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Submissions for Review

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

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

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

[OAR Docket #12-408]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

210:10-1-20. Implementation of policies prohibiting harassment, intimidation, and bullying [NEW]

Subchapter 9. Lifelong Learning

210:10-9-6. General education development (GED) testing program [AMENDED]

Subchapter 13. Student Assessment

210:10-13-22. Implementation of a System of School Improvement and Accountability [NEW]

SUBMITTED TO GOVERNOR:

March 30, 2012

SUBMITTED TO HOUSE:

March 30, 2012

SUBMITTED TO SENATE:

March 30, 2012

[OAR Docket #12-408; filed 4-11-12]

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

[OAR Docket #12-411]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Priority Academic Student Skills

Part 3. Pre-Kindergarten and Kindergarten

210:15-3-5.8. Social studies [REVOKED]

Part 11. Social Studies

210:15-3-90. ~~Overview~~ Prekindergarten: Our America [AMENDED]

210:15-3-90.1. ~~Definitions~~ Kindergarten: Symbols of America [AMENDED]

210:15-3-91. ~~Social Studies for grade 1~~ Grade 1: American Heroes [AMENDED]

210:15-3-92. ~~Social Studies for grade 2~~ Grade 2: Our Democratic Heritage [AMENDED]

210:15-3-93. ~~Social Studies for grade 3~~ Grade 3: Oklahoma Studies [AMENDED]

210:15-3-94. ~~Social Studies for grade 4~~ Grade 4: United States Studies: Regional Geography and History- The Why of Where: Places, Patterns of Settlement, and Global Interaction [AMENDED]

210:15-3-95. ~~Social Studies for grade 5~~ Grade 5: United States Studies: Creating the United States: The Foundation, Formation, and Transformation of the American Nation, 1607-1806 [AMENDED]

210:15-3-96. ~~World studies for grade 6~~ Grade 6: World Geography: The Western Hemisphere- The Why of Where: Places, Patterns of Settlement, and Global Interaction [AMENDED]

210:15-3-97. ~~World geography for grade 7~~ Grade 7: World Geography: The Eastern Hemisphere- The Why of Where: Places, Patterns of Settlement, and Global Interaction [AMENDED]

210:15-3-98. ~~United States History 1760-1877 for grade 8~~ Grade 8- Creating the United States: The Foundation, Formation, and Transformation of the American Nation, 1754-1877 [AMENDED]

210:15-3-99. ~~Economics for high school~~ Incentives and Disincentives: Land, Labor, Capital, and Entrepreneurship [AMENDED]

210:15-3-100. ~~Oklahoma history for high school and Government-~~ The Foundation, Formation, and Transformation of the State of Oklahoma [AMENDED]

210:15-3-100.1. Psychology- Foundations and Formation of Human Development [NEW]

210:15-3-100.2. Sociology- Formations and Patterns of Group Behavior [NEW]

210:15-3-101. United States government for high school - Freedom for all: Expanding Rights and Responsibilities [AMENDED]

210:15-3-102. ~~United States History 1850 to the present for high school~~ Creating the United States: The American Nation in Transformation, 1978 to the present [AMENDED]

210:15-3-103. ~~World geography for high school~~ World History- Cultural Connections Turning Points, and Transformation of the World into the Modern [AMENDED]

210:15-3-104. ~~World History for high school~~ World Human Geography- The Why of Where: Places, Patterns of Settlement, and Global Interactions [AMENDED]

Subchapter 8. Six-Year Comprehensive Local Education Plan

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

Submissions for Review

Subchapter 23. Gifted and Talented Education Regulations
and Program Approval Standards
210:15-23-10. Failure to report [NEW]

SUBMITTED TO GOVERNOR:

March 30, 2012

SUBMITTED TO HOUSE:

March 30, 2012

SUBMITTED TO SENATE:

March 30, 2012

[OAR Docket #12-411; filed 4-11-12]

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

[OAR Docket #12-410]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 9. Professional Standards: Teacher Education
and Certification

Part 9. Teacher Certification

210:20-9-98. Administrative requirements of teacher
certification [AMENDED]

210:20-9-104. Certification for languages with no subject
are examination [NEW]

SUBMITTED TO GOVERNOR:

March 30, 2012

SUBMITTED TO HOUSE:

March 30, 2012

SUBMITTED TO SENATE:

March 30, 2012

[OAR Docket #12-410; filed 4-11-12]

**TITLE 210. STATE DEPARTMENT OF
EDUCATION
CHAPTER 25. FINANCE**

[OAR Docket #12-409]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 5. Budgeting and Business Management

Part 1. Implementation

210:25-5-5. Auditing [AMENDED]

SUBMITTED TO GOVERNOR:

March 30, 2012

SUBMITTED TO HOUSE:

March 30, 2012

SUBMITTED TO SENATE:

March 30, 2012

[OAR Docket #12-409; filed 4-11-12]

**TITLE 235. OKLAHOMA FUNERAL BOARD
CHAPTER 10. FUNERAL SERVICES
LICENSING**

[OAR Docket #12-427]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

PROPOSED RULES:

Subchapter 1. General Provisions

235:10-1-2. [AMENDED]

235:10-1-4. [AMENDED]

Subchapter 3. Qualification and Requirements for
Licensure

235:10-3-2. [AMENDED]

Subchapter 5. Licensing Fees

235:10-5-1. [AMENDED]

235:10-5-2. [AMENDED]

Subchapter 7. Licensure Renewal, Revocation, and
Suspension

235:10-7-2. [AMENDED]

Subchapter 11. Minimum Standards of Performance

235:10-11-1. [AMENDED]

Subchapter 13. Continuing Education

235:10-13-10. [AMENDED]

SUBMITTED TO GOVERNOR:

April 18, 2012

SUBMITTED TO HOUSE:

April 18, 2012

SUBMITTED TO SENATE:

April 18, 2012

[OAR Docket #12-427; filed 4-18-12]

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

[OAR Docket #12-421]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULE:

325:20-1-21. [AMENDED]

325:20-1-22. [AMENDED]

SUBMITTED TO GOVERNOR:

March 27, 2012

SUBMITTED TO HOUSE:

March 27, 2012

SUBMITTED TO SENATE:

March 27, 2012

[OAR Docket #12-421; filed 4-17-12]

**TITLE 325. OKLAHOMA HORSE RACING
COMMISSION
CHAPTER 45. MEDICATION AND EQUINE
TESTING PROCEDURES**

[OAR Docket #12-422]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULE:

325:45-1-18. [AMENDED]

SUBMITTED TO GOVERNOR:

March 27, 2012

SUBMITTED TO HOUSE:

March 27, 2012

SUBMITTED TO SENATE:

March 27, 2012

[OAR Docket #12-422; filed 4-17-12]

**TITLE 325. OKLAHOMA HORSE RACING
COMMISSION
CHAPTER 75. OKLAHOMA-BRED
PROGRAM**

[OAR Docket #12-423]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULE:

325:75-1-15. [AMENDED]

SUBMITTED TO GOVERNOR:

March 27, 2012

SUBMITTED TO HOUSE:

March 27, 2012

SUBMITTED TO SENATE:

March 27, 2012

[OAR Docket #12-423; filed 4-17-12]

**TITLE 340. DEPARTMENT OF HUMAN
SERVICES
CHAPTER 100. DEVELOPMENTAL
DISABILITIES SERVICES DIVISION**

[OAR Docket #12-438]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 5. Client Services

Part 3. Service Provisions

340:100-5-35 [AMENDED]

(Reference APA WF 12-02)

SUBMITTED TO GOVERNOR:

March 27, 2012

SUBMITTED TO HOUSE:

March 27, 2012

SUBMITTED TO SENATE:

March 27, 2012

[OAR Docket #12-438; filed 4-24-12]

**TITLE 340. DEPARTMENT OF HUMAN
SERVICES
CHAPTER 110. LICENSING SERVICES**

[OAR Docket #12-439]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 1. General Provisions

Part 1. Licensing Services - Child Care

340:110-1-6 [AMENDED]

340:110-1-8.3 [AMENDED]

340:110-1-8.4 through 340:110-1-8.10 [NEW]

340:110-1-9 through 340:110-1-9.1 [AMENDED]

340:110-1-9.3 [AMENDED]

340:110-1-10.1 [AMENDED]

340:110-1-13 [AMENDED]

340:110-1-15 [AMENDED]

Part 3. Licensing Services - Residential Care and Agencies

340:110-1-44 [AMENDED]

340:110-1-46 [AMENDED]

340:110-1-47.2 [AMENDED]

340:110-1-54 through 340:110-1-54.1 [AMENDED]

(Reference WF 12-01)

SUBMITTED TO GOVERNOR:

March 27, 2012

SUBMITTED TO HOUSE:

March 27, 2012

SUBMITTED TO SENATE:

March 27, 2012

[OAR Docket #12-439; filed 4-24-12]

Submissions for Review

TITLE 655. SECRETARY OF STATE CHAPTER 10. ADMINISTRATIVE RULES ON RULEMAKING

[OAR Docket #12-412]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

655:10-1-2 [AMENDED]

Subchapter 7. Preparation of Documents

Part 1. General Provisions

655:10-7-1 [AMENDED]

655:10-7-11 [AMENDED]

655:10-7-13 [AMENDED]

Part 5. Notice Documents

655:10-7-32 [AMENDED]

655:10-7-33 [AMENDED]

Subchapter 9. Submission of Documents

655:10-9-1 [AMENDED]

SUBMITTED TO GOVERNOR:

March 28, 2012

SUBMITTED TO HOUSE:

March 28, 2012

SUBMITTED TO SENATE:

March 28, 2012

[OAR Docket #12-412; filed 4-12-12]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 15. TECHNOLOGY CENTERS

[OAR Docket #12-435]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Technology Centers Education

780:15-3-1. [AMENDED]

780:15-3-5. [AMENDED]

SUBMITTED TO GOVERNOR:

March 23, 2012

SUBMITTED TO HOUSE:

March 23, 2012

SUBMITTED TO SENATE:

March 23, 2012

[OAR Docket #12-435; filed 4-24-12]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 20. PROGRAMS AND SERVICES

[OAR Docket #12-436]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Secondary, Full-Time and Short-Term Adult
CareerTech Programs

780:20-3-2. [AMENDED]

780:20-3-4. [AMENDED]

SUBMITTED TO GOVERNOR:

March 23, 2012

SUBMITTED TO HOUSE:

March 23, 2012

SUBMITTED TO SENATE:

March 23, 2012

[OAR Docket #12-436; filed 4-24-12]

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 55. BOARD OF GOVERNORS OF THE LICENSED ARCHITECTS, LANDSCAPE ARCHITECTS AND REGISTERED INTERIOR DESIGNERS OF OKLAHOMA CHAPTER 10. LICENSURE AND PRACTICE OF ARCHITECTS, LANDSCAPE ARCHITECTS AND REGISTRATION OF INTERIOR DESIGNERS

[OAR Docket #12-413]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. General Provisions

55:10-1-3. [AMENDED]

Subchapter 3. Administrative Operations

55:10-3-3. [AMENDED]

55:10-3-6. [AMENDED]

55:10-3-11. [AMENDED]

55:10-3-13. [AMENDED]

Subchapter 5. Application and Eligibility for Licensing or
Registration

55:10-5-1. [AMENDED]

55:10-5-2. [AMENDED]

55:10-5-4. [AMENDED]

55:10-5-5. [AMENDED]

55:10-5-6. [AMENDED]

55:10-5-7. [AMENDED]

55:10-5-8. [AMENDED]

55:10-5-10. [AMENDED]

55:10-5-11. [AMENDED]

Subchapter 7. Examination

55:10-7-1. [AMENDED]

55:10-7-2. [AMENDED]

55:10-7-9. [AMENDED]

Subchapter 9. Licensing and Registration

55:10-9-1. [AMENDED]

55:10-9-6. [AMENDED]

55:10-9-8. [AMENDED]

55:10-9-10. [AMENDED]

Subchapter 11. Rules of Professional Conduct

55:10-11-7. [AMENDED]

55:10-11-9. [AMENDED]

55:10-11-10. [AMENDED]

Subchapter 13. Organizational Practice

55:10-13-1. [AMENDED]

55:10-13-2. [AMENDED]

55:10-13-4. [AMENDED]

55:10-13-5. [AMENDED]

55:10-13-6. [AMENDED]

55:10-13-7. [AMENDED]

55:10-13-8. [AMENDED]

55:10-13-9. [AMENDED]

55:10-13-10. [AMENDED]

55:10-13-12. [AMENDED]

55:10-13-13. [AMENDED]

55:10-13-16. [AMENDED]

55:10-13-20. [AMENDED]

Subchapter 15. Violations

55:10-15-4. [AMENDED]

55:10-15-9. [AMENDED]

55:10-15-11. [AMENDED]

Subchapter 17. Continuing Education Requirements

55:10-17-6. [AMENDED]

55:10-17-7. [AMENDED]

55:10-17-9. [AMENDED]

55:10-17-10. [AMENDED]

55:10-17-12. [AMENDED]

GUBERNATORIAL APPROVAL:

March 30, 2012

[OAR Docket #12-413; filed 4-12-12]

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

[OAR Docket #12-443]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 1. General Provisions of Child Welfare Services

Part 3. Child Welfare Confidentiality

340:75-1-44 through 340:75-1-45 [AMENDED]

Part 7. Interstate Compact on the Placement of Children

340:75-1-86 [AMENDED]

Subchapter 3. Child Protective Services

340:75-3-6.1 [AMENDED]

340:75-3-7.1 [AMENDED]

340:75-3-7.3 [AMENDED]

340:75-3-8.4 [AMENDED]

340:75-3-10.1 through 340:75-3-10.2 [AMENDED]

Subchapter 4. Family-Centered and Community Services

Part 1. ~~Voluntary~~ Family-Centered Services [AMENDED]

340:75-4-9 [AMENDED]

340:75-4-12.1 [AMENDED]

340:75-4-13 through 340:75-4-14 [REVOKED]

