listed above shall be presented to students in Grades 7-12. Options include integration into one or more existing courses of study, a separate Personal Financial Literacy course, and/or use of State Department of Education PERSONAL FINANCIAL LITERACY online modules of learning. The Oklahoma State Department of Education online modules of learning and the assessments shall be available to all students as determined by the local school district.
- (iv) In order to facilitate the monitoring of student progress towards achieving the Personal Financial Literacy Passport, districts shall maintain a Personal Financial Literacy Passport cumulative record. The Personal Financial Literacy Passport cumulative record shall be a uniform document used by all school districts within the state. The State Department of Education shall provide an electronic version of the Personal Financial Literacy Passport cumulative record to the districts. Completion of the 14 areas of instruction of Personal Financial Literacy shall be documented on the student's high school transcript. The Personal Financial Literacy Passport cumulative record shall accompany the student when transferring to a new district.
- (v) Dependent districts, PK-8, may enter into a vertical articulated curriculum agreement with an independent district, PK-12, for facilitating and sharing of the personal financial literacy curriculum and instruction.
- (vi) Teachers providing instruction in personal financial literacy shall be secondary certified. 70 O.S. § 11-103.6h
- (~~F~~G) Total minimum Core Curriculum: 15 units or sets of competencies
- (~~G~~H) Total minimum Elective courses: 8 units or sets of competencies
- (~~H~~I) Total minimum graduation requirements: 23 units or sets of competencies
- (3) No student shall receive credit for high school graduation more than once for completion of the same unit or set of competencies to satisfy the core curriculum requirements.
- (4) "Qualified agricultural courses" means courses that have been determined by the State Board of Education to offer the sets of competencies in the Priority Academic Student Skills (PASS) for one or more science content areas and which correspond to academic science courses. Qualified agricultural education courses shall include, but are not limited to, Horticulture, Plant and Soil Science, Natural Resources and Environmental Science, and Animal Science.
- (5) A "unit" means a Carnegie Unit which is given for the successful completion of a course that meets the equivalent of 120 clock hours within the school year.
- (6) As a condition of receiving accreditation from the State Board of Education, students in grades nine through twelve shall enroll in a minimum of six periods, or the equivalent in block scheduling, of rigorous academic and/or rigorous vocational courses each day, which may include arts, vocal and instrumental music, speech classes, and physical education classes.
- (7) Each high school's academic program shall be designed to prepare all students for employment and/or postsecondary education. The secondary academic program shall be designed to provide the teaching and learning of the skills and knowledge in the Priority Academic Student Skills. Beginning with 1999-2000 school year all high schools accredited by the State Department of Education shall offer the core curriculum required for the Standard Diploma during a student's high school career. To meet graduation requirements, local options may include courses taken by advanced placement, concurrent enrollment, correspondence courses or courses bearing different titles.
- (8) The secondary academic programs may also provide the traditional units of credit to be offered in Grades 9-12 with each secondary school offering and teaching at least 38 units or their equivalent each school year. Four (4) of these units may be offered on a two-year alternating plan with 34 units or their equivalent to be taught in the current school year. In schools with other than a four-year organization, these units shall be offered and taught in conjunction with the affiliated schools containing those grade levels. Career and technology center courses in which secondary students are enrolled may count toward the 38 required units of credit or their equivalent.
- (9) District boards of education can make exceptions to state high school graduation requirements for students who move to this state from another state after their junior year of high school.
- (A) After a student from another state enrolls in an accredited Oklahoma high school the school board can make an exception to the high school graduation requirements of Section 11-103.6 of Title 70 of the Oklahoma Statutes. Individual exceptions can only be made when there are differing graduation requirements between the two states and completing Oklahoma graduation requirements will extend the student's date of graduation beyond the graduation date for the student's class.
- (B) The district must report all exceptions made to state graduation requirements for these senior students to the State Department of Education each school year. All exceptions made at each district high school will be forwarded to the State Department of Education on or before July 1 of each year. Districts may report the information on the Annual Statistical Report. This reporting provision does not include students who have individualized education programs pursuant to the Individuals with Disabilities Education Act (IDEA) and who satisfy graduation

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requirements through the individualized education program.

(10) In order for a course offered by a supplemental educational organization to be counted for purposes of student academic credit and towards graduation requirements the local board of education must verify that the course meets all requirements in 70 O.S. § 11-103.6.

(11) Upon verification the local school board of education's request for course approval shall be submitted to the State Board of Education for final approval.

[OAR Docket #08-843; filed 5-7-08]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 1. GENERAL PROVISIONS

[OAR Docket #08-801]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

240:1-1-2. Definitions [NEW]

240:1-1-7. Petitions for declaratory rulings [NEW]

AUTHORITY:

40 O.S. §4-302; 75 O.S. §307; and the Oklahoma Employment Security Commission

DATES:

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None held or requested

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Failure of the Legislature to disapprove the rules resulted in approval on May 6, 2008

Final adoption:

May 6, 2008

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SUPERSEDED EMERGENCY ACTION:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

These rules will define the term "third party administrators" for the purposes of the Employment Security Act of 1980, and it will set out the procedure for filing a petition for a declaratory ruling with the Oklahoma Employment Security Commission.

CONTACT PERSON:

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

FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2008:

SUBCHAPTER 1. GENERAL PROVISIONS

240:1-1-2. Definitions

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

"Third Party Administrator" means any entity that contracts with an employer to perform administrative functions on the employer's behalf related to the employer's compliance with any provision of the Employment Security Act of 1980, or any entity that contracts to represent the employer's interests in any protests, appeal or hearing before any division of the Oklahoma Employment Security Commission or the Board of Review. Attorneys licensed to practice law in Oklahoma who represent clients before the Oklahoma Employment Security Commission or the Board of Review shall not be considered third party administrators.

240:1-1-7. Petitions for declaratory rulings

(a) Pursuant to the Administrative Procedures Act, 75 O.S. §307, individuals or organizations may file a Petition for Declaratory Ruling with the Oklahoma Employment Security Commission to obtain a determination on the applicability of any rule or order of the agency.

(b) The Petition for Declaratory Ruling shall include the following:

(1) Name, address, and telephone number of the individual or organization filing the Petition.

(2) Identification of the agency rule or order that the petitioner wishes to have a determination on.

(3) A short and plain statement of why the declaratory ruling is necessary, the facts that instigated the petition, the outcome the petitioner wishes to achieve, and any prior agency determinations that may be affected by the declaratory ruling requested.

(4) The petition must be signed by the individual, or the chief executive officer of the organization filing it. If the individual or organization is represented by an attorney or representative, that person may sign the petition on behalf of the filing party. The attorney or representative must print his or her full name, address, telephone number, fax number, and e-mail address on the petition.

(c) The petition shall be filed with the Director of Appeals, Oklahoma Employment Security Commission, P.O. Box 53345, Oklahoma City, OK 73152-3345.

(d) Procedure:

(1) All declaratory rulings requested for rules and procedures concerning the administration of claims for unemployment benefits pursuant to Article II of the Employment Security Act of 1980 shall be heard by the Appeal Tribunal of the Oklahoma Employment Security Commission. All rules and statutes regarding hearings and appeals

of unemployment benefit claims will apply to the hearing, determination, and appeal of these petitions.

(2) All petitions for declaratory rulings on all rules and procedures of the Oklahoma Employment Security Commission, other than those covered by subsection (d)(1) of this rule, shall be heard by the Assessment Board of the Oklahoma Employment Security Commission. All rules and statutes regarding hearings of the Assessment Board and appeals of Assessment Board determinations will apply to the hearing, determination, and appeal of these petitions.

(e) The petition for declaratory ruling shall be docketed and assigned a hearing officer according to the procedures of the Appellate Division. The hearing officer may require briefs from the petitioning party or the Oklahoma Employment Security Commission or both. Any person or entity wishing to file an Amicus Curiae brief must file a motion with the Appellate Division requesting to do so. Amicus Curiae briefs may be allowed by order, at the discretion of the hearing officer. The hearing officer shall have the authority to set motion deadlines, briefing schedules and hearing dates in all cases. Whether or not to hold hearings in a particular case will be within the discretion of the hearing officer. Determinations on petitions for declaratory rulings may be made on the briefs alone. (f) Notice of all petitions for declaratory rulings shall be posted on the website of the Oklahoma Employment Security Commission and read into the record of the first Commission meeting that occurs more than 20 days after the filing of the petition. The notice will contain:

- (1) The name of the petitioning party.
(2) The date of filing.
(3) A short synopsis of the issue presented by the petition including the citation to the statute, rule, policy, or procedures that is the subject of the petition.
(4) The address to send motions for permission to file amicus curiae briefs and the deadline for filing these motions.

(g) If it is determined that a party is using the declaratory ruling procedure to harass any other party or to hinder or delay the administration of justice, the hearing officer shall have authority to dismiss the petition on those grounds.

[OAR Docket #08-801; filed 5-6-08]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

[OAR Docket #08-802]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
240:10-1-2. Definitions [AMENDED]
Subchapter 3. Benefits
Part 11. Filing Claims - Notice
240:10-3-53. Third party administrators - filing requirements [NEW]

- Subchapter 5. Contributions
Part 8. Waiver of Penalty and Interest
240:10-5-44. Initial determination [AMENDED]
240:10-5-45. Appeal of initial determination [AMENDED]
Subchapter 11. Assessment Board Procedures
Part 1. General Provisions
240:10-11-6. Address of Board [AMENDED]
Subchapter 13. Appeal Tribunal Procedures
Part 1. General Provisions
240:10-13-5. Jurisdiction [AMENDED]
40:10-13-8. Address of Appeal Tribunal [AMENDED]

AUTHORITY:

40 O.S. §§2-103, 2-408, 2-417, 3-111, 4-302; and the Oklahoma Employment Security Commission

DATES:

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Public hearing:

None held or requested

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March 11, 2008

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March 11, 2008

Gubernatorial approval:

April 17, 2008

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Failure of the Legislature to disapprove the rules resulted in approval on May 6, 2008

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May 6, 2008

Effective:

June 12, 2008

SUPERSEDED EMERGENCY ACTION:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The amendments to these rules will provide necessary cleanup, clarification of word usage, and will change wording in the rules to match prior amendments to governing statutes. The amendments will also change the address of the Assessment Board and Appeal Tribunal due to the moving of those offices. The jurisdiction of the Appeal Tribunal will be amended in order to allow more time for claimants to file claims for exemptions on wage levies. A new rule will set filing requirements for third party administrators that file high volumes of protests to unemployment insurance claims.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2008:

SUBCHAPTER 1. GENERAL PROVISIONS

240:10-1-2. Definitions

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

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"Good cause" means reasons beyond the control of the party seeking relief.

"Independent contractor" means:

(A) Any person who performs services according to their own methods and without control except as to results is an independent contractor, if they are:

- (i) Customarily engaged in an independently-established trade, occupation, profession or business; or
- (ii) Performing service outside the usual course of the contractor's business and outside the places of such business.

(B) In order to be considered "without control" the individual providing the service shall:

- (i) Provide their own tools and equipment;
- (ii) Pay their own ordinary and customary business expenses;
- (iii) Risk losing money from the contract;
- (iv) Be free to hire their own assistants; and
- (v) Be responsible for obtaining and maintaining all business, tax registrations and all business occupational licenses required by federal, state, or local laws or ordinances.

(C) A written contract relating to such services shall be considered under 40 O.S. Section 1-210 (14), along with all other pertinent evidence in determining employment status and shall not be accorded any greater weight than any other evidence.

(D) This definition shall not be interpreted or construed as conflicting with Section 3304 (a) (6) (a) of the Federal Unemployment Tax Act.

"Interested Party" means:

(A) In an unemployment claim appeal - the Commission, a claimant who files a claim for unemployment benefits with the Commission, and any employer who properly files a written objection to the claim pursuant to 40 O.S. §2-503 (E).

(B) In an unemployment tax protest - the Commission and the employer with an account that is directly affected by a decision made by the Commission or its representative.

(C) In a supplemental unemployment benefit plan appeal - the Commission, the employer that made application for approval of the plan, and the collective bargaining agent of the employees, if any exists.

"Leases" and **"Rents"** [40:1-210(15)] mean a contract between an owner of a business, building, or property and a leasee, in which:

(A) Space is leased, sublet, or rented for the purpose of operating or conducting a trade or business by the leasee;

(B) The lease or rental fee is set at a fixed amount per month, that remains constant for the term of the lease, sublease, or rental contract; and

(C) Is not based upon a percentage of income or revenue earned in the trade or business.

"Mail", **"Mailed"**, and **"Mailing"**, as used in 40 O.S. §1-224, shall mean the mailing of a document

through the United States Postal Service or a private delivery service designated by the United States Secretary of the Treasury pursuant to 26 U.S.C. §7520(f), as a delivery service that may deliver returns, claims, statements, or other documents to the Internal Revenue Service.

"Profiling" means:

(A) A systematic computer generated process that:

- (i) Identifies those claimants most likely to exhaust regular compensation and will need job search assistance services to make a successful transition to new employment;
- (ii) Refers identified claimants to reemployment services; and
- (iii) Collects follow-up information relating to the services received.

(B) Data elements which may be used in the identification process for profiling are:

- (i) Recall status;
- (ii) Union hiring hall agreement;
- (iii) Education;
- (iv) Job tenure;
- (v) Industry;
- (vi) Occupation;
- (vii) Unemployment rate;
- (viii) Number of prior UI claims; and
- (ix) Maximum weekly benefit amount.

(C) Data elements prohibited for usage in profiling are:

- (i) Age;
- (ii) Race or ethnic group;
- (iii) Sex;
- (iv) Color;
- (v) National origin;
- (vi) Disability;
- (vii) Religion;
- (viii) Political affiliation; and
- (ix) Citizenship.

"Reasonable cash value" [40:1-218] means an amount estimated and determined by consideration of the position held, type of work performed, duration of the work, and customary compensation of like providers in like industries.

"Reemployment Services" means those services which provide job search assistance and job placement services, which are counseling, testing, and providing occupational and labor market information, assessment, job search workshops, job clubs and referrals to employers, and other similar services.

"Temporary Layoff" means a short term cessation of work or employment in which the employer maintains an attachment to an employee by means of a recall date.

"Wages"

(A) **"Gratuities or Tips"** The employer shall include as wages all monies paid as gratuities or tips actually *received by an individual in the course of his work* [40:1-218] or, if actual information is not available, gratuities and tips shall be allocated to the employer in the amount of 8% of gross receipts.

(B) "Noncash remuneration" Noncash remuneration means meals, lodging or any other payment in kind received by a worker from the employing unit in addition to or in lieu of cash payments for services unless such meals and lodging are furnished on the business premises of the employer for the convenience of the employer. [40:1-218(4)]

"Wages paid"

(A) The term "wages paid" [40:1-219] shall include both wages actually received by the worker and wages constructively paid. Wages shall be considered constructively paid when they are credited to the account of or set apart for a worker so that they may be drawn upon by the worker at any time although not then actually in the worker's possession. A mere crediting of the wages to the worker's account, without actually making them available to the worker so that they may be drawn upon by him/her at any time, does not constitute constructive payment.

(B) In the case of an employer who terminates his/her coverage as of January 1st of some year, the term "wages paid" shall include all wages earned for all pay periods up to and including the last payroll period ending in that year, at the end of which, the employer's coverage is terminated.

(C) "Wages paid" to the worker are to be reported in the calendar quarter in which they were actually paid.

"Week"

(A) For the purpose of paying benefits and for the purpose of this Chapter, a "week" [40:1-220] shall consist of a calendar week which begins at 12:01 A.M. Sunday and ends at midnight the following Saturday.

(B) Provided that the Commission, upon its own initiative or upon application by any employer, may prescribe that with regard to individuals involved in a temporary layoff with a specified date to return to work and whose assigned work week consists of consecutive work days within two different calendar weeks, the definition of a "week" shall be the work week as assigned by the employer.

(C) For the purposes of determining full time work, "week" means a period of seven consecutive days that is established by an employer as its regular work week.

SUBCHAPTER 3. BENEFITS

PART 11. FILING CLAIMS - NOTICE

240:10-3-53. Third party administrators - filing requirement

Any third party administrator that files more than 30 protests in any month during the previous calendar year in response to benefit claim notices, on behalf of its client

employers, shall file the protests by telefax only to the telefax number set out on the Notice of Benefit Claim form. The Oklahoma Employment Security Commission shall not accept hand delivery, postal mailing, or e-mailing of protests by third party administrators meeting the volume of filings set forth above.

SUBCHAPTER 5. CONTRIBUTIONS

PART 8. WAIVER OF PENALTY AND INTEREST

240:10-5-44. Initial determination

(a) Upon receipt of the request letter, the Oklahoma Employment Security Commission will make the initial determination regarding whether or not a waiver should be allowed based on the information supplied by the employer and the records of the Oklahoma Employment Security Commission on the particular account in question.

(b) The Oklahoma Employment Security Commission will set forth its determination in writing and mail it to the employer at the employer's last known address. Contact information for the filing of an appeal will be set forth in the determination letter.

240:10-5-45. Appeal of initial determination

(a) If an employer wants to appeal the determination of the Oklahoma Employment Security Commission, the employer must file a letter appealing the determination within 20 days of the date the determination letter was mailed to the employer.

- (b) The appeal letter must contain the following:
(1) The name, address and telephone number of the employer.
(2) The employer's Oklahoma account number.
(3) The date of the determination letter issued by the Contributions Department.
(4) Signature and title of person requesting appeal.

(c) The appeal must be filed by mailing or delivering the appeal letter to with the Oklahoma Employment Security Commission at the address set forth in the determination letter by any method set forth in 40 O.S. §1-224 (A). Contact information for filing the appeal will be set forth in the determination letter.

(d) An appeal is deemed filed on the date the appeal letter is postmarked, or, if hand delivered, the date it is received by the Commission.

(e) If any employer fails to file his or her appeal letter within the 20 days provided for in subsection (a) of this Section, then the determination of the Oklahoma Employment Security Commission shall be final, and no appeal shall thereafter be allowed.

SUBCHAPTER 11. ASSESSMENT BOARD PROCEDURES

Permanent Final Adoptions

PART 1. GENERAL PROVISIONS

240:10-11-6. Address of Board

(a) The Assessment Board is located at ~~7301 North Broadway, Suite 101~~ 2800 Northwest 36th Street, Suite 102, Oklahoma City, Oklahoma ~~73116~~ 73112. The telephone number of the Assessment Board is (405)840-1422. The telefax number of the Assessment Board is (405)840-1431.

(b) All instruments or correspondence pertaining to a protest before the Board shall be sent to: Assessment Board, P. O. Box 53345, Oklahoma City, Oklahoma 73152-3345.

SUBCHAPTER 13. APPEAL TRIBUNAL PROCEDURES

PART 1. GENERAL PROVISIONS

240:10-13-5. Jurisdiction

Pursuant to provisions of 40 O.S. Section 2-602, the Appeal Tribunal is empowered to decide an appeal from determinations of the Commission and/or its representatives. Pursuant to 40 O.S. Section 2-603, an appeal from a determination by the Commission must be filed within ten (10) days from the date of mailing by the Commission. Pursuant to 40 O.S. Section 2-616, an appeal from a determination of the Commission that a benefit overpayment occurred under 40 O.S. Section 2-613(1) or (2), must be filed within twenty (20) days from the date of mailing by the Commission. If not timely filed, the Appeal Tribunal is without jurisdiction, unless good cause for late filing is found by the Appeal Tribunal. Claims for exemption and any other matters relating to an income levy issued pursuant to 40 O.S. Section 2-618 ~~must be filed within ten (10) days of the service of the notice of levy on the debtor's employer or bank~~ may be filed at any time before the thirtieth day after the expiration date or termination of the levy.

240:10-13-8. Address of Appeal Tribunal

The main office of the Appeal Tribunal ~~shall be~~ is located in Oklahoma City at ~~7301 North Broadway Extension, Suite 101~~ 2800 Northwest 36th Street, Suite 102, Oklahoma City, Oklahoma 73112, with telephone number (405) 840-1422, and telefax number (405) 840-1431.

- (1) All instruments or correspondence pertaining to a case shall be sent to: Appeal Tribunal, P. O. Box 53345, Oklahoma City, Oklahoma 73152
- (2) All instruments and correspondence shall bear the claimant's name and Social Security number.
- (3) Copies of all documents, instruments, and correspondence mailed, telefaxed, or delivered to the Appeal Tribunal by an interested party to a case shall be sent to the other interested parties to the same case by the Clerk of the Appeal Tribunal.

[OAR Docket #08-802; filed 5-6-08]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 15. BOARD OF REVIEW PROCEDURES

[OAR Docket #08-803]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
240:15-1-7. Attorney fees - approval [REVOKED]
240:15-1-8. Attorney fees - approval [NEW]

AUTHORITY:

40 O.S. §§2-607, 4-302; and the Oklahoma Employment Security Commission

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None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

These amendments revoke the Board of Review attorney fee rule. The Oklahoma Court of Civil Appeals found in its decision of October 12, 2007, that the Board exceeded its rulemaking authority in promulgating this rule and it impermissibly infringed on the fundamental court-access rights of unemployed workers of Oklahoma. The subject of both the revoked and the new rule is the procedure for the approval of attorney fees for claimant's attorneys in unemployment benefit cases.

CONTACT PERSON:

John Miley, Deputy General Counsel or Melissa Copenhaver, Rulemaking Liaison, 2401 N. Lincoln Boulevard, 5th Floor, Oklahoma City, OK 73152. E-Mail: John.Miley@oesc.state.ok.us or Melissa.Copenhaver@oesc.state.ok.us. Telephone number is 405/557-7146.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2008:

SUBCHAPTER 1. GENERAL PROVISIONS

240:15-1-7. Attorney fees [REVOKED]

~~When a claimant for unemployment benefits is represented by an attorney at law, the Board of Review must~~

approve the fee of the attorney. Upon final disposition of the claim, the attorney for the claimant shall make a motion to the Board of Review for approval of the attorney fee. The motion must be filed with the Board of Review within one (1) year of the final disposition of the claim. The approval of the attorney fee will be on a quantum meruit basis, provided that the maximum amount of the fee shall not exceed 20% of the claimant's maximum benefit amount. No attorney fee will be approved unless the claimant is ultimately awarded benefits. It shall be the responsibility of the claimant to pay all attorney fees approved by the Board of Review.

240:15-1-8. Attorney fees - approval

When a claimant for unemployment benefits is represented by an attorney at law, the Board of Review must approve the fee of the attorney. Upon final disposition of the claim, the attorney for the claimant shall make a motion to the Board of Review for approval of the attorney fee. The motion must be filed with the Board of Review within one (1) year of the final disposition of the claim. The approval of the attorney fee will be on a quantum meruit basis, provided that the maximum amount of the fee shall not exceed 20% of the claimant's maximum benefit amount. It shall be the responsibility of the claimant to pay all attorney fees approved by the Board of Review.

[OAR Docket #08-803; filed 5-6-08]

**TITLE 360. OKLAHOMA STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BOARD
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #08-807]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

360:1-1-2. [AMENDED]

Subchapter 3. The Board

360:1-1-3. [AMENDED]

360:1-3-8. [AMENDED]

360:1-3-13. [NEW]

Subchapter 5. Hearing Procedures

360:1-5-2. [AMENDED]

AUTHORITY:

Oklahoma State and Education Employees Group Insurance Board; 74 O.S., Sections 1304, 1306 and 1344

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None

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Changes to Chapter 1 clarify definitions, conform rules to recent benefit changes, clarify language, and clarify existing plan exclusions.

CONTACT PERSON:

Gary Goff, Attorney, Assistant Administrator, (405) 717-8744

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

SUBCHAPTER 1. GENERAL PROVISIONS

360:1-1-2. Rules, cumulative

The Oklahoma State and Education Employees Group Insurance Board hereinafter "OSEEGIB" will, from time to time, adopt handbooks, policies and procedures for the implementation of the rules set forth herein. Nothing in this chapter shall be read, interpreted, understood or applied so as to affect the validity and enforceability of any additional requirements, statutes, rules or regulations of any other governmental entity, public agency or instrumentality which may be otherwise applicable to those transactions, conduct and facilities regulated herein. The rules in this title shall not be deemed cumulative and supplemental but shall replace all previously promulgated rules of this agency.

360:1-1-3. Amending of rules

This chapter may be amended or repealed from time to time and new rules adopted by the Board pursuant to the Administrative Procedures Act.

SUBCHAPTER 3. THE BOARD

360:1-3-8. Confidentiality of medical records

(a) All information, documents, medical reports and copies thereof contained in a member's insurance file held by OSEEGIB shall be confidential and shall not be reviewed by unauthorized parties, without written permission of the individual or provider, or by court order. The confidentiality of a member's information is maintained when the member's information held by OSEEGIB is utilized for health management and communicated among:

- (1) employees of OSEEGIB;

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- (2) OSEEGIB's contracted third party administrators and consultants;
- (3) providers to the member and
- (4) the member, according to statutory provisions for privilege and confidentiality or written agreements to protect the confidentiality and non-disclosure of the information.

(b) OSEEGIB will honor only medical ~~releases~~ Authorizations signed by a covered employee or dependent within ~~one hundred eighty [180] days~~ one [1] year of the date the ~~release~~ Authorization was signed, unless rescinded or a shorter period of time has been specified.

(bc) A member's health information is protected by this rule and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy regulations as codified in 45 Code of Federal Regulations Parts 160 and 164.

360:1-3-13. Electronic records and facsimile, electronic or copies of signatures

Use of electronic records, electronic signatures, facsimile signatures and handwritten signatures executed to electronic records.

(1) Electronic records, electronic signatures, handwritten signatures executed to sign electronic records, handwritten signatures used to effectuate an electronic record for network contracting purposes, and facsimile or copies of signatures on OSEEGIB forms received from participating entities or members, may be used as an alternative or duplicate of paper records and handwritten signatures executed on paper to comply with any of the record and signature requirements of 12A O.S. §15-101 et seq. these rules or applicable Oklahoma law.

(2) Combinations of paper records and electronic records, electronic records and handwritten signatures executed on paper, or paper records and electronic signatures or handwritten signatures executed to sign electronic records, may be used to comply with any of the record and signature requirements of 12A O.S. §15-101 et seq., these rules or applicable Oklahoma law.

(3) The acting OSEEGIB Administrator or a Deputy Administrator may utilize a facsimile signature stamp to execute OSEEGIB contracts of any kind.

SUBCHAPTER 5. HEARING PROCEDURES

360:1-5-2. Notice of hearing

Upon receipt of a Request for Hearing form, a hearing number shall be assigned thereto and notice shall be forwarded to the claims administration contractor by mail at its closest office. The employee shall be notified of the hearing date by certified mail, return receipt requested. A copy of all ~~Rules~~ rules pertinent to the hearing shall be forwarded with the

Notice, along with a statement of claimant's rights and the basis for denial.

[OAR Docket #08-807; filed 5-7-08]

TITLE 360. OKLAHOMA STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BOARD CHAPTER 10. STATE AND EDUCATION EMPLOYEES HEALTH, DENTAL, VISION AND LIFE PLANS

[OAR Docket #08-808]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

360:10-1-2. [AMENDED]

Subchapter 3. Administration of Plans

360:10-3-3. [AMENDED]

360:10-3-3.5. [AMENDED]

360:10-3-20. [AMENDED]

360:10-3-22. [AMENDED]

360:10-3-23. [AMENDED]

360:10-3-24. [AMENDED]

360:10-3-25. [AMENDED]

360:10-3-26. [AMENDED]

360:10-3-27. [AMENDED]

360:10-3-27.1. [AMENDED]

Subchapter 5. Coverage and Limitations

Part 1. Policy Provisions

360:10-5-2. [AMENDED]

360:10-5-3. [AMENDED]

Part 3. The Plans

360:10-5-16. [AMENDED]

360:10-5-17. [AMENDED]

360:10-5-20. [AMENDED]

Part 5. Life Benefits

360:10-5-33. [AMENDED]

Part 15. Subrogation

360:10-5-100. [AMENDED]

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none

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n/a

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Changes to Chapter 10 clarify definitions, conform rules to recent benefit changes, clarify language, and clarify existing plan exclusions.

CONTACT PERSON:

Gary Goff, Attorney, Assistant Administrator, (405) 717-8744

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

360:10-1-2. Definitions

The following words and terms as defined by OSEEGIB, when used in this chapter, shall have the following meaning, unless the content clearly indicates otherwise:

"Current employee" means an employee in the service of a participating entity who receives compensation for services actually rendered and is listed on the payrolls and personnel records of said employer, as a current and present employee, including employees who are otherwise eligible who are on approved leave without pay, not to exceed twenty-four [24] months. An education employee absent from employment, not to exceed eight [8] years, because of election or appointment as local, state, or national education association officer who is otherwise eligible prior to taking approved leave without pay will be considered an eligible, current employee. A person elected by popular vote will be considered an eligible employee during his tenure of office. Eligible employees are defined by statute. [74 O.S. §1303 and §1315]

"Administrative error" occurs when the coverage elections the member makes are not the same as those entered into payroll for deduction from the member's paycheck. This does not include untimely member coverage elections or member misrepresentation. When such an administrative error results in underpaid premiums, full payment to OSEEGIB shall be required before coverage elected by the member can be made effective. If overpayment occurs, OSEEGIB shall refund overpaid funds to the appropriate party.

"Administrator" means the Administrator of the Oklahoma State and Education Employees Group Insurance Program or his designee.

"Allowable fee" means the maximum allowed amount that OSEEGIB may pay to a provider for a specific procedure, service or supply.

"Attorney representing OSEEGIB" means any attorney designated by the Administrator to appear on behalf of OSEEGIB.

"The Board" means the eight [8] members designated by statute [74 O.S. §1303(1)].

"Business Associate" shall have the meaning given to "Business Associate" under the Health Insurance Portability and Accountability Act of 1996, Privacy Rule, including, but not limited to, 45 CFR §160.103.

"Carrier" means the State of Oklahoma.

"Comprehensive benefits" means benefits which reimburse the expense of facility room and board, other hospital

services, certain out-patient expenses, maternity benefits, surgical expense, including obstetrical care, in-hospital medical care expense, diagnostic radiological and laboratory benefits, providers' services provided by house and office calls, treatments administered in providers' office, prescription drugs, psychiatric services, Christian Science practitioners' services, Christian Science nurses' services, optometric medical services for injury or illness of the eye, home health care, home nursing service, hospice care and such other benefits as may be determined by OSEEGIB. Such benefits shall be provided on a copayment or coinsurance basis, the insured to pay a proportion of the cost of such benefits, and may be subject to a deductible that applies to all or part of the benefits as determined by OSEEGIB. [74 O.S. §1303 (14)]

"Cosmetic procedure" means a procedure that primarily serves to improve appearance.

"Custodial care" means treatment or services regardless of who recommends them or where they are provided, that could be given safely and reasonably by a person not medically skilled. These services are designed mainly to help the patient with daily living activities. These activities include but are not limited to: personal care as in walking, getting in and out of bed, bathing, eating by spoon, tube or gastrostomy, exercising, dressing, using toilet, preparing meals or special diets, moving the patient, acting as companion or sitter, and supervising medication which can usually be self-administered.

"Dependent" means the primary member's spouse (if not legally separated), including ~~common-law~~ common-law. Dependents also include a member's unmarried child up to the child's twenty-third [23rd] birthday, regardless of residence, provided that the member is primarily responsible for the child's support. This includes a stepchild or child who lives with the member in a regular parent-child relationship, or a child living with the member in a normal parent-child relationship where the member has adopted the child, or has been appointed guardian by a court. It also includes a stepchild who does not live with the member, when the primary member's spouse is covered by the Plan and has been ordered by a court to provide health insurance for his/her children, regardless of residence. A child may also be covered regardless of age if the child is incapable of self-support because of mental or physical incapacity that existed prior to reaching age twenty-three [23]. Coverage is not automatic and must be approved with a review of medical information. A disabled dependent deemed disabled by Social Security does not automatically mean that this disabled dependent will meet the Plan requirements. [74 O.S. §1303(13)].

"Durable medical equipment" means medically necessary equipment, prescribed by a provider, which serves a therapeutic purpose in the treatment of an illness or an injury. Durable medical equipment is for the exclusive use of the afflicted member and is designed for prolonged use. Specific criteria and limitations apply.

"Emergency" means a sudden and unexpected symptom that a prudent lay person, who possesses an average knowledge of health and medicine, could reasonably expect that the absence of immediate medical attention would result in placing the health of the individual or others in serious jeopardy.

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"Enrollment period" means the time period in which an individual may make an election of coverage or changes to coverage in effect.

"Facility" means any hospital, rehabilitation facility, skilled nursing facility, midwifery center, ambulatory surgical center, home health agency, infusion therapy entity, hospice program, durable medical equipment vendor, radiology facility, dialysis facility, or laboratory which is duly licensed under the laws of the state of operation, Medicare certified as applicable, and accredited by a nationally recognized accreditation organization that is approved by state or federal guidelines, for example, The Joint Commission (formerly JCAHO) or The Commission on Accreditation of Rehabilitation Facilities (CARF).

"Former participating employees and dependents" means eligible former employees who have elected benefits within thirty [30] days of termination of service and includes those who have retired, or vested through an eligible State of Oklahoma retirement system, or who have completed the statutory required years of service, or who have other coverage rights through Consolidated Omnibus Budget Reconciliation Act (COBRA) or the Oklahoma Personnel Act. An eligible dependent is covered through the participating former employee or the dependent is eligible as a survivor or has coverage rights through COBRA.

"The Plan or Plans" means the self-insured Plans by the State of Oklahoma for the purpose of providing health benefits to eligible members and may include such other benefits as may be determined by OSEEGIB. Such benefits shall be provided on a coinsurance basis and the insured pays a proportion of the cost of such benefits.

"Health information" means any information, whether oral or recorded in any form or medium: (1) that relates to the past, present or future physical or mental condition of a member; the provision of health care to a member; or the past, present or future payment for the provision of health care to a member; and (2) that identifies the member or with respect to which there is a reasonable basis to believe the information can be used to identify the member.

"Home health care" means a plan of continued care of an insured person who is under the care of a provider who certifies that without the Home health care, confinement in a hospital or skilled nursing facility would be required. Specific criteria and limitations apply.

"Hospice care" means a concept of supportive care for terminally ill patients. Treatment focuses on the relief of pain and suffering associated with a terminal illness. Specific criteria and limitations apply.

"Initial enrollment period" means the first thirty [30] days following the employee's entry-on-duty date. A group initial enrollment period is defined as the thirty [30] days following the enrollment date of the participating entity.

"Insurance Coordinator" means Insurance/Benefits Coordinator for Education, Local Government, and State Employees.

"Maintenance care" means there is no measurable progress of goals achieved, no skilled care required, no measurable improvement in daily function or self-care, or no change in basic treatment or outcome.

"Medically necessary" means services or supplies which are provided for the diagnosis and treatment of the medical and/or mental health/substance abuse condition and complies with criteria adopted by OSEEGIB. Direct care and treatment are within standards of good medical practice within the community, and are appropriate and necessary for the symptoms, diagnosis or treatment of the condition. The services or supplies must be the most appropriate supply or level of service, which can safely be provided. For hospital stays, this means that inpatient acute care is necessary due to the intensity of services the member is receiving or the severity of the member's condition, and that safe and adequate care cannot be received as an outpatient or in a less intensified medical setting. The services or supplies cannot be primarily for the convenience of the member, caregiver, or provider. The fact that services or supplies are medically necessary does not, in itself, assure that the services or supplies are covered by the Plan.

"Members" means all persons covered by one or more of the group insurance plans offered by OSEEGIB including eligible current and qualified former employees of participating entities and their eligible covered dependents.

"Mental health and substance abuse" means conditions including a mental or emotional disorder of any kind, organic or inorganic, and/or alcoholism and drug dependency.

"Network provider" means a practitioner who or facility that is duly licensed under the laws of the state in which the "network provider" operates and/or is accredited by a nationally recognized accrediting organization approved by state or federal guidelines, and has entered into a contract with OSEEGIB to accept scheduled reimbursement for covered health care services and supplies provided to members, for example, The Joint Commission (formerly JCAHO) or The Commission on Accreditation of Rehabilitation Facilities (CARF).

"Open enrollment period" means a limited period of time as approved by either the Board or the Legislature in which a specified group of individuals are permitted to enroll.

"Option period" means the time set aside at least annually by OSEEGIB in which enrolled plan members may make changes to their enrollments. Eligible but not enrolled employees may also make application for enrollment during this time. Enrollment is subject to approval by OSEEGIB.

"Orthodontia limitation" means an individual who enrolls in the Dental Plan without prior group dental coverage being in effect the day before Dental Plan coverage begins will not be eligible for any orthodontia benefits for services occurring within the first twelve [12] months after the effective date of coverage. Services continuing or occurring after the twelve [12] month waiting period will be paid by prorating or according to plan benefits.

"OSEEGIB" means the Oklahoma State and Education Employees Group Insurance Board.

"Other hospital services and supplies" means services and supplies rendered by the hospital that are required for

treatment, but not including room and board nor the professional services of any provider, nor any private duty, special or intensive nursing services, by whatever name called, regardless of whatever such services are rendered under the direction of the hospital or otherwise.

"Participating entity" means any employer or organization whose employees or members are eligible to be participants in any plan authorized by or through the Oklahoma State and Education Employees Group Insurance Act.

~~"Preexisting provision" means a charge incurred while eligible for benefit coverage under the Plan which resulted from any injury or illness which was treated, diagnosed, or medication prescribed within a period of one hundred eighty [180] days prior to commencement of the Plan benefit coverage.~~

"Primary insured" means the member who first became eligible for the insurance coverage creating eligibility rights for dependents.

"Prosthetic appliance" means an artificial appliance that replaces body parts that may be missing or defective as a result of surgical intervention, trauma, disease, or developmental anomaly. Said appliance must be medically necessary.

"Provider" means a physician or other practitioner who is duly licensed or certified under the laws of the state in which the Provider practices and is recognized by this Plan, to render health and dental care services and/or supplies.

"Skilled care" means treatment or services provided by licensed medical personnel as prescribed by a provider. Treatment or services that could not be given safely or reasonably by a person who is not medically skilled and would need continuous supervision of the effectiveness of the treatment and progress of the condition. Specific criteria and limitations are applied.

SUBCHAPTER 3. ADMINISTRATION OF PLANS

360:10-3-3. Insurance/Benefits Coordinator for Education, Local Government, and State Employees

The appointing authority or governing body of each participating entity shall designate an Insurance/Benefits Coordinator and at least one [1] Alternate to properly enroll members of the entity. Any information given by an Insurance/Benefits Coordinator shall not supersede or modify the statutes, ~~Rules~~ rules in this title or any Insurance/Benefits Coordinator Guide governing the Group Insurance Plan. Insurance/Benefits Coordinator representing retirees may be provided by the retirement system from which the retiree is receiving benefits. It is the employee's duty to notify his Insurance/Benefits Coordinator of a change in eligibility for himself, his spouse or his dependents. It is the Coordinator's duty to notify OSEEGIB within ten [10] working days of the employee's notice of change. OSEEGIB is not obligated to accept untimely notifications of change, and may elect to refuse to permit said changes.

360:10-3-3.5. Responsibility for premium payment

(a) **Participating entity premiums.** Employer and employee premiums for participating entities are due to OSEEGIB no later than the tenth [10th] day of each month following the month of coverage. The first payroll deductions for insurance premiums of individuals paid bi-weekly will be withheld from the first pay period that extends into the month during which insurance coverage begins. It is ultimately the employing agency's responsibility to check and verify that premiums paid to OSEEGIB are a true and accurate accounting of the member's approved coverage selections. If premium for coverage selected by the employee differs from the amount deducted from the member's check, then the participating entity is responsible for payment to OSEEGIB for any deficiencies in premium for the member's coverage. Any shortage of premiums due and payable will result in suspension of benefits for Plan participants.

(1) An employee may continue coverage while on approved leave without pay status for up to twenty-four [24] months as long as the entity continues to remit premiums with the entity's monthly payment. The twenty-four [24] month limitation shall be extended to eight [8] years for education employees who are absent from employment because of election or appointment as a local, state, or national education association officer. Except as protected by federal statute, employees on leave whose premiums are not remitted in a timely manner shall have their coverage terminated at the end of the month for which last payment was received. If coverage is terminated for non-payment all coverage is terminated. Upon return to work, the employee may re-enroll. All Plan limitations apply and evidence of insurability is required to re-enroll in any life coverage.

(2) Provided that if a State employee is on leave without pay due to an injury or illness arising out of the course of his employment, the employee may continue the insurance during the maximum period of the time allowed by law, and the employing agency shall pay the entire employee premium.

(3) An employee may continue coverage while on suspension without pay for up to ninety [90] days following the date of suspension or the duration of the administrative appeals process, whichever is greater, as long as premiums are remitted by the entity for the coverage.

(4) Collecting any employee share from an employee on leave without pay or suspension without pay is the responsibility of the entity.

(b) **Premiums remitted by retirement systems.** Any State of Oklahoma retirement system establishing a withholding system for its retired employees shall forward the retirement contribution and employees' withholding to OSEEGIB by the tenth [10th] of the month following the month for which payment is due. This same time frame also applies to members receiving disability benefits. (c) **Premiums remitted by former employees, COBRA participants or survivors.** Premiums are due by the twentieth [20th] day of the month of coverage. When a former employee begins to receive retirement benefits, all premiums due, in excess of the retirement

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system contributions, shall be paid by the member, ~~and deducted from the retirement check.~~ If the total monthly premium for a retired member is the same as or greater than the retirement benefit, the member shall remit the entire amount due directly to OSEEGIB.

360:10-3-20. Rights of eligible former employees to continue in the Group Health, Dental, and Vision Insurance Plan

(a) Health, dental and vision coverage may be elected as determined by State Statute or retained at the time of termination of employment from an employer who participates in that health, dental or vision coverage, if such election to continue in force or begin is made within thirty [30] days from the date of termination of service, and if the following conditions are met:

(1) The former employee either retires or has a vesting right with a State funded retirement plan, or has the requisite years of service with an employer participating in the Plan.

(2) The election must be received by OSEEGIB no later than thirty [30] days after the date of termination of service.

(3) Group coverage must be continuous in order to waive the ~~preexisting conditions or~~ orthodontia limitations when retaining or electing coverage.

(b) If an eligible former employee does not elect coverage at the time of termination of employment, or subsequently drops the coverage that was elected:

(1) The coverage may not be reinstated at a later date, except as permitted for former State employees exercising insurance retention rights available through a reduction in force (RIF) severance agreement.

(c) A participating eligible former employee cannot add dependents to coverage after termination of employment, except as follows:

(1) During an open enrollment period; or

(2) If the dependent is newly acquired. New dependent[s] or additional dependent coverage must be added within thirty [30] days after acquiring the new dependent[s]. ~~For a new spouse/dependent who is Medicare eligible, the spouse/dependent may be added to coverage at the first option period after the marriage.~~

(3) If the dependent has lost other group health or dental insurance coverage and notice has been given to OSEEGIB within thirty [30] days after the loss of the other coverage. In this situation, coverage will begin without ~~penalty for preexisting conditions and~~ orthodontia limitations, provided group coverage was in effect and there is no break in coverage.

(d) During an option period, covered former employees may make changes to their existing benefits but not add additional benefits with the exception of vision coverage.

(e) If an eligible former employee has a spouse who is participating in the Plan as an employee of a participating entity, the former employee may transfer his or her health, dental and vision coverage to be dependent coverage under the spouse at any time, so long as the following conditions are met:

(1) Coverage must remain continuous; and

(2) All eligible dependents must be insured unless they have other verifiable group coverage.

(3) The eligible former employee, at a later date, may defer or transfer his or her insurance coverage from dependent status back to former employee status if coverage with the Plan has remained continuous, and the former employer of the eligible former employee continues to participate in the Plan.

(f) An individual who has retained health, dental or vision coverage who is returning to current employment for a participating entity and meets the eligibility criteria for a current employee is entitled to transfer his present coverage to that employer as long as the employer is a participant in the benefit transferred. The employee may retain his present life coverage and may add life coverage so long as the total amount of life coverage does not exceed the guaranteed issue amount. Evidence of insurability must be submitted and approved for any amount exceeding guaranteed issue or the amount previously held in retirement, whichever is greater.

(g) An eligible former employee who has retained any coverage and is returning to work for a participating entity but does not meet the eligibility criteria for a current employee is not entitled to coverage through that employer.

(h) In the event an otherwise eligible former employee returns to current employment who did not retain health coverage upon termination of employment, the eligibility requirements of a new employee must be met in order to obtain coverage through the employer. Such individuals must work for three [3] years in order to qualify for retaining any benefits not previously elected upon ceasing current employment when they re-retire. This includes members who terminated from employers not participating in the Group Plans authorized by the Oklahoma State and Education Employees Group Insurance Act [74 O. S. §1301] when they originally ended employment.