Subchapter 6. Permanency Planning

Part 1. General Provisions

Gubernatorial Approvals

340:75-6-1 [AMENDED]
Part 5. Permanency Planning Services
340:75-6-30 through 340:75-6-31.1 [AMENDED]
340:75-6-31.3 [AMENDED]
Part 7. Family and Child Individualized Service Planning Components
340:75-6-40.5 [AMENDED]
340:75-6-46 [AMENDED]
Part 8. Role of the Child Welfare Worker
340:75-6-48 [AMENDED]
340:75-6-48.3 [AMENDED]
Part 11. Permanency Planning and Placement Services
340:75-6-85.2 [AMENDED]
340:75-6-91 [AMENDED]
Part 13. Independent Living
340:75-6-110 [AMENDED]
Subchapter 7. Foster Home Care
Part 1. General Provisions
340:75-7-2 [AMENDED]
Part 2. Development of Resources
340:75-7-10 [AMENDED]
340:75-7-12 [AMENDED]
340:75-7-14 through 340:75-7-15 [AMENDED]
340:75-7-18 [AMENDED]
340:75-7-18.1 [NEW]
340:75-7-19 [AMENDED]
340:75-7-24 [AMENDED]
Part 4. Roles and Responsibilities
340:75-7-37 through 340:75-7-37.1 [AMENDED]
Part 5. Eligibility and Payments
340:75-7-51 through 340:75-7-52 [AMENDED]
Part 6. Foster Home Care Support Services
340:75-7-65 [AMENDED]
Part 8. Continuous Quality Assessment of a Resource Home
340:75-7-94 [AMENDED]
Subchapter 13. Other Child Welfare Services and Medical Services for Children in Out-of-Home Care
Part 2. Title IV-E Eligibility and Reimbursability
340:75-13-12 through 340:75-13-13 [AMENDED]
340:75-13-15 [REVOKED]
340:75-13-16 through 340:75-13-18 [AMENDED]
340:75-13-21 [AMENDED]
Part 7. Medical Services
340:75-13-74 [AMENDED]
340:75-13-75 [AMENDED]
340:75-13-79 through 340:75-13-80 [AMENDED]
Subchapter 15. Adoptions
Part 2. Legal Base and Scope of the Adoption Program
340:75-15-6 [AMENDED]
Part 6. Adoption Process
340:75-15-42 [AMENDED]
340:75-15-45 [AMENDED]
340:75-15-47 [AMENDED]
Part 10. Integrated Family Assessment and Preparation Process

340:75-15-82 [AMENDED]
340:75-15-84 [AMENDED]
340:75-15-87 [AMENDED]
340:75-15-88 [AMENDED]
340:75-15-89 [AMENDED]
Part 12. Adoption Placement Services
340:75-15-103 [AMENDED]
Part 14. Post Adoption Services
340:75-15-128.1 [AMENDED]
340:75-15-128.4 through 340:75-15-128.5 [AMENDED]
340:75-15-132 [AMENDED]
Subchapter 16. Mental Health Treatment Services
Part 1. Inpatient Mental Health Treatment
340:75-16-30 [AMENDED]
Subchapter 18. Continuous Quality Improvement
340:75-18-1 [AMENDED]
340:75-18-3 through 340:75-18-15 [REVOKED]
(Reference APA WF 11-06)

GUBERNATORIAL APPROVAL:

February 29, 2012

[OAR Docket #12-443; filed 4-25-12]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 105. AGING SERVICES DIVISION

[OAR Docket #12-440]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 10. Policies and Procedures Manual for Title III of the Older Americans Act of 1965, As Amended
Part 1. Introduction
340:105-10-3 [AMENDED]
Part 7. Program Standards for Services Funded Under Title III
340:105-10-50.1 [AMENDED]
340:105-10-72 [AMENDED]
340:105-10-74 [AMENDED]
340:105-10-75 [AMENDED]
Subchapter 11. State Long-Term Care Ombudsman Program
Part 37. State Long-Term Care Ombudsman Program
340:105-11-249 [AMENDED]
340:105-11-250 [AMENDED]
(Reference WF 11-05)

GUBERNATORIAL APPROVAL:

February 29, 2012

[OAR Docket #12-440; filed 4-25-12]

**TITLE 377. OFFICE OF JUVENILE AFFAIRS
CHAPTER 3. ADMINISTRATIVE SERVICES**

[OAR Docket #12-452]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 11. Risk Management
- Part 1. Drug Policy
- 377:3-11-5 [AMENDED]
- 377:3-11-6 [AMENDED]
- 377:3-11-8 [AMENDED]
- 377:3-11-9 [AMENDED]
- 377:3-11-10 [AMENDED]
- 377:3-11-11 [AMENDED]
- 377:3-11-12 [AMENDED]

GUBERNATORIAL APPROVAL:

March 30, 2012

[OAR Docket #12-452; filed 4-25-12]

**TITLE 377. OFFICE OF JUVENILE AFFAIRS
CHAPTER 10. OFFICE OF JUVENILE
AFFAIRS**

[OAR Docket #12-453]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 7. Contract Programs and Services
- Part 3. Contract-Based Residential Care
- 377:10-7-20 [AMENDED]

GUBERNATORIAL APPROVAL:

March 30, 2012

[OAR Docket #12-453; filed 4-25-12]

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

[OAR Docket #12-419]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 5. Petition Procedures
- 550:1-5-2 [AMENDED]
- Subchapter 7. Collections and Disbursements
- 550:1-7-2.1 [AMENDED]

GUBERNATORIAL APPROVAL:

March 30, 2012

[OAR Docket #12-419; filed 4-16-12]

Withdrawn Rules

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

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

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

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 15. TECHNOLOGY CENTERS

[OAR Docket #12-437]

RULEMAKING ACTION:

Withdrawal of PERMANENT rulemaking

WITHDRAWN RULES:

Subchapter 3. Technology Centers Education
780:15-3-5 [AMENDED]

DATES:

Adoption:

March 15, 2012

Submitted to Governor:

March 23, 2012

Submitted to House:

March 23, 2012

Submitted to Senate:

March 23, 2012

Withdrawn:

April 23, 2012

[OAR Docket #12-437; filed 4-24-12]

Permanent Final Adoptions

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

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

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

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

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

[OAR Docket #12-414]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Fee Schedules
35:2-3-10 [REVOKED]

AUTHORITY:

Oklahoma Constitution, Article 6, Section 31 and Oklahoma State Board of Agriculture, 2 O.S. §§ 2-4, 6-181 et seq., 6-251 et seq., 6-280.1 et seq., and 6-290.1 et seq.

DATES:

Comment period:

September 16, 2011 through October 25, 2011

Public hearing:

October 25, 2011

Adoption:

November 15, 2011

Submitted to Governor:

November 23, 2011

Submitted to House:

November 23, 2011

Submitted to Senate:

November 23, 2011

Gubernatorial approval:

December 21, 2011

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 29, 2012.

Final adoption:

March 29, 2012

Effective:

July 1, 2012

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

The proposed amendment removes the fee for meat inspection overtime service to plants requiring less than full-time inspection service.

CONTACT PERSON:

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

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2012:

SUBCHAPTER 3. FEE SCHEDULES

35:2-3-10. Fees for meat inspection overtime service to plants requiring less than full-time inspection service [REVOKED]

~~The fee for meat inspection overtime service to plants requiring less than full-time inspection service are hereby established at a rate of \$9.25 per hour.~~

[OAR Docket #12-414; filed 4-13-12]

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

[OAR Docket #12-418]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

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

AUTHORITY:

Oklahoma Constitution, Article 6, Section 31 and Oklahoma State Board of Agriculture; 2 O.S. §§ 2-4, 14-31 et seq.

DATES:

Comment period:

September 16, 2011 through October 25, 2011

Public hearing:

October 25, 2011

Adoption:

November 15, 2011

Submitted to Governor:

November 23, 2011

Submitted to House:

November 23, 2011

Submitted to Senate:

November 23, 2011

Gubernatorial approval:

December 21, 2011

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 29, 2012.

Final adoption:

March 29, 2012

Effective:

July 1, 2012

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

Incorporated standards:

National Institute of Standards and Technology (NIST) Handbook 44 "Specifications, Tolerances and Other Technical Requirements for Commercial Weighing & Measuring Devices" (2012 Edition), Handbook

Permanent Final Adoptions

130 "Uniform Laws and Regulations" (2012 Edition), excluding Section G "Uniform Engine Fuels and Automotive Lubricants Regulation.", Handbook 133 "Checking the Net Contents of Packaged Goods" (2011 Edition), Handbook 105-1 "Specifications and Tolerances for Field Standard Weights" (1990 Edition), Handbook 105-2 "Specifications and Tolerances for Field Standard Measuring Flasks" (1996 Edition), Handbook 105-3 "Specifications and Tolerances for Graduated Neck Type Volumetric Field Standards" (2004 Edition), Publication 14 (2009 Edition), Publication 12 (1991 Edition), and Federal Grain Inspection Service Moisture Handbook (2006 Edition).

Incorporating rules:

35:10-1-3

Availability:

8:00 a.m. to 5:00 p.m., Monday through Friday at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73152, (405) 522-5803.

ANALYSIS:

The proposed amendments incorporate the most recent versions of federal publications that are incorporated by reference into the rules.

CONTACT PERSON:

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

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2012:

SUBCHAPTER 1. GENERAL PROVISIONS

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

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

- (1) Handbook 44 "Specifications, Tolerances and Other Technical Requirements for Commercial Weighing & Measuring Devices" (~~2011~~2012 Edition).
- (2) Handbook 130 "Uniform Laws and Regulations" (~~2011~~2012 Edition), excluding Section G "Uniform Engine Fuels and Automotive Lubricants Regulation."
- (3) Handbook 133 "Checking the Net Contents of Packaged Goods" (~~2005~~2011 Edition).
- (4) Handbook 105-1 "Specifications and Tolerances for Field Standard Weights" (1990 Edition).
- (5) Handbook 105-2 "Specifications and Tolerances for Field Standard Measuring Flasks" (1996 Edition).
- (6) Handbook 105-3 "Specifications and Tolerances for Graduated Neck Type Volumetric Field Standards" (2004 Edition).
- (7) Publication 14 (2009 Edition).
- (8) Publication 12 (1991 Edition).
- (9) Federal Grain Inspection Service Moisture Handbook (2006 Edition).

[OAR Docket #12-418; filed 4-13-12]

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

[OAR Docket #12-417]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 17. Combined Pesticide
Part 6. Pesticidal Product Producing Establishments
35:30-17-13. [AMENDED]
Part 21. Standards for Disposal of Pesticide and Pesticide Containers
35:30-17-89.1. [AMENDED]

AUTHORITY:

Oklahoma Constitution, Article 6, Section 31 and 2 O.S. §§ 2-4, 3-81 et seq.

DATES:

Comment period:

September 16, 2011 through October 25, 2011

Public hearing:

October 25, 2011

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November 15, 2011

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November 23, 2011

Submitted to House:

November 23, 2011

Submitted to Senate:

November 23, 2011

Gubernatorial approval:

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Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 29, 2012.

Final adoption:

March 29, 2012

Effective:

July 1, 2012

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

Incorporated standards:

The Registration of Pesticide and Active Ingredient Producing Establishments, Submission of Pesticide Reports and Books and Records of Pesticide Production and Distribution Regulations found in Title 40 of the Code of Federal Regulations (CFR) 2011 Revision, Part 167 et seq. and Part 169 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register with the exception of 40 CFR § 167.90 and The Labeling Requirements for Pesticides and Devices, Container Labeling and Pesticide Management and Disposal regulations found in Title 40 of the Code of Federal Regulations (CFR) 2011 Revision, Part 156.140 et seq. and Part 165 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register.

Incorporating rules:

Subchapter 17. Combined Pesticide
Part 6. Pesticidal Product Producing Establishments
35:30-17-13 [AMENDED]
Part 21. Standards for Disposal of Pesticide and Pesticide Containers
35:30-17-89.1 [AMENDED]

Availability:

8:00 a.m. to 5:00 p.m., Monday through Friday at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73152, (405) 522-5803.

ANALYSIS:

The proposed amendments incorporate the most recent version of the Code of Federal Regulations into ODAFF rules.

CONTACT PERSON:

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

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2012:

SUBCHAPTER 17. COMBINED PESTICIDE

PART 6. PESTICIDAL PRODUCT PRODUCING ESTABLISHMENTS

35:30-17-13. Incorporation by reference of federal pesticide producing establishment regulations

(a) The Registration of Pesticide and Active Ingredient Producing Establishments, Submission of Pesticide Reports and Books and Records of Pesticide Production and Distribution Regulations found in Title 40 of the Code of Federal Regulations (CFR) 20102011 Revision, Part 167 et seq. and Part 169 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of 40 CFR § 167.90.

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

PART 21. STANDARDS FOR DISPOSAL OF PESTICIDE AND PESTICIDE CONTAINERS

35:30-17-89.1. Incorporation by reference of federal pesticide management and disposal regulations

(a) The Labeling Requirements for Pesticides and Devices, Container Labeling and Pesticide Management and Disposal regulations found in Title 40 of the Code of Federal Regulations (CFR) 20102011 Revision, Part 156.140 et seq. and Part 165 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety.

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

[OAR Docket #12-417; filed 4-13-12]

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

[OAR Docket #12-415]

RULEMAKING ACTION: PERMANENT final adoption

- RULES: Subchapter 3. Meat Inspection 35:37-3-1. [AMENDED] 35:37-3-3. [AMENDED] Subchapter 5. Poultry Products Inspection 35:37-5-1. [AMENDED] 37:37-5-2. [AMENDED]

AUTHORITY: Oklahoma Constitution, Article 6, Section 31 and Oklahoma State Board of Agriculture, 2 O.S. §§ 2-4, 6-181 et seq., 6-251 et seq., 6-280.1 et seq., and 6-290.1 et seq.

DATES: Comment period: September 16, 2011 through October 25, 2011

Public hearing: October 25, 2011

Adoption: November 15, 2011

Submitted to Governor: November 23, 2011

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Submitted to Senate: November 23, 2011

Gubernatorial approval: December 21, 2011

Legislative approval: Failure of the Legislature to disapprove the rules resulted in approval on March 29, 2012.

Final adoption: March 29, 2012

Effective: July 1, 2012

SUPERSEDED EMERGENCY ACTIONS: N/A

INCORPORATIONS BY REFERENCE:

Incorporated standards: The Mandatory Meat Inspection Regulations found in Title 9 of the Code of Federal Regulations (CFR) (2011 Revision), Parts 301 to 391; 416; 417; 424; 430; 441; 442 and 500 for the United States Department of Agriculture (USDA) as promulgated and amended in the Federal Register with the exception of the deleted regulations specified in Oklahoma Administrative Code 35:37-3-3 and The Mandatory Poultry Inspection Regulations found in Title 9 of the Code of Federal Regulations (CFR) (2011 Revision), Parts 381; 416; 417; 424; 430; 441; 442; and 500 for the United States Department of Agriculture (USDA) as promulgated and amended in the Federal Register with the exception of the deleted regulations specified in Oklahoma Administrative Code 35:37-5-2.

Incorporating rules: 35:37-3-1 35:37-3-3 35:37-5-2

Availability: 8:00 a.m. to 5:00 p.m., Monday through Friday at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 N. Lincoln Blvd., Oklahoma City, OK 73152, (405) 522-5803.

ANALYSIS: The proposed amendments incorporate the most recent versions of federal publications that are incorporated by reference into the rules.

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

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2012:

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SUBCHAPTER 3. MEAT INSPECTION

PART 1. GENERAL PROVISIONS

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

The Mandatory Meat Inspection Regulations found in Title 9 of the Code of Federal Regulations (CFR) (~~2010~~2011 Revision), Parts 301 to 391; 416; 417; 424; 430; 441; 442 and 500 for the United States Department of Agriculture (USDA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of the deleted regulations specified in 35:37-3-3. Whenever an official mark, form, certificate or seal is designated by federal regulations, the appropriate Oklahoma Department of Agriculture, Food, and Forestry form, certificate or seal shall be substituted.

35:37-3-3. Deleted regulations

The following sections of the Federal regulations governing the mandatory meat inspection of the USDA incorporated by reference under 35:37-3-1 are deleted and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry: 9 CFR 302.2; 303.1(c); 304.1; 304.2(a); 304.2(c); 305.2(b); 307.4; 307.5; 307.6; 316.12; 316.13(c); 317.5; 317.7; 317.9; 317.13; 318.8; 318.12; 321; 322; 327; 329; 331; 335; 351; 352; 354; 355; 362; 381; 390; 391; 392; 439; and 590 (~~2010~~2011 Revision).

SUBCHAPTER 5. POULTRY PRODUCTS INSPECTION

PART 1. GENERAL PROVISIONS

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

- (a) The Mandatory Poultry Inspection Regulations found in Title 9 of the Code of Federal Regulations (CFR) (~~2010~~2011 Revision), Parts 381; 416; 417; 424; 430; 441; 442; and 500 for the United States Department of Agriculture (USDA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of the deleted regulations specified in 35:37-5-2. Whenever an official mark, form, certificate or seal is designated by federal regulations, the appropriate Oklahoma Department of Agriculture, Food, and Forestry mark, form, certificate or seal shall be substituted.
- (b) All words and terms defined or used in the federal regulations incorporated by reference by the Department shall mean the state equivalent or counterpart to those words or terms.
- (c) The following terms, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise:

- (1) **"Act"** means the Oklahoma Poultry Products Inspection Act.
- (2) **"Director"** means the Director of Meat Inspection.
- (3) **"Poultry"** means any domesticated bird, whether live or dead, including chickens, turkeys, ducks, geese, guineas, ratites, or squabs (also known as young pigeons from one to about thirty (30) days of age).
- (4) **"Poultry product"** means any poultry carcass, part, or product made wholly or in part from any poultry carcass or part that can be used as human food, except those exempted from definition as a poultry product in Title 9 of the Code of Federal Regulations (CFR), Part 381.15. This term shall not include detached ova.
- (5) **"Poultry byproduct"** means the skin, fat, gizzard, heart, or liver, or any combination of any poultry for cooked, smoked sausage.

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

- (a) The following sections of the Federal regulations governing the mandatory poultry inspection (9 CFR, Part 381 et seq.; 416 et seq.; 417 et seq.; 424 et seq.; 441 et seq.; 442 et seq.; and 500 et seq.), (~~2010~~2011 Revision) of the USDA incorporated by reference under 35:15-27-1 are deleted and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry: 381.6; 381.10(a)(2), (5), (6), and (7); 381.10(b); 381.10(d)(2)(i); 381.13(b); 381.16; 381.17; 381.20; 381.21; 381.37; 381.38; 381.39; 381.96; 381.101; 381.103 through 381.112; 381.123(b)(1) and (4); 381.132(c); 381.133; 381.179; 381.185; 381.186; and 381.195 through 381.225.
- (b) The provisions of this Act and rules do not apply to poultry producers who slaughter their own poultry raised on their farm, and each of the following apply:
- (1) The producers slaughter no more than two hundred and fifty (250) turkeys or their equivalent with a ratio of four (4) birds of other species, excluding ratites, to one (1) turkey during a calendar year;
- (2) The producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms;
- (3) The poultry and poultry products do not move in commerce. Poultry producers are prohibited from selling or donating uninspected poultry products to retail stores, brokers, meat markets, schools, orphanages, restaurants, nursing homes, and other similar establishments and are prohibited from sales or donation of uninspected poultry through any type of retail market or similar establishment owned or operated by the poultry producer;
- (4) The producers submit a certificate of registration to the Board;
- (5) The poultry is healthy, the poultry is slaughtered and processed under sanitary standards, practices, and procedures that result in the preparation of poultry products that are sound, clean, and fit for human food, and each carcass, part, or poultry product bears a label that lists the customer's name, the producer's name, and the following statement, "This poultry product has not been inspected and passed";

- (6) The poultry is sold directly to the household consumer and transported by either the household consumer or the poultry producer without third-party intervention or intervening transfer or storage, and is maintained in a safe and unadulterated condition during transportation; and
- (7) The poultry producers, allow an authorized agent of the Board access to their facilities and an opportunity to examine records at all reasonable times upon notice.

[OAR Docket #12-415; filed 4-13-12]

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

[OAR Docket #12-416]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 15. Plasticulture Program [NEW]
- 35:40-15-1. [NEW]
- 35:40-15-2. [NEW]
- 35:40-15-3. [NEW]
- 35:40-15-4. [NEW]
- 35:40-15-5. [NEW]
- 35:40-15-6. [NEW]
- 35:40-15-7. [NEW]

AUTHORITY:

Oklahoma Constitution, Article 6, Section 31 and Oklahoma State Board of Agriculture; 2 O.S. §§ 2-4, 3-81 et seq.

DATES:

Comment period:

November 16, 2011 through December 20, 2011

Public hearing:

December 20, 2011

Adoption:

January 17, 2012

Submitted to Governor:

January 20, 2012

Submitted to House:

January 20, 2012

Submitted to Senate:

January 20, 2012

Gubernatorial approval:

February 13, 2012

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 29, 2012.

Final adoption:

March 29, 2012

Effective:

July 1, 2012

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

The proposed new rules establish eligibility requirements, evaluation criteria, application processes, and provide supplemental program information for the Oklahoma Plasticulture Program.

CONTACT PERSON:

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

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2012:

SUBCHAPTER 15. PLASTICULTURE PROGRAM

35:40-15-1. Purpose

The purpose of the plasticulture program is to provide funding assistance to limited resource farmers producing specialty crops, to diversify Oklahoma's agricultural industry, and broaden Oklahoma's economic base.

35:40-15-2. Definitions

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

"Agricultural product" means a product of cultivating the soil, growing crops, horticultural commodity, silvicultural commodity, or agricultural product, horticultural product, viticulture, or silvicultural product, planting seed, rice, produced in this State, either in its natural state or as processed by the producer, excluding livestock, bees and poultry.

"Agricultural producer" means a person engaged in the business of cultivating, growing, raising, or processing an agricultural commodity for commercial purposes.

"Applicant" means a person who is requesting a grant from the Oklahoma Plasticulture Program.

"Application" means a form provided by the Department that is used to request a grant.

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry or its designee.

"Contract" means a signed agreement between the Department and the grantee outlining the terms and conditions of the grant.

"Grant" means funds awarded to an entity by the Department with no reimbursement required.

"Grantee" means an individual person that has received a grant from the Department.

"Limited Resource Farmer" means an agricultural producer that has received proceeds from the sale of agricultural products averaging less than \$100,000 annually for three years prior to the date of the application.

"Plasticulture" means the practice of laying plastic on a raised bed in an open field to promote the growth of an agricultural product but excludes greenhouses or hoopouses.

"Specialty Crops" means fruits and vegetables, tree nuts, dried fruits, horticulture and nursery crops (including floriculture).

35:40-15-3. Eligibility

An applicant shall be eligible for funding assistance in the form of a grant from the plasticulture program if the applicant meets the following eligibility requirements:

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- (1) The applicant is a limited resource farmer, 21 years of age, and is a legal resident of Oklahoma.
- (2) The proposed plasticulture installation shall be on a farm plot not smaller than one quarter acre and not larger than one acre in size.
- (3) The applicant's farm plot shall be prepared for the proposed plasticulture installation having the ground tilled, disc to seed, and bed ready.
- (4) The applicant's farm plot shall have an adequate source of water for irrigation.
- (5) At least 50% of the crops harvested will be sold or otherwise used for commercial purposes.
- (6) The applicant shall agree to do all the planting and harvesting.
- (7) The applicant shall agree to remove and dispose of all plastic, irrigation tubing and any other materials associated with the project.
- (8) The applicant must be present during entire installation of plasticulture.

35:40-15-4. Evaluation

The Department shall evaluate applications for funding assistance in the form of a grant from the plasticulture program and may consider some or all of the following factors:

- (1) Whether the applications clearly meet the criteria of the plasticulture program.
- (2) Whether the proposed marketing plan is commercially feasible.
- (3) Whether the applicant has experience with growing crops and is technically competent.

35:40-15-5. Submission of applications

Completed, original and notarized applications must be mailed or delivered to the Department.

35:40-15-6. Supplemental program information

- (a) The Department shall not award grants exceeding \$500 per year for a maximum period of three years. The Department may limit or reduce the monies available during the effective term of a contract.
- (b) Plasticulture Program grant funds may be used to purchase approved expenses of the project such as soil testing, water testing, animal depredation, fencing, fertilizer, scales, and plants.
- (c) Following approval of the application, a contract shall be executed between the Department and the grantee. The Department shall not disburse grant funding to the grantee until the contract is executed and a purchase order is issued.
- (d) The grantee cannot expend funds for the project until after the participant receives notice the purchase order has been issued.
- (e) The contract shall specify the agreed upon objectives and tasks to be performed. The release of funds shall be tied to the

completion of contract objectives. Failure to complete contract objectives may result in the Department withholding further funding.

(f) Before December 31 of each year, grantee shall submit a production report describing produce sold in pounds and in dollar amounts.

(g) Grantee shall allow the State Auditor or any other auditor specified by the Department to conduct an examination of any and all pertinent records, including books, documents, papers, records, accounting procedures and practices, claims, and other data regardless of type whether in written form, computer data, or any other form filed or produced relating to the grantee's performance under the contract, any subcontractors engaged in the performance of the contract, or involving any transactions related to the contract.

(h) Grantees shall retain all necessary records, books and any other reasonably necessary documentation relating to the nature, time, and scope of the contract, regardless of form, for a period of three (3) years following the completion or termination of the contract. If an audit, litigation, or other action involving the records is commenced before the end of the three (3) year retention period, the records shall be maintained for three (3) years from the date that all issues arising out of the action are resolved.

(i) To the extent allowed under Oklahoma law, the Department may limit the dissemination of information concerning an application or contract, but in any event, does not assume any liability for inadvertent disclosure.

(j) Subject to the policies, if any, of participating public programs and entities, rights to use products, processes, or services developed under this grant program shall remain with the grantee. Subject to the same policies, all rights to project outcomes may revert to the Department if grantee fails to market the product, process, or service in accordance with individually negotiated funding contracts.

(k) In the event that a grantee recipient fails to comply with the terms of the agreement, including but not limited to failure to submit reports in a timely manner, the grantee shall not participate in any events sponsored by any program of the Department related to market development.

(l) Failure to complete the terms of the agreement shall result in an audit and collection activities by the Department.

35:40-15-7. Reimbursements

(a) Upon approval of a grant by the Department, the executed contract between the Department and the grantee, and issuance of a purchase order; grantees shall be reimbursed funds as provided in the contract.

(b) The grantee shall submit receipts supporting expenditures to the Department in order to receive reimbursement.

[OAR Docket #12-416; filed 4-13-12]

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

[OAR Docket #12-444]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 2. Incorporation By Reference
252:100-2-1. [AMENDED]
252:100-2-3. [AMENDED]
Appendix Q. Incorporation By Reference [REVOKED]
Appendix Q. Incorporation By Reference [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 *et seq.*

DATES:

Comment period:

September 15, 2010 through October 27, 2010
December 15, 2010 through January 19, 2011
September 1, 2011 through October 5, 2011

Public hearing:

October 27, 2010, January 19, 2011, and October 5, 2011
November 15, 2011

Adoption:

November 15, 2011

Submitted to Governor:

November 21, 2011

Submitted to House:

November 21, 2011

Submitted to Senate:

November 21, 2011

Gubernatorial approval:

December 21, 2011

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 29, 2012

Final adoption:

March 29, 2012

Effective:

July 1, 2012

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated standards as they existed on August 1, 2011:

40 CFR Part 60, Subpart LLLL, Standards of Performance for New Sewage Sludge Incineration Units

40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters

40 CFR Part 63, Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources

40 CFR Part 63, Subpart BBBB, National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry

40 CFR Part 63, Subpart DDDDDDD, National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing

40 CFR Part 63, Subpart EEEEE, National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category

Incorporating rules:

252:100-2-3
Appendix Q. Incorporation By Reference

Availability:

The standards are on file at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma, 73102, and are available to the public for examination Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m., excluding state holidays.

ANALYSIS:

The Department is proposing changes to Subchapter 2, Incorporation By Reference, to clarify the purpose. In addition, the Department is proposing to

update the federal regulations incorporated by reference in Appendix Q. The existing Appendix Q will be revoked and a new Appendix Q will be adopted. These proposals are part of the annual review of Title 40, Code of Federal Regulations (40 CFR) incorporations by reference.

CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2012:

SUBCHAPTER 2. INCORPORATION BY REFERENCE

252:100-2-1. Purpose

The purpose of this Subchapter is to incorporate by reference applicable provisions of Title 40 of the Code of Federal Regulations (40 CFR) (see OAC 252:100, Appendix Q).

252:100-2-3. Reference to Title 40, Code of Federal Regulations (40 CFR) Incorporation by reference

Except as provided under this section, the provisions of 40 CFR listed in Appendix Q are hereby incorporated by reference as they existed on August 1, 2011.

(a) Inclusion of 40 CFR citations and definitions.