360:10-3-22. Effective dates of coverage for current employees

An employee other than an education employee is eligible to participate if not classified as seasonal or temporary and whose actual performance of duties normally requires one thousand [1,000] hours per year or more. An education employee who is a member of or eligible to participate in the Oklahoma Teacher's Retirement System and working a minimum of four [4] hours per day or twenty [20] hours per week may participate in the Plan. Part-time education employees are those who meet the requirements of a half-time employee as defined by the Oklahoma Teachers Retirement System. Eligible employees shall be covered on the first [1st] day of the month following the month in which the employee is in an eligible status.

(1) If an employee is absent due to accident or illness on the date the employee coverage would normally become effective, benefits shall not be payable until the employee returns to the job. If the employee is absent from work because of a holiday, vacation or nonscheduled working day and the employee was on the job on a scheduled working day immediately preceding the effective date, this effective date will not be changed. An employee

coming to work during the latter part of a payroll period who is not able to complete an insurance change form should be placed on the appropriate plans on the first [1st] day of the following month with employee only coverage, so that the employee life, dental and health will be in effect. Members may add optional coverages within the member's initial thirty [30] day enrollment period to be effective the first [1st] day of the month following the date the member enrolled for optional coverages.

(2) Participating entities shall forward members' enrollment information and any changes to enrollment information during the initial enrollment period to the Administrator within ten [10] days after the last day a member may enroll.

(3) If an employee leaves a participating entity and is hired by another participating entity within the following thirty [30] day period, premiums must be forwarded to OSEEGIB to avoid a break in coverage.

(4) An enrolled member who terminates employment or is in leave without pay status and whose spouse is also an enrolled employee may transfer coverage to their spouse to be insured as a dependent. The health, dental, vision and basic life may be transferred. The employee's basic life amount will transfer to a dependent spouse amount. If there are dependent children, they must also be insured unless they have other verifiable group coverage.

(5) An employee that terminates from a participating employer and is hired by another participating employer shall be entitled to be treated as a new employee with new health, dental, vision and life benefit options available. A rehired employee returning to a former employer has new health, dental and vision benefit options only after a thirty [30] day break in coverage and may be subject to ~~preexisting and~~ orthodontia limitations.

(6) Except as provided by statute, an individual employee may choose not to be enrolled in the health or dental plans or may disenroll from these plans because of other group health or dental coverage or by reason of eligibility for military or Indian health services within thirty [30] days after the date the employee becomes eligible for the other group health or dental coverage. Such employees who subsequently lose the other group coverage or eligibility for military or Indian health services may enroll in the corresponding health or dental plans offered through OSEEGIB if the election is made no later than thirty [30] days after the date of loss of the other coverage. At the insured's option, in order to avoid a break in coverage and the application of the ~~preexisting condition exclusion or~~ dental limitation, coverage under this Plan shall become effective on the first [1st] day of the month during which the insured actually lost the previous group coverage, provided the insured pays the full premium for that month. Otherwise, coverage shall become effective under this Plan on the first [1st] day of the month following the election of health and/or dental coverage, and any break in coverage shall result in the application of the ~~preexisting condition exclusion or~~ dental limitations.

360:10-3-23. Participating entities

(a) **Participation in plans offered by OSEEGIB.** Entities electing to participate in the dental, life, vision, or disability plans offered by OSEEGIB must participate in the health plan, unless the Administrator grants a waiver. Coverage offered by OSEEGIB to eligible education employees will also be offered to all elected members of the school board for that entity.

(b) **Enrollment in group term life benefits.** An entity may elect to participate in the group term life coverage offered by OSEEGIB. This includes basic and optional supplemental life coverage for the employee and dependent life coverage. Entities electing to participate in the life plan offered by OSEEGIB must participate in the health plan, unless the Administrator grants a waiver.

(c) **Non-participating entities in other group plans.** The group plans offered by OSEEGIB shall not be offered to any entity which is participating in any other group insurance program, regardless of the percentage or number of employees eligible to enroll, unless the Administrator grants a waiver.

(d) **Right of Board to approve or deny applications for coverage.** OSEEGIB shall retain the right to approve or deny any employer group applications for coverage. Upon approval, coverage will become effective at 12:01 a.m. on the first [1st] day of the month following the month in which approval is granted unless a subsequent month is requested and approved in advance.

(e) **Coverage without preexisting conditions.** When an entity enrolls all employees of the new entity are covered without penalty for preexisting conditions, ~~if they had prior group health insurance coverage which can be verified by OSEEGIB.~~

(f) **Enrollment of all individuals presently insured.** Upon the group initial enrollment of an institution of higher education, all individuals presently insured by the institution's previous group health plan may become enrolled. If any such individual does not meet the eligibility requirements of this plan, they are eligible for coverage only for the remaining period of the institution's contractual liability. The institution must provide written proof of its contractual liability at the time of said individual's enrollment.

(g) **Attestation of continuous coverage for retirees.** Upon beginning or reinstating participation in health coverage offered by OSEEGIB, the entity must provide OSEEGIB with an attestation that retirees over age sixty-five [65] that will gain coverage through OSEEGIB have had continuous creditable coverage for prescription drugs (coverage that is at least as good as Medicare's) since the retirees became eligible for Medicare. The entity must provide an accurate list of any retiree over age sixty-five [65] that does not meet this requirement in order for OSEEGIB to properly report uncovered months to Medicare.

360:10-3-24. Dependents

Eligible dependents may be enrolled by new employees with their coverage effective concurrently with the employee's coverage if the member has signed the insurance change form requesting such coverage within the member's initial thirty [30] day enrollment period. Dependent coverage not elected at

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that time shall not become available until the next enrollment period. Dependents are not eligible for any coverage in which the member is not enrolled. When one eligible dependent is covered, all eligible dependents must be covered for all elected coverage. The spouse or dependent may elect not to be covered when the spouse or dependent is covered by other verifiable group health, dental or vision coverage, ~~or for religious beliefs~~. The spouse may elect not to be covered provided a statement signed by the employee and the spouse is submitted to the Insurance/Benefits Coordinator. Dependent's benefits shall only be covered under one primary insured except in the case of dependent life.

(1) When the parent is covered by health insurance, in order for an employee to ~~obtain~~retain coverage at birth after the first forty-eight [48] hours (vaginal delivery) or ninety-six [96] hours (caesarian delivery) for his or her own newborn child, a completed insurance change form and any appropriate premium for the month of birth must be furnished to the Insurance/Benefits Coordinator within thirty [30] days after the date of birth of the newborn. Claims incurred for inpatient hospital treatment beyond the first forty-eight [48] or ninety-six [96] hours may not be processed or paid for the newborn until the newborn has been properly enrolled in the Plan.

(2) If optional coverage is not selected until after the employee's effective date, but within the member's initial thirty [30] day enrollment period, the optional coverage will be effective the first [1st] day of the month following the date the optional coverage was selected.

(3) In the event a dependent is hospital confined on the day his health coverage would otherwise become effective, health coverage for that dependent is not effective until the day following his or her final discharge from the hospital.

(4) Eligible dependents who lose other group health, dental or vision insurance coverage may be added to the equivalent health, dental or vision coverage offered through OSEEGIB within thirty [30] days after the loss of other group insurance coverage without penalty for preexisting conditions or orthodontia limitations if those dependents have been continuously covered by other group insurance, or have been eligible for treatment at military or Indian health facilities. Notice and proof of the loss of other coverage and termination date of other coverage must be submitted within thirty [30] days after the loss of the other coverage. At the insured's option, in order to avoid a break in coverage and the application of the ~~preexisting condition exclusion or~~orthodontia limitations, coverage under this Plan shall become effective on the first [1st] day of the month during which the insured actually lost previous coverage, provided the insured pays the full premium for that month. Otherwise, coverage shall become effective under this Plan on the first [1st] day of the month following notice of the loss of other coverage, and any break in coverage will result in the application of the ~~preexisting condition exclusion and~~ orthodontia limitations.

(5) Newly acquired dependents may be added if the election is made within thirty [30] days after the qualifying event, or during the annual enrollment period as established by OSEEGIB. Documentation proving the qualifying event may be required. The effective date of coverage will be the first [1st] day of the month following notification to OSEEGIB of the qualified event except for newborn or adopted dependent children.

(6) Provided all other eligibility requirements are satisfied, newly born or adopted eligible dependent children, eligible children for which guardianship has been newly granted to the insured or the insured's spouse, or eligible children of which the insured has been newly granted physical custody pending adoption, guardianship, or other legal custody, may be covered from the first [1st] day they are placed in the insured's physical custody, only upon payment of the full monthly premium for that individual, not prorated, and only after written notice has been given to OSEEGIB within thirty [30] days after obtaining physical custody. Copies of all documents relating to the matter are also required.

(7) At the insured's option, coverage for eligible dependent children newly placed in the insured's physical custody may become effective on the first [1st] day of the second month following placement, if written notice is provided within thirty [30] days after the date of placement, or at the next option period as established by OSEEGIB.

(8) If the spouse of a member is insured by this Plan as a dependent and such spouse has been ordered by a court to provide health insurance for his children, such children may be insured when they meet all requirements of and provide positive evidence in accordance with Board policy within thirty [30] days after the official filing date of the court order.

(9) In the absence of a court order indicating adoption, guardianship, legal separation or divorce, an insured may apply for coverage on other minor children living with the insured provided: (1) the insured submits a copy of his most recent federal income tax return showing the child was listed as the insured's dependent for income tax deduction purposes; and (2) if the last federal income tax form requested above does not list the child, the insured shall be required to provide a Declaration of Dependency form prescribed by the Plan; and (3) coverage, when approved, shall begin on the first [1st] day of the month following approval, and will never apply retroactively; and (4) all other applicable eligibility requirements must be satisfied; and (5) all necessary premiums have been paid. OSEEGIB shall have the right to verify the dependent's status, to request copies of the insured's federal income tax returns from time to time, and to discontinue coverage for such dependents if they are found to be ineligible for any reason.

360:10-3-25. Termination of dependent coverage

(a) **Waiting period of twelve [12] months.** If coverage is discontinued for dependents, the employee cannot reapply for

the discontinued coverage for any dependents again for at least twelve [12] months. Reinstated coverage shall be subject to penalty for ~~preexisting conditions or~~ orthodontia limitations.

(b) **Loss of other group health, dental, vision or life insurance coverage.** The twelve [12] month requirement does not apply when the dependent has lost other group health, dental, vision and/or life insurance coverage and is seeking reinstatement pursuant to Rule 360:10-3-24(4).

(c) **Dependent reaches age twenty-three [23].** Coverage will be terminated for dependents reaching age twenty-three [23] except disabled dependents who are incapable of self-support and who have been deemed eligible for coverage by OSEEGIB.

360:10-3-26. Withdrawal from plan; termination or loss of coverage

(a) **Withdrawal from plan.** Those eligible entities participating on a voluntary basis that elect to withdraw cannot re-enter the Plan for one [1] year following the date of withdrawal except for extraordinary circumstances. Notice of the election to withdraw must be provided to OSEEGIB thirty [30] days prior to the actual withdrawal date.

(b) **Termination of coverage due to insolvency of carrier.** Any eligible entities who have withdrawn and purchased other coverage, then have been notified by their other group health and/or dental insurance carrier that coverage is being terminated due to insolvency of the carrier may re-enroll within thirty [30] days after the loss of coverage by submitting a completed application form which must be approved by OSEEGIB prior to enrollment.

(c) **Individual member withdrawal and re-enrollment.** An individual employee who discontinues coverage on himself cannot re-enroll in any coverage for himself or his dependents for a period of twelve [12] months. Subsequent to the end of this twelve [12] month period, he may reapply for coverage offered by the Oklahoma State and Education Employees Group Insurance Board provided that he is eligible through a participating entity. The ~~preexisting condition and~~ orthodontia limitations will apply.

(d) **Loss of other group health, dental or life insurance coverage.** The twelve [12] month requirement does not apply when the individual member has lost other group health, dental and/or life insurance coverage and is seeking reinstatement pursuant to Rule 360:10-3-26(c).

360:10-3-27. Continuation of coverage for survivors

(a) The surviving dependents of a deceased employee who was on current work status or authorized leave at time of death, or of a participating retiree, or any person who has elected to receive a vested benefit under the Oklahoma Public Employees Retirement System, the Oklahoma Teachers Retirement System, the Uniform Retirement System for Justices and Judges, or the Oklahoma Law Enforcement Retirement system or is eligible to continue in force the life insurance coverage following retirement or termination of employment with the required minimum years of service with a participating employer, or who meets each and every requirement of the State Employees

Disability Plan, may continue the health or dental benefits in force provided said dependents pay the full cost of such coverage and they were covered as eligible dependents at the time of such death. Such election must be made within sixty [60] days after death and coverage must be continuous. The eligibility for said benefits shall terminate for the surviving children when such children cease to qualify as dependents under the provisions of this plan.

(b) The surviving spouse of a deceased employee who was on active work status or authorized leave at time of death, or a surviving spouse of a participating retiree, or surviving spouse of any person who has elected to receive a vested benefit under the Oklahoma Public Employees Retirement System, the Oklahoma Teachers Retirement System, the Uniform Retirement System for Justices and Judges, or the Oklahoma Law Enforcement Retirement system or is eligible to continue in force the life insurance coverage following retirement or termination of employment with the required minimum years of service with a participating employer, or who meets each and every requirement of the State Employees Disability Plan, and who had elected the optional dependent life benefit prior to his or her death, may continue the dependent life coverage for the surviving spouse and children that were covered as dependents on the date of deceased employee's death, provided the surviving spouse pays the full cost of such coverage and the surviving spouse and children were eligible dependents on the date of the deceased employee's death. Such election must be made within sixty [60] days after the date of the deceased employee's death and coverage must be continuous. The eligibility for life benefits shall terminate for the surviving spouse's children when the children cease to qualify as dependents under the provisions of this plan.

(1) Upon the death of the surviving spouse, life benefits granted under this paragraph are payable to the beneficiary designated by the surviving spouse.

(2) Upon the death of any covered dependent children under this paragraph, life benefits are payable to the surviving spouse.

(3) The amount of life insurance coverage elected by the surviving spouse or, if no spouse, the surviving eligible dependent children shall not exceed the amount elected by the deceased employee prior to the date of the employee's death.

(4) Coverage for all dependent children of the surviving spouse, if any, terminates simultaneously with the death of the surviving spouse or termination of the surviving spouse's life insurance coverage.

360:10-3-27.1. Mid-year benefit election changes

(a) Mid-year elections will be allowed in accordance with and under those circumstances stated within Title 26 Treasury Regulations, Section 125 of the Internal Revenue Code. The determination of Title 26 Treasury Regulations, Section 125, of the Internal Revenue Code compliance for the current employee will be through certification from the employer.

(b) OSEEGIB will accept any change for any current employee certified as being compliant by the employer of that

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current employee so long as the notification of change is received by OSEEGIB within thirty [30] days of the employee's mid-year plan election. The employer must further certify that the documentation supporting compliances is available to OSEEGIB and will be provided upon written request. An employer's cafeteria plan may permit an employee to revoke an election during a period of coverage and to make a new election only as provided in Title 26 Treasury Regulations 1.125-4. This is discretionary with the employer. Employees should be aware that Title 26 Treasury Regulations, Section 125 of the Internal Revenue Code does not require a cafeteria plan to permit any of these changes.

(c) For all other members not on current employee status or whose employer does not operate his employee benefit plan under a Section 125 plan, the rules for mid-year changes will be subject to the Section 125 guidelines as detailed in Title 26 Treasury Regulations 1.125-4.

(d) In all cases, mid-year election changes will only be considered in the event of a qualifying status change as described within Title 26 Treasury Regulations, Section 125 of the Internal Revenue Code. All other changes not in conjunction with a qualifying event can only be made during the annual Option Period.

SUBCHAPTER 5. COVERAGE AND LIMITATIONS

PART 1. POLICY PROVISIONS

360:10-5-2. Schedule of benefits and benefit administration procedures or guidelines as adopted by OSEEGIB

All benefits for plans offered through OSEEGIB as described in the rules in this title shall be paid according to the handbooks, schedule of benefits and benefit administration procedures or guidelines as adopted by OSEEGIB. The schedule of benefits and benefit administration procedures or guidelines as adopted by OSEEGIB shall be available for inspection by the public during regular office hours at 3545 N. W. 58, Suite 110, Oklahoma City, Oklahoma 73112.

360:10-5-3. Approval for emergency treatment by ~~non-network~~non-Network providers

Members may have benefits available for medical emergencies when ~~non-network~~non-Network services occur. Notification to OSEEGIB is required.

PART 3. THE PLANS

360:10-5-16. Plan limits

(a) **Deductible.** Covered members or dependents may be required to meet a calendar year deductible. Only covered charges will apply to the deductible.

(b) **Family deductible.** The family deductible is met when covered family medical expenses combined exceed the Plan's specified amount. No further deductible will be required from any covered participant for the remainder of the calendar year.

(c) **Out-of-pocket expenses.** Per person and family maximum calendar year out-of-pocket expenses are limited under HealthChoice to the percentage based coinsurance only. Copayments which have been established at specific dollar amounts will continue to apply after the out-of-pocket percentage based coinsurance maximum has been met.

(d) **Network out-of-pocket maximum.** When the member or dependent exceeds the specified out-of-pocket calendar year maximum OSEEGIB will pay one hundred percent [100%] of the allowable fee for treatment provided by a ~~network~~Network provider. The one hundred percent [100%] payment of the allowable fee will be made by HealthChoice for the remainder of the calendar year. Network out-of-pocket maximum accumulations also apply to the ~~non-network~~non-Network out-of-pocket maximum.

(e) **Non-networkNon-Network out-of-pocket maximum.** The Plan will pay one hundred percent [100%] of the allowable fee for treatment provided by a ~~non-network~~non-Network provider, once the member or dependent exceeds the specified out-of-pocket calendar year maximum. The one hundred percent [100%] payment of the allowable fee will be made by the Plan for the remainder of the calendar year. ~~Non-network out-of-pocket accumulations also apply to the network out-of-pocket maximum.~~Specific HealthChoice plans may apply non-Network out-of-pocket accumulations to the Network out-of-pocket maximums. Unlike ~~network~~Network providers, ~~non-network~~non-Network providers have no contractual obligation to limit members' financial responsibility after HealthChoice has paid the claim. HealthChoice processes claims based on limited allowable fees to ~~network~~Network and ~~non-network~~non-Network providers. Allowable fees are not the same as charges billed by providers. Network providers have agreed with HealthChoice to write off the remainder of their fees after all payments from HealthChoice and the member's deductible, copay and coinsurance have been determined. However, ~~non-network~~non-Network providers have no write-off agreement with HealthChoice, which means the member remains responsible for paying all outstanding billed costs for treatment which have not been paid by HealthChoice. In most cases, this leaves the member responsible for paying a substantial out-of-pocket fee for treatment by the ~~non-network~~non-Network provider.

(f) **Lifetime maximum benefit.** There is a lifetime maximum benefit that will be paid by the Plan for a member or dependent, with regard to pharmacy benefits.

(g) **Treatment by ~~non-network~~non-Network providers.** Any treatment at a ~~non-network~~non-Network provider will remain subject to the fee schedule or any other form of maximum claim payment limitation. Claims paid pursuant to the benefit administration procedures or guidelines as adopted by OSEEGIB at any ~~non-network~~non-Network hospital or provider are subject to the limited maximum allowable fee in every case, regardless of the reason why the member sought and received treatment at the ~~non-network~~non-Network provider, and will

usually result in substantial out-of-pocket expenses to the insured. Exceptions allowed by Statute at 74 O.S. §1304(12) and (13) may be made, when appropriate.

360:10-5-17. Covered charges

Items which will be considered for payment under the state's comprehensive health plan (HealthChoice) will be referred to as covered charges that are medically necessary and are as follows:

- (1) **Hospital services.** Charges made by a hospital for:
 - (A) Semi-private room and board;
 - (B) Other hospital services and supplies used for treatment;
 - (C) Charges for use of intensive care facility, coronary care facility and other special care facilities;
 - (D) Outpatient expense incurred within twenty-four [24] hours of a surgical operation or injury.
- (2) **Provider's services.** Charges for the services of a duly qualified provider for:
 - (A) Performing a surgical procedure;
 - (B) In-hospital medical treatment by a provider other than the surgeon;
 - (C) Care and treatment of an illness;
 - (D) Approved preventive medical treatment.
- (3) **Skilled Nurse facility expense.** Coverage for facility expenses applies only when the skilled nursing care to be provided is medically necessary as evidenced by a written statement from the attending provider and approved by the managed care vendor. The maximum number of days per benefit period shall be no greater than one hundred [100] days.
- (4) **Skilled Nurse care.** Skilled Nurse care that is rendered in the home must be medically necessary as evidenced by a written order and treatment plan from the attending provider and approved by the Health Care Management Division. Services must be provided by an agency that is Medicare certified as applicable, and accredited by a nationally recognized accreditation organization that is approved by state or federal guidelines, for example, The Joint Commission (formerly JCAHO) or The Commission on Accreditation of Rehabilitation Facilities (CARF). The maximum number of visits per benefit period shall be according to the benefit administration procedures or guidelines as adopted by OSEEGIB.
- (5) **Dentist's or oral surgeon's services.** Charges made by a duly qualified dentist or oral surgeon for treatment of fractures and dislocations of the jaw, and for cutting procedures and treatment covered under the oral surgery benefit. Dental services by ~~network~~Network providers shall be covered by HealthChoice for oral surgeries and related expenses which are covered medical benefits.
- (6) **Oral surgery.** Reimbursement for oral surgeries for removal of exostosis, tumors, or cysts when medically necessary; for surgical correction of prognathism, retrognathism, hyperplasia, temporomandibular joint dysfunction, dysfunctional mandibular disorder. Hospital confinement and related ancillary services [including

anesthesia] for dental surgery when the confinement is necessary for illness, severe disability, a minor eight [8] years of age or under, or other health conditions, even though the surgery itself may not be covered.

(7) **Rehabilitative care.** Charges for medical care that are considered primarily rehabilitative will be covered under the Plan. Out-of-hospital care must be prescribed by a provider and must begin within twelve [12] months after the onset of the condition being treated. Inpatient care must be rendered in a facility Medicare certified as applicable, and accredited by a nationally recognized accreditation organization that is approved by state or federal guidelines, for example, The Joint Commission (formerly JCAHO) or The Commission on Accreditation of Rehabilitation Facilities (CARF). Both inpatient and outpatient care must be approved.

(8) **Outpatient expense.** This coverage includes services and supplies provided by the hospital or licensed surgical center, or any center duly licensed for performing certain other surgical procedures, within twenty-four [24] hours following and in connection with a surgical procedure. The limit for outpatient expense incurred for any one surgery is stated in the benefit administration procedures or guidelines as adopted by OSEEGIB.

(9) **Hospice care.** Professional services provided by personnel recognized by this Plan as practitioners of the healing arts will be reimbursed according to the benefit administration procedures or guidelines as adopted by OSEEGIB. Specific criteria and limitations apply.

(10) Approval of exceptional claims

(A) The Health Care Management Division may recommend exceptions to the benefits ~~administra-~~tion provided by the plan for situations which would otherwise be denied or subject to limited coverage.

(B) Each request for exception must first be reviewed by the Health Care Management Division on an individual basis. All responsibility for providing the documentation necessary to complete the review falls to the member. Recommendations will then be given to the Medical Director and Administrator ~~both of whom who must both review and approve in writing all such~~all requested exceptions. Any such Exceptions that have been reviewed but not approved in writing by the Medical Director and Administrator are deemed not approved. Approval ~~approval~~ of exceptions shall not establish a precedent for ~~future~~other requests. All requests shall confirm that the requested exception is:

- (i) medically necessary, and
- (ii) within the standards of the community, and
- (iii) cost effective, and/or
- (iv) in compliance with all criteria as established by the Medical Director or designee.

360:10-5-20. Health plan limitations and exclusions

For the health plans provided by OSEEGIB, there is no coverage for expenses incurred for or in connection with any of the items listed below:

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~~(1) Expenses incurred, within one hundred eighty [180] days following the effective date of any employee's or a dependent's coverage under the Plan, resulting from or in any way related to a bodily injury, sickness or condition for which the covered member received treatment or incurred expenses during the one hundred eighty [180] day period immediately preceding the effective date of their coverage. This paragraph shall not apply to any member continuously covered under a previous group health insurance plan, or eligible to use military medical facilities, or was eligible to use Indian health services medical facilities. The employee is responsible to furnish OSEEGIB with satisfactory written evidence of such other coverage or eligibility and its termination date.~~

~~(2) Expenses incurred prior to the effective date of an individual's coverage, or for expenses incurred during a period of confinement which had its inception prior to the effective date of an individual's coverage hereunder.~~

~~(3) Injury or any sickness which is covered under an "extended benefits" provision of the previous group health coverage, until such time as such individual has exhausted all extended benefits available thereunder.~~

~~(4) Hospitalization or other medical treatment furnished to the insured or dependent after coverage has terminated.~~

~~(5) Confinement to a facility unless approved by OSEEGIB or its designee.~~

~~(6) Medical and surgical services and supplies which are in excess of the fee schedule for such service and supply.~~

~~(7) Expenses to the extent that the insured person is reimbursed or is entitled to reimbursement; or is in any way indemnified for such expenses by or through any public program, State or Federal, or any such program of medical benefits sponsored and paid for by the Federal Government or any agency or subdivision thereof.~~

~~(8) Bodily injury or illness arising out of or in the course of any employment not specifically excluded by 85 O.S. §2.1 or 2.6 (of the Workers' Compensation Act).~~

~~(9) Any treatment or procedure considered experimental or investigational. This restriction will also apply to any facility, appliance, device, equipment or medication.~~

~~(10) Medical and/or mental health treatment of any kind, including hospital care, medications, or any medical care or medical equipment which is excessive or where medical necessity has not been proven.~~

~~(11) Medications available for purchase without a written prescription.~~

~~(12) Medical care and supplies for which no charge is made or no payment would be requested if the insured individual did not have this coverage.~~

~~(13) Complications from any non-covered or excluded treatments, items or procedures.~~

~~(14) Any medication, device, or procedure, not FDA approved for general use or sale in the United States.~~

~~(15) Surgical procedures or treatment performed for cosmetic or elective reasons unless such procedure is specifically included as a covered charge or is necessary as~~

a result of an accident. Coverage must have been continuous from the date of the accident to the date of corrective surgery.

~~(16) Dental expenses unless incurred as the result of an accidental bodily injury to natural teeth or gums while the coverage is in effect. Coverage must have been continuous from the date of the accident to the date of corrective surgery. Broken or lost artificial teeth, bridges or dentures, are not eligible.~~

~~(17) Illness, injury, or death as a result of committing or attempting to commit an assault or felony, including participation in a riot or insurrection as an aggressor.~~

~~(18) Intentionally self-inflicted injury, or for attempted suicide whether sane or insane except when the injury results from a physical or mental medical condition covered under the health plan.~~

~~(19) Wrongful act or negligence of another when an employee or dependent has released the responsible party, unless subrogation has been waived or reduced in writing. However, this exclusion may be waived in an individual case, solely at OSEEGIB's option, and only for good cause, or if circumstances are such that refusal to pay the claim would create an extreme financial hardship on the employee or dependent.~~

~~(20) All other conditions, services, procedures, treatments, expenses, items, and supplies excluded by OSEEGIB's benefit guidelines.~~

PART 5. LIFE BENEFITS

360:10-5-33. Optional supplemental life coverage for eligible employees

(a) **Supplemental life coverage.** Supplemental life coverage is available for eligible employees who are covered by the basic term life coverage, ~~until their termination of employment.~~

(b) **Enrollment.** At the time of initial enrollment, supplemental life may be requested up to the pre-established level set forth in the benefit administration procedures or guidelines as adopted by OSEEGIB, without submitting evidence of insurability. All supplemental life insurance requested which exceeds the pre-established level will require evidence of insurability. Coverage selected in the supplemental life insurance program begins on the first [1st] day of the month following the date of employment. Optional coverages not selected within the member's initial enrollment period may be added only during the next enrollment period. Members who waive or do not select supplemental life insurance coverage shall be required to obtain approval of current evidence of insurability to obtain coverage at a later date. Coverage obtained under this provision will be subject to certain additional restrictions as adopted by OSEEGIB. Individuals who waived this coverage because they were covered by other group life insurance coverage will be allowed to enroll without being subject to these additional restrictions if they request the coverage in writing and supply proof of the loss of other group coverage within thirty [30] days following the loss of the other group life coverage.

(c) **Changes in levels of coverage.** Increases or reductions in coverage limits (except termination of coverage) are only accepted during the option period. Beneficiary changes may be made at any time, but must be communicated to OSEEGIB in writing. All changes in coverage levels will be subject to the benefit administration procedures or guidelines as adopted by OSEEGIB.

(d) **Waiver of life insurance premiums.** In the event the employee becomes disabled, life insurance premiums may be waived for employee and dependent life insurance coverage. Provider certification shall be required, as specified by OSEEGIB, and premium waiver shall start on the first [1st] day of the month after the employee has been disabled for thirty [30] consecutive days, and shall continue for as long as the employee remains disabled. The waiver shall terminate on the earliest of the following events: the employee has been found to be able to return to current duty in any capacity by any provider; the employee returns to any active duty for any period of time; the employee changes in status to former or retired; the employee notifies OSEEGIB in writing that life insurance coverage is to be terminated; the employee is terminated for any reason, including, but not limited to resignation or discharge from his or her position; any termination of life insurance coverage occurs as set forth in 360:10-7-1.

(e) **Accidental Death and Dismemberment and loss of sight benefit.** The basic term life and the first twenty thousand dollars [\$20,000] of the supplemental life coverage includes the accidental death and dismemberment and loss of sight benefit and will pay a scheduled benefit in the event of accidental death and dismemberment or loss of sight injury within ninety [90] days after the date of accident or accidental injury. Death must be a direct result of the accidental bodily injury independent of all other causes.

PART 15. SUBROGATION

360:10-5-100. Right of subrogation

(a) OSEEGIB reserves the right to recover ~~any~~ payments ~~funds~~ from members, dependents, tortfeasors, liability policies, underinsured/uninsured motorist policies, medical payments policies and/or other identifiable sources of funds, in amounts equal to any and all claim payments made on behalf of an employee a member or dependent for injury caused by a third party's wrongful act or negligence, subject to the following conditions:

(b) OSEEGIB has the right to recover any sums collected by or on behalf of a member or dependent even if the member or dependent has not been made whole. OSEEGIB is entitled to reimbursement from any recovery even if the recovery does not fully compensate the member or dependent for their injury. The sole exception to this paragraph exists only to the limited extent that OSEEGIB voluntarily elects to invoke its exclusive statutory authority to waive or reduce OSEEGIB's subrogation interest in an individual case.

(~~1c~~) The act of submitting claims by ~~an employee or on behalf of a member~~ or dependent constitutes notice and acceptance of

OSEEGIB's right of recovery against the third party and creates a lien upon any identifiable funds referenced in (a) above.

(~~2d~~) ~~An employee~~ A member or dependent will not take any action to prejudice OSEEGIB's right of subrogation, such as settlement of the claim without first giving notice of OSEEGIB's subrogation rights to the responsible party or his and any and all known liability or other insurers, insurer.

(~~3e~~) The ~~employee~~ member or dependent will cooperate in doing what is reasonably necessary to assist OSEEGIB in any recovery, including but not limited to promptly providing all information requested by OSEEGIB.

(~~4f~~) Subrogation will exist only to the extent of plan benefits paid, ~~because of that injury.~~

(~~5g~~) Claims submitted after ~~an employee~~ a member or dependent has released the responsible party may be ~~refused~~ denied at the option of OSEEGIB, by the issuance of routine by-written notice to the employee member, dependent, or their attorney.

(~~6h~~) ~~If a claim is submitted and~~ If claims relating to a specified injury are paid by OSEEGIB after the employee member or dependent has released the responsible party, when the member and the employee or dependent has failed to inform OSEEGIB in a timely manner prior to executing a release, of the release, OSEEGIB, at its option, may require reimbursement from the ~~employee member,~~ dependent or provider.

(i) Claims submitted will initially be pended as incomplete and subsequently denied if information regarding possible third party responsibility is not voluntarily provided to OSEEGIB within a reasonable time period [not less than ninety (90) days] after the date the information was first requested in writing by or on behalf of OSEEGIB.

[OAR Docket #08-808; filed 5-7-08]

**TITLE 360. OKLAHOMA STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BOARD
CHAPTER 15. THE DISABILITY PLAN**

[OAR Docket #08-809]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 360:15-1-2. [AMENDED]
- 360:15-1-11. [AMENDED]
- 360:15-1-14.1. [NEW]
- 360:15-1-31. [AMENDED]

AUTHORITY:

Oklahoma State and Education Employees Group Insurance Board; 74 O.S., Sections 1332

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None

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Changes to Chapter 15 clarify definitions, conform rules to recent benefit changes, clarify language, and clarify existing plan exclusions.

CONTACT PERSON:

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

360:15-1-2. Definitions

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

"Base compensation" means the rate of earnings in effect on the date disability begins. Base compensation does not include overtime, commissions, bonuses, longevity pay, salary increases, productivity enhancement program payments and all other extra compensation.

"Benefit period" means the first [1st] day of the benefit period will be the day benefits commence as defined at 360:15-1-4(a) and (b). The end of the benefit period will be the last day of eligibility as defined at 360:15-1-11(d). A recurrent disability as defined at 360:15-1-7 will not alter the beginning date of the benefit period.

"The Board" means the eight [8] members designated by statute [74 O.S. §1303(1)].

"Disability" means a person is considered to be disabled when he is unable, as a result of injury or illness, to perform the material duties of his own occupation. Disability will be considered to have commenced on the date the employee first receives treatment or advice from a physician after his last date worked and said disability is expected to last thirty-one [31] consecutive days or longer. After the first twenty-four [24] months of disability, disability will be defined as inability to perform each of the material duties of any gainful occupation for which a person is or may become reasonably qualified by training, education or experience. None of the classes of disability used in other plans or programs such as temporary, permanent, total, or partial, etc., are to be used to limit or define this plan's disability criteria, whether or not the terms are used in medical or legal documents supplied as proof of disability under this plan. Uses of such terms are intended to be disregarded by this plan. Determinations rendered by or for workers

compensation or social security are not considered prima facie evidence of disability for this plan.

"Eligibility period" means the first thirty-one [31] consecutive calendar days of employment. No benefit is payable for this period. For employees with less than one [1] year of service, proof of continuous presence at the regularly assigned work place and verification by the appointing authority that the employee was performing all of the material duties of the employee's regular occupation continuously during the eligibility period shall be required as conditions of satisfaction of the eligibility period.

"Elimination period" means the first thirty [30] consecutive calendar days of disability. No benefit is payable for this period.

"Employee" means, for purposes of this chapter only, the term employee includes but is not limited to persons who are currently drawing disability benefits under this Disability Plan or who meet each and every requirement of this Disability Plan.

"Furlough" means a nonscheduled working day, in addition to regular nonscheduled working days requested by the employer.

"Illness" means sickness or disease, including pregnancy and complications of pregnancy. Disability resulting from the illness must begin while the employee is participating in the Plan.

"Injury" means bodily injury resulting directly from an accident, independent of all other causes. The resulting disability must occur while the employee is participating in the Plan.

"OSEEGIB" means the Oklahoma State and Education Employees Group Insurance Board.

"Participation" means participation in the Disability Plan shall be limited to employees who have been employees for a period of not less than one [1] month prior to the onset of the disability, ~~and to employees of other entities and counties which have adopted a resolution to join the Disability Plan.~~ The employee must have been continuously employed by the employer for a period of not less than one [1] month, and must have satisfied the requirements of the eligibility period as defined herein. For the purposes of this chapter, one [1] month shall mean thirty-one [31] consecutive days.

"Physician" means a person licensed to practice medicine and surgery, osteopathy, chiropractic, podiatry, optometry, or dentistry and legally qualified as a medical practitioner under the insurance statutes of the State of Oklahoma, and operating within the scope of his license. An employee or an employee's spouse, child, father, mother, sister, or brother will not be included in this definition.

"Preexisting condition" means, for the purposes of this chapter only, an illness or injury for which the employee received medical care, diagnosis, consultation, treatment or took prescribed drugs or medicines during the ninety [90] day period immediately preceding his/her entry-on-duty (EOD) date. The term "preexisting condition" shall also include any condition which is related to such injury or illness.

"Years of service" means time spent as an active employee performing full-time duties for remuneration with an

entity participating in the Disability Plan. Time on partial disability or leave (with or without pay) after an established disability date will not be counted toward years of service for disability benefit purposes. Time on leave without pay status after an established disability date will also not be counted toward years of service for disability benefit purposes. Under no circumstances will time for which an insured receives disability benefits under this Plan be counted toward years of service.

360:15-1-11. Duration and amounts of benefits

(a) **Determination of monthly disability benefits.** To determine monthly disability benefits:

- (1) Multiply the employee's base compensation by sixty percent [60%], subject to short-term and long-term benefit maximums as established by the Board.
- (2) Deduct any benefit offsets.
- (3) Monthly benefit will be (1) minus (2), subject to any minimum long-term disability benefit as established by the Board.

(b) **Prorating of benefit for part of a month.** Any benefit that is payable for part of a month will be prorated using the number of days in that month as the denominator and the number of days of disability during that partial month as the numerator.

(c) **Cooperation required.** Continued benefits shall be contingent upon cooperation and participation in the rehabilitation program herein.

(1) In order to remain eligible for long-term benefits, the insured must make application for Social Security benefits by the seventh [7th] month of disability and continue pursuing Social Security benefits until the appeals process is exhausted. Refusal to appeal denial of Social Security benefits through the entire appeals process is grounds for termination of benefits. Exceptions may be granted by OSEEGIB in certain cases where application for Social Security benefits is not practical due to the type of disability.

(2) If, after twenty-four [24] months of disability, the Social Security Administration has not deemed the insured eligible for Social Security disability benefits, the insured will no longer be eligible for benefits from this plan.

(3) Exceptions to (c), (1), and (2), above may be granted by OSEEGIB on a case-by-case basis.

(d) **Mental health and substance abuse.** Disability claims due to mental health disorders or substance abuse are limited to twenty-four [24] months per disability.

(1) Provided, however, if the employee is confined in a hospital, as defined in 360:10-1-2, of these Rules, at the end of the twenty-four [24] month period, benefits will be paid for the length of that confinement. If the employee continues to be totally disabled upon discharge from the hospital, the monthly benefit will be payable for a period not to exceed ninety [90] days. If the insured employee is reconfined during this recovery period for at least fourteen [14] consecutive days, the monthly benefit will resume during that confinement and one additional recovery period not to exceed ninety [90] days.

(2) Provided, also, that each employee shall have a lifetime maximum of no greater than sixty [60] months of disability benefits for all mental or substance abuse disorders; however, other maximums apply, and in no event shall benefits exceed the maximums listed in 360:15-1-11 of this section.

(e) **Payment of benefits monthly.** Benefits are paid monthly subject to the maximums listed below. These maximums apply to all disabilities, but are subject to (b) and (d) of this section. These maximums are computed from the first [1st] day of disability.

- (1) Less than one year of service: 6 month maximum coverage
- (2) From one to five years of service:
 - (A) Under age 66 at disability - 24 month maximum coverage
 - (B) at age 66 at disability - 21 month maximum coverage
 - (C) at age 67 at disability - 18 month maximum coverage
 - (D) at age 68 at disability - 15 month maximum coverage
 - (E) at age 69 or over at disability - 12 month maximum coverage
- (3) More than five years of service:
 - (A) Under age 60 at disability - coverage to age 65
 - (B) at age 60 at disability - 60 month maximum coverage
 - (C) at age 61 at disability - 48 month maximum coverage
 - (D) at age 62 at disability - 42 month maximum coverage
 - (E) at age 63 at disability 36 month maximum coverage
 - (F) at age 64 at disability - 30 month maximum coverage
 - (G) at age 65 at disability - 24 month maximum coverage
 - (H) at age 66 at disability - 21 month maximum coverage
 - (I) at age 67 at disability 18 month maximum coverage
 - (J) at age 68 at disability 15 month maximum coverage
 - (K) at age 69 or over at disability - 12 month maximum coverage

360:15-1-14.1. Direct deposit and insurance premium deductions

(a) For employees with disability benefit periods beginning prior to January 1, 2009, an employee may authorize OSEEGIB to deposit their monthly disability benefit directly to a checking or savings account in a bank, credit union or savings and loan by electronic fund transfer. Application for direct deposit will only be accepted on properly completed forms provided by OSEEGIB. Prior to January 1, 2010, the direct deposit may be discontinued at any time upon thirty (30) days written notice by the employee or OSEEGIB. After January 1,

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2010, if the electronic fund transfer creates an undue hardship on the employee, the direct deposit may be discontinued only if the employee makes application to the Administrator of OSEEGIB to request a waiver of this requirement. The waiver will be granted only upon good cause shown when it is determined to be in the best interest of the employee. The Administrator, at his or her sole discretion, may also waive this requirement when it is necessary in the best interest of OSEEGIB to do so.

(b) Effective January 1, 2010, disabled employees with disability benefit periods beginning on and after that date shall be required to receive monthly disability payments via electronic fund transfers to checking or savings account in a bank, credit union or savings and loan designated by the employee. The employee and receiving institution must complete the form prescribed for this purpose by OSEEGIB. In the event the electronic fund transfer creates an undue hardship on the employee, the employee may make application to the Administrator to request a waiver of this requirement. The waiver will be granted only upon good cause shown when it is determined to be in the best interest of the employee. The Administrator, at his or her sole discretion, may also waive this requirement when it is necessary in the best interest of OSEEGIB to do so.

(c) In addition to all other required deductions, premiums for insurance coverage provided to disabled employees and their dependents as authorized at Title 74 Oklahoma Statutes Section 1332(A) and 1332.1(D) shall be deducted from disability benefit payments made pursuant to this Chapter.

360:15-1-31. Amending of rules

This chapter may be amended or repealed from time to time and new ~~Rules~~ rules adopted by the Board pursuant to the Administrative Procedures Act.

[OAR Docket #08-809; filed 5-7-08]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #08-848]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 9. Description of Forms and Instructions

365:1-9-12. Agent and customer service representative appointment forms
[AMENDED]

Subchapter 13. Electronic Filings [NEW]

365:1-13-1. Required electronic filings [NEW]

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 1435.19 and 12A O.S. § 15-118

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INCORPORATION BY REFERENCE:

n/a

ANALYSIS:

The amendment to Rule 365:1-9-12 adds customer service representative appointment and cancellation forms. Customer service representatives are required to be appointed by licensed insurance producers. Forms are needed to process the appointments and cancellations. The new rule 365:1-13-1 sets out filings with the Insurance Department to be made electronically.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2008:

SUBCHAPTER 9. DESCRIPTION OF FORMS AND INSTRUCTIONS

365:1-9-12. Agent and customer service representative appointment forms

(a) **Company Appointment form (R-11).** The company appointment form is to be completed by an insurer appointing specific individuals as agents of the company and for renewal of agents' appointments.

(b) **Cancellation of Appointment form (CAA).** The cancellation of appointment form is to be used by an insurer when canceling the appointment of an agent or agents. This form is to be reproduced by the insurer in quantities sufficient for their needs.

(c) **Customer Service Representative Appointment form (CSR-1).** The customer service representative appointment form shall be completed by a licensed insurance producer appointing and employing a customer service representative.

(d) **Cancellation of Customer Service Representative Appointment form (NAN-1).** The cancellation of appointment form shall be utilized by a licensed producer to cancel the customer service representative's appointment and employment.

SUBCHAPTER 13. Electronic Filings

365:1-13-1. Required electronic filings

(a) Effective January 1, 2009, the following filings, and fees relating thereto, shall be made with the Insurance Department

by electronic means and format as approved by the Insurance Commissioner:

- (1) Insurance agent/producer initial and renewal license applications;
 - (2) Insurance adjuster initial and renewal license applications;
 - (3) Limit lines producers initial and renewal license applications;
 - (4) Life, accident and health insurance brokers initial and renewal license applications;
 - (5) Insurance consultants initial and renewal license applications;
 - (6) Customer service representatives initial and renewal license applications;
 - (7) Motor service club agent's initial and renewal license applications;
 - (8) Appointments and terminations of appointments of those listed in Paragraphs 1 through 7 of this section;
 - (9) Continuing education providers initial and renewal applications; and
 - (10) Continuing education course submissions;
- (b) The Insurance Commissioner may exclude a specific filing, filings or categories of filings from the requirements of this section at the Commissioner's discretion.