When a provision of 40 CFR is incorporated by reference, all citations contained therein are also incorporated by reference.

(b) Inconsistencies or duplications of requirements or incorporation dates.

(+A) in the event that there are inconsistencies or duplications between the requirements of this Chapter and the requirements of those provisions incorporated by reference in Appendix Q or elsewhere in a ~~specific subchapter~~ of this Chapter, the more stringent requirements shall apply.

(±B) In the event that a specific date of incorporation is indicated in Appendix Q or a ~~specific subchapter~~ of this Chapter, the specified date of incorporation ~~specified in the specific subchapter~~ shall apply.

(e3) **Terminology related to 40 CFR.** For purposes of interfacing with 40 CFR and unless the context clearly indicates otherwise, the following terms apply.

(+A) "Administrator" is synonymous with "Executive Director."

(±B) "EPA" is synonymous with "Department of Environmental Quality." (DEQ).

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APPENDIX Q. INCORPORATION BY REFERENCE [REVOKED]

APPENDIX Q. INCORPORATION BY REFERENCE [NEW]

Except as provided under OAC 252:100-2-3(b)(2), the following provisions of Title 40 of the Code of Federal Regulations are hereby incorporated by reference as they existed on August 1, 2011, unless otherwise noted.

PART	SUBPART	DESCRIPTION
50	n/a	Appendix B to Part 50 - Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method)
50	n/a	Appendix J to Part 50 - Reference Method for the Determination of Particulate Matter as PM ₁₀ in the Atmosphere
51	F	Paragraph 51.100(s)(1) only of Subpart F, Procedural Requirements
51	n/a	Appendix P to Part 51 - Minimum Emission Monitoring Requirements
58	n/a	Appendix A to Part 58 - Quality Assurance Requirements for SLAMS, SPMs and PSD Air Monitoring
60	A	General Provisions [Except 60.4, 60.9, 60.10 and 60.16]
60	D	Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971
60	Da	Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978
60	Db	Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units
60	Dc	Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units
60	E	Standards of Performance for Incinerators
60	Ea	Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 and on or Before September 20, 1994
60	Eb	Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996

PART	SUBPART	DESCRIPTION
60	Ec	Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996
60	F	Standards of Performance for Portland Cement Plants
60	G	Standards of Performance for Nitric Acid Plants
60	H	Standards of Performance for Sulfuric Acid Plants
60	I	Standards of Performance for Hot Mix Asphalt Facilities
60	J	Standards of Performance for Petroleum Refineries
60	Ja	Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007
60	K	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978
60	Ka	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984
60	Kb	Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984
60	L	Standards of Performance for Secondary Lead Smelters
60	M	Standards of Performance for Secondary Brass and Bronze Production Plants
60	N	Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973
60	Na	Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983
60	O	Standards of Performance for Sewage Treatment Plants
60	P	Standards of Performance for Primary Copper Smelters

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PART	SUBPART	DESCRIPTION
60	Q	Standards of Performance for Primary Zinc Smelters
60	R	Standards of Performance for Primary Lead Smelters
60	S	Standards of Performance for Primary Aluminum Reduction Plants
60	T	Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants
60	U	Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants
60	V	Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants
60	W	Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants
60	X	Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities
60	Y	Standards of Performance for Coal Preparation and Processing Plants
60	Z	Standards of Performance for Ferroalloy Production Facilities
60	AA	Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983
60	AAa	Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983
60	BB	Standards of Performance for Kraft Pulp Mills
60	CC	Standards of Performance for Glass Manufacturing Plants
60	DD	Standards of Performance for Grain Elevators
60	EE	Standards of Performance for Surface Coating of Metal Furniture
60	GG	Standards of Performance for Stationary Gas Turbines
60	HH	Standards of Performance for Lime Manufacturing Plants
60	KK	Standards of Performance for Lead-Acid Battery Manufacturing Plants

PART	SUBPART	DESCRIPTION
60	LL	Standards of Performance for Metallic Mineral Processing Plants
60	MM	Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations
60	NN	Standards of Performance for Phosphate Rock Plants
60	PP	Standards of Performance for Ammonium Sulfate Manufacture
60	QQ	Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing
60	RR	Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations
60	SS	Standards of Performance for Industrial Surface Coating: Large Appliances
60	TT	Standards of Performance for Metal Coil Surface Coating
60	UU	Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture
60	VV	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006
60	VVa	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006
60	WW	Standards of Performance for the Beverage Can Surface Coating Industry
60	XX	Standards of Performance for Bulk Gasoline Terminals
60	BBB	Standards of Performance for the Rubber Tire Manufacturing Industry
60	DDD	Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry
60	FFF	Standards of Performance for Flexible Vinyl and Urethane Coating and Printing

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PART	SUBPART	DESCRIPTION
60	GGG	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006
60	GGGa	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006
60	HHH	Standards of Performance for Synthetic Fiber Production Facilities
60	III	Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes
60	JJJ	Standards of Performance for Petroleum Dry Cleaners
60	KKK	Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants
60	LLL	Standards of Performance for Onshore Natural Gas Processing: SO ₂ Emissions
60	NNN	Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations
60	OOO	Standards of Performance for Nonmetallic Mineral Processing Plants
60	PPP	Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants
60	QQQ	Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems
60	RRR	Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes
60	SSS	Standards of Performance for Magnetic Tape Coating Facilities
60	TTT	Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines
60	UUU	Standards of Performance for Calciners and Dryers in Mineral Industries
60	VVV	Standards of Performance for Polymeric Coating of Supporting

PART	SUBPART	DESCRIPTION
		Substrates Facilities
60	WWW	Standards of Performance for Municipal Solid Waste Landfills
60	AAAA	Standards of Performance for Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001
60	EEEE	Standards of Performance for Other Solid Waste Incineration Units for Which Construction Is Commenced After December 9, 2004, or for Which Modification or Reconstruction Is Commenced on or After June 16, 2006
60	FFFF	Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004
60	III	Standards of Performance for Stationary Compression Ignition Internal Combustion Engines
60	JJJ	Standards of Performance for Stationary Spark Ignition Internal Combustion Engines
60	KKKK	Standards of Performance for Stationary Combustion Turbines
60	LLLL	Standards of Performance for New Sewage Sludge Incineration Units
60	n/a	Appendix A to Part 60 - Test Methods
60	n/a	Appendix B to Part 60 - Performance Specifications
61	A	General Provisions
61	C	National Emission Standard for Beryllium
61	D	National Emission Standard for Beryllium Rocket Motor Firing
61	E	National Emission Standard for Mercury
61	F	National Emission Standard for Vinyl Chloride
61	J	National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene
61	L	National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants
61	M	National Emission Standard for Asbestos

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PART	SUBPART	DESCRIPTION
61	N	National Emission Standard for Inorganic Arsenic Emissions From Glass Manufacturing Plants
61	O	National Emission Standard for Inorganic Arsenic Emissions From Primary Copper Smelters
61	P	National Emission Standard for Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities
61	V	National Emission Standard for Equipment Leaks (Fugitive Emission Sources)
61	Y	National Emission Standard for Benzene Emissions From Benzene Storage Vessels
61	BB	National Emission Standard for Benzene Emissions From Benzene Transfer Operations
61	FF	National Emission Standard for Benzene Waste Operations
63	A	General Provisions
63	B	Sections 63.41, 63.43 and 63.44 only of Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j)
63	F	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry
63	G	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater
63	H	National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks
63	I	National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks
63	J	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production
63	L	National Emission Standards for Coke Oven Batteries
63	M	National Perchloroethylene Air Emission Standards for Dry

PART	SUBPART	DESCRIPTION
		Cleaning Facilities
63	N	National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks
63	O	Ethylene Oxide Emissions Standards for Sterilization Facilities
63	Q	National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers
63	R	National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)
63	S	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry
63	T	National Emission Standards for Halogenated Solvent Cleaning
63	U	National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins
63	W	National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production
63	X	National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting
63	Y	National Emission Standards for Marine Tank Vessel Loading Operations
63	AA	National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants
63	BB	National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants
63	CC	National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries
63	DD	National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations
63	EE	National Emission Standards for Magnetic Tape Manufacturing Operations
63	GG	National Emission Standards for Aerospace Manufacturing and Rework Facilities

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PART	SUBPART	DESCRIPTION
63	HH	National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities
63	II	National Emission Standards for Shipbuilding and Ship Repair (Surface Coating)
63	JJ	National Emission Standards for Wood Furniture Manufacturing Operations
63	KK	National Emission Standards for the Printing and Publishing Industry
63	LL	National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants
63	MM	National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semicheical Pulp Mills
63	OO	National Emission Standards for Tanks - Level 1
63	PP	National Emission Standards for Containers
63	QQ	National Emission Standards for Surface Impoundments
63	RR	National Emission Standards for Individual Drain Systems
63	SS	National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process
63	TT	National Emission Standards for Equipment Leaks – Control Level 1
63	UU	National Emission Standards for Equipment Leaks - Control Level 2 Standards
63	VV	National Emission Standards for Oil-Water Separators and Organic-Water Separators
63	WW	National Emission Standards for Storage Vessels (Tanks) - Control Level 2
63	XX	National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations

PART	SUBPART	DESCRIPTION
63	YY	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards
63	CCC	National Emission Standards for Hazardous Air Pollutants for Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants
63	DDD	National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production
63	EEE	National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors
63	GGG	National Emission Standards for Pharmaceuticals Production
63	HHH	National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities
63	III	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production
63	JJJ	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins
63	LLL	National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry
63	MMM	National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production
63	NNN	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing
63	OOO	National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins
63	PPP	National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production
63	QQQ	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting
63	RRR	National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production
63	TTT	National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting

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PART	SUBPART	DESCRIPTION
63	UUU	National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units
63	VVV	National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works
63	XXX	National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese
63	AAAA	National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills
63	CCCC	National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast
63	EEEE	National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)
63	FFFF	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing
63	GGGG	National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production
63	HHHH	National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production
63	III	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks
63	JJJ	National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating
63	KKKK	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans
63	MMMM	National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products
63	NNNN	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances
63	OOOO	National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles
63	PPPP	National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products

PART	SUBPART	DESCRIPTION
63	QQQQ	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products
63	RRRR	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture
63	SSSS	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil
63	TTTT	National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations
63	UUUU	National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing
63	VVVV	National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing
63	WWWW	National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production
63	XXXX	National Emissions Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing
63	YYYY	National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines
63	ZZZZ	National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines
63	AAAAA	National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants
63	BBBBB	National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing
63	CCCCC	National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks
63	DDDDD	National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters
63	EEEEE	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries
63	FFFFF	National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities

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PART	SUBPART	DESCRIPTION
63	GGGGG	National Emission Standards for Hazardous Air Pollutants: Site Remediation
63	HHHHH	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing
63	IIIII	National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants
63	LLLLL	National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing
63	MMMMM	National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations
63	NNNNN	National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production
63	PPPPP	National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands
63	QQQQQ	National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities
63	RRRRR	National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing
63	SSSSS	National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing
63	TTTTT	National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining
63	WWWWW	National Emission Standards for Hospital Ethylene Oxide Sterilizers
63	YYYYY	National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities
63	ZZZZZ	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources
63	BBBBBB	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities
63	CCCCCC	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities

PART	SUBPART	DESCRIPTION
63	DDDDDD	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources
63	EEEEEE	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources
63	FFFFFF	National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources
63	GGGGGG	National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources - Zinc, Cadmium, and Beryllium
63	HHHHHH	National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources
63	JJJJJJ	National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources
63	LLLLLL	National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources
63	MMMMMM	National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources
63	NNNNNN	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds
63	OOOOOO	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources
63	PPPPPP	National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources
63	QQQQQQ	National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources
63	RRRRRR	National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources
63	SSSSSS	National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources
63	TTTTTT	National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources

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PART	SUBPART	DESCRIPTION
63	VVVVVV	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources
63	WWWWWW	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations
63	XXXXXX	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Nine Metal Fabrication and Finishing Source Categories
63	YYYYYY	National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities
63	ZZZZZZ	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries
63	AAAAAAA	National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing
63	BBBBBBB	National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry
63	CCCCCCC	National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing
63	DDDDDDD	National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing
63	EEEEEEE	National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category
64	n/a (All Sections)	Compliance Assurance Monitoring (CAM)
72	All Subparts	Permits Regulation

[OAR Docket #12-444; filed 4-25-12]

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

[OAR Docket #12-445]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources

Part 5. Permits for Part 70 Sources

252:100-8-2. [AMENDED]

252:100-8-4. [AMENDED]

Part 7. Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas

252:100-8-31. [AMENDED]

252:100-8-33. [AMENDED]

Part 9. Major Sources Affecting Nonattainment Areas

252:100-8-51.1. [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S. §§2-2-101 and 2-2-201; and Oklahoma Clean Air Act, 27A O.S. §§2-5-101 *et seq.*

DATES:

Comment period:

September 1, 2011 through October 5, 2011

Public hearings:

October 5, 2011

Adoption:

November 15, 2011

Submitted to Governor:

November 21, 2011

Submitted to House:

November 21, 2011

Submitted to Senate:

November 21, 2011

Gubernatorial approval:

December 21, 2011

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 29, 2012

Final adoption:

March 29, 2012

Effective:

July 1, 2012

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

Incorporated standards as they existed on July 1, 2010:

40 CFR 51.165(a)(11)

Incorporating rules:

252:100-8-51.1(c)

Availability:

The standards are on file at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma, 73102, and are available to the public for examination Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m. excluding state holidays.

ANALYSIS:

The Department is proposing to modify Subchapter 8 to include the Environmental Protection Agency's (EPA's) recent changes to the Prevention of Significant Deterioration (PSD) and Part 70 programs regarding permitting of carbon dioxide (CO₂) emissions from certain biomass sources. EPA has deferred for a period of three (3) years the application of the PSD and Part 70 permitting requirements to these biogenic CO₂ emissions from bioenergy and other biogenic stationary sources. The Department proposes to modify the definitions of "subject to regulation" in OAC 252:100-8-2 and 252:100-8-31 to accomplish this deferral. The proposed modification to Parts 5 and 7 of Subchapter 8 will prevent the State rule from being perceived to be more stringent than the corresponding federal rule.

The Department is proposing to revise OAC 252:100-8-4(a)(1) to clarify that construction permits for new and modified Part 70 sources shall be obtained under the requirements of Part 5 of 252:100-8 and not 252:100-7, Permits for Minor Facilities. In addition, a change is proposed to

252:100-8-4(b), which would set a schedule for timely application submittal for sources that become subject to the Part 70 operating permit program without any physical or operational change or any increase in emissions of air pollutants subject to regulation.

Due to errors in the *Oklahoma Register* (28 OK Reg 1179) published June 15, 2011, the Department is proposing a series of corrections to Subchapter 8. The corrections are in paragraph (B) of the definition of "subject to regulation" in 252:100-8-2 and in paragraph (B)(i) of the definition of "subject to regulation" in 252:100-8-31 where dashes were erroneously converted to the letter "B"; in the definitions of "baseline area" and "significant" in 252:100-8-31 where "µg/m³" was erroneously converted to "Fg/m³"; in 252:100-8-33(c)(1) where a number of occurrences of "µg/m³" were erroneously converted to "Fg/m³"; and in 252:100-8-51.1(c) where the date of incorporation by reference was July 1, 2011 when it should have been July 1, 2010.

The Department proposes to make other nonsubstantive changes in the sections of the rule that are being revised, including changing the name of Subchapter 8 to "Permits for Part 70 Sources and Major New Source Review (NSR) Sources."

CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2012:

SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES AND MAJOR NEW SOURCE REVIEW (NSR) SOURCES

PART 5. PERMITS FOR PART 70 SOURCES

252:100-8-2. Definitions

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

"**Administratively complete**" means an application that provides:

- (A) All information required under OAC 252:100-8-5(c), (d), or (e);
- (B) A landowner affidavit as required by OAC 252:4-7-13(b);
- (C) The appropriate application fees as required by OAC 252:100-8-1.7; and
- (D) Certification by the responsible official as required by OAC 252:100-8-5(f).

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

"**Affected states**" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Begin actual construction" means for purposes of this Part, that the owner or operator has begun the construction or installation of the emitting equipment on a pad or in the final location at the facility.

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

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

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

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

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

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

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

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

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

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

(B) 2 tons per year for any one hazardous air pollutant (HAP) or 5 tons per year for an aggregate of two or more HAPs, or 20 percent of any threshold less

than 10 tons per year for single HAP that the EPA may establish by rule.

"MACT" means maximum achievable control technology.

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

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

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

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

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;

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

(C) A major stationary source as defined in part D of Title I of the Act, including:

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

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determined under rules issued by the Administrator, sources with the potential to emit 50 TPY or more of carbon monoxide; and

- (iv) For particulate matter (PM₁₀) non-attainment areas classified as "serious," sources with the potential to emit 70 TPY or more of PM₁₀.

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

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

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

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

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

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder.

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

"Regulated air pollutant" means the following:

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

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

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

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

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

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

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

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

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

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

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

"Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the federal Clean Air Act, or a nationally-applicable regulation codified by the EPA Administrator in subchapter C of Chapter I of 40 CFR, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit, or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(A) Greenhouse gases (GHG) shall not be subject to regulation unless, as of July 1, 2011, the GHG emissions are at a stationary source emitting or having the potential to emit 100,000 TPY CO₂ equivalent

emissions (CO₂e) and are otherwise subject to regulation as previously described in this definition.

(B) The term TPY CO₂ equivalent emissions (CO₂e) shall represent an amount of GHG emitted, and shall be computed by multiplying the mass amount of emissions (TPY), for each of the six greenhouse gases in the pollutant GHG, by the gas' associated global warming potential (GWP) published in Table A-1 to subpart A of 40 CFR Part 98 ~~B~~ Global Warming Potentials, and summing the resultant value for each to compute a TPY CO₂e. For purposes of this definition, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries, as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

(C) If federal legislation or a federal court stays, invalidates, delays the effective date, or otherwise renders unenforceable by the EPA, in whole or in part, the EPA's tailoring rule (75 FR 31514, June 3, 2010), endangerment finding (74 FR 66496, December 15, 2009), or light-duty vehicle greenhouse gas emission standard (75 FR 25686, May 7, 2010), this definition shall be enforceable only to the extent that it is enforceable by the EPA.

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

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

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

(a) **Construction permits.**

(1) **Construction permit required.** No person shall begin actual construction or installation of any new source that will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit under Part 5 of OAC 252:100-8. A construction permit is also required prior to reconstruction of a major affected source under 40 CFR Part 63, reconstruction of a major source if it would then become a major affected source under 40 CFR 63, or for any physical change that would be a significant modification under OAC 252:100-8-7.2(b)(2). In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein.

(2) **Requirement for case-by-case MACT determinations.** (A)**Applicability.** The requirement for case-by-case MACT determinations apply to any owner

or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998, unless the source has been specifically regulated or exempted from regulation under a subpart of 40 CFR Part 63, or the owner or operator has received all necessary air quality permits for such construction or reconstruction before June 29, 1998.

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

- (i) Electric utility steam generating units unless and until these units are added to the source category list.
- (ii) Stationary sources that are within a source category that has been deleted from the source category list.
- (iii) Research and development activities as defined in 40 CFR ' 63.41.

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

(b) **Operating permits.**

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

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

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

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

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

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

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

(A) No later than September 5, 1996:

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

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

- (I) Petroleum and Natural Gas, 1311;
- (II) Natural Gas Liquids, 1321;
- (III) Electric Services, 4911, 4961;
- (IV) Natural Gas Transmission, 4922;
- (V) Natural Gas Transmission and Distribution, 4923; and
- (VI) Petroleum Bulk Stations and Terminals, 5171.

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

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

- (i) Metals, 3312, 3315, 3321, 3341, 3351, 3411, 3412, 3432, 3466,
- (ii) Brick Plants, 3251, 3297,
- (iii) Commercial Printing, 2752, 2761.

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

- (i) Refineries, 2911;
- (ii) Cement Plants, 3241;

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

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

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

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

(5) **Newly regulated sources.** A source that becomes subject to the Part 70 operating permit program ~~established by this Chapter~~ at any time ~~following the effective date on or after March 6, 1996,~~ shall file an administratively complete operating permit application ~~within 180 days of commencement of operation in accordance with the following schedule.~~

(A) A new source shall file an administratively complete operating permit application within 180 days of commencement of operation.

(B) An existing source that becomes subject to the Part 70 operating permit program due to modification shall file an administratively complete operating permit application within 180 days of commencement of operation of the modification.

(C) An existing source that becomes subject to the Part 70 operating permit program without undergoing physical or operational changes resulting in an increase in the emission of any air pollutant subject to regulation shall file an administratively complete operating permit application within 12 months after the date the source first becomes subject to the Part 70 operating permit program.

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

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

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

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

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

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

252:100-8-31. Definitions

The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise. All terms used in this Part that are not defined in this Section shall have the meaning given to them in OAC 252:100-1-3, 252:100-8-1.1, or in the Oklahoma Clean Air Act.

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

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

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

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

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

- (A) the applicable standards as set forth in 40 CFR Parts 60 and 61;
- (B) the applicable State rule allowable emissions;
- or,
- (C) the emissions rate specified as an enforceable permit condition.

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

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

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

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

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

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

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

(C) For an existing emissions unit (other than an EUSGU), baseline actual emissions means the average rate in TPY, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Director for a permit required either under this Part or under a plan approved by the Administrator, whichever is earlier, except that the 10 year period shall not include any period earlier than November 15, 1990.

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

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

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

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

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

(D) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

(E) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing EUSGU in accordance with the procedures contained in paragraph (B) of this definition, for other existing emissions units in accordance with the procedures contained in Paragraph (C) of this definition, and for a new emissions unit in accordance with the procedures contained in paragraph (D) of this definition.

"Baseline area" means any intrastate areas (and every part thereof) designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established, as follows: Equal to or greater than $1 - \frac{\text{Eg}}{\text{m}^3 \text{ug/m}^3}$ (annual average) for SO₂, NO₂, or PM₁₀; or equal to or greater than $0.3 \frac{\text{Eg}}{\text{m}^3 \text{ug/m}^3}$ (annual average) for PM_{2.5}.

(A) Area redesignations under section 107(d)(1)(A)(ii) or (iii) of the Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

(i) establishes a minor source baseline date; or
(ii) is subject to 40 CFR 52.21 or OAC 252:100-8, Part 7, and would be constructed in the same State as the State proposing the redesignation.

(B) Any baseline area established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM₁₀ increments, except that such baseline area shall not remain in effect if the Director rescinds the corresponding minor source baseline date in accordance with paragraph (D) of the definition of "baseline date".

"Baseline concentration" means that ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date.

(A) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in (B) of this definition.

(ii) the allowable emissions of major stationary sources that commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

(B) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) actual emissions from any major stationary source on which construction commenced after the major source baseline date; and,

(ii) actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

"Baseline date" means:

(A) Major source baseline date means:

(i) in the case of PM₁₀ and sulfur dioxide, January 6, 1975;

(ii) in the case of nitrogen dioxide, February 8, 1988; and

(iii) in the case of PM_{2.5}, October 20, 2010.

(B) Minor source baseline date means the earliest date after the trigger date on which a major stationary source or major modification (subject to 40 CFR 52.21 or OAC 252:100-8, Part 7) submits a complete application. The trigger date is:

(i) in the case of PM₁₀ and sulfur dioxide, August 7, 1977;

(ii) in the case of nitrogen dioxide, February 8, 1988; and

(iii) in the case of PM_{2.5}, October 20, 2011.

(C) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

- (i) the area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act for the pollutant on the date of its complete application under 40 CFR 52.21 or under OAC 252:100-8, Part 7; and
- (ii) in the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(D) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM₁₀ increments, except that the Director may rescind any such minor source baseline date where it can be shown, to the satisfaction of the Director, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM₁₀ emissions.

"Begin actual construction" means in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature.

(A) Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures.

(B) With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

"Best available control technology" or "BACT" means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the Director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of such pollutant. In no event shall application of BACT result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR parts 60 and 61. If the Director determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

"Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

"Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology", up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the EPA. The Federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.

"Commence" means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:

(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,

(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in emissions.

"Continuous emissions monitoring system" or "CEMS" means all of the equipment that may be required to meet the data acquisition and availability requirements to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

"Continuous emissions rate monitoring system" or "CERMS" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

"Continuous parameter monitoring system" or "CPMS" means all of the equipment necessary to meet the data acquisition and availability requirements to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O₂, or CO₂ concentrations), and to record average operational parameter value(s) on a continuous basis.

"Electric utility steam generating unit" or "EUSGU" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

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"Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an EUSGU. There are two types of emissions units as described in paragraphs (A) and (B) of this definition.

(A) A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated.

(B) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (A) of this definition. A replacement unit is an existing emissions unit.

"Federal Land Manager" means with respect to any lands in the United States, the Secretary of the department with authority over such lands.

"High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

"Low terrain" means any area other than high terrain.

"Major modification" means:

(A) Any physical change in or change in the method of operation of a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from the major stationary source is a major modification.

(i) Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for VOC or NO_x shall be considered significant for ozone.

(ii) A physical change or change in the method of operation shall not include:

(I) routine maintenance, repair and replacement;

(II) use of an alternative fuel or raw material by reason of any order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(III) use of an alternative fuel by reason of an order or rule under section 125 of the Act;

(IV) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(V) use of an alternative fuel or raw material by a stationary source which the source was capable of accommodating before January 6, 1975, (unless such change would be prohibited under any enforceable permit condition which

was established after January 6, 1975) or the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7 or 252:100-8;

(VI) an increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975;

(VII) any change in source ownership;

(VIII) the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided the project complies with OAC 252:100 and other requirements necessary to attain and maintain the NAAQS during the project and after it is terminated;

(IX) the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant (on a pollutant-by-pollutant basis) emitted by the unit; or

(X) the reactivation of a very clean coal-fired EUSGU.

(B) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under OAC 252:100-8-38 for a PAL for that pollutant. Instead, the definition of "PAL major modification" at 40 CFR 51.166(w)(2)(viii) shall apply.

"Major stationary source" means

(A) A major stationary source is:

(i) any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 TPY or more of a regulated NSR pollutant:

(I) carbon black plants (furnace process),

(II) charcoal production plants,

(III) chemical process plants, (not including ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140),

(IV) coal cleaning plants (with thermal dryers),

(V) coke oven batteries,

(VI) fossil-fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input,

(VII) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,

(VIII) fuel conversion plants,

(IX) glass fiber processing plants,

(X) hydrofluoric, sulfuric or nitric acid plants,

(XI) iron and steel mill plants,

(XII) kraft pulp mills,

- (XIII) lime plants,
 - (XIV) municipal incinerators capable of charging more than 250 tons of refuse per day,
 - (XV) petroleum refineries,
 - (XVI) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,
 - (XVII) phosphate rock processing plants,
 - (XVIII) portland cement plants,
 - (XIX) primary aluminum ore reduction plants,
 - (XX) primary copper smelters,
 - (XXI) primary lead smelters,
 - (XXII) primary zinc smelters,
 - (XXIII) secondary metal production plants,
 - (XXIV) sintering plants,
 - (XXV) sulfur recovery plants, or
 - (XXVI) taconite ore processing plants;
 - (ii) any other stationary source not on the list in (A)(i) of this definition which emits, or has the potential to emit, 250 TPY or more of a regulated NSR pollutant;
 - (iii) any physical change that would occur at a stationary source not otherwise qualifying as a major stationary source under this definition if the change would constitute a major stationary source by itself.
- (B) A major source that is major for VOC or NO_x shall be considered major for ozone.
- (C) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Part whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:
- (i) the stationary sources listed in (A)(i) of this definition;
 - (ii) any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

"Necessary preconstruction approvals or permits" means those permits or approvals required under all applicable air quality control laws and rules.

"Net emissions increase" means:

- (A) with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:
 - (i) the increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to OAC 252:100-8-30(b); and,
 - (ii) any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under (A)(ii) of this definition shall be determined as provided in the definition of "baseline actual

emissions", except that (B)(iii) and (C)(iv) of that definition shall not apply.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if:

- (i) it is contemporaneous; and
- (ii) the Director has not relied on it in issuing a permit for the source under OAC 252:100-8, Part 7, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides that occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

(E) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(F) A decrease in actual emissions is creditable only to the extent that it meets all the conditions in (F)(i) through (iii) of this definition.

(i) It is creditable if the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions.

(ii) It is creditable if it is enforceable as a practical matter at and after the time that actual construction on the particular change begins.