[OAR Docket #08-848; filed 5-9-08]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 10. LIFE, ACCIDENT AND
HEALTH**

[OAR Docket #08-849]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 5. Minimum Standards; Contract Guidelines
- Part 5. Long-Term Care Insurance
- 365:10-5-53. Contingent benefit upon lapse [NEW]
- 365:10-5-54. State long-term care insurance partnership program [NEW]
- Part 19. Oklahoma Health Care Freedom of Choice Regulation
- 365:10-5-181. Good faith estimate by insurer [AMENDED]
- Part 21. Extension and Termination of Coverage Under Group Accident and Health Policy Contracts of Hospital and Medical Services or Indemnity [NEW]
- 365:10-5-190. Purpose. [NEW]
- 365:10-5-191. Applicability and scope [NEW]
- 365:10-5-192. Definitions [NEW]
- 365:10-5-193. Periods for which coverage is extended [NEW]
- 365:10-5-194. When extension period begins [NEW]
- 365:10-5-195. Required notification to employee whose insurance is terminated [NEW]
- Appendix HH. Partnership Program Notice [NEW]
- Appendix II. Partnership Status Disclosure Notice [NEW]
- Appendix JJ. Issuer Certification Form [NEW]
- Appendix KK. Approved Long Term Care Partnership Program Policy Summary [NEW]

AUTHORITY:

Insurance Commissioner, 36 O.S. § 307.1 and 36 O.S. § 4421, and 63 O.S. § 1955.5

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n/a

ANALYSIS:

The purpose of the long term care rules is to set forth standards for approval of long-term care insurance policies pursuant to the Oklahoma Long-term Care Partnership Act, 63 O.S. § 1-1955.1, et seq. (the Act). The Act provides that the Oklahoma Health Care Authority shall provide for asset disregard for purposes of qualification for Medicaid benefits to the extent the payments are for covered services under the Oklahoma Long-term Care Partnership Program for purchasers of an Oklahoma Long-term Care Partnership Program approved policy the form of which has been approved by the Insurance Department pursuant to the Act and Section 1-1955.2(4) specifically. Section 1-1955.3 of the Act requires that the Oklahoma Health Care Authority (OHCA) administer the Act upon repeal of the restrictions to asset protection contained in the federal Omnibus Budget Reconciliation Act of 1933. Public Law 109-171, known as the Deficit Reduction Act of 2005, repealed the restrictions to asset protection and authorized states to implement long-term care partnership programs.

Rule 365:10-5-181 is amended. The amendment revises an incorrect statutory citation.

The purpose of Part 21 is to implement Section 4509 of Title 36 of the Oklahoma Statutes, to promote the public interest, to promote the availability of extension of benefits, to protect individuals during a continuing course of medical treatment, to prevent unfair practices, and to facilitate public understanding in the availability of extension of benefits upon termination of coverage.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2008:

**SUBCHAPTER 5. MINIMUM STANDARDS;
CONTRACT GUIDELINES**

PART 5. LONG-TERM CARE INSURANCE

365:10-5-53. Contingent benefit upon lapse

(a) Notwithstanding any other rule, the Commissioner may require the administration by an insurer of the contingent benefit upon lapse, as described in Section 26(A), (D) (3), (E), (F),

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(G), and (J) of the Long-Term Care Insurance Model Regulation promulgated by the National Association of Insurance Commissioners, as adopted in October 2000, as a condition of approval or acknowledgment of a rate adjustment for a block of business for which the contingent benefit upon lapse is not otherwise available.

(b) The insurer shall notify policyholders and certificate holders of the contingent benefit upon lapse when required by the commissioner in conjunction with the implementation of a rate adjustment. The commissioner may require an insurer who files for such a rate adjustment to allow policyholders and certificate holders to reduce coverage to avoid an increase in the policy's premium amount.

(c) The Insurance Commissioner may also approve any other alternative mechanism filed by the insurer in lieu of the contingent benefit upon lapse.

365:10-5-54. State long-term care insurance partnership program

(a) **Purpose.** In accordance with Section 6021 of the Deficit Reduction Act of 2005 (Pub.L. 109-171) and in addition to the applicable provisions of this chapter, the provisions of this section shall apply to any qualified state long-term care insurance partnership policy.

(b) **Requirements for partnership policies.** "Qualified state long-term care insurance partnership policy " or " partnership policy " means an insurance policy that meets the following requirements:

(1) The policy covers an insured who was a resident of Oklahoma (or a Partnership State) when coverage first became effective under the policy.

(2) The policy is a qualified long-term care insurance policy as defined in Section 7702B(b) of the Internal Revenue Code of 1986 and was issued no earlier than July 1, 2008.

(3) The policy meets all the applicable requirements of this Part and the requirements of the National Association of Insurance Commissioners long-term care insurance model act and model regulation as those requirements are set forth in Section 1917(b)(5)(A) of the Social Security Act (42 USC Section 1396p(b)(5)(A)).

(4) The policy provides the following inflation protections:

(A) For a person who is less than sixty-one years of age as of the date of purchase of the policy, the policy provides annual inflation protection of at least three percent (3%) per year compounded annually or a rate, compounded annually, that is based upon changes in the consumer price index.

(B) For a person who is at least sixty-one years of age but less than seventy-six years of age as of the date of purchase of the policy, the policy provides annual inflation protection of at least three percent (3%) simple or a rate that is based on the annual consumer price index.

(C) For a person who is at least seventy-six years of age as of the date of purchase of the policy, the policy may provide inflation protection.

(c) **Meaning of consumer price index.** As used in this section, "consumer price index" means consumer price index for all urban consumers, U.S. city average, all items, as determined by the bureau of labor statistics of the United States department of labor. The Commissioner may approve an alternative index to be used in place of the consumer price index or alternative inflation protection programs developed by the insurer if the Commissioner deems that such programs would meet the intent of this section.

(d) **Notice from insurer or agent.**

(1) An insurer or its agent, soliciting, negotiating or offering to sell a policy that is intended to qualify as a partnership policy, shall provide to each prospective applicant a Partnership Program Notice (Appendix HH), outlining the requirements and benefits of a partnership policy. A similar notice may be used for this purpose if filed and approved by the Commissioner. The Partnership Program Notice shall be provided with the required Outline of Coverage.

(2) A partnership policy issued or issued for delivery in Oklahoma shall be accompanied by a Partnership Disclosure Notice (Appendix II) explaining the benefits associated with a partnership policy and indicating that at the time issued, the policy is a qualified state long-term care insurance partnership policy. A similar notice may be used if filed and approved by the Commissioner. The Partnership Disclosure Notice shall also include a statement indicating that by purchasing this partnership policy, the insured does not automatically qualify for Medicaid.

(e) **Partnership policy filings.**

(1) A partnership policy shall not be issued or issued for delivery in Oklahoma unless filed with and approved by the Commissioner. Any policy submitted for certification as a partnership policy shall be accompanied by a Partnership Certification Form (Appendix JJ), or a similar form filed and approved by the commissioner.

(2) Insurers requesting to make use of a previously approved policy form as a qualified state long-term care partnership policy shall submit to the commissioner a Partnership Certification Form signed by an officer of the company. Upon request of the Commissioner, the Partnership Certification Form shall be accompanied by a copy of the policy or certificate form listed, the approval date, and a bookmark for each of the requirements listed in sections II and III of the form. A Partnership Certification Form shall be required for each policy form submitted for partnership qualification.

(f) **Offers of exchange.**

(1) Once an insurer begins to advertise, market, offer, or sell policies that qualify under the state long-term care partnership program, the insurer shall offer to policyholders and certificate holders the opportunity to exchange their existing long-term coverage for coverage that is intended to qualify under the state's long-term care partnership program provided that:

(A) The insurer is required to make the offer only for existing long-term care coverage that was issued on or after February 8, 2006;

(B) The insurer is required to make the offer only for existing long-term care coverage that is the type certified by the insurer for purposes of the state long-term care partnership program;

(C) The insurer is required to make the offer on at least a one time basis, in writing, to the existing policyholder or certificate holder at the time of the policy's first renewal following the date that the insurer begins to advertise, market, offer, or sell policies that qualify under the state's long-term care partnership program; and

(D) All of an insurer's existing long-term care policyholders or certificate holders possessing coverage of the type certified by the insurer shall be given the opportunity to exchange their existing coverage within one year of the date that the insurer began to advertise, market, offer, or sell policies that qualify under the state long-term care partnership program.

(2) An exchange occurs when an insurer offers a policyholder or certificate holder (hereinafter "insured") the option to replace an existing long-term care insurance policy with a policy that qualifies as a partnership plan, and the insured accepts the offer to terminate the existing policy and accepts the new policy. In making an offer to exchange, an insurer shall comply with all of the following requirements:

(A) The offer shall be made on a nondiscriminatory basis without regard to the age or health status of the insured;

(B) The offer shall remain open for a minimum of ninety (90) days from the date of mailing by the insurer.

(3) Notwithstanding subsections (f)(1) and (2) of this section,

(A) An offer to exchange may be deferred for any insured who is currently eligible for benefits under an existing policy or who is subject to an elimination period on a claim, but such deferral shall continue only as long as such eligibility or elimination period exists; and

(B) An offer to exchange does not have to be made if the insured would be required to purchase additional benefits to qualify for the state long-term care partnership program and the insured is not eligible to purchase the additional benefits under the insurer's new business, long-term care and underwriting guidelines.

(4) If the new policy has an actuarial value of benefits equal to or lesser than the actuarial value of benefits of the existing policy, then all of the following apply:

(A) The new policy shall not be underwritten; and

(B) The rate charged for the new policy shall be determined using the original issue age and risk class of the insured that was used to determine the rate of the existing policy.

(5) If the new policy has an actuarial value of benefits exceeding the actuarial value of the benefits of the existing policy, then all of the following apply:

(A) The insurer shall apply its new business, long-term care, underwriting guidelines to the increased benefits only; and

(B) The rate charged for the new policy shall be determined using the method set forth in paragraph (4)(B) of this subsection for the existing benefits, increased by the rate for the increased benefits using the then current attained age and risk class of the insured for the increased benefits only.

(6) The new policy offered in an exchange shall be on a form that is currently offered for sale by the insurer in the general market and the effective date of the partnership plan policy shall be the same as the new policy.

(7) In the event of an exchange, the insured shall not lose any rights, benefits or built-up value that has accrued under the original policy with respect to the benefits provided under the original policy, including, but not limited to, rights established because of the lapse of time related to pre-existing condition exclusions, elimination periods, or incontestability clauses.

(8) Insurers may complete an exchange by either issuing a new policy or by amending an existing policy with an endorsement or rider.

(9) For those insureds with long-term care policies issued before February 8, 2006, any insurer may offer any insured an option to exchange an existing policy for a policy that qualifies as a state long-term partnership plan. The requirements set forth in subsections (f)(2) through (8) of this section shall apply to any such exchange.

(g) **Report to HHS.** All insurers shall report to the Health and Human Services Secretary such information as required by Centers for Medicare & Medicaid Services (CMS), including but not limited to:

(1) Notification regarding when insurance benefits provided under partnership plans have been paid and the amount of such benefits paid, and

(2) Notification regarding when such policies otherwise terminate.

(h) **Requests for information by insured.** All insurers shall provide to any insured requesting such information a copy of the Approved Long-Term Care Partnership Program Policy Summary, which is hereby adopted and incorporated into this rule by reference. An insurer may use its own form as long as the information and content is consistent with the information contained in Appendix KK.

(i) **Closed blocks.** The Insurance Commissioner may prohibit an insurer from offering a partnership policy, through an order issued after opportunity for hearing, when an insurer has previously closed or intends to close a block of long-term care insurance coverage or long-term care partnership insurance coverage.

**PART 19. OKLAHOMA HEALTH CARE
FREEDOM OF CHOICE REGULATION**

Permanent Final Adoptions

365:10-5-181. Good faith estimate by insurer

A good faith estimate of the allowable fee pursuant to Section ~~6055 (E)~~ 6055(F) of Title 36 must be provided upon request within seventy-two (72) hours of receipt of said request. Request may be made by telephone, fax or mail.

PART 21. EXTENSION AND TERMINATION OF COVERAGE UNDER GROUP ACCIDENT AND HEALTH POLICY AND CONTRACTS OF HOSPITAL AND MEDICAL SERVICES OR INDEMNITY

365:10-5-190. Purpose

The purpose of this Part is to implement Section 4509 of Title 36 of the Oklahoma Statutes, to promote the public interest, to promote the availability of extension of benefits, to protect individuals during a continuing course of medical treatment, to prevent unfair practices, and to facilitate public understanding in the availability of extension of benefits upon termination of coverage.

365:10-5-191. Applicability and scope

Except as otherwise specifically provided, this Part applies to all group accident and health insurance policies, contracts, or certificates issued or issued for delivery in this state on or after the effective date hereof, by the following insurance carriers:

- (1) insurers;
- (2) fraternal benefit societies;
- (3) nonprofit health, hospital and medical service corporations;
- (4) prepaid health plans;
- (5) multiple employer welfare arrangements;
- (6) health maintenance organizations; or
- (7) similar organizations.

365:10-5-192. Definitions

For the purpose of this Part, the term "terminated" or "termination" as used in 36 O.S. § 4509 shall mean an employee's loss of coverage, regardless of cause, including termination of the entire group.

365:10-5-193. Periods for which coverage is extended

(a) In the case of any employee whose group accident and health insurance policy, contract, or certificate is terminated, the coverage provided prior to the termination shall remain in effect for a period of at least thirty (30) days for the terminated employee and his or her dependents who were covered at the time coverage was terminated.

- (1) A period of 30 days will be granted for payment of premium due for the extension of coverage period, during which period the coverage shall remain in force.
- (2) Premiums for the extension of coverage may be withheld from any claim payment for covered expenses payable under the policy, certificate, or contract where the

expenses are incurred during the thirty (30) day period after the policy, certificate, or contract has terminated.

(3) All terminated employees are eligible for the thirty (30) day extension period provided for under 36 O.S. § 4509(A), regardless of whether they qualify for the additional extension period provided for by 36 O.S. § 4509(B).

(4) A conversion policy is not "similar insurance" as contemplated by 36 O.S. § 4509(A) unless the coverage available under the conversion policy is substantially similar to the group accident and health insurance policy, certificate, or contract that terminated. A policy containing a pre-existing condition limitation shall not be considered similar insurance.

(b) In the case of an employee who had coverage under a policy, certificate, or contract for at least six (6) months and whose insurance has terminated, the coverage provided prior to the termination shall remain in effect for any continuous loss that began while the insurance was in force for a period of not less than three (3) months in the case of basic coverage or six (6) months in the case of major medical coverage. This extension may be predicated upon the continuous total disability of the person insured or his or her dependents or the expenses incurred in connection with a plan of surgical treatment, which shall include maternity care and delivery expenses that commenced prior to the termination.

(1) Premiums may be charged for the extension of benefits provided in this subsection.

(2) Premium charged shall be the premium which would have been charged for the coverage provided under the group policy, certificate, or contract had termination not occurred.

(3) Billing of premiums charged shall be mailed directly to the insured at the last known address of the insured or an address provided by the insured.

(4) Premium billing shall be made based on the premium billing schedule that the group policy, certificate, or contract had in place prior to the termination of coverage.

(5) Extension of insurance benefits shall not be conditioned upon the payment or receipt of premiums before coverage is provided.

(6) Premiums for the extension of benefits may be withheld from any claim payment for covered expenses incurred and due during the extension of benefits period. Normal collection methods provided by law may be used for premiums due but not remitted by the terminated employee.

365:10-5-194. When extension period begins

In the case of an employee electing an extension of coverage of a group policy, certificate, or contract pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Pub.L. 99-272, Apr. 7, 1986, 100 Stat. 82, the extension of coverage provided under 36 O.S. § 4509 begins upon termination or exhaustion of the COBRA coverage period, which ever comes first.

(1) Extension of coverage shall be available to an employee who does not elect extension of coverage under the provisions of COBRA.

(2) The extension of coverage begins at the termination or exhaustion of coverage provided by COBRA and is subject to the same extension of coverage requirement had COBRA not been chosen.

(3) Extension of coverage shall be available to an employee who elected the COBRA extension of coverage option at the time such COBRA coverage is terminated, even if termination occurs prior to the exhaustion of the coverage that could be provided by COBRA.

365:10-5-195. Required notification to employee whose insurance is terminated

(a) Upon termination of coverage, an employee shall be notified in writing of the extension of coverage option provided for under Section 4509 of Title 36 of the Oklahoma Statutes. The insurance carrier shall mail the notice to the employee at

the employees last known address within ten (10) days after termination is first known to the insurance carrier writing the group accident and health insurance policies, contracts, or certificate.

(b) The notice required by this section shall provide:

(1) The dates of extension of coverage;

(2) The provisions for payment of premium, if any;

(3) The fact that premium is not required to be paid prior to coverage being provided but that premium can be withheld from claims incurred during the extension of coverage period; and

(4) Notice to the insured that coverage may be extended for up to six (6) months in the case of continuous total disability, or in connection with a plan of surgical treatment, maternity care and delivery expenses, which commenced prior to the termination of coverage.

APPENDIX HH. PARTNERSHIP PROGRAM NOTICE [NEW]

Partnership Program Notice Important Consumer Information Regarding the Oklahoma Long-Term Care Insurance Partnership Program

Some long-term care insurance policies [certificates] sold in Oklahoma may qualify for the Oklahoma Long-Term Care Insurance Partnership Program (the Partnership Program). The Partnership Program is a partnership between state government and private insurance companies to assist individuals in planning their long-term care needs. Insurance companies voluntarily agree to participate in the Partnership Program by offering long-term care insurance coverage that meets certain State and Federal requirements. Long-term care insurance policies [certificates] that qualify as Partnership Policies [Certificates] may protect the policyholder's [certificateholder's] assets through a feature known as "Asset Disregard" under Oklahoma's Medicaid program.

Asset Disregard means that an amount of the policyholder's [certificateholder's] assets equal to the amount of long-term care insurance benefits received under a qualified Partnership Policy [Certificate] will be disregarded for the purpose of determining the insured's eligibility for Medicaid. This generally allows a person to keep assets equal to the insurance benefits received under a qualified Partnership Policy [Certificate] without affecting the person's eligibility for Medicaid. All other Medicaid eligibility criteria will apply and special rules may apply to persons whose home equity exceeds \$500,000. Asset Disregard is not available under a long-term care insurance policy [certificate] that is not a Partnership Policy [Certificate]. Therefore, you should consider if Asset Disregard is important to you, and whether a Partnership Policy meets your needs. **The purchase of a Partnership Policy does not automatically qualify you for Medicaid.**

What are the Requirements for a Partnership Policy [Certificate]? In order for a policy [certificate] to qualify as a Partnership Policy [Certificate], it must, among other requirements:

- be issued to an individual after July 1, 2008;
- cover an individual who was an Oklahoma resident when coverage first becomes effective under the policy;
- be a tax-qualified policy under § 7702(B)(b) of the Internal Revenue Code of 1986;
- meet stringent consumer protection standards and
- meet the following inflation requirements:
 - For ages 60 or younger - provides compound **annual** inflation protection
 - For ages 61 to 75 -provides some level of inflation protection
 - For ages 76 and older - no purchase of inflation protection is required

If you apply and are approved for long-term care insurance coverage, [carrier name] will provide you with written documentation as to whether or not your policy [certificate] qualifies as a Partnership Policy [Certificate].

What Could Disqualify a Policy [Certificate] as a Partnership Policy. Certain types of changes to a Partnership Policy [Certificate] could affect whether or not such policy [certificate] continues to be a Partnership Policy [Certificate]. If you purchase a Partnership Policy [Certificate] and later decide to make *any* changes, you should first consult with [carrier name] to determine the effect of a

proposed change. In addition, if you move to a state that does not maintain a Partnership Program or does not recognize your policy [certificate] as a Partnership Policy [Certificate], you would not receive beneficial treatment of your policy [certificate] under the Medicaid program of that state. The information contained in this disclosure is based on current Oklahoma and Federal laws. These laws may be subject to change. Any change in law could reduce or eliminate the beneficial treatment of your policy [certificate] under Oklahoma's Medicaid program.

Additional Information. If you have questions regarding long-term care insurance policies [certificates] please contact [carrier name.] If you have questions regarding current laws governing Medicaid eligibility, you should contact the Oklahoma Health Care Authority.

APPENDIX II. PARTNERSHIP STATUS DISCLOSURE NOTICE [NEW]

Partnership Status Disclosure Notice

Important Information Regarding Your [Policy's] [Certificate's] Long-Term Care Insurance Partnership Status

This disclosure notice is issued in conjunction with your long-term care policy:

Some long-term care insurance policies [certificates] sold in Oklahoma qualify for the Oklahoma Long-Term Care Insurance Partnership Program. Insurance companies voluntarily agree to participate in the Partnership Program by offering long-term care insurance coverage that meet certain State and Federal requirements. Long-term care insurance policies [certificates] that qualify as Partnership Policies [Certificates] may be entitled to special treatment, and in particular an "Asset Disregard," under Oklahoma's Medicaid program.

Asset Disregard means that an amount of the policyholder's [certificateholder's] assets equal to the amount of long-term care insurance benefits received under a qualified Partnership Policy [Certificates] will be disregarded for the purpose of determining the insured's eligibility for Medicaid. This generally allows a person to keep assets equal to the insurance benefits received under a qualified Partnership Policy [Certificate] without affecting the person's eligibility for Medicaid. All other Medicaid eligibility criteria will apply and special rules may apply to persons whose home equity exceeds \$[500,000]. Asset Disregard is **not** available under a long-term care insurance policy [certificate] that is not a Partnership Policy [Certificate]. The purchase of a Partnership Policy does not automatically qualify you for Medicaid.

Partnership Policy [Certificate] Status. Your long-term care insurance policy [certificate] is intended to qualify as a Partnership Policy [Certificate] under the Oklahoma Long-Term Care Partnership Program as of your Policy's [Certificate's] effective date.

What Could Disqualify Your [Policy] [Certificate] as a Partnership Policy. If you make any changes to your [policy] [certificate], such changes could affect whether your [policy] [certificate] continues to be a Partnership Policy. ***Before you make any changes, you should consult with [insert name of carrier] to determine the effect of a proposed change.*** In addition, if you move to a State that does not maintain a Partnership Program or does not recognize your [policy] [certificate] as a Partnership Policy [Certificate], you would not receive beneficial treatment of your [policy] [certificate] under the Medicaid program of that State. The information contained in this Notice is based on current State and Federal laws. These laws may be subject to change. Any change in law could reduce or eliminate the beneficial treatment of your [policy] [certificate] under Oklahoma's Medicaid program.

Additional Information. If you have questions regarding your insurance policy [certificate] please contact [insert name of carrier.] If you have questions regarding current laws governing Medicaid eligibility, you should contact the Oklahoma Health Care Authority.

APPENDIX JJ. ISSUER CERTIFICATION FORM [NEW]

ISSUER CERTIFICATION FORM

(relating to Qualified State Long-Term Care Insurance Partnership)

Under section 1917(b)(5)(B)(iii) of the Social Security Act (42 U.S.C. 1396p(b)(5)(B)(iii)), the State insurance commissioner of a State implementing a qualified State long-term care insurance partnership ("Qualified Partnership") may certify that long-term care insurance policies (including certificates issued under a group insurance contract) covered under the Qualified Partnership meet certain consumer protection requirements, and policies so certified are deemed to satisfy such requirements. These consumer protection requirements are set forth in section 1917(b)(5)(A) of the Social Security Act (42 U.S.C. 1396p(b)(5)(A)) and principally include certain specified provisions of the Long-Term Care Insurance Model Regulation and Long-Term Care Insurance Model Act promulgated by the National Association of Insurance Commissioners (as adopted as of October 2000) (referred to herein as the "2000 Model Regulation" and "2000 Model Act" respectively).

In order to provide each State insurance commissioner with information necessary to provide a certification for policies, this Issuer Certification Form requests information and a certification from issuers of long-term care insurance policies with respect to policy forms that may be covered under the Qualified Partnership of the State.

An insurance company may request certification of policies from time to time and, accordingly, may supplement this issuer certification form, *e.g.*, as it introduces new long-term care insurance policy forms for issuance.

I. GENERAL INFORMATION

A. Name, address and telephone number of issuer:

B. Name, address, telephone number, and email address (if available) of an employee of issuer who will be the contact person for information relating to this form:

C. Policy form number(s) (or other identifying information, such as certificate series) for policies covered by this Issuer Certification Form:

Specimen copies of each of the above policy forms, including any riders and endorsements, shall be provided upon request.

II. QUESTIONS REGARDING APPLICABLE PROVISIONS OF THE 2000 MODEL REGULATION AND 2000 MODEL ACT

Please answer each of the questions below with respect to the policy forms identified in section I.C above. For purposes of answering the questions below, any provision of the 2000 Model Regulation or 2000 Model Act listed below shall be treated as including any other provision of the 2000 Model Regulation or 2000 Model Act necessary to implement the provision.

Are the following requirements of the 2000 Model Regulation met with respect to all policies (including certificates issued under a group insurance contract) intended to be covered under the Qualified Partnership that are issued on each of the policy forms identified in section I.C above?

Yes ___ No ___ N/A ___ A. Section 6A (relating to guaranteed renewal or noncancellability), other than paragraph (5) thereof, and the requirements of section 6B of the 2000 Model Act relating to such section 6A.

Yes ___ No ___ N/A ___ B. Section 6B (relating to prohibitions on limitations and exclusions) other than paragraph (7) thereof.

Yes ___ No ___ N/A ___ C. Section 6C (relating to extension of benefits).

Yes ___ No ___ N/A ___ D. Section 6D (relating to continuation or conversion of coverage).

Yes ___ No ___ N/A ___ E. Section 6E (relating to discontinuance and replacement of policies).

Yes ___ No ___ N/A ___ F. Section 7 (relating to unintentional lapse).

Yes ___ No ___ N/A ___ G. Section 8 (relating to disclosure), other than sections 8F, 8G, 8H, and 8I thereof.

Yes ___ No ___ N/A ___ H. Section 9 (relating to required disclosure of rating practices to consumer).

Yes ___ No ___ N/A ___ I. Section 11 (relating to prohibitions against post-claims underwriting).

Yes ___ No ___ N/A ___ J. Section 12 (relating to minimum standards).

Yes ___ No ___ N/A ___ K. Section 14 (relating to application forms and replacement coverage).

Yes ___ No ___ N/A ___ L. Section 15 (relating to reporting requirements).

Yes ___ No ___ N/A ___ M. Section 22 (relating to filing requirements for marketing).

Yes ___ No ___ N/A ___ N. Section 23 (relating to standards for marketing), including inaccurate completion of medical histories, other than paragraphs (1), (6), and (9) of section 23C.

Yes ___ No ___ N/A ___ O. Section 24 (relating to suitability).

Yes ___ No ___ N/A ___ P. Section 25 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

Yes ___ No ___ N/A ___ Q. The provisions of section 26 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in section 7702B(g)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 7702B(g)(4)).

Yes ___ No ___ N/A ___ R. Section 29 (relating to standard format outline of coverage).

Yes ___ No ___ N/A ___ S. Section 30 (relating to requirement to deliver shopper's guide).

Are the following requirements of the 2000 Model Act met with respect to all policies (including certificates issued under a group insurance contract) intended to be covered under the Qualified Partnership that are issued on each of the policy forms identified in section I.C above?

Yes ___ No ___ N/A ___ A. Section 6C (relating to preexisting conditions).

Yes ___ No ___ N/A ___ B. Section 6D (relating to prior hospitalization).

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Yes ___ No ___ N/A ___ C. The provisions of section 8 relating to contingent nonforfeiture benefits.

Yes ___ No ___ N/A ___ D. Section 6F (relating to right to return).

Yes ___ No ___ N/A ___ E. Section 6G (relating to outline of coverage).

Yes ___ No ___ N/A ___ F. Section 6H (relating to requirements for certificates under group plans).

Yes ___ No ___ N/A ___ G. Section 6J (relating to policy summary).

Yes ___ No ___ N/A ___ H. Section 6K (relating to monthly reports on accelerated death benefits).

Yes ___ No ___ N/A ___ I. Section 7 (relating to incontestability period).

In order for a policy to be covered under the Qualified Partnership of the State, the answers to all questions above should be "yes" (or "N/A" where all requirements with respect to a provision above are not applicable). If answers differ between policy forms (*e.g.*, a requirement would be answered "Yes" for one form and "N/A" for another), you should use separate Issuer Certification Forms for such policies.

III. CERTIFICATION

I hereby certify that the answers, accompanying documents, and other information set forth herein are, to the best of my knowledge and belief, true, correct, and complete.

Date

Name and title of officer of the Issuer

Signature of officer of the Issuer

APPENDIX KK. APPROVED LONG TERM CARE PARTNERSHIP PROGRAM POLICY SUMMARY [NEW]

APPROVED LONG TERM CARE PARTNERSHIP PROGRAM POLICY SUMMARY

- 1. Name of insured
2. Policy/certificate number
3. Effective date of coverage
4. The policy/certificate was issued in the state of
5. Issue age of the insured at the time the coverage was issued
6. The policy/certificate was issued [] With [] Without inflation coverage
7. The inflation coverage is [] Simple Inflation [] Compound Inflation [] None
8. The inflation coverage is currently in effect on the coverage [] Yes [] No
9. The policy is intended to meet the standards of a tax qualified long-term care policy [] Yes [] No
10. The cumulative dollar amount of insurance benefits paid
11. The total dollar amount of insurance benefits remaining available under the policy
12. As of date for which this form was completed
13. The name, phone number and email address of the person completing this form

Name
Phone Number
Email Address

I hereby certify that the above information is true and accurate at the time of this certification.

Signature Date:

[OAR Docket #08-849; filed 5-9-08]

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TITLE 365. INSURANCE DEPARTMENT CHAPTER 15. PROPERTY AND CASUALTY

[OAR Docket #08-850]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

365:15-1-3. Property and casualty form filings [AMENDED]

Subchapter 7. Property and Casualty Competitive Loss Cost Rating Regulation [AMENDED]

365:15-7-3. Property and casualty rate, loss cost and manual rule filings [AMENDED]

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 1435.19 and 12A O.S. § 15-118

DATES:

Comment period:

February 1, 2008, to March 3, 2008

Public hearing:

March 4, 2008

Adoption:

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Submitted to Governor:

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Submitted to House:

March 14, 2008

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March 14, 2008

Gubernatorial approval:

April 22, 2008

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 8, 2008

Final adoption:

May 8, 2008

Effective:

July 14, 2008

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

ANALYSIS:

The amendments include non-substantive changes to comply with new statutory language and corrections to spelling errors. The amendments to 365:15-1-3(b)(9)(D) and 365:15-7-3(b)(10)(D) allow filing submissions to include marked copies that demonstrate any changes being made to approved forms.

Rule 365:15-7-3(b)(2)(D) is amended. The amendment aligns the rule with 365:15-1-3(b)(2)(D) for consistency between the form section and the rate section.

CONTACT PERSON:

Karl F. Kramer, First Assistant General Counsel, (405) 521-2746

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2008:

SUBCHAPTER 1. GENERAL PROVISIONS

365:15-1-3. Property and casualty form filings

(a) **Purpose.** The purpose of this section is to specify the procedures for submitting form filings to the Insurance Commissioner as required by Article 36 of the Insurance Code.

(b) **Procedures.** Policy forms, endorsements and revisions thereto, by insurance companies and ~~rating~~ rating advisory organizations licensed in Oklahoma, shall be submitted in compliance with this section, or shall be rejected for filing, and the entity that made such submission shall be so notified.

(1) **Filing requirements.** The Insurance Code, Article 36, requires that each insurer shall make its form filings by line of business directly with the Insurance Commissioner. Companies may satisfy their obligation to make such filings, where authorized by law, by becoming a member or subscriber to an Oklahoma licensed ~~rating~~ rating advisory organization that makes such filings.

(2) **Filing fees.**

(A) Form filings shall be accompanied by the proper fees as specified in the Insurance Code. Fees shall not be paid in cash.

(B) Filings for groups of insurers shall be accompanied by the specified fee for each transaction, regardless of the number of members or subscribers.

(C) Filings by ~~rating~~ rating advisory organizations shall be accompanied by the specified fee for each transaction regardless of the number of members or subscribers.

(D) Filing fees are not required for transactions that involve only the following:

(i) Error corrections.

(ii) Change in effective date for approved filing.

(iii) Final printing of approved forms.

(iv) Additional information or amendments to pending filings.

(v) Withdrawal of obsolete forms having no impact on Oklahoma policyholders.

(vi) Change in officer or signature for approved filing.

(vii) Change in company logo for approved filing.

(viii) Changing the effective date for advisory organization filings by members or subscribers.

(3) **Address requirements.** All filings shall be addressed as follows: Oklahoma Insurance Commissioner, P.O. Box 53408, Oklahoma City, OK 73152-3408.

(4) **Number of copies.** All filings including the cover letter, all exhibits, forms and additional information submitted to the Insurance Commissioner shall be submitted with two (2) legible copies of all material. Such filings and exhibits shall be typewritten or printed. Companies that file as a group listing all companies on the transmittal letter may accomplish this requirement by submitting two (2) legible copies of all material.

(5) **Effective date of filings.** The effective date of form filings and the dates of required action by the Insurance Commissioner are governed by the applicable provisions of the Insurance Code.

(6) **Notice of Insurance Commissioner action.** The Insurance Commissioner shall indicate action taken in writing, one (1) copy of which shall be attached to the

official file copy and one (1) copy transmitted to the filing entity, or action may be indicated by stamp, with the individual stamping same, placing his initial or signature thereunder. Responses to questions shall be submitted in writing with two legible copies of all material. Nothing in this section shall preclude the Insurance Commissioner from the use of other forms of communication to secure information from the filing entity.

(7) **Life, accident and health insurance.** This section does not apply to Life, Accident and Health. Life, Accident and Health filings shall be made in accordance with the applicable provisions of the Insurance Code and Rules of the Insurance Commissioner.

(8) **Postage requirements.** No submissions shall be accepted which arrive at the offices with postage due. No submissions will be returned unless the necessary postage accompanies the same.

(9) **Filing form and content.** All filings shall contain the following:

(A) The name of the filing entity and complete mailing address to which correspondence shall be sent.

(B) A "RE" or "caption" briefly describing the content and context of the filing.

(C) A list or index of the forms filed in the filing letter or attached thereto including the form numbers and edition date, if applicable.

(D) A complete description and full explanation of the changes made by the filing including, reasoning therefore, illustrative examples, including "John Doe" specimen form, and a comparison of currently approved and proposed materials (side by side comparison or marked copy).

(E) A concise statement to identify the form to be replaced by the filing including the approval date in this jurisdiction and the identifying filing number of the filing containing the form to be replaced as assigned by the Insurance Department.

(F) If a form is being withdrawn or amended due to court decisions in any jurisdiction, the filing entity shall furnish the legal citation, and if from another jurisdiction, a copy of such decision or opinion with its filing.

(G) If a form filing is due to a federal law or regulation of a federal agency, the filing entity shall furnish the legal citation and a copy of the pertinent provisions.

(H) Completed transmittal forms and exhibits.

(10) **Withdrawal of pending filings.** Pending filings may be withdrawn by the filing entity upon notice to the Insurance Commissioner prior to the approval or disapproval thereof. The notice shall include the reason for the withdrawal.

(11) **Duration of filings.** All filings are in effect until withdrawn or amended by the insurer or rating organization, with approval of the Insurance Commissioner or until abrogated by the Insurance Commissioner.

(12) **Bureau Advisory organization deviations.** Every member of, or subscriber to, a licensed rating organization may adhere to any filings made on its behalf by its Rating Advisory Organization, except that any such member or subscriber may deviate from such filings as authorized by this section if it has filed with the Rating Advisory Organization and with the Insurance Commissioner, the deviation to be applied and information necessary to justify the deviation. If such deviation is approved, it shall remain in force until such approval is withdrawn or replaced by the insurer with approval of the Insurance Commissioner.

(13) **Group filings.** Where filings are made on behalf of more than one insurer, the filing shall list the insurer or insurers by individual name and not by Company group.

(14) **Members of or subscribers to a licensed rating advisory organization.**

(A) **Filings.** A licensed rating advisory organization may make filings on behalf of its members and subscribers except deviation filings.

(B) **Adherence to filings.** Every member of or subscriber to a licensed rating advisory organization may adhere to any filings made on its behalf by such organization except that any such member or subscriber may deviate from such filings upon compliance with this section and approval of the Insurance Commissioner.

(C) **Individual company filings.** Members and subscribers shall not file individual forms that have been filed on their behalf by the appropriate rating advisory organization. Declaration pages, policy "jackets" and other forms not normally filed by the rating organization shall be filed by the insurer directly with the Insurance Commissioner.

(D) **Filing requirements; bureau advisory organization form deviation.** If form deviations are proposed, the insurer shall file the form including supporting documentation with the Insurance Commissioner and furnish copies to the appropriate rating organization.

(E) **Agency filings.** "Agency Filings" by a Rating Organization on behalf of its members or subscribers shall be accepted by the Insurance Commissioner in instances where the rating organization does not have a filing in effect for the coverage involved.

(15) **Independent filings.** If the insurer is filing an independently developed form, the filing shall comply with the following:

(A) File Policy Forms, Endorsements, and other materials, with the Insurance Commissioner and designate them as "Independent Filings".

(B) File support of each filing in accordance with this section.

(C) For revisions, file form with the Insurance Commissioner.

(16) **Reference filings.**

(A) **Rating Advisory Organization Filings**

(i) **Filings permitted without reference filing agreement.** Rating Advisory Organization

forms used in whole or in part may be adopted by "Reference Filings" subject to the approval of the Insurance Commissioner. When making such type filing submit a filing memorandum identifying the forms used. Departures and exceptions, if any, shall be accompanied by the necessary supporting data. Such adoption shall apply only to current filings and shall have no automatic effect as to future filings. Each ~~rating advisory~~ organization filing shall be separately and specifically adopted.

(ii) **Filings permitted with reference filing agreement.** Approved ~~Rating Advisory~~ Organization material may be adopted by filing a REFERENCE FILING AGREEMENT with the Insurance Commissioner identifying the forms and material to be used. Such adoption shall apply from the date it is approved by the Insurance Commissioner to filings in effect on that date and to all applicable future filings. It shall remain in effect until such time as the agreement is withdrawn with the approval of the Commissioner.

(iii) **Reference filing.** If filing by "Reference Filing" DO NOT file forms.

(B) **Other than ~~Rating Advisory~~ Organization filings.** An insurer may adopt another insurer's filing by filing forms on the filing insurer's format and by advising the Insurance Commissioner of the names(s) of the insurer whose program is being copied, the Oklahoma filing number, and the date(s) the program was filed for that insurer. Unless an exception is granted by the Insurance Commissioner, this procedure applies only to the filing of the initial program for the adopting insurer and is subject to the review of the Insurance Commissioner.

(17) **Resubmittal of filings.** All resubmissions of disapproved or rejected filings shall be presented to the Insurance Commissioner in the same manner as required by this section for an original filing. In addition the cover letter or completed transmittal forms addressed to the Insurance Commissioner shall state the full and complete history of the filing, the reason for disapproval or rejection, and the factors which distinguish the resubmittal so it warrants reconsideration.

(18) **Retroactive filings.** The Insurance Commissioner has no authority to and shall not approve filings proposing a retroactive effective date except in cases of a filing correcting an error in a previously approved filing and in cases where required or necessitated by Statute.

(19) **Delivery of policy to insured.** In any instance whereby a policy of insurance is effected the insured shall be furnished with either:

- (A) The original policy;
- (B) A copy of the original policy or a duplicate policy printed with ten point or larger type; or
- (C) A certificate including provisions and conditions of the original policy printed with ten point or larger type.

(20) **Coverage elimination after policy issuance.** Any endorsement which eliminates or restricts coverage and which is issued during the policy term shall be identified as accepted by the insured, by the signature of the insured thereon, and a signed copy (original, computer generated or microfilm) of such endorsement shall be retained in the files of the insurer for one year after the expiration of the policy.

(21) **Uniform standard mortgage clause.** The mortgage clause to be used by Insurance Companies in Oklahoma shall be uniform Standard Form Number 127B September 1934 Edition or subsequent editions, except upon written application by an insurer or rating organization, a cause providing broader coverage may be approved by the Insurance Commissioner.

(22) **Claims-made policies.**

(A) The policy application and the Declarations page of each claims-made policy shall include a conspicuous notice indicating that the contract is a claims-made policy and advising the policyholder to read its provisions.

(B) The policy shall provide for extended reporting period options based on rules, rates or rating plans approved by the Insurance Commissioner.

(23) **New forms, reductions in coverage.**

(A) Form filings that may result in the elimination of claims (losses) shall be considered as a relevant factor to be given due consideration by the Insurance Commissioner as respects rates in effect or proposed for the coverage involved.

(B) The filer shall fully disclose the rate consideration so that Commissioner can be notified of the form filing. The form filing may be disapproved if the rate effect has not been considered in rules, rates or rating plans approved by or filed with the Board, Commissioner.

SUBCHAPTER 7. PROPERTY AND CASUALTY COMPETITIVE LOSS COST RATING REGULATION

365:15-7-3. Property and casualty rate, loss cost and manual rule filings

(a) **Purpose.** The purpose of this section is to specify the procedures for submitting rate, loss cost and manual rule filings to the Insurance Commissioner as required by 36 O.S. § 981 et seq.

(b) **Procedures.** Rate, loss cost and manual rules and revisions thereto by insurance companies and advisory organizations licensed in Oklahoma shall be submitted in compliance with this section, or shall be rejected for filing, and the entity that made such submission shall be so notified.

(1) **Filing requirements.** The Insurance Code, 36 O.S. § 981 et seq., requires that each insurer shall make its rate, loss cost and manual rule filings by line of business directly with the Insurance Commissioner. Companies may satisfy their obligation to make such filings, where

authorized by law, by becoming a member or subscriber to an Oklahoma licensed advisory organization which makes such filings.

(2) **Filing fees.**

(A) Rate, loss cost and manual rule filings shall be accompanied by the proper fees as specified in the Insurance Code. Fees shall not be paid in cash.

(B) Filings for groups of insurers shall be accompanied by the specified fee for each transaction regardless of the number of members or subscribers.

(C) Filings by ~~rating~~ advisory organizations shall be accompanied by the specified fee for each transaction regardless of the number of members or subscribers.

(D) Filing fees are not required for transactions that involve only the following:

(i) ~~Excess consent rate filings; Error corrections;~~

(ii) ~~Individual risk submissions; Change in effective date for approved filing;~~

(iii) ~~Individual risk filings for excess workers' compensation; Final printed materials;~~

(iv) ~~Changing the effective date for advisory organization filings by members or subscribers; Additional information or amendments to pending filings;~~

(v) ~~Additional information or amendments to pending filings; Withdrawal of obsolete filings having no impact on Oklahoma policyholders;~~

(vi) ~~Advising effective date for approved filing and/or submitting final printed materials; Excess consent rate filings;~~

(vii) ~~Dividend plans; and/or Individual risk submissions;~~

(viii) ~~Withdrawal of obsolete filings having no impact on Oklahoma policyholders. Individual risk filings for excess workers' compensation;~~

(ix) Dividend plans; and or

(x) Changing the effective date for advisory organization filings by members or subscribers.

(3) **Address requirements.** All filings shall be addressed as follows: Oklahoma Insurance Commissioner, P.O. Box 53408, Oklahoma City, OK 73152-3408.

(4) **Number of copies.** All filings including the cover letter, all exhibits, rate sheets and additional information submitted to the Insurance Commissioner shall be submitted with two (2) legible copies of all material. Such filings and exhibits shall be typewritten or printed. Companies that file as a group listing all companies on the transmittal letter may accomplish this requirement by submitting two (2) legible copies of all material.

(5) **Effective date of filings.** The effective date of rate, loss cost and manual rule filings and the dates of required action by the Insurance Commissioner are governed by the applicable provisions of the Insurance Code.

(6) **Notice of Insurance Commissioner action.** The Insurance Commissioner shall indicate action taken in writing, one (1) copy of which shall be attached to the

official file copy and one (1) copy transmitted to the filing entity, or action may be indicated by stamp, with the individual stamping same, placing their initial or signature thereunder. Responses to questions shall be submitted in writing two legible copies of all material. Nothing in this section shall preclude the Insurance Commissioner from the use of other forms of communication to secure information from the filing entity.

(7) **Life, accident and health insurance.** This section does not apply to life, accident and health insurance. Life, accident and health insurance filings shall be made in accordance with the applicable provisions of the Insurance Code and Rules of the Insurance Commissioner.

(8) **Postage requirements.** No submissions shall be accepted that arrive at the offices with postage due. No submissions will be returned unless the necessary postage accompanies the same.

(9) **Withdrawal of pending filings.** Pending filings may be withdrawn by the filing entity upon notice to the Insurance Commissioner prior to the approval or disapproval thereof. The notice shall include the reason for the withdrawal.

(10) **Filing form and content.** All filings shall include the following:

(A) The name of the filing entity and complete mailing address to which correspondence shall be sent.

(B) A "RE" or "caption" briefly describing the content and context of the filing.

(C) A list or index of the manual pages filed in the filing letter or attached thereto including the page numbers and edition date, if applicable.

(D) A complete description and full explanation of the changes made by the filing including, reasoning therefore, illustrative examples, including "John Doe" specimen examples, and a comparison of currently approved and proposed materials (side by side comparison or marked copy).

(E) A concise statement to identify the manual pages (rate and/or rule) to be replaced by the filing including the approval date in this jurisdiction and the identifying Oklahoma Insurance Department's assigned filing number of the filing containing the documents to be replaced.

(F) Completed transmittal forms and exhibits.

(11) **Bureau Advisory organization deviations.** Every member of, or subscriber to, a licensed ~~rating~~ advisory organization may adhere to any filings made on its behalf by its ~~rating~~ advisory organization, except that any such member or subscriber may deviate from such filings as authorized by this section if it has filed with the ~~rating~~ advisory organization and with the Insurance Commissioner, the deviation to be applied and information necessary to justify the deviation. If such deviation is approved, it shall remain in force until such approval is withdrawn by the insurer with approval of the Insurance Commissioner.

[OAR Docket #08-850; filed 5-9-08]

Permanent Final Adoptions

TITLE 365. INSURANCE DEPARTMENT CHAPTER 25. LICENSURE OF PRODUCERS, ADJUSTERS, BAIL BONDSMEN, COMPANIES, PREPAID FUNERAL BENEFITS, AND VIATICAL AND LIFE SETTLEMENTS PROVIDERS AND BROKERS

[OAR Docket #08-851]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:

Subchapter 3. Producers, Brokers and Limited Lines Producers
365:25-3-1. Insurance producers continuing education [AMENDED]
365:25-3-1.1. Application for resident producer license [NEW]
365:25-3-1.2. Provisional producer license [NEW]
365:25-3-1.3. Approved insurance company training program [NEW]
365:25-3-3. Licensing of incorporated insurance agency [AMENDED]
365:25-3-12. Insurance consultants and surplus lines insurance brokers [AMENDED]
365:25-3-13. Surplus line insurance with non-admitted insurer; approval prior to issuance; collection and remittance of taxes; claims for tax adjustments; procedures; forms [AMENDED]
365:25-3-14. Insurance adjusters continuing education [AMENDED]
365:25-3-16. Examination exemptions [AMENDED]
Subchapter 5. Bail Bondsmen
Part 5. General Provisions Pertaining To Bail Bondsmen
365:25-5-30. Definitions [AMENDED]
365:25-5-34. Professional bondsman deposits [AMENDED]
365:25-5-35. Bondsman license renewal [AMENDED]
365:25-5-43. Appointments [NEW]
Subchapter 7. Companies
Part 5. Oklahoma Insurance Holding Company System Regulatory Act
365:25-7-27.1. Subsidiaries of domestic insurers [AMENDED]
365:25-7-30. Extraordinary dividends and other distributions [AMENDED]
Part 7. Companies In Hazardous Financial Condition
365:25-7-40. Authority [AMENDED]
365:25-7-41. Purpose [AMENDED]
365:25-7-42. Standards for determining hazardous financial condition [AMENDED]
365:25-7-43. Commissioner's authority [AMENDED]
Part 13. Electronic Filings
365:25-7-76. Insurance Company Holding Company Act [NEW]
Subchapter 9. Prepaid Funeral Benefits
365:25-9-3. Forms [AMENDED]
Subchapter 27. Military Sales Practices Regulation
365:25-27-1. Purpose [NEW]
365:25-27-2. Scope [NEW]
365:25-27-3. Authority [NEW]
365:25-27-4. Exemptions [NEW]
365:25-27-5. Definitions [NEW]
365:25-27-6. Practices Declared False, Misleading, Deceptive or Unfair on a Military Installation [NEW]
365:25-27-7. Practices Declared False, Misleading, Deceptive or Unfair Regardless of Location [NEW]
365:25-27-8. Severability [NEW]
Appendix C. Application for Original Permit [REVOKED]
Appendix I. Application for Renewal of Permit [REVOKED]
Appendix T. Insurance Company Training Program Affidavit [NEW]

AUTHORITY:
Insurance Commissioner, 36 O.S. §§ 307.1, 1435.19, 1435.29(H), 59 O.S. § 1302(A), 36 O.S. § 1901, et seq, and 36 O.S. § 6123

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SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Subchapter 27. Military Sales Practices Regulation [NEW]

365:25-27-1. Purpose [NEW]

365:25-27-2. Scope [NEW]

365:25-27-3. Authority [NEW]

365:25-27-4. Exemptions [NEW]

365:25-27-5. Definitions [NEW]

365:25-27-6. Practices declared false, misleading, deceptive or unfair on a military installation [NEW]

365:25-27-7. Practices declared false, misleading, deceptive or unfair regardless of location [NEW]

365:25-27-8. Severability [NEW]

365:25-27-9. Effective date [NEW]

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Superseded rules:

Subchapter 3. Producers, Brokers, and Limited Lines Producers [AMENDED]

365:25-3-1. Insurance producers continuing education [AMENDED]

365:25-3-1.1. Application for resident producer license [NEW]

365:25-3-1.2. Provisional producer licensees [NEW]

365:25-3-1.3. Approved insurance company training program [NEW]

365:25-3-14. Insurance adjusters continuing education [AMENDED]

365:25-Appendix T. Insurance Company Training Program Affidavit [NEW]

Gubernatorial approval:

October 2, 2007

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25 Ok Reg 172

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INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The amendment to 365:25-3-1(d)(3) allows producers to carry forward six (6) credit hours of continuing education to the next licensing period. Currently, producers that take additional continuing education credit are penalized because excess credits may not be carried forward.

The amendment to 365:25-3-1(d)(4) excludes property and casualty and title producers from taking electives in health and welfare coverage. Health and welfare coverage is not applicable to property, casualty, or title insurance.

The amendments to Section 365:25-3-1(g) and (h) and 365:25-3-14(g) and (h) are new rules concerning professional designation programs and presumptive continuing education approval. Subsections (g) and (h) were effective as emergency rules November 1, 2007. Effective July 1, 2007, continuing education requirements for producers and adjusters were amended by statute. Prior to the statutory amendments, specific professional designation programs qualified for continuing education credit. A process of approval is now utilized to expand the number of professional designation programs available for continuing education credit. The statutory revision requires standardized criteria to review professional designation programs for approval. Rules are also necessary to define participation in approved professional designation programs.

The July 1, 2007 statutory amendments also allow certain continuing education programs offered by specified professional associations to receive presumptive approval. Rules are necessary to implement standards for presumptive approval.

Rules 365:25-3-1.1, 1.2., and 1.3 are new. The rules were effective as emergency rules on November 1, 2007. Pursuant to the Oklahoma Insurance Code and effective July 1, 2007, the Commissioner may require applicants for resident producer licenses to either hold a provisional producer license or participate in an approved insurance company training program. The rules implement the requirements for provisional producer licenses and insurance company training programs.

The amendment to 365:25-3-3(b) eliminates the Commissioner's prior approval of a business entity's articles of incorporation. Licensed business entities may now be engaged in any lawful activity. Prior to passage of the Producer Licensing Act, insurance was required to be the primary purpose of a business entity.

The amendment to 365:25-3-12(f) establishes a sliding scale for determining the amount of a third party administrator's surety bond. Third party administrators are required to maintain a surety bond. A sliding scale develops a bond amount that is necessary to protect the interests of insureds.

The amendment to 365:25-3-13 eliminates the requirement for surplus lines broker reports to be submitted in duplicate. The duplication requirement generates unnecessary paperwork. Proof that a broker report has been received shall be in the form of a cancelled surplus lines premium tax check.

The amendment to 365:25-3-14(c) allows non-resident adjusters to satisfy Oklahoma's continuing education requirements by being licensed in a state that has a continuing education requirement.

The amendment to 365:25-3-16 allows a person licensed in another state that moves to Oklahoma to waive an examination. The applicant qualifies for an examination exemption by providing a clearance letter from the prior state dated within ninety (90) days from the date of receipt of the application.

The amendment to 365:25-5-30 defines the equivalent of a high school diploma. The phrase is not defined by statute. The proposed rule requires a bail bondsman applicant to demonstrate their credentials are acceptable to the State Department of Education for completion of a program that is the equivalent of a high school diploma.

The amendment to 365:25-5-34 clarifies the phrase "required level" as described in 59 O.S. § 1332(D)(4). The proposed rule defines required level as the professional bail bondsmen's amount on deposit prior to a forfeiture payment. The proposed rule requires professional bail bondsmen to make a deposit equal to the amount withdrawn by the Commissioner to pay a forfeiture within ten (10) days from the receipt of the withdrawal notice or mailing of notice if receipt is not made.

The amendment to 365:25-5-35 explains that a license expires September 30. However, a licensee may renew an expired license until November 30. The rule describes when a license expires and the requirements of a complete renewal filing.

Rule 365:25-5-43 is new. The rule clarifies when a bail bondsman appointment becomes effective. The rule prevents an appointment becoming effective until the appointment is processed and reviewed.

The amendment to 365:25-7-27.1 is a non-substantive change. The proposed amendment corrects an erroneous statutory citation.

The amendment to 365:25-7-30 adds subparagraphs (a)(4)(i, ii, iii, iv, and v). The subparagraphs are erroneously not included in the current Oklahoma Administrative Code.

The amendments to rules 365:25-7-40 through 43 update the rules to the latest NAIC model regulation.

Rule 365:25-7-76 is new. The rule requires holding company filings in electronic format in addition to paper.

The amendment to 365:25-9-3(a)(1) removes the prepaid funeral permit application from the rules appendix. The removal of the permit application from the appendix allows the Commissioner flexibility in modifying the application without waiting for a rule to be promulgated.

The amendment to 365:25-9-3(b)(5) removes the prepaid funeral permit renewal application from the rules appendix. The removal of the permit renewal application allows the Commissioner flexibility in modifying the application without waiting for a rule to be promulgated.

Rules 365:25-27.1 through 8 are new. The rules were effective as emergency rules on November 1, 2007. The rules set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair.

CONTACT PERSON:

Karl F. Kramer, First Assistant General Counsel, (405) 521-2746

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2008:

SUBCHAPTER 3. PRODUCERS, BROKERS AND LIMITED LINES PRODUCERS

365:25-3-1. Insurance producers continuing education

(a) **Purpose.** The purpose of this section is to set forth the requirements for continuing education, which an insurance producer must meet and to set forth the requirements for approval by the Insurance Commissioner of a proposed continuing education course.

(b) **Definitions.** The following words or terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) **"CEC"** means continuing education credit.
- (2) **"Certificate of course completion"** means a document acceptable to the Commissioner which signifies satisfactory completion of the course and reflects hours of credit earned.
- (3) **"Continuing Education Advisory Committee"** means the committee established by the Commissioner for the purpose of reviewing and recommending approval or disapproval of continuing education courses.
- (4) **"Credit hour"** means at least fifty (50) minutes classroom instruction unless a correspondence or self-study course.
- (5) **"Instructor"** means a person who presents course materials approved for continuing education credit hours, and who has experience, training, and/or education in the course subject matter and has been approved by the Commissioner.
- (6) **"Instructor Qualification Form"** means a form acceptable to the Commissioner and completed by the instructor which documents qualifications of the instructor.
- (7) **"Licensee"** means a natural person who is licensed by the Commissioner as an insurance producer.
- (8) **"Provider"** means a person, corporation, professional association or its local affiliates, an insurance company or any other entity which is approved by the Commissioner and provides approved continuing education to insurance producers.
- (9) **"Provider Course Completion Form"** means a form acceptable to the Commissioner and completed by the provider which documents completion of an approved course by a producer or producers.

(c) **Exceptions.** The requirements for continuing education in this section shall not apply to:

- (1) limited lines producers.
- (2) a non-resident producer who resides and is licensed in a state or district having continuing education requirements and the producer meets all the requirements of that

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state or district to practice therein. The non-resident producer shall be responsible for completing any reporting requirements necessary to verify completion.

(3) a non-resident producer of a state that does not require continuing education hours may fulfill the requirements of any other state's continuing education requirements and shall be deemed to have complied with this rule upon proof of completion of said hours.

(d) **Continuing education requirements.**

(1) **CEC during twenty-four month period.** All licensees shall complete the required hours of continuing education as set forth in 36 O.S. § 1435.29 during each twenty-four month period. The twenty-four month period begins the first day of the month following the month in which the license is granted. The credit hours completed must be in those lines in which the producer is licensed. Ethics shall include, but not be limited to, the study of fiduciary responsibility, commingling of funds, payment and acceptance of commissions, unfair claims practices, policy replacement consideration, and conflicts of interest.

(2) **Certificates of course completion required for license renewal.** If requested by the Insurance Department, each producer shall submit upon each licensing renewal certificate(s) of course completion as approved by the Insurance Department, which verify courses completed during the previous twenty-four month period.

(3) **Credits carried over.** ~~Six (6) Credit credit~~ hours in excess of the minimum twenty-four month period requirement ~~will not shall~~ carry forward to the next twenty-four month period. ~~However, excess Excess~~ hours may be applied to bring a lapsed license into compliance.

(4) **Elective Credit.**

(A) At least two (2) of the continuing education credit hours of instruction completed by licensees each twenty-four month period shall be taken in the following topics:

- (i) state legislative updates
- (ii) federal legislative updates
- (iii) health coverage
- (iv) welfare coverage

(B) Electives in health and welfare coverage shall not apply to property and casualty and title producers.

(5) **Credits for instructors.** An instructor who is a licensee shall receive the same continuing education credit for presenting approved course materials as a licensee who attends an approved classroom instructional session.

(6) **Prerequisite for renewal or reinstatement.** As a prerequisite for licensure renewal or upon reinstatement following a lapse of license, a producer must submit, on his or her renewal/reinstatement date, the appropriate forms as specified in this section which establish that the education requirements have been met for the previous year(s).

(e) **Approval of continuing education providers.**

(1) **Information required, fee.** Each provider shall apply for approval from the Commissioner. Each provider, with the exception of public funded educational institutions, federal agencies or Oklahoma state agencies shall

submit after its approval a provider fee of Two Hundred Dollars (\$200.00), and all providers, including public funded educational institutions, federal agencies and Oklahoma agencies shall provide:

- (A) Name and address of the provider;
- (B) Contact person and his or her address and telephone number;
- (C) The location of the courses or programs, if known, unless it is an individual self-study course;
- (D) The number of CEC hours requested for each course;
- (E) Topic outlines which list the summarized topics covered in each course and a copy of any course materials. If a prior approved course has substantially changed, a summarization of those changes;
- (F) The names and qualification of instructors. An instructor shall have one of the following qualifications:

- (i) Three (3) years of recent experience in the subject area being taught; or
- (ii) A degree related to the subject area being taught; or
- (iii) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.

(G) If a prior approved course has materially changed, a summarization of those changes;

(2) **Renewal fee.** An annual renewal fee of Two Hundred Dollars (\$200.00) shall be payable on or before the approval anniversary date of each year by each provider to renew the approval of the provider. A fee of double the annual renewal fee shall be paid if the application for renewal is late or incomplete on the approval anniversary date.

(3) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.

(f) **Courses; approval; records.**

(1) **Timeline for approval.** At least thirty (30) days prior to the use of any course and not less than ten (10) days prior to the Continuing Education Advisory Committee meeting immediately preceding the course date, the provider shall apply to the Commissioner for course approval. The Commissioner shall grant or deny approval based upon information submitted in this section regarding each course or additional information regarding the course, if necessary. The Commissioner will assign the number of CEC hours awarded for an approved course and the line or lines of insurance for which the course qualifies.

(2) **Written approval required.** All courses shall require written approval by the Commissioner. ~~Courses shall be deemed to have been approved by the Commissioner if the courses are provided by national professional associations or local affiliates of national professional associations approved by the Commissioner to act as providers of continuing education.~~

(3) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval for any course approval. This withdrawal will not affect any CEC hours attained under the course previous to the withdrawal.

(4) **Minimum of one credit hour.** Courses submitted for approval must consist of a minimum of one credit hour of course instruction.

(5) **Continuing education course must be separate from meetings.** Courses conducted in conjunction with other meetings must have a separate continuing education course component.

(6) **Content of courses.** Courses must be of a meaningful nature and shall not include items such as prospecting, motivation, sales techniques, psychology, recruiting, and subjects not relating to the insurance license. However, agency management courses designed to assist producers in becoming more efficient, profitable, and assuring their perpetuation, will be deemed to be in the best interest of the insuring public and thereby subject to approval. Each such agency management course must include the description, the effects the course is designed to accomplish toward the purposes of efficiency, profitability, and/or perpetuation and each course will be reviewed for approval on its own merits.

(7) **Certificate of Course Completion.** At the completion of each course, the provider shall provide the insurance producer a "Certificate of Course Completion" Form.

(8) **List of producers completing course to Commissioner; producer license numbers.** Within ten (10) business days after completion of each course, the provider shall provide the Commissioner a list of all insurance producers who completed the course on the Course Completion Form. This list shall contain the course number, date of completion and license numbers of all insurance producers completing the course. If the list is not reported within ten (10) business days, a late report fee of \$50.00 shall be paid to the Insurance Department. Failure to pay the late report fee may result in revocation of provider approval. Continued late filing may also result in loss of approval.

(9) **Course records maintained four years.** Providers shall maintain course records for at least four (4) years. The Commissioner may order an examination of a provider, at the provider's expense, for good cause shown.

(10) **Repeated approved course.** At least fourteen (14) days prior to the repetition of an approved course, the Commissioner shall be notified in writing of the repetition, providing course number, name, date and instructor's name.

(11) **Course evaluation.** The provider shall require each producer listed on the Course Completion Form to complete a course evaluation form to be submitted to the Department within ten (10) business days after completion of each course.

(g) **Approved Professional Designation Programs**

(1) **Definitions.**

(A) **Participation.** As used in 36 O.S. § 1435.29(B)(3), participates means successfully completing any part of a course curriculum totaling twenty (20) classroom or equivalent classroom hours of an approved professional designation program.

(B) **Approved Professional Designation Program.** As used in 36 O.S. § 1435.29(B)(3), an approved professional designation program means an educational insurance program approved by the Commissioner with a sponsoring organization that administers curriculum requirements and testing standards for candidates.

(2) **Requirements.** A professional designation program shall satisfy the following criteria to receive initial and ongoing approval for the program:

(A) The program shall have a sponsoring organization;

(B) The program's sponsoring organization shall maintain and govern a code of conduct;

(C) The program shall be relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma;

(D) Each course of the professional designation course curriculum shall be a minimum of twenty (20) hours of classroom instruction or equivalent classroom instruction; and

(E) The program shall include an examination requirement that students shall pass before earning the designation.

(3) **Submissions.** The sponsoring organization shall submit the following to the Commissioner for its professional designation program to be considered for initial and ongoing approval for the program:

(A) The sponsoring organization's code of conduct;

(B) The sponsoring organization's membership requirements;

(C) The professional designation program's course requirements; and

(D) The professional designation program's examination requirements.

(4) **Submission exemptions.** Professional designation programs recognized by the National Association of Insurance Commissioners (NAIC) for waiver/exemption of pre-licensing education training shall receive initial and continuing approval without submission by the sponsoring organization.

(h) **Presumptive Continuing Education Credit Approval.**

(1) **Requirements.** A professional association may receive presumptive approval of the association's continuing education courses by satisfying the following requirements:

(A) The association shall have a mission statement that includes a commitment to enhance the professional, educational, or ethical skills of its members;

(B) The association shall maintain and govern a code of member conduct;

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- (C) The association shall offer educational programs relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma; and
- (D) The association shall perpetuate its continuity through the election of officers.
- (2) **Submissions.** Each professional association shall submit the following to be considered for initial and on-going presumptive course approval:
- (A) The association's mission statement;
- (B) The association's code of member conduct;
- (C) The chapter officers, the responsibilities for each officer, and the term of office for each officer;
- (D) The mailing address and primary contact for the association; and
- (E) The list of continuing education courses approved in Oklahoma and offered by the professional association in the past twenty-four (24) months.
- (3) **Notification of approval or disapproval.**
- (A) The Commissioner shall notify the association within ninety (90) days from the receipt of submission whether presumptive approval for continuing education courses was granted. The notification shall indicate the reasons for disapproval.
- (B) Submissions to the Commissioner by an association seeking presumptive approval of continuing education courses shall include the course summary, instructor name, course date and location and shall be submitted to the Commissioner at least fifteen (15) business days prior to the presentation of the course.
- (C) If the Commissioner receives a report or reports that the content of a continuing education course may violate 365:25-3-1(f)(6) of this section, the Commissioner may review the content and determine if the course should be disapproved for noncompliance. The Commissioner shall notify the association if the course has been disapproved due to non-compliance, and the association shall immediately cease offering the course upon receipt of the notification. The association may then make corrections to a disapproved course to bring the course into compliance with 365:25-3-1(f)(6) of this section and submit the course for approval by the Commissioner in the manner of an original submission for presumptive continuing education course approval.
- (D) Should an association receive notification of three (3) disapproved courses within a twenty-four (24) month period, the association's presumptive approval for continuing education courses shall be rescinded for twenty-four (24) months after which time the association may re-apply for presumptive approval.
- (4) **Assignment of course number.** The Commissioner shall assign a course number once the presumptive approval for continuing education courses has been granted and shall notify the association of the assigned course number. All future correspondence relating to that course shall reference the assigned course number.
- (5) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted.
- (6) **Review.** Course approval shall be reviewed every three (3) years. The association shall re-submit the items required in subparagraph (3)(B) of this section during the fourth quarter of the last approval year.
- (7) **Agency Management Courses.** Agency management courses shall not be considered for presumptive continuing education approval.
- (g) **Self study and Distance Learning Courses.** The Insurance Commissioner shall determine appropriate guidelines and standards for self-study and distance learning CEC offerings. The guidelines and standards shall include authentication of the registered licensee, technology requirements for course delivery and testing protocols. Guidelines and standards shall be reviewed, updated as appropriate, and published annually. Failure to follow the guidelines and standards established by the Commissioner may result in denial of continuing education credit for the producer and revocation of the course approval and or provider status for the provider.
- (h) **Repeating courses.** An insurance producer may repeat a course within the twenty-four month period if the maximum credits designated for the course were not attained in the first attempt. By repeating the course, the producer may not during the twenty-four month period earn more than the maximum credits designated for the course. A producer may repeat a course after two years have elapsed and receive the maximum credits designated for the course. This section shall not apply to ethics courses.
- (i) **Extension of time.** For good cause shown, the Commissioner may grant an extension of time during which the requirements imposed by the act may be completed. The extension shall not exceed twelve (12) months. The extension will not alter the requirements or due date of the succeeding twenty-four-month period. "Good cause" includes disability, natural disaster, or other extenuating circumstances. Each request for extension of time shall be in writing from the licensee and shall include details and any documentation to support the request. Each request must be received by the Commissioner no less than thirty (30) days before the expiration of the twenty-four month period.
- (j) **Course approval.** Prior to the Commissioner's approval or disapproval of a course in 365:25-3-1(f), a continuing education advisory committee will review the course submitted and make its nonbinding recommendation to the Commissioner on granting or denying approval based upon information submitted in 365:25-3-1(e) regarding the course or additional information regarding the course, if necessary, the number of CEC hours awarded for an approved course and the line or lines of insurance for which the course qualifies. Each course approval shall be valid for a period of not more than two (2) years, unless the course has a material change. Material changes to courses require course resubmission for overall course review and approval. Course approval following the review of material changes shall reset the validity period. At

the expiration of the validity period, providers shall submit the course for approval by the Commissioner if the provider wants to continue to offer the course for continuing education credit.

(km) **Severability provision.** If any provision of this section, or application of such provision to any person or circumstances, shall be held invalid, the remainder of the section, and the application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

365:25-3-1.1. Application for resident producer license

(a) **Requirements.** An applicant for a resident insurance producer license shall either hold a provisional producer license and complete eight (8) hours of pre-licensing education required by 36 O.S. § 1435.7A(B)(4) or participate in an approved insurance company training program.

(b) **Exceptions.** A provisional producer license or participation in an approved insurance company training program is not required for the following producer license applicants:

- (1) Limited lines producer;
- (2) Surplus lines insurance broker;
- (3) A title insurance producer licensed prior to November 1, 2006, who is an applicant for an aircraft title producer license;
- (4) A person licensed as an insurance producer in another state who moves to this state and makes application to become a resident licensee within ninety (90) days of establishing legal residence in Oklahoma; and
- (5) A person reinstating a lapsed license within twenty-four (24) months from the due date of the renewal fee; and
- (6) Variable annuity producers.

365:25-3-1.2. Provisional producer licensees

(a) **Sponsoring producers.** A sponsoring producer may supervise no more than five (5) provisional licensees at any time.

(b) **Pre-licensing education.** The Commissioner shall develop and publish the topic outlines covered in the eight (8) hours of pre-licensing education. Providers and course submissions shall be approved by the Commissioner in the same manner as applicable to continuing education courses. Course submission shall include all course materials. All courses shall be offered as classroom instruction.

(c) **Time requirements-exceptions.** A provisional producer license may be held for up to six (6) months to complete pre-licensing education requirements. A licensee who is unable to comply with pre-licensing education requirements due to military service, a medical condition, or other extenuating circumstance may request an extension of time to complete the requirements. The request shall be in writing.

365:25-3-1.3. Approved insurance company training program

(a) **Requirements.** An insurance company shall certify on the affidavit required by Appendix T of this chapter that its training program satisfies all criteria required by the affidavit.

(b) **Notification.** An insurance company shall notify the Commissioner within thirty (30) days if changes to its training program do not fulfill the requirements set forth in the affidavit.

(c) **Participation.** A producer shall document participation by completing a form provided by the Commissioner. The form shall be submitted with the producer application.

365:25-3-3. Licensing of incorporated insurance agency

(a) **Purpose.** The purpose of this section is to set forth the rule regarding a corporation to submit its Articles of Incorporation for approval by the Insurance Commission prior to obtaining an insurance producer's license.

(b) **Approval and filing Filing of articles of incorporation.** No resident corporation shall be licensed as an insurance producer in this State, unless its articles of incorporation are approved by the Insurance Commissioner's office and then filed with the Secretary of State. A certified copy thereof must then be filed with the Insurance Commissioner. A resident business entity shall file its articles of incorporation or other organizational documents with the Secretary of State for approval. A resident business entity shall file a certified copy of its articles of incorporation or other organizational documents with the Insurance Commissioner prior to licensure.

365:25-3-12. Insurance consultants and surplus lines insurance brokers

(a) **Purpose.** The purpose of this section is to require surplus lines brokers and insurance consultants to post bonds with the Insurance Commissioner in the amounts specified.

(b) **Definitions.** The following words or terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Bond"** means a surety bond in the penal sum as determined in accordance with (d) of this section which shall be obtained in favor of the Commissioner from authorized corporate sureties approved by the Commissioner and conditioned upon the licensee conducting his/its business in accordance with applicable law. Any surety issuing such bond shall notify the Commissioner of any reductions or cancellations in the bond of any licensee. No such bond shall be terminated unless at least thirty days written notice thereof is given by the surety to the licensee and the Commissioner. All surety protection under such bond shall insure to the benefit of any party aggrieved by the acts of the licensee thereunder.

(2) **"Commissioner"** means the Insurance Commissioner of the State of Oklahoma.

(3) **"Gross fee"** means the total of all fees received by any Insurance Consultant derived by offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages promised under any policy of insurance that could be issued or delivered in this state.

(4) **"Gross premium"** means the total of all premiums received by any Surplus Lines Insurance Broker less those reductions permitted by 36 O.S. § 1115.

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- (5) **"Insurance consultant"** means an individual, partnership or corporation who, for a fee, holds himself or itself out to the public as engaged in the business of offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages promised under any policy of insurance that could be issued or delivered in this state.
- (6) **"Person"** means any individual, partnership or corporation or other entity.
- (7) **"Surplus lines insurance broker"** means an individual, partnership or corporation who solicits, negotiates or procures a policy of insurance in an insurance company not licensed to transact business in this state which cannot be procured from insurers licensed to do business in this state. All transactions under such license shall be subject to 36 O.S. §§ 1101 et seq.
- (8) **"Resident"** means any individual or business entity that either resides in the State of Oklahoma or maintains its principal place of business in the State of Oklahoma.
- (c) **Bond required.**
- (1) **Surplus lines insurance broker.** No resident shall act as a Surplus Lines Insurance Broker in this state until such person has filed with the Commissioner, and thereafter maintained in force, a bond in an amount prescribed in (d) of this section.
- (2) **Insurance consultant.** No resident person shall act as an Insurance Consultant in this state until such person has filed with the Commissioner, and thereafter maintained in force, a bond in the amount prescribed in (d) of this section.
- (3) **Cash in lieu of bond.** In either (1) or (2) of paragraph (c) of this section, cash in lieu of a bond will be considered an acceptable substitute.
- (d) **Amount of bond.** The bond required by (c) of this section shall be as follows:
- (1) For \$1,000,000 and above gross premium or gross fees as applicable - \$40,000 bond required;
- (2) For \$500,000 to \$999,999 gross premium or gross fees as applicable - \$35,000 bond required;
- (3) For \$250,000 to \$499,999 gross premium or gross fees as applicable - \$30,000 bond required;
- (4) For \$100,000 to \$249,999 gross premium or gross fees as applicable - \$25,000 bond required;
- (5) For \$75,000 to \$99,999 gross premium or gross fees as applicable - \$20,000 bond required;
- (6) For \$50,000 to 74,999 gross premium or gross fees as applicable - \$15,000 bond required;
- (7) For \$25,000 to \$49,999 gross premium or gross fees as applicable - \$10,000 bond required;
- (8) For all gross premium or gross fees below \$25,000 as applicable - \$5000 bond required.
- (e) **Reports required.** Every Insurance Consultant shall, on or before the first day of April of each year, file with the Commissioner a verified statement of all fees received by such consultant as a result of business conducted pursuant to such consultant's license.
- (f) **Third party administrators.** Pursuant to 36 O.S. § 1448, the amount of bond for a third party administrator must be stipulated by the Insurance Commissioner in an amount that will be sufficient to protect those with which the administrator deals and not less than ten thousand dollars. The bond required by Section 1448 shall be set by the Insurance Commissioner but shall be no less than the following amounts as reported in the annual report of the third party administrator for the immediately preceding calendar year:
- (1) For \$1,000,000 and above in premiums collected or claims paid, whichever is higher - \$40,000 bond required;
- (2) For \$500,000 to \$999,999 in premiums collected or claims paid, whichever is higher - \$35,000 bond required;
- (3) For \$250,000 to \$499,999 in premiums collected or claims paid, whichever is higher - \$30,000 bond required;
- (4) For \$100,000 to \$249,999 in premiums collected or claims paid, whichever is higher - \$25,000 bond required;
- (5) For \$75,000 to \$99,999 in premiums collected or claims paid, whichever is higher - \$20,000 bond required;
- (6) For \$50,000 to 74,999 in premiums collected or claims paid, whichever is higher - \$15,000 bond required;
- (7) For \$49,999 or less in premiums collected or claims paid, whichever is higher - \$10,000 bond required.

365:25-3-13. Surplus line insurance with non-admitted insurer; approval prior to issuance; collection and remittance of taxes; claims for tax adjustments; procedures; forms

- (a) **Purpose.** The purpose of this section is to set forth the requirements regarding the procurement of policies from non-admitted carriers.
- (b) **Placement with licensed broker.** No licensed insurance producer, solicitor, broker or general agent shall place, or cause to be placed with any nonadmitted insurer any policy of insurance upon property and/or any other risks, or any insurable interest therein, having a situs in the State of Oklahoma, except through a duly licensed surplus line broker; and, then, any such policy shall only be procured by strict compliance with the applicable statutes of this State and the Rules issued under the authority of the Insurance Department of the State of Oklahoma.
- (c) **Application for placement.**
- (1) After procuring any surplus lines insurance, surplus line brokers shall execute and file affidavits and reports with the Insurance Commissioner as required pursuant to Section 1107 of Title 36 on Form SL-3(a-d). All Forms SL-3 (a-d) shall be retained in the files of the brokers, to support the policy issued thereunder, for a period of not less than three years.
- (2) All applications (Form SL-3) shall be ~~submitted in duplicate~~, completely filled out and verified under oath by the broker submitted for each policy for which approval for issuance is sought; provided, that in the event any group insurance is determined to constitute a surplus line of insurance, a specific method of reporting additional individual certificates issued or cancelled under such group policy shall be agreed upon between the Insurance Commissioner and the broker concerned.

(3) After procuring surplus lines insurance, an insured filing a direct placement shall execute and file affidavits and reports with the Insurance Commissioner as required by 36 O.S. § 1115 on form DSL-3 (a-d).

(d) **Broker tax collection and remittance.**

(1) All taxes due on any insurance policy issued as a surplus line policy, through any non-admitted insurer, shall be collected by the surplus line broker who procures such policy's issuance. Such taxes shall, in each instance be collected in full on or before the issuance of the policy to the insured, except as hereinafter expressly provided for by (b) of this section. All such taxes shall be duly remitted to the State of Oklahoma, through the Insurance Commissioner, on or before the end of each month following each calendar quarter by letter of transmittal accompanying such tax remittance.

(2) All premium taxes shall be computed on the total agreed premium due on the policy, applying the rate of tax existing as of the date the premiums in question become payable, which date shall in every instance be deemed to be the date of policy issuance, except in respect to the following specific situations:

(A) A policy issued for a term in excess of one year, with a fixed premium being payable annually, shall be taxed on the first year's premium at the rate effective as of the date of policy issuance. The tax on premiums payable for subsequent years shall be computed at the rate in effect as of the date such subsequent premiums become due and payable, which date shall be deemed for taxation purposes to be the policy anniversary date.

(B) Premium deposits made on policies providing for retrospective premium adjustments shall be deemed to be premiums paid for such policy as of the date of issuance and taxed accordingly, applying the tax rate in effect at date of policy issuance.

(C) Retrospective premium adjustments, made pursuant to the terms of any surplus line policy and requiring the payment of additional premiums by the insured, shall be taxed at the rate effective as of the date such additional premiums become payable, which date shall be deemed to be the date last included in the policy period considered in computing such retrospective premiums. All taxes due to the State of Oklahoma as the result of retrospective premium adjustments shall be collected by the broker concerned and remitted to the Insurance Commissioner within thirty (30) days next succeeding the last date included in the policy period considered in computing such retrospective premium adjustment.

(e) **Broker tax refunds; warrants.**

(1) Claims for tax refunds on surplus line policies shall be separately submitted on Form SL-3(d), which shall be prepared under oath, and executed by the broker concerned. Every such verified claim shall set forth with particularity the circumstances upon which it is predicated. All claims for tax refunds shall be computed at the rate of tax existing at the time the tax in question was

paid. Only one claim for tax refund shall be submitted on each Form SL-3(d). Applications for adjustment of erroneously paid taxes shall be deemed to be a claim for tax refund and shall be submitted in the manner prescribed for such claims. Any claim for a tax refund shall be filed following the close of the calendar quarter that contains the policy period considered in computing the tax refund three (3) years from the date of tax payment. The broker shall submit proof of the original payment and proof of the reason for the refund to the Insurance Commissioner. Any claim not filed within this time period shall be barred from ex parte administrative consideration or action by the Insurance Commissioner. Any claim for tax refund which is not timely filed, or any claim for tax refund which is denied by ex parte action of the Insurance Commissioner, may be set down for public hearing upon timely application ~~therefor~~ ~~therefore~~ by the party or parties aggrieved by such claims denial. All applications for hearings involving claims for tax refunds shall be made within the times and in the manner prescribed by statute for other hearings before the Insurance Commissioner.

(2) All claims for tax refunds shall be promptly acted upon by the Insurance Commissioner. Notice of the allowance or denial of such claims, as are duly submitted in proper form, shall be forwarded to the broker concerned within thirty days next succeeding the receipt of such claims by the Insurance Commissioner.

(3) All warrants issued in refund of premium taxes upon surplus line policies will be issued in the name of the broker who originally submitted the tax in question.

(f) **Direct Placement Tax Collection and Remittance.**

(1) All taxes due on any insurance policy issued as a direct placement surplus lines policy through any non-admitted insurer shall be collected by the affiant or other representative of the insured who procured such policy's issuance. Such taxes shall, in each instance, be collected in full on or before the issuance of the policy to the insured except as hereinafter expressly provided for by Section 365:25-3-13 (f)(2)(B). All such taxes shall be duly remitted to the State of Oklahoma, through the Insurance Commissioner, within thirty (30) days following the issuance of the policy. The Direct Placement by and Insured Summary shall accompany the tax remittance.

(2) All premium taxes shall be computed on the total agreed premium due on the policy, applying the rate of tax existing as of the date the premiums in question become payable, which date shall in every instance be deemed to be the date of policy issuance, except in respect to the following specific situations:

(A) A policy issued for a term in excess of one year, with a fixed premium being payable annually, shall be taxed on the first year's premium at the rate effective as of the date of policy issuance. The tax on premiums payable for subsequent years shall be computed at the rate in effect as of the date such subsequent premiums become due and payable, which date shall be deemed for taxation purposes to be the policy anniversary date.

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(B) Premium deposits made on policies providing for retrospective premium adjustments shall be deemed to be premiums paid for such policy as of the date of issuance and taxed accordingly, applying the tax rate in effect at the date of policy issuance.

(C) Retrospective premium adjustments, made pursuant to the terms of any surplus line policy and requiring the payment of additional premiums by the insured, shall be taxed at the rate effective as of the date such additional premiums become payable, which date shall be deemed to be the date last included in the policy period considered in computing such retrospective premiums. All taxes due to the State of Oklahoma as the result of retrospective premium adjustments shall be collected by the broker concerned and remitted to the Insurance Commissioner within thirty (30) days following the policy period considered in computing such retrospective premium adjustment.

(g) **Direct Placement-Tax refunds; warrants.**

(1) Claims for tax refunds on surplus lines policies shall be separately submitted on Form DSL-3d, which shall be prepared under oath and executed by the insured or a representative of the insured. Every verified claim shall set forth with particularity the circumstances upon which it is predicated. All claims for tax refunds shall be computed at the rate of tax existing at the time the tax in question was paid. Only one claim for tax refund shall be submitted on each Form DSL-3d. Applications for adjustment of erroneously paid taxes shall be deemed to be a claim for tax refund and shall be submitted in the manner prescribed for such claims. Any claim for tax refund shall be filed within three (3) years from the date of tax payment. The insured or a representative of the insured shall submit proof of the original payment and proof of the reason for the refund to the Insurance Commissioner. Any claim not filed within this time period shall be barred from ex parte administrative consideration or action by the Insurance Commissioner. Any claim for tax refund that is not timely filed, or any claim for tax refund that is denied by ex parte action of the Insurance Commissioner, may be set down for public hearing upon timely application by the party or parties aggrieved by the claim denial. All applications for hearings involving claims for tax refunds shall be made within the times and in the manner prescribed by statute for other hearings before the Insurance Commissioner.

(2) All claims for tax refunds shall be promptly acted upon by the Insurance Commissioner. Notice of the allowance or denial of such claims, as are duly submitted in proper form, shall be forwarded to the affiant or other representative of the insurance within thirty (30) days next succeeding the receipt of such claims by the Insurance Commissioner.

(3) All warrants issued in refund of premium taxes upon surplus line policies will be issued in the name of the insured that originally paid the tax in question.

(h) **Forms**

(1) Surplus line brokers shall reproduce Forms SL-2 and SL-3 in quantities sufficient for their respective requirements.

(2) The applications and forms required by this section shall be supplementary and in addition to the Annual Statements and Annual Tax Returns required to be filed by each licensed surplus line broker. The Annual Statements and Annual Tax Returns of all surplus line brokers shall be duly filed, according to 36 O.S. §1114 upon the forms prescribed for such purposes.

365:25-3-14. Insurance adjusters continuing education

(a) **Purpose.** The purpose of this section is to set forth the requirements for continuing education which an insurance adjuster must meet, and to set forth the requirements for approval by the Insurance Commissioner of a proposed continuing education course.

(b) **Definitions.** The following words or terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"CEC"** means continuing education credit.

(2) **"Certificate of course completion"** means a document acceptable to the Commissioner which signifies satisfactory completion of the course and reflects hours of credit earned.

(3) **"Continuing Education Advisory Committee"** means the committee established by the Commissioner for the purpose of reviewing and recommending approval or disapproval of continuing education courses.

(4) **"Credit hour"** means at least fifty (50) minutes of classroom instruction, unless a correspondence or self-study course.

(5) **"Instructor"** means a person who presents course materials approved for continuing education credit hours, and who has experience, training, and/or education in the course subject matter and has been approved by the Commissioner.

(6) **"Instructor Qualification Form"** means a form acceptable to the Commissioner and completed by the instructor which documents qualifications of the instructor.

(7) **"Licensee"** means a natural person who is licensed by the Commissioner as an insurance adjuster.

(8) **"Provider"** means a person, corporation, professional association or its local affiliates, an insurance company or any other entity which is approved by the Commissioner and provides approved continuing education to insurance adjusters.

(9) **"Provider Course Completion Form"** means a form acceptable to the Commissioner and completed by the provider which documents completion of an approved course by an adjuster or adjusters.

(c) **Exceptions.** The requirements for continuing education in this section shall not apply to:

(1) ~~a non-resident adjuster who resides and is licensed in a state or district having continuing education requirements and the adjuster meets all the requirements of that~~

~~state or district to practice therein. The non resident adjuster shall be responsible for completing any reporting requirements necessary to verify completion.~~

~~(2) a non resident adjuster of a state that does not require continuing education hours may fulfill the continuing education requirements of any other state in which the individual is licensed and shall be deemed to have complied with this rule upon proof of completion of said hours. Continuing education requirements shall not apply to non-resident adjusters licensed in a state that has a continuing education requirement for adjusters.~~

(d) **Continuing education requirements.**

(1) **Twelve hours of CEC during twenty-four month period.** All licensees shall complete twelve (12) credit hours of continuing education during each twenty-four month period. The twenty-four month period begins the first day of the month following the month in which the license is granted. The credit hours completed must be in those lines in which the adjuster is licensed. Courses taken in excess of twelve (12) hours will not carry forward. However, courses taken in excess of twelve (12) hours may be applied retroactively in order to bring a lapsed license into compliance.

(2) **Certificates of course completion required for license renewal.** If course completion is not reflected on the license renewal form issued by the Insurance Department, each adjuster shall attach, if requested by the Commissioner, an approved course completion certificate to the license renewal form returned to the Department for verification of course completion. The Commissioner shall maintain a cumulative total of continuing education credit hours to insure compliance within the twenty-four (24) month period.

(3) **Credits for instructors.** An instructor who is a licensee shall receive the same continuing education credit for presenting approved course materials as a licensee who attends an approved classroom instructional session by including his/her name and license number on roster.

(4) **Prerequisite for renewal or reinstatement.** As a prerequisite for license renewal or prior to reinstatement following a lapse of license, an adjuster must submit the appropriate forms as specified in this section that establish the educational requirements have been met if not currently recorded by the Oklahoma Insurance Department.

(e) **Approval of continuing education providers.**

(1) **Information required.** Each provider shall apply for approval by the Commissioner. All providers, including publicly funded educational institutions, federal agencies, or Oklahoma state agencies, shall provide:

- (A) Name and address of the provider.
- (B) Contact person and his or her address and telephone number(s).
- (C) The location of the courses or programs, if known, unless it is an individual self-study course.
- (D) The number of CEC hours requested for each course.

(E) Topic outlines which list the summarized topics covered in each course and a copy of any course materials.

(F) The names and qualification of instructors. An instructor shall have one of the following qualifications:

- (i) Three (3) years of recent experience in the subject area being taught; or
- (ii) A degree related to the subject area being taught; or
- (iii) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.

(G) If a prior approved course has materially changed, a summarization of those changes.

(2) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.

(f) **Courses; approval; records.**

(1) **Course approval timeline.** A provider shall apply to the Commissioner for course approval by submitting forms and materials to the Commissioner the first day of the month one full month prior to the date of the first course offering. The Commissioner shall grant or deny approval based upon information submitted in this section regarding each course or additional information regarding the course, if necessary. The Commissioner will assign the number of CEC hours awarded for an approved course and the line or lines of insurance for which the course qualifies.

(2) **Repeated approved course.** At least fourteen (14) days prior to the repetition of an approved course, the Commissioner shall be notified in writing of the repetition, providing course number, name, date, location and instructor's name.

(3) **Written approval required.** All courses shall require written approval by the Commissioner.

(4) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval for any course. This withdrawal will not affect any CEC hours attained under the course previous to the withdrawal.

(5) **Minimum of one credit hour.** Courses submitted for approval must consist of a minimum of one credit hour of course instruction.

(6) **Continuing education course must be separate from meetings.** Courses conducted in conjunction with other meetings must have a separate continuing education course component.

(7) **Content of courses.** Courses must be of a meaningful nature and shall not include items such as prospecting, motivation, sales techniques, psychology, recruiting, time management, phone etiquette, basic pre-licensing principles of adjusting, and subjects not relating to the adjuster's license.