(iii) It is creditable if it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(G) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(H) Paragraph (A) of the definition of "actual emissions" shall not apply for determining creditable increases and decreases.

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

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"Predictive emissions monitoring system" or "PEMS" means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O₂, or CO₂ concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

"Prevention of Significant Deterioration (PSD) program" means a major source preconstruction permit program that has been approved by the Administrator and incorporated into the plan to implement the requirements of 40 CFR 51.166, or the program in 40 CFR 52.21. Any permit issued under such a program is a major NSR permit.

"Project" means a physical change in, or change in method of operation of, an existing major stationary source.

"Projected actual emissions" means

(A) Projected actual emissions means the maximum annual rate, in TPY, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated NSR pollutant, and full utilization of the unit would result in a significant emissions increase, or a significant net emissions increase at the major stationary source.

(B) In determining the projected actual emissions under paragraph (A) of this definition (before beginning actual construction), the owner or operator of the major stationary source:

(i) shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or Federal regulatory authorities, and compliance plans under the approved plan; and

(ii) shall include fugitive emissions to the extent quantifiable and emissions associated with start-ups, shutdowns, and malfunctions; and

(iii) shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or,

(iv) in lieu of using the method set out in (B)(i) through (iii) of this definition, may elect to use the emissions unit's potential to emit, in TPY.

"Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with the commencement

of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

(A) has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the Department's emissions inventory at the time of enactment;

(B) was equipped prior to shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% and a removal efficiency for particulates of no less than 98%;

(C) is equipped with low-NO_x burners prior to the time of commencement of operations following reactivation; and

(D) is otherwise in compliance with the requirements of the Act.

"Regulated NSR pollutant" means

(A) A regulated NSR pollutant is:

(i) any pollutant for which a NAAQS has been promulgated and any pollutant identified under (A)(i) of this definition as a constituent or precursor to such pollutant. Precursors identified by the Administrator for purposes of NSR are the following:

(I) volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(II) sulfur dioxide is a precursor to PM_{2.5} in all attainment and unclassifiable areas.

(III) nitrogen oxides are presumed to be precursors to PM_{2.5} in all attainment and unclassifiable areas, unless the State demonstrates to the EPA Administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient PM_{2.5} concentrations.

(IV) volatile organic compounds are presumed not to be precursors to PM_{2.5} in any attainment or unclassifiable area, unless the State demonstrates to the EPA Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's ambient PM_{2.5} concentrations.

(ii) any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) any Class I or II substance subject to a standard promulgated under or established by title VI of the Act; or

(iv) any pollutant that otherwise is "subject to regulation" under the Act as defined in the definition of "subject to regulation" in OAC 252:100-8-31;

(v) PM emissions, PM_{2.5} emissions, and PM₁₀ emissions shall include gaseous emissions from

a source or activity which condense to form particulate matter at ambient temperatures. Such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, PM_{2.5}, and PM₁₀ in PSD permits.

- (B) Regulated NSR pollutant does not include:
- (i) any or all HAP either listed in section 112 of the Act or added to the list pursuant to section 112(b)(2) of the Act, which have not been delisted pursuant to section 112(b)(3) of the Act, unless the listed HAP is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act; or
 - (ii) any pollutant that is regulated under section 112(r) of the Act, provided that such pollutant is not otherwise regulated under the Act.

"Replacement unit" means an emissions unit for which all the criteria listed in paragraphs (A) through (D) of this definition are met. No creditable emission reduction shall be generated from shutting down the existing emissions unit that is replaced.

- (A) The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.
- (B) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.
- (C) The replacement unit does not alter the basic design parameter(s) of the process unit.
- (D) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operating by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

"Repowering" means

- (A) Repowering shall mean the replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.
- (B) Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.
- (C) The Director shall give expedited consideration to permit applications for any source that satisfies

the requirements of this definition and is granted an extension under section 409 of the Act.

"Significant" means:

- (A) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following significant emission rates:
 - (i) carbon monoxide: 100TPY,
 - (ii) nitrogen oxides: 40 TPY,
 - (iii) sulfur dioxide: 40 TPY,
 - (iv) particulate matter: 25 TPY of particulate matter emissions or 15 TPY of PM₁₀ emissions,
 - (v) PM_{2.5}: 10 TPY of direct PM_{2.5} emissions; 40 TPY of sulfur dioxide emissions; or 40 TPY of nitrogen oxide emissions unless demonstrated not to be a PM_{2.5} precursor under the definition of "regulated NSR pollutant",
 - (vi) ozone: 40 TPY of VOC or NO_x,
 - (vii) lead: 0.6 TPY,
 - (viii) fluorides: 3 TPY,
 - (ix) sulfuric acid mist: 7 TPY,
 - (x) hydrogen sulfide (H₂S): 10 TPY,
 - (xi) total reduced sulfur (including H₂S): 10 TPY,
 - (xii) reduced sulfur compounds (including H₂S): 10 TPY,
 - (xiii) municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.5 x 10⁻⁶ TPY,
 - (xiv) municipal waste combustor metals (measured as particulate matter): 15 TPY,
 - (xv) municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 40 TPY,
 - (xvi) municipal solid waste landfill emissions (measured as nonmethane organic compounds): 50 TPY.

(B) Any emissions rate or any net emissions increase associated with a major stationary source or major modification which would construct within 6 miles of a Class I area, and have an impact on such area equal to or greater than 1 Pg/m^3 1 ug/m^3 (24-hour average).

"Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant.

"Significant net emissions increase" means a significant emissions increase and a net increase.

"Stationary source" means any building, structure, facility or installation which emits or may emit a regulated NSR pollutant.

"Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the federal Clean Air Act, or a nationally-applicable regulation codified by the EPA Administrator in subchapter C of Chapter I of 40 CFR, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect

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and is operative to control, limit, or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(A) Greenhouse gases (GHG) shall not be subject to regulation except as provided in (D) through (E) of this definition.

(B) For purposes of (C) through (E) of this definition, the term TPY CO₂ equivalent emissions (CO₂e) shall represent an amount of GHG emitted, and shall be computed as follows:

(i) Multiplying the mass amount of emissions (in TPY), for each of the six greenhouse gases in the pollutant GHG, by the gas' associated global warming potential (GWP) published in Table A-1 to subpart A of 40 CFR Part 98 B- Global Warming Potentials. For purposes of this definition, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries, as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

(ii) Summing the resultant value from (B)(i) of this definition for each gas to compute a TPY CO₂e.

(C) The term emissions increase as used in (D) through (E) of this definition shall mean that both a significant emissions increase (as calculated using the procedures in OAC 252:100-8-30(b)(1) through (5)) and a significant net emissions increase (as defined in the definitions of "net emissions increase" and "significant" in 252:100-8-31) occur. For the pollutant GHG, an emissions increase shall be based on TPY CO₂e, and shall be calculated assuming the pollutant GHG is a regulated NSR pollutant, and "significant" is defined as 75,000 TPY CO₂e and the emissions are otherwise subject to regulation as previously described in this definition.

(D) Beginning January 2, 2011, the pollutant GHG is subject to regulation if it meets the other requirements of this definition and if:

(i) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHG, and also will emit or will have the potential to emit 75,000 TPY CO₂e or more; or

(ii) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHG, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 TPY CO₂e or more.

(E) Beginning July 1, 2011, in addition to the provisions in (D) of this definition, the pollutant GHG shall also be subject to regulation:

(i) At a new stationary source that will emit or have the potential to emit 100,000 TPY CO₂e; or

(ii) At an existing stationary source that emits or has the potential to emit 100,000 TPY CO₂e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 TPY CO₂e or more.

(F) If federal legislation or a federal court stays, invalidates, delays the effective date, or otherwise renders unenforceable by the EPA, in whole or in part, the EPA's tailoring rule (75 FR 31514, June 3, 2010), endangerment finding (74 FR 66496, December 15, 2009), or light-duty vehicle greenhouse gas emission standard (75 FR 25686, May 7, 2010), this definition shall be enforceable only to the extent that it is enforceable by the EPA.

"Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the Oklahoma Air Pollution Control Rules in OAC 252:100 and other requirements necessary to attain and/or maintain the NAAQS during and after the project is terminated.

252:100-8-33. Exemptions

(a) Exemptions from the requirements of OAC 252:100-8-34 through 252:100-8-36. 2.

(1) The requirements of OAC 252:100-8-34 through 252:100-8-36.2 do not apply to a particular major stationary source or major modification if the source or modification is:

(A) a nonprofit health or nonprofit educational institution; or

(B) major only if fugitive emissions, to the extent quantifiable, are included in calculating the potential to emit and such source is not one of the categories listed in paragraph (C) of the definition of "Major stationary source"; or

(C) a portable stationary source which has previously received a permit under the requirements contained in OAC 252:100-8-34 through 252:100-8-36.2 and proposes to relocate to a temporary new location from which its emissions would not impact a Class I area or an area where an applicable increment is known to be violated.

(2) The requirements in OAC 252:100-8-34 through 252:100-8-36.2 do not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that the source or modification is located in an area designated as nonattainment for that pollutant under section 107 of the Act.

(b) Exemption from air quality impact analyses in OAC 252:100-8-35(a) and (c) and 252:100-8-35. 2.

(1) The requirements of OAC 252:100-8-35(a) and (c) and 252:100-8-35.2 are not applicable with respect to

a particular pollutant, if the allowable emissions of that pollutant from a new source, or the net emissions increase of that pollutant from a modification, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

(2) The requirements of OAC 252:100-8-35(a) and (c) and 252:100-8-35.2 as they relate to any PSD increment for a Class II area do not apply to a modification of a major stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of BACT, would be less than 50 TPY.

(c) Exemption from air quality analysis requirements in OAC 252:100-8-35(c).

(1) The monitoring requirements of OAC 252:100-8-35(c) regarding air quality analysis are not applicable for a particular pollutant if the emission increase of the pollutant from a proposed major stationary source or the net emissions increase of the pollutant from a major modification would cause, in any area, air quality impacts less than the following significant monitoring concentrations (SMC):

- (A) Carbon monoxide - 575 Fg/m^3 ug/m^3 , 8-hour average,
- (B) Nitrogen dioxide - 14 Fg/m^3 ug/m^3 , annual average,
- (C) $\text{PM}_{2.5}$ - 4 ug/m^3 , 24-hour average,
- (D) PM_{10} - 10 Fg/m^3 ug/m^3 , 24-hour average,
- (E) Sulfur dioxide - 13 Fg/m^3 ug/m^3 , 24-hour average,
- (F) Ozone - no de minimis air quality level is provided for ozone, however any net increase of 100 TPY or more of VOC or NO_x subject to PSD would require an ambient impact analysis, including the gathering of ambient air quality data,
- (G) Lead - 0.1 Fg/m^3 ug/m^3 , 24-hour 3-month average,
- (H) Fluorides - 0.25 Fg/m^3 ug/m^3 , 24-hour average,
- (I) Total reduced sulfur - 10 Fg/m^3 ug/m^3 , 1-hour average,
- (J) Hydrogen sulfide - 0.2 Fg/m^3 ug/m^3 , 1-hour average, or
- (K) Reduced sulfur compounds - 10 Fg/m^3 ug/m^3 , 1-hour average.

(2) The monitoring requirements of OAC 252:100-8-35(c) are not applicable for a particular pollutant if the pollutant is not listed in preceding OAC 252:100-8-33(c)(1).

(d) Exemption from monitoring requirements in OAC 252:100-8-35(c)(1)(B) and (D).

(1) The requirements for air quality monitoring in OAC 252:100-8-35(c)(1)(B) and (D) shall not apply to a particular source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted on or before June 8, 1981, and the Director subsequently determined that the application was complete except for the requirements in OAC

252:100-8-35(c)(1)(B) and (D). Instead, the requirements in 40 CFR 52.21(m)(2) as in effect on June 19, 1978, shall apply to any such source or modification.

(2) The requirements for air quality monitoring in OAC 252:100-8-35(c)(1)(B) and (D) shall not apply to a particular source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted on or before June 8, 1981, and the Director subsequently determined that the application as submitted was complete, except for the requirements in OAC 252:100-8-35(c)(1)(B) and (D).

(e) Exemption from the preapplication analysis required by OAC 252:100-8-35(c)(1)(A), (B), and (D).

(1) The Director shall determine if the requirements for air quality monitoring of PM_{10} in OAC 252:100-8-35(c)(1)(A), (B), and (D) may be waived for a particular source or modification when an application for a PSD permit was submitted on or before June 1, 1988, and the Director subsequently determined that the application, except for the requirements for monitoring particulate matter under OAC 252:100-8-35(c)(1)(A), (B), and (D), was complete before that date.

(2) The requirements for air quality monitoring of PM_{10} in OAC 252:100-8-35(c)(1)(B)(i), 252:100-8-35(c)(1)(D), and 252:100-8-35(c)(3) shall apply to a particular source or modification if an application for a permit was submitted after June 1, 1988, and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988, to the date the application became otherwise complete in accordance with the provisions of OAC 252:100-8-35(c)(1)(C), except that if the Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by OAC 252:100-8-35(c)(1)(B)(ii) shall have been gathered over that shorter period.

(f) Exemption from BACT requirements and air quality analyses requirements. If a complete permit application for a source or modification was submitted before August 7, 1980 the requirements for BACT in OAC 252:100-8-34 and the requirements for air quality analyses in OAC 252:100-8-35(c)(1) are not applicable to a particular stationary source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978. Instead, the federal requirements at 40 CFR 52.21 (j) and (n) as in effect on June 19, 1978, are applicable to any such source or modification.

(g) Exemption from OAC 252:100-8-35(a)(1)(B). The permitting requirements of OAC 252:100-8-35(a)(1)(B) do not apply to a stationary source or modification with respect to any PSD increment for nitrogen oxides if the owner or operator of the source or modification submitted a complete application for a permit before February 8, 1988.

PART 9. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS

Permanent Final Adoptions

252:100-8-51.1. Emissions reductions and offsets

(a) The requirements in 40 CFR 51.165(a)(3) regarding emissions reductions and offsets are hereby incorporated by reference as they exist on July 2, 2007.

(b) The requirements in subsection 40 CFR 51.165(a) (9) dealing with offset ratios are hereby incorporated by reference as they exist on July 1, 2010.

(c) The requirements in 40 CFR 51.165(a)(11) regarding emission offsets are hereby incorporated by reference as they exist on July 1, ~~2011~~2010.