(8) **Certificate of Course Completion.** At the completion of each course, the provider shall provide the

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insurance adjuster a "Certificate of Course Completion" Form.

(9) **List of adjusters completing course to Commissioner.** Within ten (10) business days after completion of each course, the provider shall provide the Commissioner a list of all insurance adjusters who completed the course on the Course Completion Form. This list shall contain the course number, date of completion and license numbers of all insurance adjusters completing the course. If the list is not reported within ten (10) business days, a late report fee of \$50.00 shall be paid to the Insurance Department. Failure to pay the late report fee may result in revocation of provider approval. Continued late filing may also result in loss of approval.

(10) **Course records maintained four (4) years.** Providers shall maintain course records for at least four (4) years. The Commissioner may order an examination of a provider, at the provider's expense, for good cause shown.

(g) **Approved professional designation programs**

(1) **Definitions.**

(A) **Participation.** As used in 36 O.S. § 1435.29(B)(3), participates means successfully completing any part of a course curriculum totaling twenty (20) classroom or equivalent classroom hours of an approved professional designation program.

(B) **Approved professional designation program.** As used in 36 O.S. § 1435.29(B)(3), an approved professional designation program means an educational insurance program approved by the Commissioner with a sponsoring organization that administers curriculum requirements and testing standards for candidates.

(2) **Requirements.** A professional designation program shall satisfy the following criteria to receive initial and ongoing approval for the program:

(A) The program shall have a sponsoring organization;

(B) The program's sponsoring organization shall maintain and govern a code of conduct;

(C) The program shall be relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma;

(D) Each course of the professional designation course curriculum shall be a minimum of twenty (20) hours of classroom instruction or equivalent classroom instruction; and

(E) The program shall include an examination requirement that students shall pass before earning the designation.

(3) **Submissions.** The sponsoring organization shall submit the following to the Commissioner for its professional designation program to be considered for initial and ongoing approval for the program:

(A) The sponsoring organization's code of conduct;

(B) The sponsoring organization's membership requirements;

(C) The professional designation program's course requirements; and

(D) The professional designation program's examination requirements.

(4) **Submission exemptions.** Professional designation programs recognized by the National Association of Insurance Commissioners (NAIC) for waiver/exemption of pre-licensing education training shall receive initial and continuing approval without submission by the sponsoring organization.

(h) **Presumptive continuing education credit approval.**

(1) **Requirements.** A professional association may receive presumptive approval of the association's continuing education courses by satisfying the following requirements:

(A) The association shall have a mission statement that includes a commitment to enhance the professional, educational, or ethical skills of its members;

(B) The association shall maintain and govern a code of member conduct;

(C) The association shall offer educational programs relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma; and

(D) The association shall perpetuate its continuity through the election of officers.

(2) **Submissions.** Each professional association shall submit the following to be considered for initial and ongoing presumptive course approval:

(A) The association's mission statement;

(B) The association's code of member conduct;

(C) The chapter officers, the responsibilities for each officer, and the term of office for each officer;

(D) The mailing address and primary contact for the association; and

(E) The list of continuing education courses approved in Oklahoma and offered by the professional association in the past twenty-four (24) months.

(3) **Notification of approval or disapproval.**

(A) The Commissioner shall notify the association within ninety (90) days from the receipt of submission whether presumptive approval for continuing education courses was granted. The notification shall indicate the reasons for disapproval.

(B) Submissions to the Commissioner by an association seeking presumptive approval of continuing education courses shall include the course summary, instructor name, course date and location and shall be submitted to the Commissioner at least fifteen (15) business days prior to the presentation of the course.

(C) If the Commissioner receives a report or reports that the content of a continuing education course may violate 365:25-3-1(f)(7) of this section, the Commissioner may review the content and determine if the course should be disapproved for noncompliance. The Commissioner shall notify the association if the course has been disapproved due to non-compliance, and the association shall immediately cease offering the course upon receipt of the notification. The association may then make corrections to a disapproved course to bring the

course into compliance with 365:25-3-1(f)(7) of this section and submit the course for approval by the Commissioner in the manner of an original submission for presumptive continuing education course approval.

(D) Should an association receive notification of three (3) disapproved courses within a twenty-four (24) month period, the association's presumptive approval for continuing education courses shall be rescinded for twenty-four (24) months after which time the association may re-apply for presumptive approval.

(4) **Assignment of course number.** The Commissioner shall assign a course number once the presumptive approval for continuing education courses has been granted and shall notify the association of the assigned course number. All future correspondence relating to that course shall reference the assigned course number.

(5) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted.

(6) **Review.** Course approval shall be reviewed every three (3) years. The association shall re-submit the items required in subparagraph (3)(B) of this section during the fourth quarter of the last approval year.

(7) **Agency management courses.** Agency management courses shall not be considered for presumptive continuing education approval.

(g*j*) **Self study and distance learning courses.** The Insurance Commissioner shall determine appropriate guidelines and standards for self-study and distance learning CEC offerings. The guidelines and standards shall include authentication of the registered licensee, technology requirements for course delivery and testing protocols. Guidelines and standards shall be reviewed and updated as appropriate and published on the Commissioner's website annually. Failure to follow the guidelines and standards established by the Commissioner may result in denial of continuing education credit for the adjuster and revocation of the course approval and or provider status for the Provider.

(h*j*) **Repeating courses.** An insurance adjuster may repeat a course within the twenty-four month period if the maximum credits designated for the course were not attained in the first attempt. By repeating the course, the adjuster may not during the twelve month period earn more than the maximum credits designated for the course. An adjuster may repeat a course after two (2) license renewal dates have elapsed and receive the maximum credits designated for the course.

(i*k*) **Extension of time.** For good cause shown, the Commissioner may grant an extension of time during which the requirements imposed by the act may be completed. The extension shall not exceed twelve (12) months. The extension will not alter the requirements or due date of the succeeding twelve-month period. "Good cause" includes disability, natural disaster, or other extenuating circumstances. Each request for extension of time shall be in writing from the licensee

and shall include details and any documentation to support the request. Each request must be received by the Commissioner no less than thirty (30) days before the expiration of the twenty-four month period.

(j*l*) **Continuing education advisory committee.**

(1) There shall hereby be established the Continuing Education Advisory Committee. This committee shall consist of representatives from the Agents Licensing Division, and representatives from the industry (not to exceed three (3) individuals) as designated by the Commissioner. Members of the Advisory Board established by 36 O.S. § 6221 may also serve on the Continuing Education Advisory Committee. The committee shall meet at least quarterly and additionally as required. Members of the committee shall serve without pay and shall not be reimbursed for any expenses associated therewith.

(2) Prior to the Commissioner's approval or disapproval of a course in 365:25-3-14(e), the Continuing Education Advisory Committee will review the course submitted and make its nonbinding recommendation to the Commissioner on granting or denying approval based upon information submitted pursuant to 365:25-3-14(e) and additional information regarding the course, if necessary. Each course approval shall be valid for a period of no longer than two (2) years, unless the course has a material change. Material changes to courses require course resubmission for overall course review and approval. Course materials may be resubmitted as requested for review at the time of expiration. All existing courses previously approved and current with the Commissioner shall be submitted in accordance with the expiration date as granted by the Commissioner unless the course has a material change, as previously detailed.

(~~k~~*m*) **Severability provision.** If any provision of this section, or application of such provision to any person or circumstances, shall be held invalid, the remainder of the section, and the application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

365:25-3-16. Examination exemptions

Applicants for the following licenses The following applicants are cognizant of and capable of fulfilling the responsibilities of the license without an examination:

- (1) limited lines producers,
- (2) surplus lines brokers,
- (3) aircraft title producer license if the applicant was licensed as a title insurance producer prior to November 1, 2006.

(4) a person licensed as an insurance producer in another state who moves to this state and makes application to become a resident licensee within ninety (90) days of establishing legal residence. The examination exemption shall apply for the lines of authority held in the prior state. A person shall qualify for this exemption by providing a clearance letter from the prior state dated within ninety (90) days from the date of receipt of the application.

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SUBCHAPTER 5. BAIL BONDSMEN

PART 5. GENERAL PROVISIONS PERTAINING TO BAIL BONDSMEN

365:25-5-30. Definitions

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

"High school diploma or equivalent" The equivalent of a high school diploma, as described by 59 O.S. §1305(A)(8), shall be the successful completion of all parts of the General Educational Development program or completion of a similar program authorized and approved by the Oklahoma State Department of Education. An applicant shall provide documentation that the Oklahoma State Department of Education considers the applicant's educational qualifications to be the equivalent of a high school diploma if necessary.

"Limited surety agent" means any individual who is duly licensed by the Commissioner and is appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings and receives or is promised money or other things of value.

"Premium" means a sum of money charged by the bail bondsman for services rendered on behalf of the principal. Nothing in this section shall be construed to include collateral security received by the bail bondsman in the definition of premium.

365:25-5-34. Professional bondsman deposits

(a) Bondsman making an original deposit required by 59 O.S. § 1306, or replacing any portion of a deposit shall deliver the deposit to the office of the Insurance Commissioner in Oklahoma City, Oklahoma. The bondsman shall appear in person at the office of the Insurance Commissioner to execute an assignment of the deposit to the Insurance Commissioner as instructed by 59 O.S. § 1306.

(b) The phrase "required level," as described by 59 O.S. § 1332 (D)(4)(b), shall be the bondsman's amount on deposit prior to a forfeiture payment. A bondsman shall make a deposit equal to the amount withdrawn by the Commissioner following the Commissioner's withdrawal of professional securities to pay a bond forfeiture. The deposit shall be made within ten (10) days from receipt of the withdrawal notice or mailing of the notice if no receipt is made. The bondsman shall follow the provisions of paragraph a of this section for the deposit.

365:25-5-35. Bondsman license renewal

(a) Pursuant to 59 O.S. § 1309, bondsmen are required to renew their licenses annually. Requirements for a complete renewal filing for a bondsman shall be submitted by September 15 each year and must include each of the following:

- (1) \$100 renewal fee,
- (2) proof of completion of eight (8) hours of continuing education, and

(3) for professional bondsmen, a financial statement prepared in accordance with 59 O.S. § 1309(B).

(4) In case of renewal of a property bondsman license, the application shall also provide a county assessor's written statement stating the property's assessed value for each property used to post bonds and a written statement from any lien holder stating the current payoff amount on each lien for each property used to post bonds. The written statements shall be submitted by September 15 of each year.

(b) Renewal filings or partial renewal filings submitted after September 30 will be assessed a \$100 late renewal fee in addition to the usual \$100 renewal fee.

(c) Failure to complete the renewal process by November 30 will result in non-renewal and the bondsman will be required to apply for a license as a new applicant.

(d) All licenses of bail bondsmen shall expire September 30 unless the Commissioner receives a complete renewal filing. A complete renewal filing consists of all necessary items required by paragraph a of this section as well as any other items required by the Commissioner.

(e) The November 30 date utilized in 59 O.S. § 1309(D) does not authorize a bail bondsman to continue acting as a bail bondsman if the license has not been renewed by September 30.

(f) The Commissioner shall mail all renewal licenses to the bondsman's address of record.

365:25-5-43. Appointments

The effective date of the bondsman appointment described in 59 O.S. § 1317 shall be the date the Commissioner mails the completed appointment form to the appointed bondsman.

SUBCHAPTER 7. COMPANIES

PART 5. OKLAHOMA INSURANCE HOLDING COMPANY SYSTEM REGULATORY ACT

365:25-7-27.1. Subsidiaries of domestic insurers

The authority to invest in subsidiaries under Section ~~4646~~ 1652 of the Act is in addition to any authority to invest in subsidiaries which may be contained in any other provision of the Insurance Code.

365:25-7-30. Extraordinary dividends and other distributions

(a) **Request for approval of extraordinary dividends.** Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

- (1) the amount of the proposed dividend;
- (2) the date established for payment of the dividend;
- (3) a statement as to whether the dividend is to be in cash or other property and, if in property, a description

thereof, its cost, and its fair market value together with an explanation of the basis for valuation;

(4) A copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information:

(A) the amounts, dates and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurers own securities) paid within the period of twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;

(B) surplus as regards policyholders (total capital and surplus) as of the 31st day of the December next preceding;

(C) if the insurer is a life insurer, the net gain from operations for the 12-month period ending the 31st day of December next preceding;

(D) if the insurer is not a life insurer, the net income less realized capital gains for the 12-month period ending the 31st day of December next preceding and the two preceding 12-months periods; and

(E) if the insurer is not a life insurer, the dividends paid to stockholders excluding distributions of the insurer's own securities in the preceding two (2) calendar years.

(5) a balance sheet and statement of income for the period intervening from the last annual statement filed with the Commissioner and the end of the month preceding the month in which the request for dividend approval is submitted; and

(6) a brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

(b) **Report of dividends and distributions.** Subject to subsection (e) of Section 1655 of the Act, each registered insurer shall report to the Commissioner all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof, including the same information required by Section 1655(a) and (b).

PART 7. COMPANIES IN HAZARDOUS FINANCIAL CONDITION

365:25-7-40. Authority

This part is adopted and promulgated by the Oklahoma Insurance Commissioner pursuant to ~~36 O.S. 1981~~ Section 307.1 and Section 1901, et seq., of Title 36 of the Oklahoma Insurance Code Statutes.

365:25-7-41. Purpose

(a) The purpose of this part is to set forth the criteria which the Commissioner may ~~consider in making a determination~~

~~that the use for identifying insurers found to be in such condition of any insurer is such that continuation as to render the continuance of such insurer's their business may be hazardous to the public or to holders of its-their policies or certificates of insurance.~~

(b) This part shall not be interpreted to limit the powers granted the Commissioner by any laws or parts of laws of this state, nor shall this part be interpreted to supersede any laws or parts of laws of this state.

365:25-7-42. Standards for determining hazardous financial condition

The following, standards, either singly or a combination of two or more, may be considered by the Commissioner to determine whether the continued operation of any insurer transacting an insurance business in this state might be deemed to be hazardous to the policyholders, creditors or the general public. The Commissioner may consider:

(1) Adverse findings reported in financial condition and market conduct examination reports;

(2) The National Association of Insurance Commissioners Insurance Regulatory Information System and its related reports;

(3) The ratios of commission expense, general insurance expense, policy benefits and reserve increases as to annual premium and net investment income that could lead to an impairment of capital and surplus;

(4) The insurer's ~~assets~~ asset portfolio when viewed in light of current economic conditions is not of sufficient value, liquidity or diversity to assure the insurer's ability to meet its outstanding obligations as they mature;

(5) The ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the insurer's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer.;

(6) Whether the insurer's operating ~~results-loss~~ for the last twelve month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets, and cash dividends paid to shareholders, is greater than fifty percent (50%) of the insurer's remaining surplus as regards policyholders in excess of the minimum required;

~~(7) the financial condition of the insurer's affiliates, subsidiaries, or reinsurers~~ Whether any affiliate, subsidiary or reinsurer is insolvent, threatened with insolvency or delinquent in payment of its monetary or other obligations;

(8) Contingent liabilities, pledges or guaranties which either individually or collectively involve a total amount which in the opinion of the Commissioner may affect the solvency of the insurer;

(9) Whether any "controlling person" of an insurer is delinquent in the transmitting to, or payment of, net premiums to such insurer;

(10) The age and collectibility of receivables;

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- (11) ~~Whether competence and fitness of the management of the insurer, including officers, directors, or any other person who directly or indirectly controls the operation of such insurer, fails to possess and demonstrate the competence, fitness and reputation deemed necessary to serve the insurer in such position;~~
- (12) ~~Whether the management of an insurer has failed to respond to the Commissioner's inquiries relative to the condition of the insurer or has furnished false and misleading information in response to such inquiries or concerning such inquiries;~~
- (13) ~~Whether the management of an insurer either has filed any false or misleading sworn financial statement or statements, or has released a false or misleading financial statement or statements to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer;~~
- (14) ~~Whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner;~~
- (15) ~~Whether the company-insurer has experienced or will experience in the foreseeable future cash flow and/or liquidity problems.~~

365:25-7-43. Commissioner's authority

(a) For the purposes of making a determination of an insurer's financial condition under this part, the Commissioner may, ~~if consistent with the facts and existing law:~~

- (1) ~~Disregard any credit or amount receivable resulting from transactions with a reinsurer which that is insolvent, impaired or otherwise subject to a delinquency proceedings;~~
- (2) ~~Make appropriate adjustments to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates;~~
- (3) ~~Refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor;~~
- (4) ~~Increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial likelihood risk that the insurer will be called upon to meet the obligation undertaken within the next 12-month period.~~

(b) If the Commissioner determines that the continued operation of the insurer licensed to transact business in this state may be hazardous to the policyholders or the general public, then the Commissioner may, upon his determination, issue an order making such finding and including a list of requirements necessary to abate such finding. Such list may include among, other things:

- (1) Reduce the total amount of present and potential liability for policy benefits by reinsurance;
- (2) Reduce, suspend or limit the volume of business being accepted or renewed;
- (3) Reduce general insurance and commission expenses by specified methods;

- (4) Increase the insurer's capital and surplus;
 - (5) Suspend or limit the declaration and payment of dividend by an insurer to its stockholders or to its policyholders;
 - (6) File reports in a form acceptable to the Commissioner concerning the market value of an insurer's assets;
 - (7) Limit or withdraw from certain investments or discontinue certain investment practices to the extent the Commissioner deems necessary;
 - (8) Document the adequacy of premium rates in relation to the risks insured;
 - (9) File, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or on such format as promulgated by the Commissioner.
- (c) If the insurer is a foreign insurer, the Commissioner's order may be limited to the extent provided by statute.

PART 13. ELECTRONIC FILINGS

365:25-7-76. Insurance Company Holding Company Act

Paper filings with the Insurance Department made pursuant to the Insurance Holding Company System Act, 36 O.S. § 1651, et seq, shall also be made by electronic means and format as approved by the Insurance Commissioner. The Insurance Commissioner may exclude a specific filing, filings or categories of filings from the requirements of this section at the Commissioner's discretion.

SUBCHAPTER 9. PREPAID FUNERAL BENEFITS

365:25-9-3. Forms

(a) **General requirements.** Bond forms, Applications for Original Permit, Contracts and Applications for Conversion from trust-funded prepaid funeral benefits to insurance funded prepaid funeral benefits shall be submitted to the Insurance Commissioner for approval by submitting an original and two copies.

(1) **Application for original permit form.** Application for Original Permit, Form PFB-1, ~~as set forth in Appendix C of this chapter,~~ must be filed with and approved by the Insurance Commissioner before any contracts covered by this act may be marketed. The statutory fee must accompany this application.

(2) **Bond form requirements.** Appendix D of this chapter, is a sample bond to be used in connection with "The Act". Any variance from this form must have the prior written approval of the Insurance Commissioner. If any bond required by "The Act" is canceled for any reason, a thirty (30) day written notice must be given by the insurer to the Insurance Commissioner.

(3) **Conversion Forms.** Applications for Conversion from a trust funded prepaid funeral benefit to an insurance-funded prepaid funeral benefit shall be filed with

and approved by the Insurance Commissioner before any contracts covered by "The Act" may be converted. Applications for Conversion shall be filed using the Application for Conversion form as set forth in Appendix R of this chapter. Any variance from this form must have prior written approval by the Insurance Commissioner.

(b) **Additional general requirements.** Withdrawal forms, individual refunds, annual reports, renewal applications, and the annual statement of financial condition shall be submitted to the Insurance Commissioner for review by submitting one copy of the withdrawal form and individual refund. Submit the original annual report, renewal application and annual statement of financial condition.

(1) **Withdrawal forms.** Appendix E of this chapter is the application which must be submitted to the Insurance Commissioner in order to withdraw funds after a contract has been fulfilled.

(2) **Individual refunds.** Appendix F of this chapter, must be submitted to the Insurance Commissioner when a person desires to withdraw any funds deposited for pre-paid funeral expenses prior to fulfillment of the contract.

(3) **Annual reports.**

(A) Annual reports must be filed in accordance with Section 6128 of "The Act". Such reports should be submitted in columnar form in alphabetical order according to the last name of the contract holder. Appendix G of this chapter is included for the sole purpose of establishing guidelines for this report. A complete annual report shall be composed of the following items arranged in the order shown below:

- (i) PF-1-a
- (ii) PF-1-b
- (iii) PF-1-c
- (iv) PF-1-d
- (v) PF-2-a
- (vi) PF-2-b
- (vii) PF-2-c

(B) Computer print-outs may be submitted in lieu of the reports listed above so long as each legibly provides no less information than shown in the Insurance Commissioner's sample forms. Not less than one page of each annual report form shown above, other than the PF-2-b, shall be submitted. However, where a particular form is not relevant to the operations of a given permitholder, it may be submitted clearly marked, "Not Applicable".

(4) **Annual statement of financial condition.** An Annual Statement of Financial Condition (Reconciliation of Trust Accounts) must be filed in accordance with Section 6129 of "The Act". Appendix H of this chapter (Form PF-3) is included for the sole purpose of establishing guidelines for this statement.

(5) **Renewal application.** A renewal application (PFB-2) as set forth in Appendix I of this Chapter, must be filed with the Commissioner no later than December 31 of each year in order to renew the permit for the succeeding calendar year. The statutory fee must accompany this renewal application.

**SUBCHAPTER 27. MILITARY SALES PRACTICES
REGULATION**

365:25-27-1. Purpose

(a) The purpose of this regulation is to set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair.

(b) Nothing herein shall be construed to create or imply a private cause of action for a violation of this regulation.

365:25-27-2. Scope

This regulation shall apply only to the solicitation or sale of any life insurance or annuity product by an insurer or insurance producer to an active duty service member of the United States Armed Forces.

365:25-27-3. Authority

This regulation is issued under the authority of the Oklahoma Unfair Trade Practices Act, 36 O.S. § 1201, et seq.

365:25-27-4. Exemptions

(a) This regulation shall not apply to solicitations or sales involving:

(1) Credit insurance;

(2) Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund;

(3) An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner; or, when a term conversion privilege is exercised among corporate affiliates;

(4) Individual stand-alone health policies, including disability income policies;

(5) Contracts offered by Service members' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI), as authorized by 38 U.S.C. Section 1965, et seq.;

(6) State Sponsored Life Insurance (SSLI) provided by a State or through a State National Guard Association pursuant to 37 U.S.C. Section 707(a);

(7) Life insurance contracts offered through or by a non-profit military association, qualifying under Section 501(c)(23) of the Internal Revenue Code (IRC), and which are not underwritten by an insurer; or

(8) Contracts used to fund:

(A) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

(B) A plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the IRC, as amended, if established or maintained by an employer;

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(C) A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC;

(D) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(E) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

(F) Prearranged funeral contracts.

(b) Nothing herein shall be construed to abrogate the ability of nonprofit organizations (and/or other organizations) to educate members of the United States Armed Forces in accordance with Department of Defense DoD Instruction 1344.07 - Personal Commercial Solicitation on DoD Installations or successor directive.

(c) For purposes of this regulation, general advertisements, direct mail and internet marketing shall not constitute "solicitation." Telephone marketing shall not constitute "solicitation" provided the caller explicitly and conspicuously discloses that the product concerned is life insurance and makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation. Provided however, nothing in this subsection shall be construed to exempt an insurer or insurance producer from this regulation in any in-person, face-to-face meeting established as a result of the "solicitation" exemptions identified in this subsection.

365:25-27-5. Definitions

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

"Active Duty" means full-time duty in the active military service of the United States and includes members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training. The term does not include members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of less than 31 calendar days.

"Department of Defense (DoD) Personnel" means all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense.

"Door to Door" means a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment.

"General Advertisement" means an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance, or the promotion of the insurer or the insurance producer.

"Insurer" means an insurance company required to be licensed under the laws of this state to provide life insurance products, including annuities.

"Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate life insurance, including annuities.

"Known" or "Knowingly" means, depending on its use herein, the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the act or practice complained of, that the person solicited:

(A) is a service member; or

(B) is a service member with a pay grade of E-4 or below.

"Life Insurance" means insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income and unless otherwise specifically excluded, includes individually issued annuities.

"Military Installation" means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.

"MyPay" is a Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.

"Service Member" means any active duty officer (commissioned and warrant) or enlisted member of the United States Armed Forces.

"Side Fund" means a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement or other mechanism which accumulates premium or deposits with interest or by other means. The term does not include:

(A) accumulated value or cash value or secondary guarantees provided by a universal life policy;

(B) cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or

(C) a premium deposit fund which:

(i) contains only premiums paid in advance which accumulate at interest;

(ii) imposes no penalty for withdrawal;

(iii) does not permit funding beyond future required premiums;

(iv) is not marketed or intended as an investment; and

(v) does not carry a commission, either paid or calculated.

"Specific Appointment" means a prearranged appointment agreed upon by both parties and definite as to place and time.

"United States Armed Forces" means all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

365:25-27-6. Practices declared false, misleading, deceptive or unfair on a military installation

(a) The following acts or practices when committed on a military installation by an insurer or insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be false, misleading, deceptive or unfair:

- (1) Knowingly soliciting the purchase of any life insurance product "door to door" or without first establishing a specific appointment for each meeting with the prospective purchaser.
- (2) Soliciting service members in a group or "mass" audience or in a "captive" audience where attendance is not voluntary.
- (3) Knowingly making appointments with or soliciting service members during their normally scheduled duty hours.
- (4) Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or other areas where the installation commander has prohibited solicitation.
- (5) Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander's designee.
- (6) Posting unauthorized bulletins, notices or advertisements.
- (7) Failing to present DD Form 2885, Personal Commercial Solicitation Evaluation, to service members solicited or encouraging service members solicited not to complete or submit a DD Form 2885.
- (8) Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the United States Armed Forces without first obtaining for the insurer's files a completed copy of any required form which confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives or rules of the DoD or any branch of the Armed Forces.

(b) The following acts or practices when committed on a military installation by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair:

- (1) Using DoD personnel, directly or indirectly, as a representative or agent in any official or business capacity with or without compensation with respect to the solicitation or sale of life insurance to service members.
- (2) Using an insurance producer to participate in any United States Armed Forces sponsored education or orientation program.

365:25-27-7. Practices declared false, misleading, deceptive or unfair regardless of location

(a) The following acts or practices by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair:

- (1) Submitting, processing or assisting in the submission or processing of any allotment form or similar device used by the United States Armed Forces to direct a service member's pay to a third party for the purchase of life insurance. The foregoing includes, but is not limited to, using or assisting in using a service member's "MyPay" account or other similar internet or electronic medium for such purposes. This subsection does not prohibit assisting a service member by providing insurer or premium information necessary to complete any allotment form.
- (2) Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this section, a formal banking relationship is established when the depository institution:
 - (A) provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. § 4301, et seq. and the regulations promulgated thereunder; and
 - (B) permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.
- (3) Employing any device or method or entering into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's Leave and Earnings Statement or equivalent or successor form as "Savings" or "Checking" and where the service member has no formal banking relationship as defined in Paragraph (a)(2) of this Section.
- (4) Entering into any agreement with a depository institution for the purpose of receiving funds from a service member whereby the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.
- (5) Using DoD personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity with or without compensation with respect to the solicitation or sale of life insurance to service members who are junior in rank or grade, or to the family members of such personnel.
- (6) Offering or giving anything of value, directly or indirectly, to DoD personnel to procure their assistance in encouraging, assisting or facilitating the solicitation or sale of life insurance to another service member.
- (7) Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for his or her attendance to any event where an application for life insurance is solicited.
- (8) Advising a service member with a pay grade of E-4 or below to change his or her income tax withholding or State of legal residence for the sole purpose of increasing disposable income to purchase life insurance.

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(b) The following acts or practices by an insurer or insurance producer lead to confusion regarding source, sponsorship, approval or affiliation and are declared to be false, misleading, deceptive or unfair:

(1) Making any representation, or using any device, title, descriptive name or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer or product offered is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, the United States Armed Forces, or any state or federal agency or government entity. Examples of prohibited insurance producer titles include, but are not limited to, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant" or "Veteran's Benefits Counselor." Nothing herein shall be construed to prohibit a person from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning. Such designations include, but are not limited to, Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Master of Science In Financial Services (MSFS), or Masters of Science Financial Planning (MS).

(2) Soliciting the purchase of any life insurance product through the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the United States Armed Forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, or the United States Armed Forces.

(c) The following acts or practices by an insurer or insurance producer lead to confusion regarding premiums, costs or investment returns and are declared to be false, misleading, deceptive or unfair:

(1) Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.

(2) Excluding individually issued annuities, misrepresenting the mortality costs of a life insurance product, including stating or implying that the product "costs nothing" or is "free."

(d) The following acts or practices by an insurer or insurance producer regarding SGLI or VGLI are declared to be false, misleading, deceptive or unfair:

(1) Making any representation regarding the availability, suitability, amount, cost, exclusions or limitations to coverage provided to a service member or dependents by SGLI or VGLI, which is false, misleading or deceptive.

(2) Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations to coverage of SGLI or VGLI to private insurers which is false, misleading or deceptive.

(3) Suggesting, recommending or encouraging a service member to cancel or terminate his or her SGLI policy or issuing a life insurance policy which replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member's separation from the United States Armed Forces.

(e) The following acts or practices by an insurer and or insurance producer regarding disclosure are declared to be false, misleading, deceptive or unfair:

(1) Deploying, using or contracting for any lead generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance.

(2) Failing to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser.

(3) Excluding individually issued annuities, failing to clearly and conspicuously disclose the fact that the product being sold is life insurance.

(4) Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the "Military Personnel Financial Services Protection Act," Pub. L. No. 109-290, p.16.

(5) Excluding individually issued annuities, when the sale is conducted in-person face-to-face with an individual known to be a service member, failing to provide the applicant at the time the application is taken:

(A) an explanation of any free look period with instructions on how to cancel if a policy is issued; and

(B) either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance, the death benefit applied for and its expected first year cost. A basic illustration that meets the requirements of the Oklahoma Life Insurance Illustration Regulation, Section 365:10-3-50, et seq., shall be deemed sufficient to meet this requirement for a written disclosure.

(f) The following acts or practices by an insurer or insurance producer with respect to the sale of certain life insurance products are declared to be false, misleading, deceptive or unfair:

(1) Excluding individually issued annuities, recommending the purchase of any life insurance product which includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.

(2) Offering for sale or selling a life insurance product which includes a side fund to a service member in pay grades E-4 and below who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor

income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance.

(A) "Insurable needs" are the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and/or survivors or dependents.

(B) "Other military survivor benefits" include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits.

(3) Excluding individually issued annuities, offering for sale or selling any life insurance contract which includes a side fund:

(A) unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;

(B) unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at

least each policy year from one (1) to ten (10) and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and

(C) which by default diverts or transfers funds accumulated in the side fund to pay, reduce or offset any premiums due.

(4) Excluding individually issued annuities, offering for sale or selling any life insurance contract which after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance.

(5) Selling any life insurance product to an individual known to be a service member that excludes coverage if the insured's death is related to war, declared or undeclared, or any act related to military service except for an accidental death coverage, e.g., double indemnity, which may be excluded.

365:25-27-8. Severability

If any provision of these sections or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these sections which can be given effect without the invalid provisions or application. To this end all provisions of these sections are declared to be severable.

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APPENDIX C. APPLICATION FOR ORIGINAL PERMIT [REVOKED]

APPLICANT (NAME OF FUNERAL ESTABLISHMENT)

NAME TRUST FUND IS TO BE HELD UNDER

OWNER OF TRUST (PLEASE INCLUDE MIDDLE NAME, BIRTHDATE, SSN)

PERMANENT MAILING ADDRESS OF TRUST

NAME OF PERSON MANAGING TRUST, IF DIFFERENT FROM ABOVE
(PLEASE INCLUDE MIDDLE NAME, BIRTHDATE, SSN)

TELEPHONE NUMBER

GENERAL INTERROGATORIES

(all questions must be answered)

1. Financial Institutions where trust monies will be deposited. A Trust Agreement in a form prescribed by the Insurance Commissioner must be completed for each financial institution where trust monies will be deposited.

Name	Address	City	Zip
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Name	Address	City	Zip
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2. Designated agents who will be responsible for deposit of funds collected under contracts for prepaid funeral benefits. (Attach an additional sheet if necessary.)

Name	Address	City	Zip	SSN
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Name	Address	City	Zip	SSN
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APPENDIX I. APPLICATION FOR RENEWAL OF PERMIT [REVOKED]

Form PFB-2

Name of Trust Fund

Address

Hereby makes application for a renewal of permit number _____ from the State of Oklahoma for the year of 19__ to operate a Prepaid Funeral Benefits Trust Fund as authorized by Title 36 Oklahoma Statutes 1991, Section 6121 et seq.

The applicant agrees to comply with all requirements of the Prepaid Funeral Benefits laws, 36 O.S. (1991), §§6121-6136.

The following are currently designated as agents who will be responsible for deposits of funds collected under contracts for prepaid funeral benefits: (attach additional sheet if necessary)

_____	_____	_____
name	address	city / zip
_____	_____	_____
name	address	city / zip

A valid cash bond, letter of credit or fidelity bond is currently on file with the Insurance Commissioner in the amount of \$_____ as required by 36 O.S. (Supp.1991), §6125(I).

Dated this ____ day of _____, 19__, at _____.

Signature

Title or Position

Signed or attested before me on this ____ day of _____, 19__.

Notary Public

My Commission Expires:

APPENDIX T. INSURANCE COMPANY TRAINING PROGRAM AFFIDAVIT [NEW]

KIM HOLLAND
OKLAHOMA INSURANCE COMMISSIONER
P.O. Box 53408
Oklahoma City, OK 73152-3408
(405)-521-3916 Fax (405)522-3642

INSURANCE COMPANY TRAINING PROGRAM AFFIDAVIT

Our training program for resident producers includes the following components and satisfies the requirements of 36 O.S. § 1435.7 and OKLA. ADMIN. CODE § 365:25-3-1.3.

1. Instruction in insurance coverage for each line of authority the producer seeks to be licensed.
2. Business practice training associated with placing and servicing contracts of insurance. The training includes, but is not limited to, supervised interaction with customers or prospective customers, role playing, and customer interaction case studies.
3. Standards for measuring successful completion for each segment of the training program.
4. Instruction in Oklahoma statutes and regulations affecting industry and producer licensing, the regulatory and consumer assistance roles of the Oklahoma Insurance Department, and the role of the National Association of Insurance Commissioners in setting policy for the insurance industry.

The training program requirements are standard for all participating resident producer trainees. The instructional material is developed and administered in accordance with corporate requirements for our company. The company is responsible for ensuring course materials and programs satisfy the requirements of this affidavit.

[OAR Docket #08-851; filed 5-9-08]

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TITLE 365. INSURANCE DEPARTMENT CHAPTER 25. LICENSURE OF PRODUCERS, ADJUSTERS, BAIL BONDSMEN, COMPANIES, PREPAID FUNERAL BENEFITS, AND VIATICAL AND LIFE SETTLEMENTS PROVIDERS AND BROKERS

[OAR Docket #08-852]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Producers, Brokers, and Limited Lines Producers
365:25-3-1.4. Producer training requirements for long-term care insurance
[NEW]

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 1435.19 and 1435.29(H)

DATES:

Comment period:

February 1, 2008, to March 3, 2008

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Rule 365:25-3-1.4 is new. The rule establishes additional educational requirements for insurance producers selling long term care insurance. The additional educational requirements ensure that consumers purchasing long term care insurance are adequately informed about the product by their insurance producer.

CONTACT PERSON:

Karl F. Kramer, First Assistant General Counsel, (405) 521-2746

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING RULES ARE CONSIDERED
FINALLY ADOPTED AS SET FORTH IN 75 O.S.,
SECTION 308.1(A), WITH AN EFFECTIVE DATE
OF JULY 14, 2008:**

SUBCHAPTER 3. PRODUCERS, BROKERS AND LIMITED LINES PRODUCERS

365:25-3-1.4. Producer training requirements for long-term care insurance

(a) Selling, soliciting or negotiating long-term care insurance.

(1) An individual may not sell, solicit or negotiate long-term care insurance unless the individual is licensed as an insurance producer for accident and health or sickness or life and has completed a one-time training course. The training shall meet the requirements set forth in subsection (b) of this section.

(2) An individual already licensed and selling, soliciting or negotiating long-term care insurance on the effective date of this regulation may not continue to sell solicit or negotiate long-term care insurance unless the individual has completed a one-time training course as set forth in subsection (b) of this section, within one-year from July 14, 2008.

(3) In addition to the one-time training course required in paragraphs (a)(1) and (2) above, an individual who sells, solicits or negotiates long-term care insurance shall complete ongoing training as set forth in subsection (b) of this section.

(4) The training requirements of subsection (b) of this section may be approved as continuing education courses under Section 1435.29 of Title 36 of the Oklahoma Statutes.

(b) Training requirements.

(1) The one-time training required by this section shall be no less than eight (8) hours and the ongoing training required by this section shall be no less than four (4) hours every 24-months.

(2) The training required under paragraph (b)(1) shall consist of topics related to long-term care insurance, long-term care services and, if applicable, qualified state long-term care insurance partnership programs, including, but not limited to:

(A) State and federal regulations and requirements and the relationship between qualified state long-term care insurance Partnership programs and other public and private coverage of long-term care services, including Medicaid;

(B) Available long-term care services and providers;

(C) Changes or improvements in long-term care services or providers;

(D) Alternatives to the purchase of private long-term care insurance;

(E) The effect of inflation on benefits and the importance of inflation protection; and

(F) Consumer suitability standards and guidelines.

(3) The training required by this section shall not include training that is insurer or company product specific or that includes any sales or marketing information, materials, or training, other than those required by state or federal law.

(c) Insurer requirements.

(1) Insurers subject to this Act shall obtain verification that a producer receives training required by paragraph

(a)(1) of this section before a producer is permitted to sell, solicit or negotiate the insurer's long-term care insurance products, maintain records subject to the state's record retention requirements, and make that verification available to the commissioner upon request.

(2) Insurers subject to this Act shall maintain records with respect to the training of its producers concerning the distribution of its Partnership policies that will allow the state insurance department to provide assurance to the state Medicaid agency that producers have received the training contained in subparagraph (b)(2)(A) of this section as required by paragraph (a)(1) of this section and that producers have demonstrated an understanding of the Partnership policies and their relationship to public and private coverage of long term care, including Medicaid, in this state. These records shall be maintained in accordance with the state's record retention requirements and shall be made available to the commissioner upon request.

(d) Training received in other states. The satisfaction of the training requirements as set out in this section in any state shall be deemed to satisfy the training requirements in this state.

[OAR Docket #08-852; filed 5-9-08]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 25. LICENSURE OF
PRODUCERS, ADJUSTERS, BAIL
BONDSMEN, COMPANIES, PREPAID
FUNERAL BENEFITS, AND VIATICAL AND
LIFE SETTLEMENTS PROVIDERS AND
BROKERS**

[OAR Docket #08-853]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Producers, Brokers, and Limited Lines Producers
365:25-3-18. Compensation and education for sale of Medicare Advantage or Medicare private fee for service products and plans [NEW]

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 1435.19 and 1435.29(H)

DATES:

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Rule 365:25-3-18 is new. The rule establishes additional educational requirements for insurance producers selling Medicare Advantage or Medicare private fee for service products and plans. The additional educational requirements ensure that consumers purchasing Medicare Advantage or Medicare private fee for service products are adequately informed about the product by their insurance producer. The compensation restriction prevents insurance producers from taking advantage of quick sales opportunities.

CONTACT PERSON:

Karl F. Kramer, First Assistant General Counsel, (405) 521-2746

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2008:

SUBCHAPTER 3. PRODUCERS, BROKERS AND LIMITED LINES PRODUCERS

365:25-3-18. Compensation and education for sale of Medicare Advantage or Medicare private fee for service products and plans

(a) The provisions of this section shall apply only to insurance companies and producers who solicit, negotiate or sell Medicare Advantage or Medicare private fee for service (PFFS) products and plans.

(b) An insurance company shall not pay or offer to pay compensation to producers based on the number of sales of Medicare Advantage or Medicare private fee for service products and plans. An insurance company may pay a commission for each sale, but compensation shall not be tiered or based on a sales threshold.

(c) A producer shall not accept compensation based on the number of sales of Medicare Advantage or Medicare private fee for service products and plans. A producer may receive a commission for each sale, but compensation shall not be tiered or based on a sales threshold.

(d) Producers who intend to solicit, negotiate or sell Medicare Advantage or Medicare private fee for service products and plans shall complete not less than eight (8) hours of pre-licensing education relating to Medicare Advantage or Medicare private fee for service plans or products in addition to the pre-licensing education requirements of the Insurance Code and Insurance Department rules.

(e) Producers who sell solicit, negotiate or sell Medicare Advantage or Medicare private fee for service products and plans shall biennially complete not less than eight (8) hours of continuing education relating to Medicare Advantage or Medicare private fee for service plans or products in addition to other

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continuing education required pursuant to the Oklahoma Insurance Code and Insurance Department rules.

[OAR Docket #08-853; filed 5-9-08]

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

[OAR Docket #08-854]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Financial
Part 3. Holding Company System
365:40-3-13. Transactions with Affiliates [AMENDED]

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1 and 6923

DATES:

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The amendment harmonizes the rule with Section 365:40-3-23.

CONTACT PERSON:

Karl F. Kramer, First Assistant General Counsel, (405) 521-2746

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2008:

SUBCHAPTER 3. HOLDING COMPANY SYSTEM

365:40-3-13. Transactions with Affiliates

(a) **Material transactions.** The board of directors will be charged with exercising that degree of care that a prudent person would have exercised under similar circumstances.

Material transactions shall be subject to the following standards:

- (1) the terms shall be fair and reasonable;
 - (2) the books, accounts and records of each party shall be so maintained as to clearly and accurately disclose the precise nature and details of the transaction; and
 - (3) the HMO's capital and surplus following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the HMO's outstanding liabilities and adequate to its financial needs.
- (b) **Insurance Commissioner's Approval Required.**
- (1) The prior written approval of the Insurance Commissioner shall be required for the following transactions between a domestic HMO and its affiliates: sales, guarantees, purchases, exchanges, loans or extensions of credit or investments which, based upon an annual aggregate, involve more than five percent (5%) of the HMO's admitted assets or twenty-five percent (25%) of the HMO's capital and surplus, whichever is less, as of the latest statutory financial statement filed with the Insurance Commissioner; provided, however, that the Insurance Commissioner must either approve or disapprove within thirty (30) days after receiving written notification from the HMO of the proposed transaction and failure to disapprove the proposed transaction within thirty (30) days shall constitute approval of the transaction;
 - (2) The prior written approval of the Insurance Commissioner shall be required for any transactions between a domestic HMO and its affiliates where the HMO is found by the Insurance Commissioner to be in unsound condition or in such condition as to render its further transaction of business in Oklahoma hazardous to its enrollees, members, subscribers or to the people of Oklahoma; provided, however, that the Insurance Commissioner must either approve or disapprove within ninety (90) days after written notification by the HMO and failure to disapprove the proposed transaction within ninety (90) days shall constitute approval of the transaction;
 - (3) The following transactions involving a domestic HMO and any person in its holding company system may not be entered into unless the HMO has notified the Insurance Commissioner in writing of its intention to enter into such transaction at least thirty (30) days prior thereto, or such shorter period as the Insurance Commissioner may permit, and the Insurance Commissioner has not disapproved it within such period.
 - (A) loans or extensions of credit to any person who is not an affiliate, where the HMO makes such loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the HMO making such loans or extensions of credit provided such transactions are equal to or exceed the lesser of three percent (3%) of the HMO's admitted assets or twenty-five percent (25%) of capital and surplus;

(B) reinsurance agreements or modifications thereto in which the reinsurance premium or a change in the HMO's liabilities equals or exceeds five percent (5%) of the HMO's capital and surplus as of the 31st day of December next preceding, including those agreements which may require as consideration the transfer of assets from an HMO to a nonaffiliate, if an agreement or understanding exists between the HMO and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the HMO;

(C) all management agreements, service contracts and all cost-sharing arrangements;

(c) **Approvals granted under other sections.** Nothing in this section shall supersede approvals granted under other sections of this title or transactions occurring prior to the effective date of this section.

(d) **Adequacy of Surplus.** For purposes of Article 16A of the Oklahoma Insurance Code and this subsection, in determining whether an HMO's capital and surplus is reasonable in relation to the HMO's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

- (1) the size of the HMO as measured by its assets, capital and surplus, reserves, premium writing, insurance in force and other appropriate criteria;
- (2) the extent to which the HMO's business is diversified among the several lines of insurance;
- (3) the number and size of risks in each line of business;
- (4) the extent of the geographical dispersion of the HMO's risks;
- (5) the nature and extent of the HMO's reinsurance program;
- (6) the quality, diversification, and liquidity of the HMO's investment portfolio;
- (7) the recent past and projected future trend in the size of the HMO's investment portfolio;
- (8) the capital and surplus maintained by other comparable HMOs;
- (9) the adequacy of the HMO's reserves;
- (10) the quality and liquidity of investments in subsidiaries. The Insurance Commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of capital and surplus whenever in his judgment such investment so warrants; and
- (11) the quality of the HMO's earnings and the extent to which the reported earnings include extraordinary items.