[OAR Docket #12-445; filed 4-25-12]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 205. HAZARDOUS WASTE MANAGEMENT

[OAR Docket #12-446]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

Subchapter 3. Incorporation by Reference
252:205-3-1 [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A §§ 2-2-101, 2-2-201, 2-2-104, 2-7-105 and 2-7-106

DATES:

Comment period:

September 13 through October 13, 2011

Public hearing:

October 13, 2011, Hazardous Waste Management Advisory Council

Adoption:

November 15, 2011

Submitted to Governor:

November 21, 2011

Submitted to House:

November 21, 2011

Submitted to Senate:

November 21, 2011

Gubernatorial Approval:

December 21, 2011

Legislative approval:

March 29, 2012

Final adoption:

March 29, 2012

Effective:

July 1, 2012

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATION BY REFERENCE:

Incorporated standards as published on July 1, 2011:

Title 40 of the Code of Federal Regulations, Part 261, Subpart D, §261.33; Part 262, Subpart K, §262.200, §262.206, §262.212, §262.214; and Part 268, Subpart D, §268.40, §268.42, §268.42

Incorporating rules:

252:205-3-1

Availability:

From the contact person listed below

ANALYSIS:

The proposed amendment is to incorporate by reference the federal hazardous waste regulations found in 40 CFR Parts 124 and 260-279 revised as of July 1, 2011. New rules include technical corrections and the removal of Saccharin and its salts from the Lists of Hazardous Wastes.

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 1, 2012:

SUBCHAPTER 3. INCORPORATION BY REFERENCE

252:205-3-1. Reference to 40 CFR

(a) Incorporation date. Except as provided in subsection (b), when reference is made to Title 40 of the Code of Federal Regulations (40 CFR), it shall mean (unless otherwise specified) the Hazardous Waste Regulations, Monday, May 19, 1980, as amended through July 1, ~~2010~~2011.

(b) Excluded provisions. None of the revisions to 40 CFR published at 73 FR 64668 - 64788 (October 30, 2008), "Revisions to the Definition of Solid Waste: Final Rule" are incorporated herein.

[OAR Docket #12-446; filed 4-25-12]

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

[OAR Docket #12-448]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

Subchapter 1. General Provisions

252:410-1-7. [AMENDED]

Subchapter 10. Radioactive Materials Program

Part 1. General Provisions

252:410-10-1. [AMENDED]

Part 35. Medical Use of Byproduct Material

252:410-10-35. [AMENDED]

Part 40. Domestic Licensing of Source Material

252:410-10-40. [AMENDED]

Part 71. Packaging and Transporting Radioactive Material

252:410-10-71. [AMENDED]

Subchapter 20. Standards For Protection Against Radiation

252:410-20-1. [AMENDED]

AUTHORITY:

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

DATES:

Comment period:

September 1, 2011, through November 8, 2011, October 6, 2011, and November 15, 2011.

Public hearing:

October 6, 2011, Radiation Management Advisory Council and November 15, 2011 Environmental Quality Board.

Adoption:

November 15, 2011

Submitted to Governor:

November 21, 2011

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November 21, 2011

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November 21, 2011

Gubernatorial Approval:

December 21, 2011

Legislative Approval:

March 29, 2012

Final Adoption:

March 29, 2012

Effective:

July 1, 2012

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATION BY REFERENCE:

Incorporated standards as they existed on January 1, 2011:

Incorporated standards as they exist on January 1, 2011:

- 10 CFR section 19.13
- 10 CFR section 20.1201
- 10 CFR section 20.1901
- 10 CFR section 20.2104
- 10 CFR section 20.2205
- 10 CFR section 35.50
- 10 CFR section 35.51
- 10 CFR section 35.57
- 10 CFR section 35.190
- 10 CFR section 35.290
- 10 CFR section 35.390
- 10 CFR section 35.392
- 10 CFR section 35.394
- 10 CFR section 35.396
- 10 CFR section 35.490
- 10 CFR section 35.491
- 10 CFR section 35.690

Incorporating rules:

252:410-1-7, 252:410-10-1, 252:410-10-35, 252:410-10-40, 252:410-10-71, and 252:410-20-1.

Availability:

From the contact person listed below.

ANALYSIS:

The proposed rulemaking amends OAC 252:410-1-7(a) to update the incorporation of federal regulations by reference to January 1, 2011. Federal regulation changes that become part of the Oklahoma rules through this incorporation by reference are updated by amendment in Subchapters 10 and 20. The changes that will be adopted by reference include amended training requirements for medical use of byproduct material, modified reporting requirements for occupational dose records, and a revised definition of total effective dose equivalent (TEDE). Additional revisions to Subchapters 10 and 20 correct minor errors from earlier rulemaking and are not substantive.

CONTACT PERSON:

The contact person is Mike Broderick. He can be reached at mike.broderick@deq.ok.gov (e-mail), (405) 702-5100 (phone) or (405) 702-5101 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

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, 2012:

SUBCHAPTER 1. GENERAL PROVISIONS

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

- (a) **10 CFR.** References in this Chapter to Title 10 of the Code of Federal Regulations (10 CFR) mean the ~~January 1, 2008~~ January 1, 2011 publication of 10 CFR.
- (b) **40 CFR.** References in this Chapter to Title 40 of the Code of Federal Regulations (40 CFR) mean the July 1, 1998 publication of 40 CFR and 64 Fed. Reg. 5574 (February 3, 1999).
- (c) **Citations incorporated.** When a provision of the Code of Federal Regulations is incorporated by reference, all citations contained therein are also incorporated by reference.

SUBCHAPTER 10. RADIOACTIVE MATERIALS PROGRAM

PART 1. GENERAL PROVISIONS

252:410-10-1. Radioactive Materials Program

- (a) **Scope.**
 - (1) The rules in this Subchapter establish license requirements for the following categories of radioactive materials: byproduct material, source material and special nuclear material.
 - (2) License requirements incorporated by reference from 10 CFR are applicable requirements for all categories of radioactive materials within the scope of this Subchapter.
- (b) **Exclusions.** Responsibility for the following regulatory requirements remains with the NRC:
 - (1) In 10 CFR 20. Exemptions to labeling requirements, § 20.1905(g); Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits at nuclear power plants, § 20.2203(c); Reports of individual monitoring, § 20.2206(a)(1), (a)(3), (a)(4) and (a)(5);
 - (2) In 10 CFR 30. Activities requiring license, § 30.3(b); Terms and conditions of licenses, § 30.34 (d), (e)(1) and (e)(3); Transfer of byproduct material, § 30.41 (b)(6); Tritium reports, § 30.55;
 - (3) In 10 CFR 32. Purpose and scope, § 32.1(c)(1); Subpart A, Exempt concentrations and items, §§ 32.11, 32.12, 32.14, 32.15, 32.16, 32.18 through 32.23, and 32.25 through 32.29; Subpart D, Specifically licensed items, § 32.210;
 - (4) In 10 CFR 35. License required, § 35.11(c)(1); License amendments, § 35.13(a)(1);
 - (5) In 10 CFR 40. General Provisions, §§ 40.2a and 40.3; Exemptions, §§ 40.11, 40.12 and 40.13 (a), (b), (c)(1) through (5), (c)(7) through (9), 40.14; General Licenses, §§ 40.20 through 40.24; 40.26 through 40.28; License Applications, §§ 40.31 (f) through (1), §§ 40.32 (d) through (g), and §§ 40.33 through 40.35, § 40.37, and § 40.38; Licenses, §§ 40.41 (d), (e)(1) and (3), (f) and (g), § 40.42 and § 40.46; Transfer of Source Material, § 40.51 (b)(6);

Records, Reports, and Inspections, § 40.60 (c)(3), §§ 40.64 through 40.67; Appendix A;

(6) **In 10 CFR 61.** Other information, § 61.16; Standards for issuance of a license, § 61.23 (i) and (j) regarding physical security information and criticality safety procedures for special nuclear material possessed prior to disposal;

(7) **In 10 CFR 70.** Regulation of special nuclear material for spent fuel, high level radioactive waste and uranium enrichment facilities, §§ 70.1(c),(d) and (e); Department of Defense, § 70.13; Foreign military aircraft, § 70.14; General license to possess special nuclear material for transport, § 70.20a; General license for carriers of transient shipments of formula quantities of strategic special nuclear material of moderate strategic significance, special nuclear material of low strategic significance, and irradiated reactor fuel regulated under 10 CFR 73, § 70.20b; Subpart D - License Applications, § 70.21(a)(1),(c),(f),(g) and (h); § 70.22 (b),(c) and (f) through (n), § 70.23 (a)(6) through (12) and (b). § 70.23a, ~~and § 70.24, and § 70.25~~; Subpart E - Licenses, § 70.31 (c), (d), and (e), § 70.32 (a)(1), (a)(4) through (7), (b)(1), (b)(3), (b)(4), (c) through (k), and § 70.37; §§ 70.40; Subpart F - Acquisition, Use and Transfer of Special Nuclear Material, Creditor's Rights, § 70.42(b)(6), and § 70.44; Subpart G - Special Nuclear Material Control, Records, Reports and Inspections, § 70.51(c),(d) and (e), § 70.52 through § 70.54, § 70.55(c), § 70.56, and § 70.59; Subpart H - Additional Requirements for Certain Licensees Authorized to Possess a Critical Mass of Special Nuclear Material, § 70.60 through 70.76; Subpart I - Modification and Revocation of Licenses, § 70.81 and § 70.82; Subpart J - Enforcement, §§ 70.91 and 70.92;

(8) **In 10 CFR 71.** Subpart A - General Provisions, § 71.10; Subpart B - Exemptions, § 71.14(b); Subpart D - Application for Package Approval, §§ 71.31 through 71.39; Subpart E - Package Approval Standards, §§ 71.41 through 71.45 and §§ 71.51 through 71.65; Subpart F - Package, Special Form, and LSA-III Tests, §§ 71.71 through 71.77; Subpart H - Quality Assurance, § 71.101(c)(2), (d), and (e) and §§ 71.107 through 71.125;

(9) **In 10 CFR 150.** Persons in offshore waters not exempt, § 150.7; Persons in agreement states exempt, § 150.10; Commission regulatory authority for physical protection in agreement states, § 150.14; Persons in agreement states not exempt, Continued Commission authority pertaining to byproduct material in agreement states, § 150.17; Compliance with requirements of US/IAEA safeguards agreement for source material under state agreement license; Submission to Commission of reports for tritium in agreement states, § 150.19; ~~Recognition of Agreement State licenses, § 150.20~~; Transportation by aircraft of special nuclear material by agreement state licensee, § 150.21; Violations, § 150.30; Requirements for Agreement State regulation of byproduct material, § 150.31; Funds for reclamation or maintenance of byproduct material, § 150.32; and Criminal penalties, § 150.33.

(c) **Effective date.** The requirements of this Subchapter became effective September 29, 2000, the date upon which jurisdiction over all unrevoked and unexpired NRC licenses and plan approvals was transferred to DEQ.

PART 35. MEDICAL USE OF BYPRODUCT MATERIAL

252:410-10-35. 10 CFR 35 incorporations by reference

(a) **Incorporations by reference.** The following provisions are hereby incorporated by reference from 10 CFR 35, Medical Use of Byproduct Material:

(1) **Subpart A; General Information.**

- (A) 35.1 - Purpose and scope
- (B) 35.2 - Definitions
- (C) 35.5 - Maintenance of records
- (D) 35.6 - Provisions for the protection of human research subjects
- (E) 35.7 - FDA, other Federal and State requirements
- (F) 35.10 - Implementation
- (G) 35.11(a), (b) and (c)(2) - License required
- (H) 35.12 - Application for license, amendment or renewal
- (I) 35.13(a)(2), and (b) through (g) - License amendments
- (J) 35.14 - Notifications
- (K) 35.15 - Exemptions regarding Type A specific licenses of broad scope
- (L) 35.18 - License issuance
- (M) 35.19 - Specific exemptions

(2) **Subpart B; General Administrative Requirements.**

- (A) 35.24 - Authority and responsibilities for the radiation protection program
- (B) 35.26 - Radiation protection program changes
- (C) 35.27 - Supervision
- (D) 35.40 - Written directives
- (E) 35.41 - Procedures for administrations requiring a written directive
- (F) 35.49 - Suppliers for sealed sources or devices for medical use
- (G) 35.50 - Training for Radiation Safety Officer
- (H) 35.51 - Training for an authorized medical physicist
- (I) 35.55 - Training for an authorized nuclear pharmacist
- (J) 35.57 - Training for experienced Radiation Safety Officer, teletherapy or medical physicist, authorized user, nuclear pharmacist, and authorized nuclear pharmacist
- (K) 35.59 - Recentness of Training

(3) **Subpart C; General Technical Requirements.**

- (A) 35.60 - Possession, use, and calibration of instruments used to measure the activity of unsealed byproduct material
- (B) 35.61 - Calibration of survey instruments