(e) **Dividends and Other Distributions.** No HMO shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until thirty (30) days after the Commissioner has received notice of the declaration thereof and has not within such period disapproved such payment, or the Insurance Commissioner shall have approved such payment within such thirty-day period.

(1) For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve months exceeds the greater of

(A) ten percent (10%) of such HMO's capital and surplus as of the 31st day of December next preceding, or

(B) the net income underwriting gain, not including realized capital gains, for the twelve-month period ending the 31st day of December next preceding, but shall not include pro rata distributions of any class of the HMO's own securities.

(2) Notwithstanding any other provision of law, an HMO may declare an extraordinary dividend or distribution which is conditional upon the Insurance Commissioner's approval thereof, and such a declaration shall confer no rights upon shareholders until

(A) the Insurance Commissioner has approved the payment of such dividend or distribution or

(B) the Insurance Commissioner has not disapproved such payment within the thirty-day period referred to above.

[OAR Docket #08-854; filed 5-9-08]

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

[OAR Docket #08-865]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1, General Provisions
- 612:10-1-2. Definitions [AMENDED]
- Subchapter 7, Vocational Rehabilitation And Visual Services
- Part 1. Scope Of Vocational Rehabilitation And Visual Services
- 612:10-7-1. Overview of Vocational Rehabilitation and Visual Services [AMENDED]
- 612:10-7-4. Basic eligibility requirements for vocational rehabilitation services [AMENDED]
- 612:10-7-8. Order of selection [AMENDED]
- 612:10-7-11. Counseling and guidance [AMENDED]
- Part 3. Case Processing Requirements
- 612:10-7-33. Supervisory caseload reviews [AMENDED]
- 612:10-7-33.1 Quality Assurance caseload reviews [NEW]
- Part 5. Case Status And Classification System
- 612:10-7-52. Provision of services [AMENDED]
- 612:10-7-58. Closed rehabilitated [AMENDED]
- 612:10-7-62. Post-employment services [AMENDED]
- Part 13. Supportive Services
- 612:10-7-131. Transportation [AMENDED]
- Part 15. Training
- 612:10-7-166. Tutorial training [AMENDED]
- Part 17. Supported Employment Services
- 612:10-7-181. Integrated settings [AMENDED]
- 612:10-7-184. Extended services [AMENDED]
- 612:10-7-185. Provision of supported employment services [AMENDED]
- Part 18. Employment And Retention Services
- 612:10-7-186. Overview of Employment and Retention Services [AMENDED]
- 612:10-7-187. Eligibility for Employment and Retention Services [AMENDED]
- Part 19. Special Services For Individuals Who Are Blind, Deaf, Or Have Other ~~Severe~~ Significant Disabilities
- Part 21. Purchase Of Equipment, Occupational Licenses And Certificates
- 612:10-7-220. Purchase of special equipment for motor vehicles [AMENDED]

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Part 23. Self-Employment Programs And Other Services
612:10-7-230.3. Self-Employment/Business Plans [AMENDED]
612:10-7-230.5. DRS Monitoring [AMENDED]
Subchapter 9. Rehabilitation Teaching Services
Part 3. Case Processing and Recording
612:10-9-25. Post-Employment Services Status [AMENDED]
Subchapter 11. Independent Living Services for Older Individuals Who
Are Blind
Part 3. Case Processing
612:10-11-28. Post OB Service Status [REVOKED]

AUTHORITY:

The Oklahoma Commission for Rehabilitation Services; Rehabilitation Act, United States Code Title 29, sections 701 through 791; Oklahoma Statute Title 74, Section 166.1 et seq.

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ANALYSIS:

Proposed changes to Chapter 10 eliminate unnecessary reference to "core" services; replace the word "severe" with "significant" in regards to priority group assignments for order of selection; strengthen counseling and guidance services; create Quality Assurance Unit policy; make technical changes necessary for AWARE implementation; modify procedures for determining transportation assistance; clarify language relating to employment in integrated settings; modify determination of startup costs for self-employment/business plans; modify language in the IPE relating to case closure; and eliminate post older blind independent living services status.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF JULY 1, 2008:

SUBCHAPTER 1. GENERAL PROVISIONS

612:10-1-2. Definitions

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

"**Act**" means the Rehabilitation Act [29 USC 701 et seq.].

"**ADL**" Activities of Daily Living often refer to the routine activities carried out for personal hygiene and health (including bathing, dressing, feeding) and for operation of a household.

"**Applicant**" means an individual who has completed and signed an agency application form or has otherwise requested vocational rehabilitation services; who has provided information necessary to initiate an assessment to determine eligibility and priority for services; and who is available to complete the assessment process.

"**Assistive technology**" means technology designed to be utilized in an assistive technology device or service.

"**Assistive technology device**" means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

"**Assistive technology service**" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device.

"**Authorized Representative**" means a client's or applicant's parent, guardian, advocate (i.e. Client Assistance Program) or other person designated by the client or applicant as the individual authorized to deal with the Department on behalf of the client or applicant, consistent with provisions of the Act. Authorized representative does not include an employee of the Department of Rehabilitation Services, another state agency, or vendor of the Department unless the person is actually the parent, guardian, or is serving in the capacity of guardian (for example: court appointed).

"**Blind**" means persons who are blind within the meaning of the State Law relating to Vocational Rehabilitation. Legal blindness means a visual acuity of 20/200 or less in the better eye with best correction, or a visual field of 20 degrees or less.

"**Client/Consumer**" means an individual found eligible and receiving services under the Act.

"**Clubhouse model**" means a psychosocial and vocational approach to work adjustment for people with mental illness. The work-ordered day is a core element of the clubhouse, which focuses on strengths, talents and abilities. Work in the clubhouse helps members develop appropriate social skills and gain self worth, purpose, and confidence. The clubhouse enables members to return to paid work through Transitional Employment, Supported Employment and independent employment.

"**Community rehabilitation program**" (CRP) means a program that directly provides or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and provides singly or in combination, services for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement.

"**Comparable benefits**" means services and/or funding available through any other programs and/or resources which will meet in whole or in part the cost of rehabilitation services provided to an eligible individual. For the purposes of this definition, the term "resources" does not include client assets as determined under 612:10-3-1 through 612:10-3-7.

"Compensatory training" means training required before the client can enter a formal training program or employment, such as pre-vocational or personal adjustment training.

"Competitive employment" means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and for which the individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who do not have disabilities.

"Consumer Independence Support Services" (CISS) are defined as providing independent living assessment, intensive counseling, community integration, and housing modifications to further assist consumers with severe disabilities in achieving independence.

"Continuity of Services" means once an individual is selected for services in accordance with policy, regardless of the priority category from which the individual was selected, the individual will receive the necessary purchased services, including post-employment services.

~~**"Core Independent Living Rehabilitation (IL) services"** is defined as information and referral services; independent living skills training; peer counseling; and individual and systems advocacy.~~

~~**"Core Vocational Rehabilitation (VR) services"** means services which substantially reduce the impact of functional limitations on employment outcomes. Physical and mental restoration services are examples of core VR services. Supportive services such as maintenance and transportation do not fall within the definition of core Vocational Rehabilitation services.~~

"Counselor" means the qualified rehabilitation professional, who is an employee of the designated state unit, and who has primary responsibility for the management of an individual's rehabilitation services case record, including determination of eligibility, service planning and management, and determination of successful or unsuccessful rehabilitation. Counselor is equivalent to such terms as VR/VS Specialist, VR/VS Coordinator, and Rehabilitation Teacher who manage Visual Services cases with Homemaker goals.

"Department" unless otherwise indicated in the text, means the Department of Rehabilitation Services as constituted in 74 O.S., Section 166.1 et seq.

"DRS" means the Department of Rehabilitation Services.

"Durable Training Supplies" means general training supplies which are not consumable, and are required for any student taking a particular course of study at an institution of learning, or required by a client as a reasonable accommodation for training. In general, any training supply which a client could not continue to use past successful rehabilitation, or which could not be used by other clients in future terms of training, would not meet the definition of "durable training supply".

"DVR" means the Division of Vocational Rehabilitation.

"DVS" means the Division of Visual Services.

"Eligibility" or "Eligible" means:

(A) when used in relation to an individual's qualification for Vocational Rehabilitation services, a determination that the individual has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; can benefit in terms of an employment outcome from rehabilitation services; and requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment;

(B) when used in relation to an individual's qualification for Supported Employment services, a determination that the individual is eligible for Vocational Rehabilitation services; is an individual with the most severe disabilities (priority group one); and

(i) for whom competitive employment has not traditionally occurred; or

(ii) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

(iii) who, because of the nature and severity of their disability, need intensive supported employment services, and extended services after the transition from intensive supported employment services, in order to perform such work;

(C) when used in relation to an individual's qualification for Rehabilitation Teaching services, certification that the individual is legally and/or functionally blind or has a rapidly progressive condition and may have secondary disabilities; the individual has identifiable deficiencies in independent living due to disabilities; and it is expected services will improve the individual's independence in the home and community;

(D) when used in relation to an individual's qualification for Independent Living Rehabilitation services, certification that the individual has a severe physical or mental disability; the disability results in a substantial limitation or inability to function independently in the family or community or to continue in employment; and a reasonable expectation that independent living services will significantly assist the individual improve his/her ability to function independently.

"Employment and Retention" (E&R) means short-term job coach support for individuals with severe disabilities who require assistance preparing for, obtaining, and maintaining employment.

"Employment outcome" means, with respect to an eligible individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market to the greatest extent practicable; supported employment; or any other type of employment (including self-employment, telecommuting, or business ownership) that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

"Extended employment" means work in a non-integrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with the Fair Labor Standards Act and any needed

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support services to an individual with a disability to enable the individual to continue to train or otherwise prepare for competitive employment, unless the individual through informed choice chooses to remain in extended employment.

"Extended period of time" means when appropriate services are provided in a timely and orderly manner, completion of the Individualized Plan for Employment (IPE) will be expected to require a minimum of 6 months.

"Extended services" means ongoing support services provided to individuals with the most severe disabilities after the time-limited vocational rehabilitation services have been completed and job stabilization has been achieved. They consist of specific services, including natural supports, needed to maintain the supported employment placement. Extended services are paid from funding sources other than DRS and are specifically identified in the IPE.

"Extreme medical risk" means a risk of substantially increasing functional impairment or risk of death if medical services are not provided expeditiously.

"Functional capacities" means a client's assets, strengths, and resources which maintain or increase the individual's ability to work. Functional capacities include mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills.

"Functional limitations" means physical or mental conditions, emergent from a disability, which impair, interfere with, or impede one or more of an individual's functional capacities.

"Higher education" means universities, colleges, community/ junior colleges, vocational schools, technical institutes, or hospital schools of nursing.

"Highly challenged" describes a client receiving supported employment services who, due to the nature of the disability, requires a greater level of support from the job coach to achieve and maintain employment.

"Homemaker" means a person whose primary work is performance of duties related to upkeep and maintenance of a home.

"IEP" means Individualized Education Program as required by the Individuals with Disabilities Education Act.

"Independent Living (IL) Core services" is defined as information and referral services; independent living skills training; peer counseling; and individual and systems advocacy.

"Individual with a disability" means an individual having one or more physical or mental conditions which materially limits, contributes to limiting or, if not corrected, will probably result in limiting an individual's employment activities or vocational functioning.

"Individual with severe significant disability" means an individual with a significant disability barrier to employment, as used in the Rehabilitation Act amendments of 1998, and an individual:

(A) who has a physical or mental impairment seriously limiting one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(B) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(C) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, mental retardation, multiple sclerosis, muscular dystrophy, musculoskeletal disorder, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease or other disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

"Individual with the most severe significant disability" means an individual with the most significant disability barrier to employment as used in the Rehabilitation Act amendments of 1998, and an individual with physical or mental disabilities:

(A) who has a severe physical or mental disability that seriously limits three or more major life activities in terms of an employment outcome;

(B) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(C) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, mental retardation, multiple sclerosis, muscular dystrophy, musculoskeletal disorder, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease or other disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

"Integrated setting" means:

(A) With respect to the provision of services, a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals other than non-disabled individuals who are providing services to those applicants or eligible individuals.

(B) With respect to an employment outcome, means a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals, other than non-disabled individuals who are providing services to those applicants or eligible individuals, to the same extent that non-disabled individuals in comparable positions interact with other persons.

~~(C) A job site where the individual with severe disability works in a group of not more than eight workers with disability and interacts regularly in performance of job duties with non-disabled co-workers and/or members of the general public.~~

~~(D) Interaction with individuals who provide ongoing supported employment services at the job site does not satisfy the integration requirement.~~

"**Intercurrent (acute) conditions**" means an illness or injury occurring during the actual course of an individual's rehabilitation which, if not cared for, will complicate or delay achievement of the client's employment outcome as identified in the client's IPE.

"**IPE**" means the Individualized Plan for Employment.

"**Job Club**" is a structured learning experience for a client to build skills in self-assessment, resume development, job search and research strategies, and interview techniques to assist the person to enter a career of their choice.

"**Job Coach/Employment Training Specialist**" means a qualified individual providing support services to eligible individuals in supported employment and employment and retention programs. Services directly support the eligible individual's work activity including marketing and job development, applied behavioral analysis, job and work site assessment, training and worker assessment, job matching procedures, and teaching job skills.

"**Long-term treatment**" means medical or psychological treatment that is expected to last more than three months.

"**Maintenance**" means is a supportive service provided to assist with the out-of-ordinary or extra expenses to the individual resulting from and needed to support the individual's participation in diagnostic, evaluative, or other substantial services in the IPE. Activities of Daily Living (ADL) expenses are not eligible for maintenance payments.

"**Milestones**" means a payment system that reimburses a vendor based on incentives and outcomes. The vendor is paid when the client completes pre-defined checkpoints on the way to a desired employment goal.

"**Multiple services**" means the counseling and guidance provided as a routine part of case management plus two or more ~~core~~ VR services. Comparable benefits and/or services can count toward meeting the definition of multiple services. Services routinely provided as a package do not count as multiple services for the purpose of determining the presence of a ~~severe~~ significant disability, even if two or more ~~core~~ services are included in the package. ~~Core services include:~~

~~(A) **Restorative.** Services including surgery, hospitalization, medical treatment, anesthetic, psychiatric treatment, psychological counseling, nursing, medication;~~

~~(B) **Auxiliary.** Services including prosthetics, orthotics, hearing aids, wheelchairs, other durable medical equipment, physical therapy, speech therapy, optics;~~

~~(C) **Assistive technology.** Services including accommodations, sensory aids, telecommunication devices, low vision aids, assessment, training, modification, and specialized adaptive equipment;~~

~~(D) **Specialized.** Services for individuals who are blind, deaf or severely disabled may include rehabilitation teaching, orientation and mobility training, reader services, interpreter services, personal attendant services, and personal adjustment training;~~

~~(E) **Training.** Services including college and university training, occupational and vocational training, on the job training, remedial training, job readiness training, work adjustment training, work site learning, all other training;~~

~~(F) **Selective placement.** Services including job coaching, job duty and workstation analysis, job duty and workstation adaptation, supported employment, vocational technician services, and employment and retention services; and/or~~

~~(G) **Intensive counseling.** Services including therapeutic or adjustment guidance and counseling, such as counseling that is directed toward the acceptance of disability.~~

"**Natural supports**" means any assistance, relationships or interactions that allow a person to maintain employment in ways that correspond to the typical work routines and social interactions of other employees. Natural supports may be developed through relationships with people or put into place by the adaptation of the work environment itself, depending on the support needs of the person and the environment.

"**Occupational license**" means any license, permit, or other written authority required by a state, city or other governmental unit to be obtained in order to enter an occupation.

"**Ongoing support services**" means services specified in the IPE according to individual need, which support and maintain an individual with the most severe disabilities in supported employment. Sponsored ongoing support services are provided from the time of placement until the individual is stabilized on the job. Ongoing support services are provided by one or more extended services providers, or by natural supports, following transition throughout the individual's term of employment. In transitional employment, the provision of ongoing support services must include continuing sequential job placements until job permanency is achieved.

"**Package of services**" means several services which are usually provided together for the same purpose. The services in a package are usually, but not always, from the same category of ~~core~~ services (see definition of multiple services, this section). Examples include, but are not limited to: surgery, anesthesia, and hospitalization; or personal computer, software, and peripheral equipment.

"**Personal assistance services**" means a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability.

"**Physical and mental restoration services**" means services which are necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive, within a reasonable period of time.

"**Physical or mental disability**" means a physical or mental condition which, if not corrected, materially limits,

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contributes to limiting or will result in limiting an individual's activities or functioning.

"Referral" means information provided to agency staff regarding an individual who may need vocational rehabilitation services; information or direction provided to an individual regarding services and resources available from other agencies or service providers; or information and direction provided to an individual regarding opportunities for employment. A referral may include arranging for appointments on behalf of the individual.

"Rehabilitation Act" means the Rehabilitation Act [29 USC 701 et seq.].

"Related factors" means those factors which are not directly attributable to the impediment to employment, but which have impact on the potential for successful rehabilitation. They frequently become evident only from an assessment of the person's social, vocational, educational, and environmental circumstances.

"Section 504 Plan" is a plan designed as a protection for students with disabilities who may not be considered eligible for special education under IDEA in compliance with Section 504 of the Rehabilitation Act of 1973 as amended.

"Small business enterprises" means a small business operated by blind or other individuals with severe disabilities under the management and supervision of the state DRS. Such businesses include only those selling, manufacturing, processing, servicing, agricultural, and other activities which are suitable and practical for the effective utilization of the skills and aptitudes of individuals who are blind or individuals who have severe disabilities. Small business enterprise provides substantial gainful employment or self-employment commensurate with the time devoted by the operators to the business, the cost of establishing the business and other factors of an economic nature.

"Stabilization" means the period of time when job coach support is reduced to the long-term maintenance level while the individual retains employment, and personal satisfaction with the job, as well as employer satisfaction with the person's job performance. Stabilization must include appropriate individualized supports, including a minimum of two employee contacts and one employer contact per month.

"Substantial impediment to employment" means that a physical or mental disability (in the light of related medical, psychological, vocational, educational, cultural, social or environmental factors) that impedes an individual's occupational performance, by preventing his/her obtaining, retaining, or preparing for a gainful occupation consistent with his/her capacities and abilities.

"Supported employment" (SE) means competitive work in integrated work settings, or employment in integrated work settings in which individuals are working toward competitive work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most severe disabilities who meet the eligibility criteria for supported employment. This term includes transitional employment for persons who are individuals with the most severe disabilities due to mental illness (see the definition for "transitional employment").

~~**"Supportive services"** means vocational rehabilitation services provided so eligible individuals may derive the full benefit of core services being provided under an IPE.~~

"Transitional employment" (TE) means, when referring to the Supported Employment Program, a series of temporary job placements in competitive work in integrated settings with ongoing support services for individuals with the most severe disabilities due to mental illness.

~~**"Transportation"** means is a supportive service provided to assist with the costs of travel, including instruction in the use of public transportation vehicles and systems, which result from and are needed to support the individual's participation in diagnostic, evaluative, or other substantial and necessary VR services.~~

"Unpaid family worker" means a person who works without pay on a family farm or in a family business, operated by a family member who is related by blood or marriage.

"VR" means the Division of Vocational Rehabilitation, or the more general term vocational rehabilitation services, depending upon the context.

"VS" means the Division of Visual Services, or the more general term visual services, depending upon the context.

SUBCHAPTER 7. VOCATIONAL REHABILITATION AND VISUAL SERVICES

PART 1. SCOPE OF VOCATIONAL REHABILITATION AND VISUAL SERVICES

612:10-7-1. Overview of Vocational Rehabilitation and Visual Services

(a) This Subchapter discusses services within the scope of the Vocational Rehabilitation and Visual Services programs. Generally, these services are referred to as vocational rehabilitation services or VR services. Vocational rehabilitation services are provided by the Division of Vocational Rehabilitation and the Division of Visual Services. Vocational rehabilitation services are provided to help eligible individuals achieve employment outcomes that are consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of each eligible individual. To the maximum extent appropriate, VR services are meant to result in competitive employment in an integrated setting. Vocational rehabilitation services include services for individuals and services to groups of individuals.

(b) Vocational rehabilitation services for individuals include:

- (1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;
- (2) counseling and guidance, including information and support services to assist an individual in exercising informed choice;

- (3) referral and other services to secure needed services from other agencies through cooperative agreements if such services are not available from DVR or DVS;
 - (4) job-related services, including job search and placement assistance, job retention services, ongoing services, and extended services;
 - (5) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this title unless maximum efforts have been made by DVR or DVS staff and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training;
 - (6) to the extent that financial support is not readily available from a source (such as through health insurance of the individual or through comparable services and benefits) other than DVR or DVS, diagnosis and treatment of physical and mental impairments, including:
 - (A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;
 - (B) necessary hospitalization in connection with surgery or treatment;
 - (C) prosthetic and orthotic devices;
 - (D) eyeglasses and visual services as prescribed by qualified personnel who meet State licensure laws and who are selected by the individual;
 - (E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and
 - (F) diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State licensure laws;
 - (7) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an Individualized Plan for Employment;
 - (8) transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service described in this section and needed by the individual to achieve an employment outcome;
 - (9) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this section;
 - (10) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State licensure laws;
 - (11) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;
 - (12) occupational licenses, tools, equipment, and initial stocks and supplies;
 - (13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;
 - (14) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;
 - (15) transition services for students with disabilities, that facilitate the achievement of the employment outcome identified in the Individualized Plan for Employment;
 - (16) supported employment services for individuals with the most ~~severe~~ significant disabilities that need ongoing support services from a job coach to obtain and maintain employment;
 - (17) employment and retention services for individuals with ~~severe~~ significant disabilities who require short term job coach support to obtain and maintain a successful employment outcome;
 - (18) transitional employment services for individuals with the most ~~severe~~ significant disabilities due to mental illness who have little or no successful work history and need work adjustment/trial work experience;
 - (19) job placement services for individuals with disabilities who are job ready;
 - (20) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and
 - (21) specific post-employment services necessary to assist an individual with a disability to, retain, regain, or advance in employment.
- (c) Vocational rehabilitation services for groups of individuals include:
- (1) in the case of any type of small business operated by individuals with significant disabilities the operation of which can be improved by management services and supervision provided by DVR or DVS, the provision of such services and supervision, along or together with the acquisition by DVR or DVS of vending facilities or other equipment and initial stocks and supplies;
 - (2) services that contribute to the rehabilitation of a group of individuals not related to an IPE, including:
 - (A) the establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility. Such programs shall be used to provide services that promote integration and competitive employment; and
 - (B) the provision of other services, that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any one individual with a disability;
 - (3) the use of telecommunications systems (including telephone, television, satellite, radio, and other similar

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systems) that have the potential for substantially improving delivery methods of activities described in this section and developing appropriate programming to meet the particular needs of individuals with disabilities;

(4) special services to provide nonvisual access to information for individuals who are blind, including:

(A) the use of telecommunications, Braille, sound recordings, or other appropriate media;

(B) captioned television, films, or video cassettes for individuals who are deaf or hard of hearing;

(C) tactile materials for individuals who are deaf-blind; and

(D) other special services that provide information through tactile, vibratory, auditory, and visual media.

(5) technical assistance and support services to businesses that are not subject to Title I of the Americans with Disabilities Act of 1990 [42 USC 12111 et seq.] and that are seeking to employ individuals with disabilities; and

(6) consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.

612:10-7-4. Basic eligibility requirements for vocational rehabilitation services

(a) An individual is eligible for vocational rehabilitation services under the Rehabilitation Act through the State Department of Rehabilitation Services if the individual:

(1) has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment;

(2) can benefit in terms of an employment outcome from vocational rehabilitation services; and

(3) requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

(b) An individual who has a disability or is blind as determined pursuant to Titles II (federal old age, survivors, and disability insurance benefits) or XVI (SSI) shall be:

(1) considered to have a ~~severe~~ significant disability under the order of selection; and

(2) presumed to be eligible for vocational rehabilitation services, (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) unless clear and convincing evidence demonstrates that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the individual's disability.

(c) Determinations by other agencies, particularly education agencies, regarding whether an individual has an impairment or is an individual with a severe disability are to be used to the extent appropriate, available and consistent with the Rehabilitation Act.

(d) Every person must be evaluated individually regarding history, prognosis and functional limitations to determine if the individual can benefit from rehabilitation services in terms of an employment outcome.

(e) Some conditions have unique criteria that must be considered when determining eligibility.

(1) **Alcoholism/Drugs.** Eligibility documentation for vocational rehabilitation services requires both medical and psychological records. Clients who are accepted on the basis of alcoholism and/or drug dependency, whether a primary or secondary disability, must be enrolled in a treatment or maintenance program and be willing to undergo random alcohol/drug screening. DRS does not pay for detoxification or replacement drug treatment. DRS will not provide services to individuals who abuse drugs and/or alcohol. The client must provide the agency with supportive documents from qualified Drug and Alcohol treatment professionals that the client is presently substance-free, maintaining sobriety, actively participating in a treatment or maintenance program, and ready to engage in vocational rehabilitation services. Those individuals who are alcohol/drug free for two or more years will not be eligible on a primary disability of alcoholism/drug dependency.

(2) **Allergies/Asthma.** Only the most serious allergies/asthmatic condition requiring continuous medical intervention will be considered eligible for services.

(3) **Deafness and Hearing Loss.** The rehabilitation professional will base eligibility determination upon one of the measurement methods listed below. The case record must document the method chosen provides the most accurate evaluation of functional hearing level for the individual.

(A) **Eligibility criteria.** Eligibility criteria for each method of measurement are listed in (i) through (iv) of this Subsection. An individual will also be considered to have a qualifying disability when documentation indicates the hearing loss is progressive and the progression is substantial enough to result in an impediment to employment.

(i) **Average hearing loss.** Average hearing loss, which is determined by computing average of the pure tone thresholds for each ear at 1000Hz, 2000Hz, 3000Hz and 4000Hz. An individual is considered to have a qualifying disability based upon average hearing loss when:

(I) The hearing loss in one ear is profound (91 dB or greater) and the hearing loss in the better ear is at least 15 dB; or

(II) The hearing loss in the better ear is 30 dB or greater.

(ii) **Speech recognition threshold (SRT).** An individual is considered to have a qualifying disability when:

(I) the speech reception threshold in one ear is 91 dB or greater and is at least 15 dB in the better ear; or

(II) the speech reception threshold in the better ear is 30 dB or greater.

(iii) **Speech discrimination or word recognition score.** An individual is considered to have a

qualifying disability when the speech discrimination or word recognition score is 70% or less.

(iv) **Articulation index.** An individual is considered to have a qualifying disability when the articulation index is 70% or less.

(B) **Severity of Hearing Loss.** All individuals who qualify as having a severe hearing loss will be referred to a Rehabilitation Counselor for the Deaf and Hard of Hearing (RCD). Relevant information provided will include copies of the initial interview narrative recording, medical information, eligibility data entry form, Individualized Plan for Employment, pertinent copies of case narratives and DRS application form. On receipt of a referral, the RCD will contact the client and make a determination of potential for Deaf and Hard of Hearing services. The referring counselor will be informed in writing of the RCD's findings.

(i) **Severe Hearing Loss.** Average hearing loss, as calculated above, is considered severe when:

(I) The hearing loss in one ear is profound (91 dB or greater) and the hearing loss in the better ear is at least 31 dB; or

(II) The hearing loss in each ear is 55 dB or greater.

(ii) **Severe Speech Recognition Threshold (SRT).** An individual is considered to have severe disability when;

(I) The SRT in one ear is 91 dB or greater and the SRT in the better ear is at least 31 dB; or

(II) The SRT in each ear is 55 dB or greater.

(iii) **Severe Speech Discrimination or word recognition score.** An individual is considered to have a severe disability when the speech discrimination or word recognition score is 59% or less.

(C) **Evaluation of need for visual examination.** Clients with a disability of deafness or hearing loss will be offered a visual exam annually unless adequate existing records are available.

(4) **Diabetes:** The individual must require prescribed medication to control the condition. Those persons whose diabetes is controlled by diet and exercise alone will not be considered eligible. Eligible clients will be required to undergo a visual exam by a licensed ophthalmologist at least once a year. All insulin dependent diabetics are required to attend diabetic education training as part of their IPE. This can be provided by a consumer's personal physician, in coordination with the VR specialist. If diabetic education is provided, a separate intermediate objective addressing this service must be included on the IPE.

(5) **Facial and Disfigurement Conditions.** Treatment of any of these conditions may also be provided under intercurrent illness policy. Treatment may be provided when:

(A) it is necessary to correct or substantially modify a condition which is stable or slowly progressive;

(B) such correction or modification may reasonably be expected to eliminate or reduce the impediment to employment within a reasonable length of time.

(6) **Learning Disabilities.** Individuals must meet one of the following three criteria to be identified as learning disabled:

(A) Have a marked discrepancy between verbal and performance intellectual level;

(B) Be diagnosed or identified as having a specific learning disability from the local educational system; or

(C) When the individual's achievement on individually administered, standardized test in reading, mathematics or written expression is substantially below that expected for age, schooling and level of intelligence (DSM IV).

(7) **Mental Disorders:** Treatment must be incorporated as a service in the IPE for individuals with a diagnosis of mental disorder. Comparable benefits will be used when available.

(8) **Mental Retardation.** To be eligible, individuals having an I.Q. of 69 or below and substantially limited adaptive functioning, as measured by an individual intelligence test, will be considered to have a substantial disability. For individuals eligible under IDEA with an I.Q. level higher than 69 may be considered to have a substantial impairment provided the documentation used by the school in determining eligibility under IDEA, in the counselor's judgment, confirms the individual is functioning in the mentally retarded range of ability. Individuals not enrolled in public school special education classes with an I.Q. higher than 69 may be considered to have a substantial impairment provided appropriate documentation confirms the individual is functioning in the mentally retarded range of ability.

(9) **Height.** To be eligible, a person's stature must constitute or result in a substantial impediment to employment.

(10) **Obesity.** To be eligible, a person must be 100% over normal weight using the designated weight chart and unable to participate in activities of daily living. Any radical surgery i.e., bypass or stapling of the stomach, treatment plans are beyond the scope of VR services. Any vocational plan for a person who is obese must include some type of treatment plan. A licensed dietician or a physician skilled in weight reduction must monitor any treatment program authorized by the agency.

(11) **Visual.** The individual must be found to have at least a 25% loss of total visual efficiency with best correction, or there must be evidence the condition is progressive and will soon reach the visual loss described above. Any one or all of the following factors may be used to determine whether a 25% loss of total efficiency exists.

(A) **Central visual acuity (Snellen method or equivalent).** Acuity of 20/60 or less in the better eye after best correction (in the case of difference of acuity between reading and distance use the greater loss).

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(B) Loss of depth perception or stereopsis.

(i) **Eligibility on the basis of depth perception loss.** When defining eligibility based on depth perception alone, it is generally accepted a total loss of depth perception would not constitute a 25% loss of visual efficiency. Other factors to consider include: Is the client's loss of depth perception acute? Did the client recently lose his or her depth perception? Did the client's past vocational experience require good depth perception? If the client is currently working, does his/her present vocation require good depth perception? After considering these factors the counselor will determine if there are functional limitations to the extent the individual would be prevented from obtaining, retaining or preparing for employment.

(ii) **Eligibility based on loss of stereopsis.** Stereopsis is defined as the blending into one-picture two images of an object seen from slightly different points of view so as to produce the impression of relief and solidity. This type of loss usually results from suppression of vision in one eye due to alternating exotropia, esotropia, hyperopia or a difference in the refractive power of the two eyes so great that separate images cannot be fused. When determining eligibility based on lack of stereopsis the counselor will take into account most of the factors used in determining eligibility based on loss of depth perception. One major difference is stereopsis cannot be learned. In other words, if an individual does not have binocular vision, it is impossible for the individual to have stereopsis. From a functional standpoint, stereopsis is considerably different from depth perception. The individual can still do many jobs with various degrees of depth perception yet these same jobs may have certain steps that require acute stereopsis. Thus an employee losing the stereopsis part of his visual function would be at risk for injuring himself or other workers or might be considered as a target for termination.

(iii) **Limited peripheral vision.** This is restriction of visual fields by 25% or more as documented by a formal visual field examination. The examination should report the qualitative percentage of visual field loss and/or remaining percentage of visual efficiency.

(iv) **Diplopia (Double Vision).** There are different degrees of double vision. The type of double vision most disabling is the type that manifests itself in the primary direction of gaze.

(v) **Aphakia.** In cases of binocular Aphakia the central visual efficiency of the better eye will be accepted at 75% of its value (25% loss of visual efficiency) and in monocular Aphakia the central visual efficiency will be accepted at 50% of its value (50% loss of visual efficiency). Individuals with intraocular lens implants are not considered

to have a visual disability as a result of an aphakic condition.

(vi) **Color deficiency.** When total absence of color discrimination or red-green deficiency exists it will be considered a disability. Supervisory approval is necessary for establishing an impediment to employment when the disabling condition is a red-green deficiency.

(12) **Hearing evaluation.** Individuals who have been identified as "legally blind" will be carefully evaluated regarding the need for a hearing evaluation. When a hearing deficit is indicated by a medical examination report, statement of the client and/or family, or observation of one of the professional staff members working with the individual, it is noted in the case record. The counselor will make arrangements for a hearing examination unless existing records are adequate and appropriate for this assessment.

(13) **Re-evaluation.** Individuals with chronic disabilities that can be removed with little or no residual limitations will not be eligible for purchase of services other than those related to the required treatment.

612:10-7-8. Order of selection

(a) **Need for order of selection.** The Department, in consultation with the Oklahoma Rehabilitation Council, has determined, due to budgetary constraints or other reasoned limitations, that it cannot serve all individuals who are determined eligible for DVR and DVS services. The Department consults with the Oklahoma Rehabilitation Council regarding the:

- (1) need to establish an order of selection, including any re-evaluation of the need;
- (2) priority categories of the particular order of selection;
- (3) criteria for determining individuals with the most ~~severe~~ significant disabilities; and
- (4) administration of the order of selection.

(b) **Priority groups.** It is the policy of DRS to provide vocational rehabilitation services to eligible individuals under an order of selection. Under the order of selection, the Department has established three priority groups on the basis of serving first those with the most ~~severe~~ significant disabilities. Every individual determined to be eligible for DVR and DVS services is placed in the appropriate priority group based upon the documentation used to determine eligibility and/or vocational rehabilitation needs. Selection and placement in a priority group is based solely upon the ~~severity~~ significance of the eligible individual's disability, and is not based upon the type of disability, geographical area in which the individual lives, projected type of vocational outcome, age, sex, race, color, creed, religion, or national origin of the individual. The priority groups are:

- (1) ~~Most Severe (MS) Priority Group 1.~~ Eligible individuals with the most ~~severe~~ significant barrier to employment. A most ~~severe~~ significant disability barrier is a ~~one that includes a severe~~ mental or physical disability resulting in serious limitations in three or more

functional capacities and requiring multiple services over an extended period of time.

(2) **Severe (S) Priority Group 2.** Eligible individuals with ~~severe significant disabilities~~ barriers resulting in serious limitations in at least one, but not more than, two functional capacities and requiring multiple services over an extended period of time.

(3) **Non-Severe (NS) Priority Group 3.** Eligible individuals with disabilities not meeting the definition of individual with a ~~severe significant barrier~~ disability.

(c) **Implementation.** Prior to the start of each fiscal quarter, or when circumstances require, the DRS Director will determine in which priority groups new Individualized Plans for Employment will be written and initiated. The Director may restrict the writing and initiation of new Individualized Plans for Employment within a priority group to cases having ~~application~~ eligibility dates falling on or before a specified date providing that all consumers in higher priority groups are being served. Considerations in making this determination will include, but not be limited to, the projected outcomes, service goals, expenditures, and resources available for each priority group. Projected costs and resources for each priority group will be based upon costs of current Individualized Plans for Employment, anticipated referrals, availability of financial resources, and adequacy of staffing levels. The Director will implement actions under the order of selection through written notice to DVR and DVS staff. The written notice will specify the implementation date of the action and direct DVR and DVS staff on how to handle cases by priority group and application date. DVR and DVS staff will inform each eligible individual on their caseloads:

- (1) of the priority groups in the order of selection;
- (2) of the individual's assignment to a priority group; and
- (3) of the individual's right to appeal that assignment.

(d) **Closing and opening priority groups.** When all or part of a priority group is closed, designated cases within that priority group without a written IPE will be placed on a waiting list after the individual has been determined to be eligible. No IPE will be written for cases on the waiting list. Staff will continue to take applications, diagnose and evaluate all applicants to determine eligibility and vocational rehabilitation needs, find the individual eligible when documentation supports such a decision, then place each eligible individual's case in the appropriate priority group. If an eligible individual is placed in a closed priority group, his or her case will go on the waiting list and no IPE will be written or initiated. The DRS Director will notify DVR and DVS staff in writing when all or part of a closed priority group is opened. When this directive includes new applicants who are found eligible, individuals already on the waiting list within that same priority group will be given priority over new applicants. When all or part of closed priority groups are opened, staff will contact individuals on the waiting list to develop and implement their Individualized Plans for Employment using the priorities in Paragraphs (1) - (3) of this Subsection:

(1) contact individuals within the highest open priority group first, Most ~~Severe~~ Significant being the highest of all priority groups;

(2) within each opened priority group, staff will contact individuals on the waiting list in order of application date, earliest application date first; then

(3) staff will contact individuals whose cases will remain on the waiting list to explain how their cases will be handled.

(e) **Continuity of services.** Any individual with an IPE that existed prior to the date all or part of that individual's priority group was closed will continue to receive services as planned. Such an IPE may be amended if the changes are necessary for the individual to continue progress toward achieving an appropriate employment outcome, or are otherwise necessary within policy. Persons requiring post employment services will also be provided the necessary services regardless of priority group assignment.

(f) **Information and referral services.** Information and referral services will remain available to eligible individuals who are not in an open priority group. These individuals will be given information and guidance, using appropriate modes of communication, to assist such individuals in preparing for, securing, retaining or regaining employment, and will be appropriately referred to Federal and State programs (other than the vocational rehabilitation program) including other components of the statewide workforce investment system in the state. No IPE will be written to provide such services to these individuals.

612:10-7-11. Counseling and guidance

Counseling and guidance is the primary service provided by the VR Counselor. It is the foundation upon which all other services are based throughout the entire VR process beginning at application. Every IPE will include counseling and guidance services. Examples of counseling and guidance services are given in (1) - (5) of this Subsection.

(1) Assisting the client in understanding and adjusting to the limitations, health, personal, and social problems related to the disability.

(2) Assisting the client in understanding his/her capabilities and interests, and selecting suitable and realistic vocational goals.

(3) Developing a program with the client to achieve the selected goals.

(4) Providing the client with information concerning occupations, education, health, DRS services and community resources in a manner that maximizes the individual's exercise of informed choice.

(5) Assisting the client in overcoming problems interfering with the achievement of his/her rehabilitation goals.

PART 3. CASE PROCESSING REQUIREMENTS

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612:10-7-33. Supervisory caseload reviews

(a) Each programs manager reviews a sample of active cases each production year. The purpose of these reviews is to monitor and contribute to the improvement of the quality of work being done on each caseload in accordance with Departmental policy, RSA regulations and ethical standards.

(b) The appropriate review form will be completed for each case reviewed in accordance with instructions. Each programs manager is responsible for setting a schedule of case reviews in his or her area. The results of the reviews for each caseload are to be used in evaluating performance of each vocational rehabilitation specialist and rehabilitation technician and as a basis for further performance development plan.

~~(c) In addition, periodic reviews of both active and closed will be conducted by the State Office. The purpose of these reviews is to ensure uniform application of agency policies and to identify areas for which in-service training may be needed.~~

612:10-7-33. 1 Quality Assurance caseload reviews

(a) The Quality Assurance Unit will conduct statewide audits of closed cases. The purpose of these audits is to ensure uniform application of agency policies and to identify areas for which in-service training may be needed.

(b) The Programs Manager may request the quality Assurance Unit to assist them with audits on active cases.

PART 5. CASE STATUS AND CLASSIFICATION SYSTEM

612:10-7-52. Provision of Services

(a) **Overview of service provision.** Vocational rehabilitation services are provided as specified in the approved IPE. Only the service providers included in the IPE may be used. Services are to be provided using the service delivery methods, and within the time frames, specified in the IPE. Authorizations may be issued only for those services for which DRS is specified as the responsible pay source in the approved IPE. New service needs must be included in an approved IPE amendment before they are authorized. All authorizations for payment of services will be made in accordance with applicable DRS purchasing policies.

(b) **Case recording requirements.** Regular case recording which reflects the provision of vocational rehabilitation services in accordance with the approved IPE is required. Regular recording of counseling, guidance, and job placement services by DVR and DVS staff is critical to the documentation of the client's progress in achieving the established employment goal. Routine case management narratives are also important as they ensure the continuity of service provision when other staff will be required to work with the case. The Counselor is to record the analyses of progress reports from outside sources in light of the client's progress toward achieving the chosen employment goal. If progress toward achieving the chosen employment goal has been interrupted, case recording must reflect the Counselor's and client's efforts to resume progress. Regular recording is most important ~~in cases placed in status 14~~ since the documentation of counseling and guidance is the only way

to show substantial services are being provided. The following activities must be present in every counseling situation. They are descriptive of the framework within which counseling may be considered as a substantial service.

(1) Assistance in selecting suitable and realistic vocational goals.

(2) Assistance in understanding the client's capacities, aptitudes and interests based upon the data secured during the case study.

(3) Providing information about occupations, education, health and other community services and facilities.

(4) Planning a program for attainment of selected goals.

(c) **Counseling session.** A counseling session will be conducted and documented not less than ~~once a month~~ every three months. Recording must document counselor initiated efforts to guide the client toward the specific vocational goal. Lack of documented guidance and counseling ~~substantial recording in status 14~~ will indicate a lack of substantial services.

612:10-7-58. Closed Rehabilitated

(a) **Use of Closed Rehabilitated status.** A case is closed as rehabilitated because the client has achieved an employment outcome as a result of vocational rehabilitation services. Cases closed as rehabilitated must as a minimum meet the requirements in (1) through (5) of this Subsection:

(1) the provision of services under the individual's IPE has contributed to the achievement of the employment outcome;

(2) the employment outcome is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice;

(3) the employment outcome is ~~in the most an~~ integrated setting—possible, consistent with the individual's informed choice;

(4) the individual has maintained the employment outcome for a period of at least 90 days; and

(5) at the end of the appropriate period under Paragraph (4) of this Section, the individual and the VR Counselor consider the employment outcome to be satisfactory and agree that the individual is performing well on the job.

(b) **Out of state.** Clients who move out of state after services have been completed are closed in rehabilitated status if the requirements in Subsection (a) of this Section can be met. If those requirements cannot be met the case will be closed, not rehabilitated.

(c) **Successful closure prior to completion of IPE.** If employment is secured before completion of the IPE, a counselor must document the conditions of substantial services and suitable employment were met. If planned services are interrupted prior to achieving the originally planned vocational goal, and services provided have directly contributed to the employment outcome for the individual or to job retention, an IPE amendment is not needed to revise the vocational goal prior to closure. A plan amendment is required when there is a substantial deviation from the original employment goal.

(d) **Cases closed from supported employment.** An individual with the most ~~severe~~ significant disabilities who

is receiving supported employment services is considered to be successfully rehabilitated if the individual maintains a supported employment placement for a minimum of 90 days beyond stabilization. In addition to the criteria for "suitably employed", the counselor must document, the individual has met or has made substantial progress toward meeting the weekly work goal defined in the IPE, the client is satisfied with the job, the employer is satisfied with the client's job performance, extended services are in place, all supported employment requirements have been met, and the case is ready for closure. The closure documentation will address any significant differences in the ultimate work week achieved as compared with the predicted goal.

(e) **Cases closed from employment and retention.** An individual with severe disabilities who is receiving employment and retention services is considered to be successfully rehabilitated when the client maintains employment for a minimum of 90 days after placement, or for a minimum of 4 weeks plus 90 days if the individual required the "4 Weeks Job Support" Milestone.

(f) **Cases closed as homemakers.** A homemaker is defined as a person whose primary work is performance of duties related to the upkeep and maintenance of a home. This work takes place in the individual's own home, without remuneration.

(1) For homemaking to be considered as a gainful occupation, primary work activities must be performed by the individual and benefits derived from DVR and DVS services must have improved the client's ability to function in these tasks. Homemaking activities must render a significant contribution to the home.

(2) Self-care activities are not sufficient to meet the definition of gainful occupation. The individual must not be receiving any type of assistance in performing primary homemaking duties.

(3) Multiple homemaking closures within the same household are prohibited.

(4) Suitable employment, substantial services and significant contribution of services to vocational adjustment must be documented in the case record. This documentation must be very explicit when the individual's vocational objective is changed to homemaking during the rehabilitation process or there could be a question as to whether the homemaking activities render a significant contribution to the home.

(g) **Cases closed as unpaid family worker.** A case may be closed as rehabilitated when the individual is performing work without pay on a family farm or in a family business operated by one or more members of the client's family. The case recording must include the same documentation as in the case of any other rehabilitated closure but particular attention is to be given to the description of the client's work activities and their regularity. The record must confirm the productivity of the client and his/her contribution to the family farm or business.

(h) **Case recording requirements.** The client, or the client's authorized representative as appropriate, will be a

full participant in the decision to close the case. The last discussion of the closure decision with the client, or the client's authorized representative, will be held within 30 days of the closure, and will be documented in a case narrative. The client will be notified in writing of the closure and advised of the availability of Post-Employment Services. The documentation in the case record will specifically address the substantiality of the services provided, how they contributed to the client's suitable employment and type of employment, the name and address of the employer, and the client's wages. The need for post-employment services will be reassessed prior to closure.

612:10-7-62. Post-Employment services

(a) **Use of Post-Employment services.** Post-employment services may be provided to assist rehabilitated clients to retain, regain, or advance in employment. Planning for and provision of post-employment services is one of the more important elements of the agency's service. The need for post-employment services will be assessed at initiation of the IPE. Ongoing assessment continues during case services, is documented as needed, and is reassessed just prior to case closure. Counseling and guidance is the ~~core~~ primary service around which all other post-employment services are provided. Post employment services can be provided to individuals who receive Supported Employment Services if such services are needed to maintain the supported employment placement and those services are not available from an extended services provider. Some examples of post employment services are maintenance of assistive technology, job station redesign, and replacement of prosthetic and orthotic devices. Post employment services are not to be used in instances of underemployment when extensive retraining is needed. Cases reopened on a post-employment basis do not require re-establishment of eligibility. New diagnosis is needed only if there has been a change in the client's physical or mental condition. Any vocational rehabilitation service or combination of services necessary to assist the individual retain, regain, or advance in employment may be provided if the service(s) does not involve a complex or comprehensive effort unrelated to the original IPE. If comprehensive services are indicated, a new application is taken. Federal regulations forbid the setting of arbitrary time limits on the provision of post-employment services. If the client has been employed for a long period of time, the counselor must carefully review the client's situation before making the decision to provide post-employment services as opposed to opening a new case.

(b) **Other considerations.** Other considerations in determining a client's eligibility for post-employment services are:

(1) **Financial Status.** A new financial status determination must be made if services requiring consideration of client participation in the cost of services are to be provided.

(2) **Emergency conditions.** Treatment of an emergency condition will not be considered as a post-employment service.

(3) **Upgrading.** Post-employment services are not provided to upgrade an individual's financial status. Post-employment services are provided to help the individual advance in employment only when the nature

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of the individual's impediment to employment makes advancement the most appropriate post-employment outcome consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(c) **Transfer of cases.** Clients needing post-employment services who have moved to another area of the state will have their cases transferred. When a rehabilitant who has moved out of state requests post-employment services, the counselor will refer the individual to the rehabilitation program in the state where the individual resides. Upon receipt of a release signed by the client, copies of the requested information from the closed case record will be forwarded to the receiving state agency. If an individual who was a rehabilitant in another state requests post-employment services from our state, information must be requested from the state where services were previously provided. All requests must include a specific release of confidential information signed by the applicant. The case will be processed as a new referral, but will be served and documented as a post-employment case.

(d) **Criteria for terminating post-employment services.** Decisions to terminate post-employment services must be made on an individual basis in consultation with the client and will be recorded in the case. The counselor will need to work with the individual to achieve a satisfactory level of self sufficiency independent of post-employment support.

(e) **Case recording requirements.** Post-employment services is the same as any other service status. The same principles of client involvement are required in the IPE for Post-Employment Services as are required under any other IPE. Case recording will be made at significant times during the process, including assessment of progress, and the results achieved at the completion or termination of services.

PART 13. SUPPORTIVE SERVICES

612:10-7-131. Transportation

Transportation, including adequate training in the use of public transportation vehicles and systems, may be provided for a client as a ~~supportive~~ service to enable the client to receive diagnosis, evaluation or other rehabilitation services. Authorizations for transportation will not be issued to pay the cost, or part of the cost, for any other service.

(1) **Public transportation.** The authorization is made directly to the vendor or client for actual cost.

(2) **Private transportation.** Mileage for use of a private vehicle is ~~reimbursed paid~~ at ~~75% 100 percent~~ of the rate allowed by the State Travel Reimbursement Act and is authorized directly to the client. In these instances, mileage will be restricted to the most direct route and to the least possible number of trips. A payment of mileage Mileage reimbursement as is a supportive service to enable the client to receive diagnosis, evaluation or other rehabilitation service services is intended to cover the cost of fuel, routine maintenance, and repairs. Case narrative documentation is required explaining how the amount was determined.

(3) **Out-of-state/air transportation.** Transportation by airplane or out of state travel may be provided to allow a client to receive services not available in the state. Transportation may also be provided for a client to seek employment out of state provided the counselor has written documentation that the ~~severity~~ significance of the disability, or the nature of the vocational objective, makes in-state placement unusually difficult. The case must also contain documentation of efforts made to place the client with an appropriate in-state employer. If air fare is to be provided, arrangements for such fares will be made through the State Travel Coordinator, Department of Rehabilitation Services State Office.

(4) **Transportation for an attendant.** Transportation may also include the cost of travel for an attendant of an individual with a ~~severe~~ significant disability. Subsistence will be paid at the rates established by the State and described in OAC 340:2-1. The counselor will have an agreement with the client regarding allowable expenses before the trip is made.

(5) **Training for use of public transportation.** Expertise available within DVR and DVS, or within the community will be used to provide this service when possible. If this service must be purchased, the authorization is made directly to the vendor or client for actual cost.

PART 15. TRAINING

612:10-7-166. Tutorial training

(a) Counselors may provide tutorial training for clients with ~~severe~~ significant disabilities who cannot receive training by another method or who may need assistance to complete a formal training course satisfactorily.

(b) Persons chosen to provide tutorial training for clients must have the necessary skills to provide assistance to the client and be willing to provide the training at a time and place suitable to the client. Examples of proof of necessary skills are the following:

- (1) Letter of recommendation from college or university
- (2) Teaching certificate
- (3) Transcripts

PART 17. SUPPORTED EMPLOYMENT SERVICES

612:10-7-181. Integrated settings

~~The employment should provide daily contact in the immediate work setting with other employees and/or the general public who do not have substantial disabilities. Individuals who provide ongoing support services do not meet the daily contact requirement. Counselors should not decide that an employment situation is not an integrated setting based on just the name of the employer. Jobs should be viewed on a case by case basis if there is question of integration. A determination of whether an individual's employment within a Community~~

Rehabilitation Program meets the "integrated setting" requirement for an "employment outcome" shall be based on an individual determination that:

- (1) The individual is employed in a type of job available and open to the general public.
- (2) The individual is employed under the same working conditions as others without a disability in similar positions.
- (3) The individual has ongoing interaction with other workers, supervisors and the general public to the same degree as workers without disabilities in the same or comparable occupations.
- (4) The general working conditions reflect integration with other workers rather than separation/segregation.

612:10-7-184. Extended services

Extended services are a continuation of ongoing support services provided to individuals with the most ~~severe~~ significant disabilities in Supported Employment at completion of stabilization, during the "Successful Rehabilitation" Milestone and beyond DRS case closure. Such services consist of the provision of specific services, including natural supports, needed to maintain the supported employment placement. Extended services are paid from funding sources other than DVR and DVS and are specifically identified in the IPE. An individual may not be found ineligible for supported employment services because the resource for providing extended services cannot be identified. In this instance, the counselor would:

- (1) certify the individual eligible for the DVR and DVS program;
- (2) write and initiate the IPE with a statement explaining the basis for concluding that there is a reasonable expectation that extended services will become available; and
- (3) seek out and/or help in developing the needed extended services resource, including natural supports, then amend the IPE when the resource is identified and in place.

612:10-7-185. Provision of supported employment services

(a) Supported employment (SE) services are not subject to financial status determination. Services are purchased from a qualified vendor under contract with the Department. However, services may be available from a variety of providers and should be furnished to each client by the most appropriate means. This would include training from certified job coaches or employment training specialists, as well as other qualified individuals, including co-workers, through natural supports.

- (b) Supported employment services include:
- (1) Situational assessments to help develop, finalize or reassess a supported employment plan of services;
 - (2) job development and job placement;
 - (3) provision of time-limited job coach services needed to support an individual with the most ~~severe~~ significant disabilities in employment such as:

- (A) intensive on-the-job skills training and other training and support services needed to achieve and maintain job stability;
- (B) follow-up services with employers, supported employee, parents and guardians, and others for the purpose of supporting and stabilizing the job placement; and
- (C) post employment services, following transition to extended services, not available from the extended services provider and needed to maintain job placement such as job station redesign, repair and maintenance of assistive technology, and replacement of prosthetic and orthotic devices.

(c) Time-limited supported employment services cannot exceed 18 months unless an amendment indicates more time is necessary for the individual to achieve job stability before transition to extended services. Case documentation justifying the extension must indicate two criteria have been met. The first is substantial progress has been made toward meeting the hours-per-week goal established in the IPE; and secondly, extended services are available and can be provided without a break in services. The 18 months of time-limited services are based on the time the client actually spends in employment. When DVR and DVS services are re-initiated through opening a new case, a new period of up to 18 months of time limited services begins. The time counted towards the 18 month limitation does not include:

- (1) time during a break in employment;
- (2) the period between transition to extended services and closure of the DVR or DVS case; or
- (3) time in post employment services.

(d) Re-placement services are intended for recently rehabilitated individuals who have completed the final SE milestone (Successful Rehabilitation), with the same provider within the last 2 years. The Counselor reviews the documentation from the provider regarding the job loss, and determines if extended services are not adequate to cover re-placement at no cost to DRS. Re-placement services include:

- (1) Vocational Preparation/Job Club (optional);
- (2) 4 Weeks Job Support;
- (3) Job Stabilization; and
- (4) Successful Rehabilitation.

(e) The Highly Challenged rate can only be authorized if the previous case was designated as Highly Challenged.

(f) There are special provisions for individuals with serious mental illness, who may be placed in transitional employment (TE). Transitional employment services are not subject to financial status determination. Services are purchased from a qualified vendor under contract with the Department. Transitional employment, like work adjustment, is designed to assist individuals who have not had significant, successful or recent work experience to build their work adjustment skills and ego strength/self-esteem, develop a positive work history, learn adjustment skills in a real work environment or clarify their strengths and interests. TE addresses the need for a transitional work period to lay the foundation for a career decision that is expected to involve employment beyond the entry level.

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PART 18. EMPLOYMENT AND RETENTION SERVICES

612:10-7-186. Overview of Employment and Retention Services

Employment and Retention (E&R) Services are short-term job coach support for individuals with ~~severe~~ significant disabilities, requiring assistance preparing for, obtaining, and maintaining employment. This service model consists of 5 Milestones: "Assessment", "Vocational Preparation/Job Club", "Job Placement", "Four Weeks Job Support" and "Successful Rehabilitation". In consultation with the client and the provider chosen by the client, the counselor will determine the milestones that will be required by the client to achieve a competitive employment outcome. Each milestone will be pre-authorized by the counselor and will be paid only once per case.

612:10-7-187. Eligibility for Employment and Retention Services

An individual shall be eligible for employment and retention services if:

- (1) The individual is determined to be eligible for vocational rehabilitation services;
- (2) The client is determined to be an individual with ~~severe~~ significant disabilities, and
- (3) The client needs short term job coach support in preparing for, obtaining, and/or maintaining employment.

PART 19. SPECIAL SERVICES FOR INDIVIDUAL WHO ARE BLIND, DEAF, OR HAVE OTHER SEVERE SIGNIFICANT DISABILITIES

PART 21. PURCHASE OF EQUIPMENT, OCCUPATIONAL LICENSES AND CERTIFICATES

612:10-7-220. Purchase of special equipment for motor vehicles

(a) Special equipment for a motor vehicle may be purchased and installed when needed for an individual to drive his/her own vehicle or enable a family member to provide transportation for the client for job retention services, training for employment or active participation in an Independent Living Program. Purchases of special equipment for motor vehicles which are projected to cost \$2,500 or less will be made in accordance with 612:10-1-7. Purchases of special equipment for motor vehicles projected to cost more than \$2,500 will require a requisition to the Department's Central/Departmental Services Unit, Purchasing Section.

(b) Some clients with ~~severe~~ significant disabilities will not have a valid driver's license. These clients are to be referred to the Department of Public Safety for determination of whether the client is able to obtain a license. Arrangements will be made by the counselor for the individual to take special driver's

training following acquisition of the driving permit. If the client is to drive the vehicle, equipment will not be purchased until the client has a valid driver's license and the client has successfully completed training in the use of the special equipment for his/her vehicle.

(c) The qualifications in (1) - (9) of this Subsection apply to all vehicle modifications.

(1) The client or individual providing the transportation must have a current, valid driver's license.

(2) A used vehicle must be inspected by an ASE certified mechanic to assure it is mechanically sound before equipment can be installed. This inspection may be authorized by the counselor, if necessary.

(3) The name of the client must appear on the title to the vehicle and current vehicle registration. The client may be listed as a co-owner on these documents.

(4) The vehicle must be evaluated by an Assistive Technology Specialist or person with equivalent qualifications for identification of the appropriate adaptive equipment.

(5) Vehicle modifications must be limited to the purchase and installation of adaptive devices required to meet the client's need.

(6) The client must agree to retain ownership of the vehicle and maintain the vehicle for the predictable life of the equipment. The counselor completes the Receipt for Equipment and Title Agreement and has the client sign it, as per guidelines in 612:10-1-7(e).

(7) The client must maintain both collision and comprehensive insurance on the vehicle, including the equipment.

(8) DRS will not pay the expense of replacing the equipment unless the equipment no longer meets the needs of the client based on disability related issues, as determined through review of current medical reports and assistive technology evaluation indicating replacement is required to meet the IPE goals.

(9) Certain types of vehicle modification equipment are considered "transferable" by design: i.e., hand controls, left foot accelerator, and hitch lift systems for wheelchairs/scooters. DRS may assist with the cost of transferring this type of equipment to meet the IPE goals.

(d) When vehicle modifications are completed, installation is to be inspected by an Assistive Technology Specialist or person with equivalent qualifications, to determine if the authorized equipment conforms to prescribed standards, is properly installed, and meets the functional needs of the client. The A.T. Specialist will inform the counselor if the installation is satisfactory and ready for delivery to the client. The counselor must also obtain a statement of satisfaction from the client.

(e) The client, is responsible for maintaining special equipment for vehicles in good working order. DRS may pay for repairs to such equipment during the life of the case unless there is clear evidence the special equipment has been damaged due to client abuse or neglect.

PART 23. SELF-EMPLOYMENT PROGRAMS AND OTHER SERVICES

612:10-7-230.3. Self-Employment/Business Plans

- (a) Each individual, requesting Agency assistance with self-employment, is required to complete and submit a business plan that details at a minimum the following:
 - (1) Complete description of the proposed business.
 - (2) Business objectives.
 - (3) Ownership.
 - (4) Market Analysis.
 - (5) Marketing Plan.
 - (6) Financial Management Plan including personal finance sheets, projected expenses and income for at least 2 years.
 - (7) Specific listing of needed start-up costs and equipment, not including assistive technology devices.
 - (8) Specific listing of the type and amount of assistance the consumer is requesting from the State VR Program.
 - (9) Information regarding cost and coverage of insurance policies to cover liability, inventory, and equipment.
- (b) Counselors will refer individuals to the local Small Business Development Center for assistance in developing a business plan. As appropriate the counselor may utilize other technical assistance services to aid the consumer in developing the business plan.
- (c) If the individual has submitted a viable business plan and the cost of the business plan to the agency, is \$10,000.00 or less the counselor may approve the request. If the agency's cost will exceed \$10,000 the counselor will refer the request to their immediate supervisor for approval.
- (d) Certain individuals may require on-going supports or services for a business plan to be successful. The counselor will assist the individual in identifying and securing these support services. DRS cannot be responsible for funding these supports following successful employment outcomes.

612:10-7-230.5. DRS Monitoring

- (a) The counselor will continue to be available for technical assistance upon completion of approved purchases. Counselor will review with consumer every 3 months the progress of the business. This will include copies of the businesses profit and loss statements and record of business performed. The purpose of these reviews is to determine if the involvement in self-employment is allowing the consumer to substantially increase his/her earnings to achieve self-employment success and be able to meet on-going financial obligations of the business. Should the business not be showing an increase in the income of the consumer, the counselor will review, with the consumer, the consumer's business plans to try to increase the business income. If necessary, the consumer may be referred to the small business development center or similar program for technical assistance in making changes in business operation to achieve a business profit.
- (b) Once it has been established that the consumer is earning at least minimum wage for a period of 90 days, the counselor and the consumer will begin planning for case closure. Stated in the IPE, this case would be agreed upon as a successful closure, after 90 days, when the client is able to perform activities required for maintaining self-employment. At the time of

case closure, title for all goods purchased by the agency will be released to the consumer.

SUBCHAPTER 9. REHABILITATION TEACHING SERVICES

PART 3. CASE PROCESSING AND RECORDING

612:10-9-25. Post-Employment Service Status

- (a) Post-Employment services may be provided to assist rehabilitated clients to retain, regain, or advance in independence. These services must continue to follow the guidelines delineated for homemaking services.
- (b) Planning and provision of the need for post-employment services will be assessed at initiation of the IPE. Ongoing assessment continues during case services, is documented as needed, and is reassessed just prior to case closure. Counseling and guidance is the ~~core~~ primary service around which all other post closure services are provided. Cases reopened on a post closure basis do not require re-establishment of eligibility. Any homemaking service or combination of services necessary to assist the individual to retain, regain, or advance in independence, may be provided if the service(s) do not involve a complex or comprehensive effort unrelated to the original IPE. If comprehensive services are indicated, a new application is taken. Federal regulations forbid the setting of arbitrary time limits on the provision of Post-Employment services. If the original case has been closed for a long period of time, the Agency must carefully review the client's situation before making the decision to provide Post-Employment services as opposed to opening a new case.
- (c) Criteria for terminating Post-Employment services must be made on an individual basis in consultation with the client and will be recorded in the case record. The Agency will need to work with the individual to achieve a satisfactory level of self-sufficiency independent of post closure support.
- (d) Post-Employment services might include limited adapted equipment, limited assistive technology, repair of adaptive equipment for which the agency maintains title, adapted equipment for a newly established additional disability and limited instructional services.
- (e) Post-Employment Service Status is the same as any other service status. An IPE and a narrative program summary are developed in the same manner as prescribed in 612:10-9-19. The same principles of client involvement are required in the IPE for Post-Employment services as are required under any other IPE. Case recording will be made at significant times during the process, including assessment of progress and the results achieved at the completion of termination of services.
- (f) All cases terminated from Post-Employment Service Status will be closed in Post Employment Closure status.

SUBCHAPTER 11. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

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PART 3. CASE PROCESSING

612:10-11-28. Post OB Service Status [REVOKED]

(a) Use of Post OB Service Status may be provided to assist rehabilitated clients to retain, regain, or advance in independence. These services must continue to follow the guidelines delineated by the Older Blind Program.

(b) Planning for and provision of the need for post OB services will be assessed at initiation of the IRP. Ongoing assessment continues during case services, is documented as needed, and is reassessed just prior to case closure. Counseling and guidance is the core service around which all other post OL services are provided. Cases reopened on a post OB basis do not require re-establishment of eligibility. Any Older Blind service or combination of services necessary to assist the individual retain, regain, or advance in independence may be provided if the service(s) does not involve a complex or comprehensive effort unrelated to the original IRP. If comprehensive services are indicated, a new application is taken. Federal regulations forbid the setting of arbitrary time limits on the provision of post OB services. If the original case has been closed for a long period of time, the Specialist must carefully review the client's situation before making the decision to provide post OB services as opposed to opening a new case.

(c) Criteria for terminating post OB services must be made on an individual basis in consultation with the client and will be recorded in the case record and on a closure letter to be provided to the client, and/or their authorized representative in their preferred format. The Specialist will need to work with the individual to achieve a satisfactory level of self sufficiency independent of post OL support.

(d) Post OB services might include limited adapted equipment, limited assistive technology, repair of adaptive equipment for which the agency maintains title, adapted equipment for a newly established additional disability and limited instructional services.

(e) Post OB Service Status is the same as any other service status. An IRP and a narrative program summary are developed in the same manner as prescribed in 612:10-7-51. The same principles of client involvement are required in the IRP for post OB services as are required under any other IRP. Case recording will be made at significant times during the process, including assessment of progress, and the results achieved at the completion or termination of services.

(f) All cases terminated from Post OB status will be closed in Post OB Closure status.

[OAR Docket #08-865; filed 5-9-08]

TITLE 695. OVERSIGHT COMMITTEE FOR STATE EMPLOYEE CHARITABLE CONTRIBUTIONS CHAPTER 10. OKLAHOMA STATE CHARITABLE CAMPAIGN RULES

[OAR Docket #08-785]

RULEMAKING ACTION:

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RULES:

Subchapter 1. General Provisions

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695:10-1-2 [AMENDED]

695:10-1-5 [AMENDED]

695:10-1-6 [AMENDED]

695:10-1-8 [AMENDED]

695:10-1-9 [AMENDED]

695:10-1-10 [AMENDED]

695:10-1-11 [AMENDED]

695:10-1-13 [AMENDED]

Subchapter 3. Principal Combined Fund Raising Organizations

Part 1. State Principal Combined Fund Raising Organization (State PCFRO)

695:10-3-2 [AMENDED]

695:10-3-3 [AMENDED]

695:10-3-4 [AMENDED]

Subchapter 5. Conduct of the Charitable Campaign

695:10-5-2 [AMENDED]

695:10-5-3 [AMENDED]

Subchapter 7. Pledge Cards, Payroll Authorizations and Mailing Lists

695:10-7-2 [AMENDED]

Subchapter 11. State and Local PCFRO Proceeds and Costs

695:10-11-2 [AMENDED]

Subchapter 13. Notices, Complaints, Appeals and Hearings

695:10-13-2 [AMENDED]

695:10-13-3 [AMENDED]

695:10-13-5 [AMENDED]

695:10-13-6 [AMENDED]

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Subchapter 3. Principal Combined Fund Raising Organizations
 Part 1. State Principal Combined Fund Raising Organization (State PCFRO)

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Subchapter 7. Pledge Cards, Payroll Authorizations and Mailing Lists

- 695:10-7-2 [AMENDED]

Subchapter 11. State and Local PCFRO Proceeds and Costs

- 695:10-11-2 [AMENDED]

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None.

ANALYSIS:

The amendments to Title 695 reflect the legislatively mandated change to the name of the State Agency Review Committee, which is now named the Oversight Committee for the State Employee Charitable Contributions. The proposed amendments include clarifying language, terms and definitions.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2008:

SUBCHAPTER 1. GENERAL PROVISION

695:10-1-1. Purpose

(a) The rules in this Chapter are intended to establish policies and procedures to:

- (1) aid in the orderly administration of the Oklahoma State Employee Charitable Contribution Act;
- (2) facilitate a successful annual charitable contribution campaign;
- (3) ensure effective and coordinated program implementation through coordination of State Agency Review Committee~~Committee~~Oversight Committee for State Employee Charitable Contributions, local advisory review committees and principal combined fund raising organizations;
- (4) provide for voluntary payroll deductions for gifts to eligible charitable organizations made in connection with the charitable contribution campaign;

(5) provide meaningful avenues for realizing and enforcing statutory rights and obligations of certain non-profit agencies, federations, state agencies and state employees.

(b) The authority for the rules in this Chapter is the Oklahoma State Employee Charitable Contribution Act, Sections 7001 through 7010 of Title 74 of the **Oklahoma Statutes**. The ~~State Agency Review Committee~~Oversight Committee for State Employee Charitable Contributions is the rulemaking authority.

695:10-1-2. Definitions

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

"Act" means the Oklahoma State Employee Charitable Contribution Act, Sections 7001 through 7010 of Title 74 of the Oklahoma Statutes.

"Appointing Authority" means the chief executive officer of a state agency.

"Campaign" means the annual combined State Charitable Campaign ("SCC"). "Local campaign" refers to the annual Oklahoma State Charitable Campaign in a geographic area.

"Campaign proceeds" means the amount of money pledged by employees during a campaign. It does not mean the amount of money actually deducted during the following calendar year.

"Designated funds" means contributions which the contributor has designated to a specific voluntary agency or federation.

"Federation" means a legally constituted grouping of at least five health and social service agencies that are bound together to raise and distribute charitable contributions [74:7003(1)]. "Legally constituted grouping" means the organizational relationship among the agencies is recognized by law.

"Geographic area" means a county or the area encompassed by counties or portions of counties which have been combined for the purpose of conducting a local State Charitable Campaign.

"International social service agency" means a voluntary agency that provides the majority of its services to needy persons overseas.

"LARC" means local advisory review committee.

"Licensed by the Oklahoma Tax Commission" means registered with the Oklahoma Tax Commission in accordance with Section 552.3 et seq. of Title 18 of the Oklahoma Statutes.

"Local advisory review committee" means a group of state employees in a facility or agency assisting in the local involvement of state employees in the campaign [74:7003(3)]. The committee is authorized by the ~~SARCOSECC~~SARCOSECC to implement the local campaign in their geographic area; the committee performs purely administrative or ministerial tasks and does not exercise actual or de facto decision-making authority for the ~~SARCOSECC~~SARCOSECC.

"Local federation" means a federation that provides direct service in a specific geographic area in this state.

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"**Local presence**" means a test to determine whether the agency actually provides service to people in the geographic area and whether said geographic area has any input into the service provisions process.

"**OCSECC**" means Oversight Committee for the State Employee Charitable Contributions.

"**Oversight Committee for State Employee Charitable Contributions**" means a group of state employees responsible for overseeing at the state level the conducting of the State Charitable Campaign [74:7003(5)].

"**Pacesetter**" means a campaign that begins prior to August 1.

"**PCFRO**" means the principal combined fund raising organization.

"**Principal combined fund raising organization**" means the organization in State of Oklahoma responsible for the charitable contribution campaign [74:7003(4)]. "State PCFRO" (SPCFRO) refers to the organization which is selected by the SARCOSECC to assist them statewide with the campaign. "Local PCFRO" (LPCFRO) refers to the organization which is selected by the SARCOSECC to assist the LARC with the local campaign.

"**Rules**" means the State Charitable Campaign Rules in this Chapter.

"**SARC**" means State Agency Review Committee.

"**State Agency Review Committee**" means a group of state employees responsible for overseeing at the state level the conducting of the State Charitable Campaign [74:7003(5)].

"**State agency**" means any office, department, board, commission or institution of the state government.

"**State employee**" means an elected or appointed officer or employee of the executive, judicial or legislative branch of government.

"**State presence**" means a test to determine whether the agency actually provides service to people in the State of Oklahoma [74:7003(2)].

"**Statewide Federation**" means a federation that provides direct service to a majority of the counties in the State of Oklahoma.

"**Statewide Presence**" means a test to determine whether that agency actually provides direct service to a majority of the counties in the State of Oklahoma and whether said geographic area has any input into the service provision process.

"**Undesignated funds**" means those contributions which the contributor has not designated to a specific voluntary agency or federation.

"**Voluntary agency**" means a nonprofit organization which meets the requirements for participation in the State Charitable Campaign which are provided in Section 7009 of Title 74 of the **Oklahoma Statutes**.

695:10-1-5. State Agency Review Committee (SARC) Oversight Committee for State Employee Charitable Contributions (OCSECC); organization and meetings

(a) The membership of the SARCOSECC consists of 7 state employees. Section 7005 of Title 74 of the **Oklahoma Statutes** provides for the appointment and service of

the membership of the SARCOSECC. The officers of the SARCOSECC are the chairman and the vice-chairman.

(1) At least annually, the SARCOSECC shall elect a chairman and a vice-chairman from among its members. A member may be elected for succeeding terms of office.

(2) The chairman shall call and preside at meetings and may represent the SARCOSECC in other matters as it may lawfully authorize. In the absence of the chairman, the vice-chairman shall assume the chairman's duties and have the chairman's authority. The vice-chairman shall also perform such duties as may be assigned by the chairman.

(b) All meetings of the SARCOSECC shall be held and conducted in accordance with the Open Meeting Act, Sections 301 through 314 of Title 25 of the Oklahoma Statutes.

(1) The chairman of the SARCOSECC may call special meetings or emergency meetings.

(2) Special or emergency SARCOSECC meetings shall also be called at the written request of a majority of the appointed members of the committee.

(3) A majority of the appointed members of the SARCOSECC shall constitute a quorum.

(4) A quorum of the members of the SARCOSECC shall be present to transact any business.

(5) An affirmative vote from a majority of a quorum is required for action by the SARCOSECC.

(6) Regularly scheduled meetings shall be held on the 2nd Wednesday of each of the following months: January, February, April, May, August, and November.

(c) The Office of Personnel Management shall provide the following support as is required by the SARCOSECC and pursuant to Section 7005(D) of Title 74 of the Oklahoma Statutes.

(1) Prepare meeting notices and agendas for submission to the chairman;

(2) Upon approval of the chairman, file, post and distribute meeting notices and agendas;

(3) ~~Tape~~ record Record meetings of the SARCOSECC and permanently maintain audio ~~tapes~~ recordings so they will be available for future transcription; and,

(4) Provide necessary clerical support for SARCOSECC during its meetings.

695:10-1-6. Local Advisory Review Committee (LARC); organization

Each year, the local PCFRO shall identify and contact the LARC from each state agency or facility within the appropriate SCC geographic area. The SPCFRO shall provide the LCPFRO with any and all materials and information needed to help identify state agencies or facilities within the LARCS geographic area.

(1) The team leader of each LARC shall be the local state agency employee who is administratively in charge of a state agency or facility in a campaign assigned to work in the LARC's geographic campaign area or his or her designee. The team leader shall assist the LARC members

in organizing the local campaign and may represent them in other matters.

(2) The local PCFRO is responsible for submitting the following information in writing to the SPCFRO no later than July 31, and again whenever any of the information is changed.

- (A) The name and employing agency of each LARC member;
- (B) The mailing address and location for submissions to the LARC;
- (C) The telephone number used by the LARC;
- (D) The SPCFRO shall provide this information to the SARCOCSECC one week prior to the regularly scheduled August meeting.

(3) The primary responsibility of the LARC is to work together with their local PCFRO to ensure that the State Charitable Campaign for state employees is a convenient, informative and responsible program. To help the local campaign meet these goals the LARC and local PCFRO should:

- (A) develop the campaign materials and publicity for the local State Charitable Campaign;
- (B) ensure that each state employee receives informational material and a pledge card;
- (C) recruit and train volunteers, departmental coordinators and solicitors to distribute material, conduct meetings, answer questions and collect pledge cards;
- (D) ensure that all informational materials are fair and equitable;
- (E) ensure that each state employee is given the opportunity to make a gift and the option to designate the gift.

695:10-1-8. Locations for information and for filing

(a) SARCOCSECC. Any person may obtain information from, make a submission to, or make a request of the SARCOCSECC by submitting a written request. Papers may be mailed to the SARCOCSECC, or they may be hand delivered during normal business hours. Normal business hours are 8:00 a.m. to 4:45 p.m., Monday through Friday. The mailing address and location for filing is: Office of Personnel Management, ATTENTION: ~~STATE AGENCY REVIEW COMMITTEE~~ OVERSIGHT COMMITTEE FOR STATE EMPLOYEE CHARITABLE CONTRIBUTIONS, Jim Thorpe Building, Room G-80, 2101 North Lincoln Boulevard, Oklahoma City, OK 73105, Telephone Number: (405) 521-2177. You may e-mail to: ~~SARC@opm.state.ok.us~~ OCSECC@opm.ok.gov. The date on which the papers are actually received at the Office of Personnel Management shall be recorded as the date of filing.

(b) **LARCS**. Any person may obtain a list of the LARCS from the SARCOCSECC. This list shall include the information listed in 695:10-1-6(2).

(c) Address of Record. It is the responsibility of each participating charity and federation to provide contact information by December 15 of each year to the OCSECC. The information should include, but not be limited to, the name and title

of the individual responsible for submitting an application to OCSECC for the next year's campaign, mailing address, phone number, and e-mail address.

695:10-1-9. Retention and public inspection of documents and release of records

(a) All documents filed with or presented to the SARCOCSECC will be retained in the files of the SARCOCSECC located at the Office of Personnel Management for the length of time required by state and federal laws. Documents will be disposed of in a manner consistent with the Records Management Act, Sections 201 through 216 of Title 67 of the **Oklahoma Statutes**, and rules promulgated by the Archives and Records Commission pursuant to Section 564 through 576 of Title 74 of the **Oklahoma Statutes**.

(b) Individual employee contribution records are confidential as defined by Section 24A.7 (A)(2) of Title 51 of the **Oklahoma Statutes**. Except for records required by law to be kept confidential, all other records of the SARCOCSECC are available for inspection in accordance with the Oklahoma Open Records Act, Sections 24A.1 through 24A.18 of Title 51 of the **Oklahoma Statutes**.

(c) Records may be released during the normal business hours of the Office of Personnel Management.

(d) Fees will be assessed pursuant to Section 24A.3 of Title 51 of the Oklahoma Statutes.

(1) **Search charges.** In the event a request is solely for commercial purposes or clearly would cause excessive disruption of the Office of Personnel Management's essential functions, the SARCOCSECC may charge the hourly rate, including any fraction of an hour, of the person doing the search.

(2) **Transcript charges.** When materials from meetings or hearings are transcribed from tapes or notes, the charge will be calculated at a rate charged by a court reporter; or if done by Office of Personnel Management staff, will be at a rate established by ~~OPM~~ the Office of Personnel Management. Copies of transcripts will be \$0.25 per page.

695:10-1-10. Declaratory rulings

Any person may request the SARCOCSECC to issue a declaratory ruling as to the applicability of any rule or order of the SARCOCSECC. The purpose of a declaratory ruling is to explain, or clarify, a rule or an order of the SARCOCSECC in relation to a particular matter.

(1) A request for a declaratory ruling must be in writing and must include the following information:

- (A) Name, address and telephone number of the person making the request;
- (B) Name, address and telephone number of the organization the person represents, if applicable;
- (C) Date of the request;
- (D) A description of the problem or issue which made it necessary to request a declaratory ruling; and

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(E) The number and heading used to identify the rule or the order on which the declaratory ruling is sought.

(2) The SARCOCSECC will consider each request submitted and, within a reasonable time after the submission thereof, either deny the request in writing, stating its reasons for such denial, or issue a declaratory order on the matters contained in the request.

695:10-1-11. Rulemaking

(a) Any person may request the SARCOCSECC to amend or revoke an existing rule or establish a new rule. The request must be in writing, and it must include the following information.

- (1) Name, address and telephone number of the person making the request;
- (2) Name, address and telephone number of the organization the person represents, if applicable;
- (3) Date of the request;
- (4) The requested action, that is: change to existing rule, revocation of existing rule, addition of new rule;
- (5) The number and heading used to identify existing rule if the request is to change or revoke existing rule;
- (6) The proposed language if the request is to change existing rule or for new rule;
- (7) The circumstances which created the need for the action; and
- (8) The intended effect of the rule.

(b) If the SARCOCSECC does not take action to initiate rulemaking procedures no later than the next regularly scheduled meeting, the request will be deemed to have been denied.

695:10-1-13. Forms and instructions

In addition to forms and instructions described elsewhere in this Chapter, other forms and instructions for their use may be issued by the SARCOCSECC. Additions, changes and deletions to forms and instructions may be made without notice. Copies of all forms and instructions issued by the SARCOCSECC may be obtained as provided in 695:10-1-9.

SUBCHAPTER 3. PRINCIPAL COMBINED FUND RAISING ORGANIZATION

PART 1. STATE PRINCIPAL COMBINED FUND RAISING ORGANIZATION (STATE PCFRO)

695:10-3-2. Selection of the state PCFRO

(a) The SARCOCSECC shall select the state principal combined fund raising organization [74:7005(C)(7)].

(b) To apply to become the state principal combined fund raising organization (PCFRO), a federation shall submit 7 copies of each of the following documents to the SARCOCSECC on or before January 31:

- (1) A completed state PCFRO application form which contains the following information:

(A) the name of the federation applying;

(B) the name of the administrator or agent authorized to represent the federation;

(C) the business mailing address of the federation;

(D) the primary business telephone number of the federation; and

(E) a list of the nonprofit organizations which the federation represents.

(2) An organization chart and staffing table for the federation and a description of any additional staffing requirements if the federation is selected as the state PCFRO.

(3) A separate statement signed by the federation's local director, or equivalent, pledging to administer the duties fairly and equitably.

(4) A copy of articles of incorporation or other documents authorizing the federation to do business in this state as a private, nonprofit corporation.

(5) A copy of an audit of the federation, conducted by an accounting firm or individual holding a permit to practice public accounting in this state according to the generally accepted standards of accounting for nonprofit organizations for the immediately preceding year.

(6) A copy of the last annual report issued by the federation.

(7) A separate certification affirming the federation prepares and makes available to the public an annual report that includes a full description of the federation's activities and supporting services and identifies its directors and chief administrative personnel.

(8) A proposed budget of overall costs of administration of the campaign.

695:10-3-3. Terms and conditions of service of the state PCFRO

The state PCFRO will be selected by the SARCOCSECC and will serve at its pleasure, normally for the period beginning March 1 and ending January 31 of the following year.

695:10-3-4. Duties and responsibilities of the state PCFRO

The duties and responsibilities of the state PCFRO, at the direction and with the approval of the SARCOCSECC and as provided by the Act and elsewhere in the rules in this Chapter, include:

(1) Responsibility for the staffing of and the financial obligations necessary for the SARCOCSECC;

(2) *Working with the [SARCOCSECC] to develop the charitable contribution campaign plan for the [Campaign] [74:7007(B)(1)];*

(3) *Developing the charitable contribution campaign materials and publicity for the [Campaign] [74:7007(B)(2)];*

(4) *Recruiting and training the volunteers, departmental coordinators and solicitors in a bipartisan manner; develop and keep records on all the accounts to be solicited; and cultivate the accounts to encourage participation in the charitable contribution campaign [74:7007(B)(3)];*

- (5) Keeping all fiscal and financial records of the activities and submit to the [SARCOSECC] a separate accounting of all proceeds of the [Campaign] [74:7007(B)(4)];
- (6) Submitting to the participating federations a detailed accounting of the amount of money designated to the federation and to each of its member agencies [74:7007(B)(5)];
- (7) Dispersing the allocation checks to the participating agencies [74:7007(B)(6)]. For purposes of this section, participating agencies are identified as LPCFROs;
- (8) Arranging for publication of information about the application process for federations seeking to participate in the campaign;
- (9) Assisting the SARCOSECC in gathering and accumulating the applications;
- (10) Reviewing applications of federations electing to participate in the State Charitable Campaign and certify that a federation and each of its member agencies meet the eligibility criteria in Section 7009 of the Act;
- (11) Notifying each of the applying federations of its acceptance or rejection by the SARCOSECC, including, if applicable, the reason for rejection of each of the member agencies of the federation;
- (12) Notifying each LARC of the federations approved for its area by the SARCOSECC;
- (13) Developing a pledge card to be used throughout the SCC;
- (14) Attending to correspondence as required;
- (15) Maintaining accurate and complete records of all business transactions of the SCC;
- (16) Upon the conclusion of its service as the state PCFRO, transmission of all records created or received in connection with the Act or the rules in this Chapter to its successor state PCFRO or to SARCOSECC if there is no successor;
- (17) Making all records, as defined in the Oklahoma Open Records Act, Sections 24A.1 through 24A.18 of Title 51 of the **Oklahoma Statutes**, available to the SARCOSECC and to the public in accordance with the provisions of the Open Records Act; and
- (18) Absorbing the cost of any reprinting, embezzlement, loss of funds, or cost overrun connected with the campaign as a result of its action or inaction.

SUBCHAPTER 5. CONDUCT OF THE CHARITABLE CAMPAIGN

695:10-5-2. Geographic areas for the charitable contribution campaign

The SARCOSECC will establish the geographic areas for the charitable campaign annually by March 1.

695:10-5-3. Applications for participation in the campaign

By ~~April 15~~ March 1, the SARCOSECC shall set an application deadline and arrange for publication of information about the process by which federations may apply to participate in the campaign [74:7005(C)(1)]. Federations wishing to participate in the campaign shall submit an application to the SARCOSECC [74:7009(D)]. The application shall include:

- (1) Proof of eligibility for participation in the campaign in accordance with Section 7009 of the Act;
- (2) A 25-word or less description of each member agency; and
- (3) The local campaign or campaigns in which the federation seeks to participate.
- (4) Proof of meeting the state presence test as required in Subsection A of Section 7010 of the Act; or
- (5) Proof of eligibility for exemption from the state presence test as provided in Subsection B of Section 7010 of the Act.

SUBCHAPTER 7. PLEDGE CARDS, PAYROLL AUTHORIZATIONS AND MAILING LISTS

695:10-7-2. Pledge cards

- (a) The SARCOSECC shall make available a model pledge card which may be reproduced. This shall be the only authorized pledge card for use in the campaign. The use of a pledge card other than the one that faithfully reproduces the SARCOSECC's authorized format is prohibited. The pledge card shall include instructions for its completion and return, the duration of the payroll deduction, if any, and other information about the campaign, participating agencies, federations, and allow the utilization of logos.
- (b) The pledge card shall solicit information from the employee such as: name; residence county; social security number and/or employee identification number; employing agency and work location; amount of pledge; method of payment; designation of gift, if any; whether the donor wishes to remain anonymous; and describe how undesignated funds shall be distributed.
- (c) Employees making gifts shall return completed pledge cards to the LARC and/or the local PCFRO. The local PCFRO shall retain a copy, and shall give a copy to the employing agency by December 15.

SUBCHAPTER 11. STATE AND LOCAL PCFRO PROCEEDS AND COSTS

695:10-11-2. Report of campaign proceeds

By January 1, each local PCFRO shall submit to the SARCOSECC a full accounting of all pledges of the completed campaign, together with the actual costs for developing the campaign materials, training the solicitors and the overall administration of the campaign. The cost, including costs

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incurred by the SPCFRO, shall be borne by each of the federations proportionally and shall be no greater than **10%** of the campaign proceeds or actual costs, whichever is less [74:7008].

SUBCHAPTER 13. NOTICES, COMPLAINTS, APPEALS AND HEARINGS

695:10-13-2. Notice of certification and rejection of federations and member agencies

(a) The instructions for the application process issued by the SARCOCSECC shall include the dates of the meetings at which the SARCOCSECC shall:

- (1) Announce eligibility certification or rejection of applications of federations and member agencies to participate in the campaign; and
- (2) Reconsider the applications of rejected federations and member agencies who submit new information.

(b) Federations and member agencies are encouraged to attend the meeting during which the SARCOCSECC is scheduled to announce its acceptance or rejection of federations and agencies, but they are not required to do so. After the meeting, notices shall be mailed to federations [74:7005(C)(3)].

695:10-13-3. Appeal from rejection by SARCOCSECC

Rejected federations and member agencies may appeal to the SARCOCSECC for reconsideration on the basis of new proof of their eligibility to participate in the campaign. Appeals must be submitted postmarked or received no later than 45 20 days after the SARC'sOCSECC's regularly scheduled May meeting mailing date of the decision. Such appeal shall be made by submission of new information before the meeting during which the SARCOCSECC is scheduled to reconsider applications. A special meeting shall be convened in which the SARCOCSECC shall review the new information and hear staff recommendations and hear public comment, if any. The appealing agency or federation is not required to attend the meeting but may do so. Oral presentations by the appealing agency or federation, or both, may be limited to **10** minutes. The SARCOCSECC shall notify the appealing federation and agency of its final decision in writing.

695:10-13-5. Complaints

(a) A complaint about any matter relating to the administration of the Act or the rules in this Chapter may be made to the SARCOCSECC. A complaint must be in writing, and it must include the following information.

- (1) The name and address and organizational affiliation, if any, of the complainant, and the name and title of any representative filing the complaint; and
- (2) A clear and concise statement of the nature of the complaint, including such facts, names, citations of law and administrative rules that may be relevant to the matter, and the relief, if any, requested.

(b) If a complaint names another party, such other party shall be given written notice and an opportunity to respond in writing to the complaint. Any response must be ~~filed within~~

postmarked or received no later than 15 days after the mailing date notice was mailed.

(c) The SARCOCSECC shall consider a complaint and issue a decision within **60** days after receipt, unless additional time is necessary, in which event the complainant shall be so advised and given the reasons therefore. If the complaint is repetitive, concerns a matter that has previously been resolved, or concerns a matter beyond the SARC'sOCSECC's scope of authority, the complaint may be rejected and the complainant so advised. Unless the SARCOCSECC determines a hearing is necessary, its decision shall be based solely upon the complaint, any responses to the complaint, accompanying information, staff recommendations, and records in the SARC'sOCSECC's control.

695:10-13-6. Notice of hearing.

The SARCOCSECC shall issue and serve upon all affected parties a notice of hearing scheduled by the SARCOCSECC. The notice shall set out the time and place for the hearing. Except by agreement of the parties, or for good cause shown, the hearing shall be scheduled at a time not less than **20** days after service of the notice. A copy of the complaint or appeal shall be mailed with the notice. If a response is required, the deadline for such response shall be included.

695:10-13-7. Hearings.

The SARCOCSECC shall follow the provisions of Article II of the Administrative Procedures Act, Sections 308a through 323 of Title 75 of the **Oklahoma Statutes**, in individual proceedings. Hearings shall be conducted by the SARCOCSECC, or it may appoint a hearing officer.

[OAR Docket #08-785; filed 5-1-08]

TITLE 730. DEPARTMENT OF TRANSPORTATION CHAPTER 25. HIGHWAY CONTRACTORS

[OAR Docket #08-800]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Contractor Prequalification and Proposals

730:25-3-1 [AMENDED]

730:25-3-4 [AMENDED]

730:25-3-4.1 [NEW]

730:25-3-5 [AMENDED]

AUTHORITY:

Transportation Commission; 69 O.S., §§ 101, 301, 303, 622, 4006, 61 O.S. §§ 1, 2, 118; 75 O.S. §§ 302, 309, et seq.; 2007 O.S.L. § 112

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None

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n/a

ANALYSIS:

The Department has been directed to promulgate rules for the administration of the process and the development of criteria for establishing the level of priority of projects for the expenditure of funds apportioned to the "County Improvements for Roads and Bridges Fund." This new program was established in HB1178 during the second special session of the 50th Legislature with an effective date of July 1, 2007.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2008:

SUBCHAPTER 3. CONTRACTOR PREQUALIFICATION AND PROPOSALS

730:25-3-1. Prequalification

(a) The purpose of contractor qualification is to ~~insure that~~ make an initial determination if a contractor has adequate financial resources, integrity, experience, and proven performance to maintain progress on Department projects and to make timely pay payments to sub-contractors and material suppliers. Prequalification is the method of qualification which ~~are has been~~ adopted by the Commission and the Department. Prequalification provides a method by which the Department may review a contractor's financial resources (and technical expertise)—before a contractor is allowed to bid on projects which have not been exempted from the prequalification requirement. Prequalification is not a license but is rather a procedure used by the Department to evaluate ~~financial responsibility and liquidity of prospective bidders.~~ bidders' ability to perform. Prospective bidders must ensure that the prequalification application is accurate and complete in all aspects and fully discloses all information requested by the application form. Prospective bidders will be allowed to submit one (1) application in a 12 month period. The Department may request additional information for clarification of a prospective bidder's application. The owners and officers who comprise a company will be the determinative factor as to the existence of prior prequalification applications not an alteration or change of an organization name.

(b) Except as provided in this subchapter, only prequalified contractors will be permitted to bid on construction and maintenance contracts to be awarded by the Commission on the recommendation of the Department. ~~All non-prequalified and prequalified Contractors will be allowed to obtain bidding documents and will be permitted to bid on Right of Way clearance projects and County Bridge (CB) projects.~~ When projects do not encompass highway construction or maintenance, ~~The~~ the Department may waive prequalification when it is in the best interest of the state and to increase competition on individual projects of a special nature including, but not limited to:

- (1) Right-of-Way Clearance
- (2) County Road (CR) projects
- (3) County Bridge (CB) projects (excluding span structures)
- (4) Landscaping
- (5) Wetland creation
- (6) Repair or maintenance of railroad facilities
- (7) Environmental cleanup or mitigation
- (8) Transportation enhancement projects landscaping, wetlands creation, repair or maintenance of railroad facilities, environmental cleanup or mitigation and transportation enhancement projects when such projects do not encompass highway construction or maintenance.

(c) A prospective bidder may obtain a "sample" copy of the bidding documents for use in preparing bid computations after official advertisement of a project but must submit an application for prequalification not less than ~~fourteen (14)~~ twenty-one (21) days prior to the announced bid opening date. ~~When an application is received, an official copy of the bidding documents will be issued to the prospective bidder which may be submitted for official bid opening.~~ The submitted application for prequalification will be considered by a prequalification committee composed of the Office Engineer, along with representatives from the Comptroller Division, a representative of the Construction Division, and the General Counsel's Office. ~~Prospective bidders~~ Contractors prequalified by the committee may be approved for the classes of work as specified by the applicant on the prequalification application, work categories dependent on personnel, equipment, capital and experience in highway construction.

(d) A prospective bidder must submit as part of its Prequalification Application, an Audited Financial Statement which is certified by a Certified Public Accountant. The Audited Financial Statement shall not be dated more than 90 days prior to the date of receipt by the Department of the Prequalification Application. If the prospective bidder's latest Audited Financial Statement was issued more than 90 days prior to the date of application for prequalification, the prospective bidder must submit its most recent Audited Financial Statement and its most recent unaudited quarterly financial statement. Based upon these statements and other materials submitted or subsequently requested by the Department, the Department may, ~~in~~ at its discretion; grant the prospective bidder a conditional prequalification. The Department shall impose such additional requirements on a conditionally prequalified contractor as the Department deems necessary and in the best interests of the

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public, and which are consistent with the laws of this state and this subchapter. If a conditional prequalification is granted, it is valid only for the remainder of the prospective bidder's fiscal year in which the conditional prequalification is granted, plus an additional period not to exceed 120 days.

(e) No prospective bidder will be qualified unless the prospective bidder's ~~Audited Financial Statement, Plan and Experience questionnaire, Prequalification Application~~ and the supporting investigation show that the prospective bidder possesses working capital, equipment, experience and personnel sufficient in the judgment of the Department, to indicate that the prospective bidder can satisfactorily perform its contract and meet all obligations incurred therein. The Audited Financial Statement and unaudited quarterly statement must show all liabilities (current, deferred and contingent). The prospective bidder will not be qualified for more than two and one-half (2 2) times its current working capital as computed by the Department, based on an evaluation of the contractor's Audited Financial Statement.

(f) If the prospective bidder submits cash value of life insurance as an asset, the applicant will support the submission with a letter from the insurance company, showing that the prospective bidder absolutely controls the cash value and that there are no legal encumbrances, preexisting loans or any other impediment which would prevent or interfere with the access of the prospective bidder to that cash value.

(g) A partnership will submit an Audited Financial Statement and as appropriate an unaudited quarterly statement of each member individually, and an Audited Financial Statement and quarterly statement of the partnership which will include all the assets and liabilities of each member.

(h) Prospective bidders will furnish an itemized list of all Secondary Cash Resource items such as marketable securities, stocks and bonds.

(i) Prospective bidders will sign, under oath, all forms submitted to the Department, ~~in the manner in which the applicant intends to sign bid proposals.~~

(j) The Department will make such investigation of the information submitted as it deems necessary.

(k) The Department will qualify, or refuse to qualify, any prospective bidder for paving, grade and drain, bridge or other Department construction work in accordance with such prospective bidder's experience and financial condition.

(l) Prospective bidders who are initially prequalified or conditionally prequalified will not be permitted to bid on individual projects that, in aggregate, exceed ~~prequalification amounts—~~ maximum bidding limits. Proposals may be "taken out" without limitation as to aggregate total. Should an initially prequalified or conditionally prequalified contractor be low bidder on contracts totaling, in aggregate, more than the amount for which the contractor is prequalified or conditionally prequalified, the Commission reserves the right to:

(1) ~~reject—Reject~~ any or all of the contractor's bids and readvertise for new bids as required in the best interests of the state; or,

(2) Award ~~a—contractor~~ contract(s) on which the initially prequalified or conditionally prequalified contractor

would otherwise be the low bidder to the second lowest bidder. ~~bidder; or~~

(3) Waive the ~~prequalification~~ maximum bidding limit and award all or any of such contracts to the initially prequalified or conditionally prequalified contractor if the ~~Department~~ Department, in the exercise of sound discretion, shall ~~determine~~ determine that the contractor has the apparent ability to successfully perform the contract(s) and it is the in the best interest of the Department for the award to be made.

(m) Any prospective bidder not satisfied with a rejection of its application for prequalification may appeal to the Director or the Director's designated representative by giving notice of the applicant's objection by certified mail addressed to the Director. The applicant's objection must be mailed within fourteen (14) calendar days after the date such prospective bidder received written notice of the Department's action. The Director shall review the prequalification file and make an independent determination concerning the applicant's prequalifications.

~~(n) Upon successful completion as determined by the Department and final acceptance of an initially prequalified or conditionally prequalified contractor's first project for the Department requiring prequalification a minimum at one (1) year from the date of initial prequalification and completion of not less than one million dollars (\$1,000,000.00) of work for the Department, the contractor will be considered by the prequalification committee and, if found fully qualified, the contractor shall be considered fully prequalified and may bid on and be awarded projects to the extent of the contractor's bonding capacity. As an additional condition to full prequalification, a conditionally prequalified contractor must furnish an audited financial statement in compliance with subparagraph (c).~~

(n) Upon being initially or conditionally prequalified a minimum of one (1) year from the date of the initial prequalification, and satisfactory final completion of either a minimum of three (3) projects or not less than five million dollars (\$5,000,000) of Department projects requiring prequalification, that contractor will be considered by the prequalification committee. If found fully qualified, the Contractor's Certificate of Qualification will be reissued to allow the contractor to bid on and be awarded projects to the extent of their bonding capacity. As an additional condition to full prequalification, a conditionally prequalified contractor must furnish an audited financial statement in compliance with subparagraph (c).

(o) Prequalification shall expire at the completion of two years following issue of the contractor's Certificate of Qualification; ~~however, if a contractor has been awarded no project by the Department within that period which would require that a contractor be prequalified.—~~ If the Department awards a project or projects project(s) requiring prequalification to a contractor within the two year period ~~following initial issue of the contractor's Certificate of Qualification~~, the contractor's prequalification shall remain in full force and effect for a period of two years from the date of final ~~acceptance—~~ completion of the contractor's last completed project requiring prequalification, not to exceed five (5) years total from the date of the original prequalification application. Thereafter,

~~prequalification shall remain in full force and effect so long as a contractor has a project or projects requiring prequalification in progress and for a period of two years from the date of final acceptance of the contractor's last completed project requiring prequalification.—If a contractor is not awarded a project requiring prequalification by the Department within a two year period of the final acceptance completion date of the contractor's last completed project requiring prequalification, and the contractor has no projects requiring prequalification in progress, the contractor's Certificate of Qualification shall expire. The award of project(s) shall not extend contractor's prequalification beyond five (5) years after the date of the prequalification application. The contractor shall make application for prequalification, using the standard prequalification application, no later than ninety (90) days prior to prequalification expiration. The contractor may make written application for extension of prequalification but such application will be considered only if it is submitted and received prior to the expiration of prequalification. The Department may grant an extension of the expiration of the contractor's Certificate of Qualification for a period of not to exceed ninety (90) days to allow a contractor to obtain and submit an Audited Financial Statement and other documentation required for submission of a prequalification application. ~~The Director may, for good cause shown, extend the contractor's prequalification for a period of not to exceed one additional year from the date of expiration of the contractor's Certificate of qualification or the second anniversary date of the contractor's last completed project requiring prequalification. Contractors who are currently prequalified may submit an audited financial statement that is in excess of ninety (90) days old if a current audited financial statement cannot be reasonably obtained. If a current audited financial statement is not submitted with the application and the application is otherwise approved, the contractor will be issued a conditional prequalification at the previously established maximum bidding limit. The contractor must submit a current audited financial statement as quickly as the statement can be obtained. When such statement is submitted, the "conditional" will be removed from the contractor's prequalification. Failure to submit a current audited financial statement within 180 days will result in expiration of the conditional prequalification.~~ Projects not requiring prequalification, for which prequalification has been waived, or work as a subcontractor shall not be considered work as a prequalified contractor and shall not be considered as qualifying for purposes of maintaining active prequalification.~~

730:25-3-4. Proposals: right to suspend or debar from bidding Obtaining Bid Documents (Proposals)

- (a) All ~~proposal blanks~~ bid proposals will be obtained from the Department's Office Engineer in Oklahoma City, Oklahoma.
- (b) ~~Proposal blanks~~ Bid proposal blanks will be stamped by the Department with the name of the contractor and the date of issue and NO other proposal blanks will be accepted. The fee for each proposal shall be ~~twenty five dollars (\$25.00)~~ fifty dollars (\$50.00), which fee is non-refundable.

- (c) No proposal for construction or maintenance projects advertised for bids by the Department will be issued to any contractor within 24 hours prior to the bid opening for that contract.
- (d) ~~The Commission and Department reserve~~ reserves the right to refuse issue of bid documents to a contractor who has a current Department project(s) being assessed liquidated damages due to a failure to complete contract work within the prescribed contract time, suspend or debar, under the provisions of this subchapter, any contractor, subcontractor, material supplier, or officer, agent, employee, of such entity from bidding or participating in contracts awarded by the Commission upon proof of a bidding crime, unsatisfactory performance of project work, or other act or omission as set forth in this subchapter.
- (e) ~~The Commission and Department reserve the right to refuse to award or approve subcontract or as material supplier. No proposal will be issued to a contractor who has defaulted on a previous Department contract within the preceding five (5) years.~~
- (f) No proposal will be issued to a contractor who fails to cooperate fully with Department, State or Federal auditors in the review of contractor's records.

730:25-3-4.1. Right to suspend or debar from bidding

The Commission and Department reserve the right to:

- (1) Suspend or debar, under the provisions of this subchapter, any contractor, subcontractor, material supplier, or officer, agent, employee of such entity, from bidding or participating in contracts awarded by the Commission upon conviction of a crime involving fraud, moral turpitude or offenses against the public contracting laws of the United States or any State of the United States, unsatisfactory performance of project work, or other act or omission as set forth in this subchapter. For purposes of this subsection, a plea of guilty or nolo contendere shall be considered a conviction.
- (2) Suspend or debar under provisions of this subchapter any contractor, subcontractor, or material supplier for failure to register and participate in the "Status Verification System" used to verify or ascertain the citizenship or immigration status as well as the work eligibility status of new employees.
- (3) Suspend or debar contractors for other good cause shown or as may be subsequently listed in the code.
- (4) Refuse to award or approve subcontractors or material suppliers.

730:25-3-5. Debarments and suspensions

- (a) **Debarment.** A contractor, any of its directors, officers, agents, or employees, any affiliate of a contractor, any subcontractor, or any material supplier ~~who commits a "bidding crime," defined as "any act prohibited by any State or Federal law committed in any jurisdiction, such act involving fraud, conspiracy, collusion, perjury or material misrepresentation with respect to bidding on any contract, public or private," any such act in the performance of a contract awarded by~~

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~~the Commission, or shall be subject to debarment proceeding for the reasons set forth in this section. ___ shall be subject to debarment proceedings. For purposes of this section, a plea of guilty or nolo contendere shall be considered a conviction.~~

(1) Debarment may occur for any of the following reasons:

(A) Conviction of a bidding crime which shall be defined as any act prohibited by any State or Federal law committed resulting from a bench or jury trial, by any court in any jurisdiction, when such act involves fraud, conspiracy, collusion, perjury or material misrepresentation with respect to any contract, public or private; any plea of guilty or nolo contendere, any public admission of a bidding crime by any contractor, or any presentation of an unindicted co-conspirator admitting guilt of a bidding crime; or

(B) Conviction of a crime involving fraud, moral turpitude, or offenses against the public contracting laws of the United States or any State of the United States; any offense indicating a lack of moral and ethical integrity which may reasonably be perceived as relating to or reflecting upon the business practices of the company, its officers, or directors; or

(C) Conviction of any offense indicating a lack of moral and ethical integrity by any court in any jurisdiction, which may reasonably be perceived as relating to or reflection upon the business practices of the company, its officers, or directors; or Any other cause of a serious and compelling nature affecting the responsibility of the contractor; or

(D) Any other cause of a serious and compelling nature affecting the responsibility of the contractor; or Disqualification or debarment by another State or an agency of this State, or an agency of the Federal Government.

(E) Disqualification or debarment by another state or an agency of this State, or an agency of the Federal Government; or Failure or refusal to comply with the terms of the contract or State law.

(F) Failure or refusal to comply with the terms of the contract or State law; or

(G) Failure to fulfill obligations imposed by or as a result of the contract with the state or by state law.

(2) No conviction, whether from bench or jury trial, nor any plea of guilty or nolo contendere which is more than five (5) years old at the time of discovery by the Department shall be used as the sole basis for a debarment.

(3) Upon preliminary determination by the Department that a contractor is subject to debarment under this subchapter, the Director shall cause the contractor or other entity or individual to be notified by certified mail that its prequalification has been suspended or its opportunity to participate in Department contracts is suspended pending determination of whether a debarment should be imposed, and that the contractor has the right to request a hearing.

(4) If the contractor desires a hearing, a Petition for Administrative Appeal shall be filed by certified mail with the Hearing Liaison Officer postmarked within ten

(10) days after receipt of the notice of suspension pending debarment (weekends and holidays excluded). Filing may also be made in person by the contractor.

(5) The hearing shall be held no more than ~~ninety (90)~~ 180 calendar days from the date the request for hearing is received by the Hearing Liaison Officer unless the hearing date is continued by the Presiding Officer at the request of the contractor or by agreement of the parties.

(6) Debarment by the Department for the reasons stated in (a)(1)(A-D), ~~(a)(1)(B), or (a)(1)(C) or (a)(1)(F-G)~~ of this section shall be for a period of ~~not less than thirty-six (36) months. three (3) years.~~ Debarment for the reasons stated in (a)(1)(E) and (a)(1)(F) of this section shall be for a period of not less than twelve (12) months. However, if circumstances warrant, the Department may impose a longer period.

(7) Debarment for the reason stated in (a)(1)~~(D)~~(E) of this section shall be for the period of time assessed by the originating agency.

(8) The Director may lift or suspend a debarment at any time if it is in the public interest. The following mitigating circumstances may influence this decision:

(A) Degree of culpability.

(B) Restitution of damages to the State.

(C) Cooperation in the investigation of other bidding crimes.

(D) Disassociation with those involved in bidding crimes or other improper action.

(E) Whether lengthy disqualification and debarment is required for protection of the State.

(9) Debarment shall prohibit the debarred ~~entity-contractor, its owner(s) and all immediate family members who acquire the assets of the company, as well as,~~ all directors, officers, agents, employees and affiliates from acting as a subcontractor, materials supplier, equipment supplier or lessor, labor or services contractor, fee appraiser, contract broker, inspector, real estate agent or broker, consultant, architect, engineer, or attorney on any Department project, as well as denying the privilege of bidding as a prime contractor. Family members who shall have been independently prequalified, prior to the debarment, or those who may acquire the assets and equipment of the debarred contractor, at market value, by public auction or other demonstratable arms length transaction, subsequent to the debarment, shall not be considered subject to the debarment action.

(10) Illegal or improper conduct of any individual may be fully imputed to the business firm with which the individual is or was associated, or by whom the individual was employed, where that conduct was engaged in within the course of the individual's employment, or with knowledge or approval of the business firm, or thereafter ratified by it.

(11) Debarment in no way affects the obligations of a contractor to the Department to complete services already under contract, however the Commission reserves the right to terminate the contracts of a debarred entity if termination is in the best interest of the State.

(12) The Director may, in the public's best interest, suspend or otherwise delay inquiry, review, or any debarment in the event such action may impede, hinder or delay Federal or State investigations.

(13) Any contractor qualified to bid upon contracts to be awarded by the Commission shall have a duty to notify the Department if it is convicted of any bidding crime within thirty (30) days of such conviction. Failure to furnish this notification is a serious and compelling offense sufficient to result in debarment in and of itself.

(b) **Performance suspension.** A contractor, any of its directors, officers, agents, or employees, any affiliate of a contractor, any subcontractor, or material supplier may be suspended from doing work for the Department or participation in a project funded by the Department.

(1) Performance suspension may occur for any of the following reasons:

(A) If the contractor, person, or entity, including subcontractors, proposed for suspension fails or refuses to prosecute all of the work or any separable part thereof, with such diligence as will ~~insure~~ ensure its completion within the time specified in the contract, including any extension, or fails to complete the work under any one of the contractor's contracts within the time specified; or

(B) A completed investigation or civil judgment evidences a serious lack of business integrity; the contractor exhibits willful disregard for lawful requirements; there is repeated noncompliance with rules, regulations, contract specifications or the terms of other agreements including failure to honor valid debts incurred in the performance of the project; or

(C) Indictment for crimes involving fraud, moral turpitude, or offenses against the public contracting law of the United States or any State of the United States; or

(D) Indictment for a bidding crime which shall be defined as any act prohibited by any State or Federal law, committed in any jurisdiction, when said act involves fraud, conspiracy, collusion, perjury or any material misrepresentation with regards to any contract, public or private; or

~~(E)~~ An indictment for crimes or a civil judgment which indicates a reckless disregard for safety of the traveling public or structural integrity of a highway, bridge or fixtures, so that continued involvement of the suspected offender creates a risk to public safety or a potential for structural failures; or

(F) Disqualification or suspension by another State or an agency of this State or an agency of the Federal government; or

~~(G)~~ A demonstrated lack of proficiency in performing work on Department projects evidenced by performance evaluations of "unsatisfactory" on ~~two~~ ~~(2)~~ three (3) ratings in one (1) year, or

~~(H)~~ Three (3) reports of safety violations in which there were significant risk to the health or life of a person or significant damage to property or one (1) report

of a safety violation in which gross neglect or reckless disregard for the health or life of a person occurred.

(2) The Director or his designee may impose performance suspension upon a contractor for a period of not less than twelve (12) months or more than sixty (60) months as may be specified in the final agency order upon:

(A) Failure by the contractor to timely file a Petition for Administrative Appeal after proper notification of proposed performance suspension by the Hearing Liaison Officer.

(B) Conclusion of an administrative review hearing in accordance with 730:25-3-6(e)(3).

(3) Upon preliminary determination by the Department that a contractor is subject to performance suspension under this subchapter, the Hearing Liaison Officer shall notify the contractor by certified mail that his prequalification has been temporarily suspended pending determination of whether a performance suspension should be imposed, and that the contractor has the right to request a hearing as set forth in this section.

(4) If the contractor desires a hearing, a Petition for Administrative Appeal shall be filed by certified mail with the Hearing Liaison Officer postmarked within ten (10) days after receipt of notice of temporary suspension (weekends and holidays excluded). Filing may also be made in person by the contractor.

(5) The hearing shall be held no more than ~~ninety (90)~~ (180) calendar days from the date the request for hearing is received by the Hearing Liaison Officer unless continued by the Presiding Officer at the request of the contractor or by mutual agreement of the parties. Except as otherwise ordered by the Presiding Officer or the Director, the proposed suspension shall be held in abeyance during the time the hearing is pending.

(6) Performance suspension shall prohibit the contractor, all immediate family members who acquire that company assets, as well as, all directors, officers, employees of the contractor and affiliates from acting as a subcontractor, materials supplier, equipment supplier or lessor, labor or services contractor, fee appraiser, contract broker, inspector, real estate agent or broker, consultant, architect, engineer, or attorney of any Department project as well as denying the privilege of bidding as a prime contractor. Family members who shall have been independently prequalified, prior to the suspension, or those who may acquire the assets and equipment of the suspended contractor, at market value, by public auction or other demonstratable arms length transaction, subsequent to the suspension, shall not be considered subject to the suspension action.

(7) Illegal or improper conduct of any individual may be fully imputed to the business firm with which the individual is or was associated, or by whom the individual was employed, where that conduct was engaged in within the course of the individual's employment, or with knowledge or approval of the business firm, or was thereafter ratified by it.

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(8) Performance suspension in no way affects the obligations of a contractor to the Department to complete services already under contract, however the Commission reserves the right to terminate the contracts of a suspended entity if termination is in the best interests of the State.

(c) **Burden of proof.** A proper filing of a Petition for Administrative Appeal by a contractor who has been notified of debarment or performance suspension shall give effect to the notice of hearing and appeals procedures contained in 730:25-3-6. At such hearing on the merits it shall be the burden of the Department to establish by clear and convincing evidence that the contractor did or failed to do those acts or omissions which resulted in the notification of the contractor of debarment or performance suspension.

[OAR Docket #08-800; filed 5-6-08]

TITLE 775. BOARD OF VETERINARY MEDICAL EXAMINERS CHAPTER 10. LICENSURE OF VETERINARIANS, VETERINARY TECHNICIANS AND ANIMAL EUTHANASIA TECHNICIANS

[OAR Docket #08-846]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Licensure of Veterinarians [AMENDED]

775:10-3-5 [AMENDED]

775:10-3-7 [AMENDED]

Subchapter 7. Certification of Veterinary Technicians [AMENDED]

775:10-7-4 [AMENDED]

775:10-7-9.1 [AMENDED]

AUTHORITY:

59 O.S. Supp.2007, SEC. 698.1 et seq.; Board of Veterinary Medical Examiners

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July 1, 2008

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

The proposed revisions to chapter 10, includes modification to continuing education requirements for veterinarians and veterinary technicians. Also, expansion of duties for registered veterinary technicians if directed by the veterinarian.

CONTACT PERSON:

Cathy Kirkpatrick, Executive Director, 201 N.E 38th Terr. Suite 1, Oklahoma City, OK 73105, 405-524-9006

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2008:

SUBCHAPTER 3. LICENSURE OF VETERINARIANS

775:10-3-5. Continuing education for renewal of license

(a) Before an active license is reissued, the licensee shall, on a form provided by the Board, certify that he or she has obtained twenty (20) hours of continuing education in veterinary medicine or surgery. Acceptable hours of credit will be determined as follows:

(1) One hour of credit for each hour of attendance at veterinary college and extension seminars.

(2) One hour of credit for each hour of attendance at national, regional, state or local scientific meetings.

(3) One hour of credit for each hour spent developing or presenting original, peer-reviewed presentations or publication. A maximum of ~~five~~ four hours credit may be gained by this means.

(4) One hour of credit for each hour of study with autotutorial tapes of scientific material related to veterinary practice. A maximum of ~~five~~ four hours credit may be gained by this means.

(5) One hour of credit for each hour of study of scientific or non-scientific articles in veterinary journals or periodicals pertaining to veterinary medicine or state and federal controlled dangerous substance laws. A maximum of ~~five~~ four hours credit may be gained by this means.

(6) ~~A minimum of two and no more than four~~ Two of the twenty hours of continuing education per year shall encompass state or federal controlled dangerous substance laws, or review of the Oklahoma Veterinary Practice Act and applicable rules.

(7) One hour of credit for each approved hour of completed interactive online courses approved by the Board. For all online courses, a copy of the certificate indicating the number of course hours must be submitted to qualify.

(b) Graduates who receive a license to practice veterinary medicine in the State of Oklahoma within one calendar year of graduation are exempt from reporting continuing education credits until the submission of the second renewal application after initial licensure.

(c) The Board may waive these requirements upon written request and a finding of good cause.

(d) Each licensee shall maintain verifiable documentary proof of attendance in a readily retrievable file of reported continuing education credit for random audit purposes. Documentary proof shall be maintained for a period of five years from the date of attendance.

(e) Only those courses, meetings or seminars previously approved and/or offered by the American Veterinary Medical Association (AVMA), the American Association of Veterinary State Boards (AAVSB), or any other state veterinary board or recognized state veterinary association, shall not require previous approval by the Board to qualify as continuing education hours to be counted towards the fulfillment of the twenty (20) required hours, so long as the material offered complies with the requirements of this section.

(f) Regional veterinary associations, corporations, individuals or any other organizations must submit course material to the Board for evaluation to qualify for continuing education hours being offered at regional or local meetings, and shall adhere to the following procedure:

- (1) Submit a published notice of the meeting,
- (2) Submit a planned program as evidenced by a published agenda,
- (3) Submit a formal presentation on printed material (i.e. papers, brochures, videos with printed material describing the video contents, etc), and
- (4) Submit a verification of attendance form after the conclusion of the meeting, which contains the attendees printed name and signature taken previously to the initiation of the material presented, and the attendees printed name and signature after the conclusion of the material presented.

(g) Non-scientific topics may be acceptable as continuing education credits provided that:

- (1) Not more than twenty-five percent (25%) of the total hours submitted to meet the required credits for renewal of license are devoted to non-scientific material, and
- (2) Any meetings shall be conducted by or sponsored by a veterinary association, organization or professional recognized as such by the Oklahoma Board of Veterinary Medical Examiners.

(h) The Vice-President of the Board may evaluate and approve any Continuing Education (CE) credit requests received by the Board office, or the Vice-President of the Board may submit the request to the full Board at the next regularly scheduled meeting of the Board for consideration.

(i) Regional veterinary associations, corporations, individuals or any other organizations that submitted Continuing Education credit program requests which were deemed ineligible, may appeal the decision upon the presentation of new and additional material to the full Board at the next regularly scheduled meeting of the Board for consideration.

775:10-3-7. Continuing education for reinstatement of license

(a) Before any license is reinstated, the licensee shall on a form provided by the Board, certify that he/she has obtained twenty (20) hours of continuing education in veterinary

medicine or surgery for each year the license has been inactive. Acceptable hours of credit will be determined as follows:

- (1) One hour of credit for each hour of attendance at veterinary college and extension seminars, courses and meetings.
 - (2) One hour of credit for each hour of attendance at national, regional, state or local scientific meetings.
 - (3) One hour of credit for each hour spent developing or presenting original, peer-received presentations or publications. A maximum of ~~five~~ four hours credit may be gained by this means.
 - (4) One hour of credit for each hour of study with audio-tutorial tapes of scientific material related to veterinary practice. A maximum of ~~five~~ four hours credit may be gained by this means.
 - (5) One hour of credit for each hour of study of scientific or non-scientific articles in veterinary journals or periodicals pertaining to veterinary medicine or state and federal controlled dangerous substance laws. A maximum of ~~five~~ four hours credit may be gained by this means.
 - (6) ~~A minimum of two and no more than four~~ Two hours of continuing education per year shall encompass state or federal controlled dangerous substance laws and/or review of the Oklahoma Veterinary Practice Act and applicable rules.
 - (7) One hour of credit for each approved hour of completed interactive online courses approved by the Board. For all online courses, a copy of the certificate indicating the number of course hours must be submitted to qualify.
- (b) The Board may waive all or part of the required continuing education hours and accept in lieu practice, training or education considered comparable by the Board.

SUBCHAPTER 7. CERTIFICATION OF VETERINARY TECHNICIANS

775:10-7-4. Current certification

(a) In order to hold current certification in the State of Oklahoma, a registered veterinary technician must apply for renewal each year on a form provided by the Board. However, the Board may refuse to issue any certification pending its investigation into questions of negligence, noncompliance with the Oklahoma Veterinary Practice Act, or noncompliance with the Rules and Regulations of the Board.

- (b) Before certification is renewed, the applicant shall:
- (1) Certify that he or she has obtained 10 (ten) hours of continuing education,
 - (2) Pay the annual renewal fee as determined by the Board and
 - (3) Complete an application for certificate renewal and provide current information with regard to, mailing address, telephone number and other contact information.

(c) Acceptable hours of continuing education credit will be determined as follows:

- (1) One hour of credit for each hour of attendance at veterinary college and extension seminars, veterinary technology schools, courses and meetings.

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- (2) One hour of credit for each hour of attendance at national, regional, state or local scientific meetings.
- (3) One hour of credit for each hour spent developing or presenting original, peer-reviewed presentations or publications. A maximum of two ~~and one-half~~ hours credit may be gained by this means.
- (4) One hour of credit for each hour of study with autotutorial tapes of scientific material related to veterinary practice. A maximum of two ~~and one-half~~ hours credit may be gained by this means.
- (5) One hour of credit for each hour of study of scientific or non-scientific articles in veterinary journals or periodicals pertaining to veterinary medicine or state and federal controlled dangerous substance laws. A maximum of two ~~and one-half~~ hours credit may be gained by this means.
- ~~(6) A minimum of two and no more than four~~ Two hours of continuing education per year shall encompass state or federal controlled dangerous substance laws and/or review of the Oklahoma Veterinary Practice Act and applicable rules.
- (7) One hour of credit for each approved hour of completed interactive online courses approved by the Board. For all online courses, a copy of the certificate indicating the number of course hours must be submitted to qualify.
- (d) Graduates who receive a certificate to practice veterinary technology in the State of Oklahoma within one calendar year of graduation are exempt from reporting continuing education credits until the submission of the second renewal application after initial certification.
- (e) The Board may waive these requirements upon written request and a finding of good cause.
- (f) Each certificate holder shall maintain verifiable documentary proof of attendance in a readily retrievable file of reported continuing education credit for random audit purposes. Documentary proof shall be maintained for a period of five years from the date of attendance.
- (g) Only those courses, meetings or seminars previously approved and/or offered by the American Veterinary Medical Association (AVMA), the American Association of Veterinary State Boards (AAVSB), or any other state veterinary board or recognized state veterinary association, shall not require previous approval by the Board to qualify as continuing education hours to be counted towards the fulfillment of the ten (10) required hours, so long as the material offered complies with the requirements of this section.
- (h) Regional veterinary associations, corporations, individuals or any other organizations must submit course material to the Board for evaluation to qualify for continuing education hours being offered at regional or local meetings, and shall adhere to the following procedure:
- (1) Submit a published notice of the meeting,
 - (2) Submit a planned program as evidenced by a published agenda,
 - (3) Submit a formal presentation on printed material (i.e. papers, brochures, videos with printed material describing the video contents, etc), and

- (4) Submit a verification of attendance form after the conclusion of the meeting, which contains the attendees printed name and signature taken previously to the initiation of the material presented, and the attendees printed name and signature after the conclusion of the material presented.
- (i) The Vice-President of the Board may evaluate and approve any Continuing Education (CE) credit requests received by the Board office, or the Vice-President of the Board may submit the request to the full Board at the next regularly scheduled meeting of the Board for consideration.

775:10-7-9.1. Duties Performed Without Direct Supervision

- (a) The duties of a Registered Veterinary Technician shall be performed pursuant to the direction and under the general supervision of a licensed veterinarian. Where appropriate, depending upon the services provided, such general supervision shall not be construed to require the physical presence of the supervising veterinarian at the time and place where such services are performed.
- (b) A Registered Veterinary Technician may perform the following procedures listed below as directed by or on the order of a licensed veterinarian without the continuing physical presence of the licensed veterinarian, but the RVT must comply with the general record keeping requirements as set forth in the Oklahoma Veterinary Practice Act:
- (1) Euthanasia of animals;
 - (2) Thoracocentesis;
 - (3) Abdominocentesis;
 - (4) Ocular Tonometry; ~~and~~
 - (5) Animal Massage Therapy;
 - (6) Vaccinations; and
 - (7) Dental Scaling and Polishing

[OAR Docket #08-846; filed 5-8-08]

TITLE 775. BOARD OF VETERINARY MEDICAL EXAMINERS CHAPTER 25. RECORDKEEPING AND SUPERVISION REQUIREMENTS

[OAR Docket #08-847]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

775:25-1-4. Supervision Requirements [AMENDED]

AUTHORITY:

59 O.S. Supp.2007, SEC. 698.1 et seq.; Board of Veterinary Medical Examiners

DATES:

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

The proposed revisions to chapter 25 is the deletion of vaccinations given by an assistant if not directly supervised by the attending Veterinarian.

CONTACT PERSON:

Cathy Kirkpatrick, Executive Director, 201 N.E 38th Terr. Suite 1, Oklahoma City, OK 73105, 405-524-9006

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2008:

775:25-1-4. Supervision Requirements

(a) Each licensed veterinarian shall provide direct supervision of any registered veterinary technician, employed assistant or Supervised Doctor of Veterinary Medicine ("SDVM") who participates in the practice of veterinary medicine, except that when a licensed veterinarian is not on the premises, said licensed veterinarian shall give written instructions for post operative or follow-up treatment of the animal patient, provided that the animal has been examined by the supervising veterinarian at such time as good veterinary medical practice requires, and the animal is not anesthetized. A licensed veterinarian may delegate only those activities within the practice of veterinary medicine to an employee or SDVM which are consistent with that person's training, experience and professional competence.

(b) Unless otherwise exempted by statute or specified for SDVM's, a licensed veterinarian shall not delegate any of the following to any registered veterinary technician or employed assistant:

- (1) any act of diagnosis or prognosis;
- (2) performance of any surgical procedure; or
- (3) the prescribing of any drug, medicine, biologic, apparatus, application, anesthesia or other therapeutic or diagnostic substance or technique.

(c) Unless otherwise exempted by statute or specified for SDVM's, a licensed veterinarian may delegate the following to any registered veterinary technician or employed assistant under direct supervision as defined in 59 O.S. Section 698.2, while the licensed veterinarian is physically on the premises:

- (1) inducing anesthesia by inhalation or intravenous injection;

- (2) applying casts or splints;
- (3) performing dental extractions;
- (4) suturing existing skin incisions; or,
- (5) administering controlled dangerous substances or veterinary prescription drugs ~~and vaccinations~~, unless a veterinary-client-patient relationship has been established and previously written orders exist when the licensed veterinarian is not on the premises.

(d) Unless otherwise exempted by statute, a licensed veterinarian may delegate any of the following to any SDVM under direct supervision;

- (1) any act of diagnosis or prognosis;
- (2) performance of any surgical procedure;
- (3) inducing anesthesia by inhalation or intravenous injection;
- (4) applying casts or splints;
- (5) performing dental extraction's.
- (6) suturing existing skin incisions;
- (7) prescribing, dispensing and administering controlled dangerous substances, veterinary prescription drugs or vaccinations. The prescribing, dispensing, and administering of controlled dangerous substances may only be performed after a federal (DEA) controlled dangerous substance certificate and a state Oklahoma Bureau of Narcotics and Dangerous Drug certificate has been procured by the certificate holder (SDVM).

(e) In situations where a licensed veterinarian is not on the premises, a SDVM, registered veterinary technician or an employed assistant who possesses the training, experience and professional competence may perform the following emergency treatments in a life saving situation:

- (1) apply tourniquets and/or pressure bandages to control hemorrhage;
- (2) administer pharmacological agents to prevent or control shock, including parenteral fluids, provided that the SDVM or employee has direct communication with a licensed veterinarian. When direct communication cannot be established with respect to this paragraph (e), a SDVM or competent employed assistant may provide emergency care in accordance with pre-established written instructions provided by their employer veterinarian(s);
- (3) initiate resuscitative oxygen procedures;
- (4) establish open airways including intubation appliances but excluding surgery;
- (5) perform external cardiac resuscitation;
- (6) apply temporary splints or bandages to prevent further injury to bones or soft tissues;
- (7) apply wound dressings and external supportive treatment for severe burns; and
- (8) provide external supportive treatment in thermal injury cases.

[OAR Docket #08-847; filed 5-8-08]

Permanent Final Adoptions

TITLE 775. BOARD OF VETERINARY MEDICAL EXAMINERS CHAPTER 26. WHOLESALER/DISTRIBUTOR OF VETERINARY PRSCRIPTION DRUGS

[OAR Docket #08-845]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

775:26-1-1. Distribution of veterinary prescription labeled drugs
[AMENDED]

AUTHORITY:

59 O.S. Supp.2007, SEC. 698.1 et seq.; Board of Veterinary Medical Examiners

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N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

Proposed revisions will require a wholesaler or distributor selling, supplying or dispensing Veterinary prescription drugs for use in the State of Oklahoma shall annually notify the Board of pertinent information of each sales representative and/or veterinarian doing business in Oklahoma that is employed by or under contract with the wholesaler or distributor.

CONTACT PERSON:

Cathy Kirkpatrick, Executive Director, 201 N.E 38th Terr. Suite 1,
Oklahoma City, OK 73105, 405-524-9006

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING RULES ARE CONSIDERED
FINALLY ADOPTED AS SET FORTH IN 75 O.S.,
SECTION 308.1(A), WITH AN EFFECTIVE DATE
OF JULY 1, 2008:**

**775:26-1-1. Distribution of veterinary prescription
labeled drugs**

(a) This chapter sets forth the rules for compliance with those sections of the Oklahoma Pharmacy Act (Pharmacy Act), 59 O.S. Suppl. 2005 §353.1, et seq., which relate to veterinary prescription labeled drugs.

(b) In accordance with § 353.13 G of the Pharmacy Act, "veterinary prescription labeled drugs", defined as "veterinary

prescription drugs" in the Oklahoma Veterinary Practice Act (Act), may be supplied by a "wholesaler or distributor", as those terms are defined in the Pharmacy Act, and shipped directly to a client located in the State of Oklahoma pursuant to a written order of an Oklahoma licensed veterinarian, but only after a valid veterinarian-client-patient relationship (VCPR), as defined in the Act, has been established and referenced in such written order.

(c) No wholesaler or distributor shall sell, dispense or supply a veterinary prescription drug to an owner or their authorized agent in the State of Oklahoma without first obtaining a written order for such drug from an Oklahoma licensed veterinarian with a valid VCPR in place. Certification by a pharmacist prior to dispensing veterinary prescription drugs by a wholesaler or distributor under these rules or under the Pharmacy Act shall not be required. No person shall acquire or use any veterinary prescription drug other than in accordance with the label affixed to the drug container and/or outside of a valid VCPR.

(d) Any wholesaler or distributor selling, supplying or dispensing veterinary prescription drugs for use in the State of Oklahoma shall comply with the dispensing and labeling requirements set forth in Chapter 25 of the Oklahoma Veterinary Administrative Rules found in Title 775 of the Oklahoma Administrative Code.

(e) Any wholesaler or distributor selling, supplying or dispensing veterinary prescription drugs for use in the State of Oklahoma shall maintain accurate written records containing information relating to the sale and/or distribution of such drugs, with sufficient detail to specifically identify the drug, the veterinarian ordering the drug, the date of distribution, the quantity of the drug, and the client receiving the drug. Such records shall be maintained by the wholesaler or distributor for a period of five years from the date of distribution of the drug and shall include, but not be limited to, the written order received from the veterinarian, a copy of the drug invoice and the bill of lading or other evidence of shipment. The records of a wholesaler or distributor selling, supplying or dispensing veterinary prescription drugs for use in the State of Oklahoma shall be available for inspection upon request by the Oklahoma State Board of Veterinary Medical Examiners or their designated representatives, during reasonable business hours.

(f) A violation of the provisions of the Pharmacy Act pertaining to veterinary prescription labeled drugs, by a person or entity, including an owner, a veterinarian and/or a wholesaler or distributor, shall constitute a violation of the Act.

(g) Every wholesaler or distributor selling, supplying or dispensing veterinary prescription drugs for use in the State of Oklahoma shall annually notify the Board of the name, address and business telephone number of each sales representative and/or veterinarian doing business in Oklahoma that is employed by or under contract with the wholesaler or distributor, by filing a written notice with the Board no later than January 1 of each year on printed forms provided by the Board for such purpose.

[OAR Docket #08-845; filed 5-8-08]

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

1:2008-19.

EXECUTIVE ORDER 2008-19

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution, hereby declare the following:

1. Severe storms, tornadoes and flooding beginning on May 10, 2008, and continuing have caused extensive damage to public and private properties within the State of Oklahoma; and said damages have caused an undue hardship on the citizens of this state.
2. It may be necessary to provide for the rendering of mutual aid assistance among the State and political subdivisions of the State with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Emergency Management Act of 2003.
3. There is hereby declared a disaster emergency caused by the tornadoes, severe storms and flooding in the State of Oklahoma that threatens the lives and property of the people of this State and the public's peace, health and safety. The counties included in this declaration are:

Atoka, Craig, Delaware, Latimer, McCurtain, McIntosh, Ottawa, Pittsburg, Pushmataha and Tulsa

This declaration may be amended to add counties as conditions warrant.

4. The State Emergency Operations Plan has been activated and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.
5. State agencies, in responding to this disaster emergency, may make necessary emergency acquisitions to fulfill the purposes of this proclamation without regard

to limitations or bidding requirements on such acquisitions.

6. This Executive Order shall terminate at the end of thirty (30) days.

Copies of this Executive Order shall be distributed to the Director of Emergency Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 11th day of May, 2008.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage
Secretary of State

[OAR Docket #08-888; filed 5-13-08]

1:2008-20.

EXECUTIVE ORDER 2008-20

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the authority vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution, in recognition of Peace Officers Memorial Day, direct that appropriate steps be taken to fly all American flags and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Thursday, May 15, 2008, to honor Federal, State and local officers killed or disabled in the line of duty.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

Executive Orders

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City this 15th day of May, 2008.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage
Secretary of State

[OAR Docket #08-936; filed 5-15-08]