- (C) 35.63 - Determination of dosages of unsealed byproduct material for medical use
 - (D) 35.65 - Authorization for calibration, transmission, and reference sources
 - (E) 35.67 - Requirements for possession of sealed sources and brachytherapy sources
 - (F) 35.69 - Labeling of vials and syringes
 - (G) 35.70 - Surveys of ambient radiation exposure rate
 - (H) 35.75 - Release of individuals containing unsealed byproduct material or implants containing byproduct material
 - (I) 35.80 - Provision of mobile medical service
 - (J) 35.92 - Decay-in-storage
- (4) **Subpart D; Unsealed Byproduct Material—Written Directive Not Required.**
- (A) 35.100 - Use of unsealed byproduct material for uptake, dilution, and excretion studies for which a written directive is not required
 - (B) 35.190 - Training for uptake, dilution, and excretion studies
 - (C) 35.200 - Use of unsealed byproduct material for imaging and localization studies for which a written directive is not required
 - (D) 35.204 - Permissible molybdenum-99, strontium-82, and strontium-85 concentrations
 - (E) 35.290 - Training for imaging and localization studies
- (5) **Subpart E; Unsealed Byproduct Material B—Written Directive Required.**
- (A) 35.300 - Use of unsealed byproduct material for which a written directive is required
 - (B) 35.310 - Safety instruction
 - (C) 35.315 - Safety precautions
 - (D) 35.390 - Training for use of unsealed byproduct material for which a written directive is required
 - (E) 35.392 - Training for the oral administration of sodium iodide I-131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries)
 - (F) 35.394 - Training for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries)
 - (G) 35.396 - Training for the parenteral administration of unsealed byproduct material requiring a written directive
- (6) **Subpart F; Manual Brachytherapy.**
- (A) 35.400 - Use of sources for manual brachytherapy
 - (B) 35.404 - Surveys after source implant and removal
 - (C) 35.406 - Brachytherapy sources accountability
 - (D) 35.410 - Safety instruction
 - (E) 35.415 - Safety precautions
 - (F) 35.432 - Calibration measurements of brachytherapy sources
 - (G) 35.433 - Decay of strontium-90 sources for ophthalmic treatments
 - (H) 35.457 - Therapy related computer systems
 - (I) 35.490 - Training for use of manual brachytherapy sources
 - (J) 35.491 - Training for ophthalmic use of strontium-90
- (7) **Subpart G; Sealed Sources for diagnosis.**
- (A) 35.500 - Use of sealed sources for diagnosis
 - (B) 35.590 - Training for use of sealed sources for diagnosis
- (8) **Subpart H; Photon Emitting Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units.**
- (A) 35.600 - Use of a sealed source in a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit
 - (B) 35.604 - Surveys of patients and human research subjects treated with a remote afterloader unit
 - (C) 35.605 - Installation, maintenance, adjustment, and repair
 - (D) 35.610 - Safety procedures and instructions for remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units
 - (E) 35.615 - Safety precautions for remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units
 - (F) 35.630 - Dosimetry equipment
 - (G) 35.632 - full calibration measurements on teletherapy units
 - (H) 35.633 - Full calibration measurements on remote afterloader units
 - (I) 35.635 - Full calibration measurements on gamma stereotactic radiosurgery units
 - (J) 35.642 - Periodic spot-checks for teletherapy units
 - (K) 35.643 - Periodic spot-checks for remote afterloader units
 - (L) 35.645 - Periodic spot-checks for gamma stereotactic radiosurgery units
 - (M) 35.647 - Additional technical requirements for mobile remote afterloader units
 - (N) 35.652 - Radiation surveys
 - (O) 35.655 - Five year inspection for teletherapy and gamma stereotactic radiosurgery units
 - (P) 35.657 - Therapy-related computer systems
 - (Q) 35.690 - Training for use of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units
- (9) **Subpart I.**
- (10) **Subpart K; Other Medical Uses of Byproduct Material or Radiation From Byproduct Material.**
- 35.1000 - Other medical uses of byproduct material or radiation from byproduct material
- (11) **Subpart L; Records.**
- (A) 35.2024 - Records of authority and responsibilities for radiation protection programs

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- (B) 35.2026 - Records of radiation protection program changes
 - (C) 35.2040 - Records of written directives
 - (D) 35.2041 - Records for procedures for administration requiring a written directive
 - (E) 35.2060 - Records of calibrations of instruments used to measure the activity of unsealed byproduct materials
 - (F) 35.2061 - Records of radiation survey instrument calibrations
 - (G) 35.2063 - Records of dosages of unsealed byproduct material for medical use
 - (H) 35.2067 - Records of leaks tests and inventory of sealed sources and brachytherapy sources
 - (I) 35.2070 - Records of survey for ambient radiation exposure rate
 - (J) 35.2075 - Records of the release of individuals containing unsealed byproduct material or implants containing byproduct material
 - (K) 35.2080 - Records of mobile medical services
 - (L) 35.2092 - Records of decay-in-storage
 - (M) 35.2204 - Records of molybdenum-99, strontium-82, and strontium 85 concentrations.
 - (N) 35.2310 - Records of safety instruction
 - (O) 35.2404 - Records of surveys after source implant and removal
 - (P) 35.2406 - Records of brachytherapy source accountability
 - (Q) 35.2432 - Records of calibration measurements of brachytherapy sources
 - (R) 35.2433 - Records of decay of strontium-90 sources for ophthalmic treatments
 - (S) 35.2605 - Records of installation, maintenance, adjustment, and repair of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units
 - (T) 35.2610 - Records of safety procedures
 - (U) 35.2630 - Records of dosimetry equipment used with remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units
 - (V) 35.2632 - Records of teletherapy, remote afterloader, and gamma stereotactic radiosurgery full calibrations
 - (W) 35.2642 - Records of periodic spot-checks for teletherapy units
 - (X) 35.2643 - Records of periodic spot-checks for remote afterloader units
 - (Y) 35.2645 - Records of periodic spot checks for gamma stereotactic radiosurgery units
 - (Z) 35.2647 - Records of additional technical requirements for mobile remote afterloader units
 - (AA) 35.2652 - Records of surveys of therapeutic treatment units
 - (BB) 35.2655 - Records of 5-year inspection for teletherapy and gamma stereotactic radiosurgery units
- (12) **Subpart M; Reports.**

- (A) 35.3045 - Report and notification of a medical event
 - (B) 35.3047 - Report and notification of a dose to an embryo/fetus or a nursing child
 - (C) 35.3067 - Report of a leaking source
- (b) **Exceptions.** The provisions for communication with NRC of 10 CFR § 30.6 referenced in §§ 35.12 and 35.14 are not incorporated by reference. All correspondence regarding license requirements, and any notifications or reports required by this Part, shall be directed to DEQ.

PART 40. DOMESTIC LICENSING OF SOURCE MATERIAL

252:410-10-40. 10 CFR 40 incorporations by reference

The following provisions are hereby incorporated by reference from 10 CFR 40, Domestic Licensing of Source Material.

(1) **General Provisions.**

- (A) 40.1 - Purpose
- (B) 40.2 - Scope
- (C) 40.4 - Definitions
- (D) 40.7 - Employee Protection
- (E) 40.9 - Completeness and accuracy of information
- (F) 40.10 - Deliberate misconduct

(2) **Exemptions.** 40.13(c)(6) - Unimportant quantities of source material

(3) **General Licenses.** 40.25 - General license for use of certain industrial products or devices.

(4) **License Applications.**

- (A) 40.31 (a) through (e) - Application for specific licenses
- (B) 40.32 (a) through (c) - General requirements for issuance of licenses.
- (C) 40.36 B Financial assurance and recordkeeping for decommissioning

(5) **Licenses.**

- (A) 40.41 (a) through (c) and (e) - Terms and conditions of licenses
- (B) 40.43 - Renewal of licenses
- (C) 40.44 - Amendment of licenses at request of licensee
- (D) 40.45 - Commission action on applications to renew or amend

(6) **Transfer of Source Material.** 40.51 (a), (b)(1) through (5), (b)(7), (c) and (d) - Transfer of source or byproduct material

(7) **Records, Reports and Inspections.**

- (A) 40.60 (a), (b), (c)(1) and (2) - Reporting requirements
- (B) 40.61 (a) through (f) - Records
- (C) 40.62 - Inspections
- (D) 40.63 - Tests

(8) **Modification and Revocation of Licenses.** 40.71 - Modification and revocation of licenses

PART 71. PACKAGING AND TRANSPORTING RADIOACTIVE MATERIAL

252:410-10-71. 10 CFR 71 incorporations by reference

The following provisions are hereby incorporated by reference from 10 CFR 71, Packaging and Transportation of Radioactive Material:

- (1) **Subpart A; General provisions.**
 - (A) 71.0 - Purpose and scope
 - (B) 71.1(b) - Communications and records
 - (C) 71.3 - Requirement for license
 - (D) 71.4 - Definitions
 - (E) 71.5 - Transportation of licensed material
 - (F) 71.7 - Completeness and accuracy of information
 - (G) 71.8 - Deliberate misconduct
 - (H) 71.9 - Employee protection
- (2) **Subpart B; Exemptions.**
 - (A) 71.12 - Specific exemptions
 - (B) 71.13 - Exemptions of physicians
 - (C) ~~71.14 - Exemption for low level materials~~
 - (D) 71.15 - Exemption from classification as fissile material
- (3) **Subpart C; General licenses.**
 - (A) 71.17 - General license: NRC-approved package
 - (B) 71.20 - General license: DOT specification container
 - (C) 71.21 - General license: Use of foreign approved package
 - (D) 71.22 - General license: Fissile material
 - (E) 71.23 - General license: Plutonium-beryllium special form material
- (4) **Subpart E; Package Approval Standards.** 71.47 - External radiation standards for all packages
- (5) **Subpart G; Operating controls and procedures.**
 - (A) 71.81 - Applicability of operating controls and procedures
 - (B) 71.83 - Assumptions as to unknown properties
 - (C) 71.85 - Preliminary determinations
 - (D) 71.87 - Routine determinations
 - (E) 71.88 - Air transport of plutonium
 - (F) 71.89 - Opening instructions
 - (G) 71.91 - Records
 - (H) 71.93 - Inspection and tests
 - (I) 71.95 - Reports
 - (J) 71.97 - Advance notice of shipment of irradiated reactor fuel and nuclear waste
- (6) **Subpart H; Quality assurance.**
 - (A) 71.101(a), (c)(1), (f), and (g) - Quality assurance requirements
 - (B) 71.103 - Quality assurance organization
 - (C) 71.105 - Quality assurance program
 - (D) 71.127 - Handling, storage and shipping control
 - (E) 71.129 - Inspection, test and operating status
 - (F) 71.131 - Nonconforming materials, parts or components

- (G) 71.133 - Corrective action
- (H) 71.135 - Quality assurance records
- (I) 71.137 - Audits
- (7) Appendix A to Part 71--Determination of A₁ and A₂.

SUBCHAPTER 20. STANDARDS FOR PROTECTION AGAINST RADIATION

252:410-20-1. Standards for protection against radiation

- (a) **Scope and applicability.** This Subchapter applies to all persons possessing source(s) of ionizing radiation subject to DEQ jurisdiction. Incorporated exposure limits do not apply to doses an individual has received due to background radiation or any medical administration or from his voluntary participation in medical research programs. Nothing in these rules shall be interpreted as limiting the intentional exposure of patients to radiation for the purpose of medical diagnosis or therapy.
- (b) **Terms.** For purposes of this Subchapter:
 - (1) **"Licensed material"** means any radioactive material under DEQ jurisdiction.
 - (2) **"Licensee"** means the holder of any DEQ radiation management authorization.
- (c) **10 CFR 20 incorporations.** The following provisions of 10 CFR 20, Standards for Protection Against Radiation, are hereby incorporated by reference.
 - (1) **Subpart A, General Provisions.**
 - (A) 20.1001(b) - Purpose
 - (B) 20.1002 - Scope
 - (C) 20.1003 - Definitions
 - (D) 20.1004 - Units of radiation dose
 - (E) 20.1005 - Units of radioactivity
 - (F) 20.1008 (b) through (e) - Implementation
 - (2) **Subpart B, Radiation Protection Programs.** - 20.1101
 - (3) **Subpart C, Occupational Dose Limits.**
 - (A) 20.1201 - Occupational dose limits for adults
 - (B) 20.1202 - Compliance with requirements for summation of external and internal doses
 - (C) 20.1203 - Determination of external dose from airborne radioactive material
 - (D) 20.1204 - Determination of internal exposure
 - (E) 20.1206 - Planned special exposures
 - (F) 20.1207 - Occupational dose limits for minors
 - (G) 20.1208 - Dose to embryo/fetus
 - (4) **Subpart D, Radiation Dose Limits for Individual Members of the Public.**
 - (A) 20.1301 (a), (b), (c) and (e) - Dose limits for individual members of the public
 - (B) 20.1302 - Compliance with dose limits for individual members of the public
 - (5) **Subpart E, Radiological Criteria for License Termination.**
 - (A) 20.1401 - General provisions and scope

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- (B) 20.1402 - Radiological criteria for unrestricted use
- (C) 20.1403 - Criteria for license termination under restricted conditions
- (D) 20.1404 - Alternate criteria for license termination
- (E) 20.1405 - Public notification and public participation
- (F) 20.1406 - Minimization of contamination
- (6) **Subpart F, Surveys and Monitoring.**
 - (A) 20.1501 - General
 - (B) 20.1502 - Conditions requiring individual monitoring of external and internal occupational dose
- (7) **Subpart G, Control of Exposure From External Sources in Restricted Areas.**
 - (A) 20.1601 - Control of access to high radiation areas
 - (B) 20.1602 - Control of access to very high radiation areas
- (8) **Subpart H, Respiratory Protection and Controls to Restrict Internal Exposure in Restricted Areas.**
 - (A) 20.1701 - Use of process or other engineering controls
 - (B) 20.1702 - Use of other controls
 - (C) 20.1703 - Use of individual respiratory protection equipment
 - (D) 20.1704 - Further restrictions on the use of respiratory protection equipment
 - (E) 20.1705 B Application for use of higher assigned protection factors
- (9) **Subpart I, Storage and Control of Licensed Material.**
 - (A) 20.1801 - Security of stored material
 - (B) 20.1802 - Control of material not in storage
- (10) **Subpart J, Precautionary Procedures.**
 - (A) 20.1901 - Caution signs
 - (B) 20.1902 - Posting requirements
 - (C) 20.1903 - Exceptions to posting requirements
 - (D) 20.1904 - Labeling containers
 - (E) 20.1905 (a) through (f) - Exemptions to labeling requirements
 - (F) 20.1906 - Procedures for receiving and opening packages
- (11) **Subpart K, Waste Disposal.**
 - (A) 20.2001 - General requirements
 - (B) 20.2002 - Method for obtaining approval of proposed disposal procedures
 - (C) 20.2003 - Disposal by release into sanitary sewerage
 - (D) 20.2004(a)(2) and (3) - Treatment or disposal by incineration
 - (E) 20.2005 - Disposal of specific wastes
 - (F) 20.2006 - Transfer for disposal and manifests
 - (G) 20.2007 - Compliance with environmental and health protection regulations
 - (H) 20.2008 - Disposal of certain byproduct material
- (12) **Subpart L, Records.**
 - (A) 20.2101 - General provisions
 - (B) 20.2102 - Records of radiation protection programs
 - (C) 20.2103 - Records of surveys
 - (D) 20.2104 - Determination of prior occupational dose
 - (E) 20.2105 - Records of planned special exposures
 - (F) 20.2106 - Records of individual monitoring results
 - (G) 20.2107 - Records of dose to individual members of the public
 - (H) 20.2108 - Records of waste disposal
 - (I) 20.2110 - Form of records
- (13) **Subpart M, Reports.**
 - (A) 20.2201 - Reports of theft or loss of licensed material
 - (B) 20.2202 - Notification of incidents
 - (C) 20.2203 (a), (b) and (d) - Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the limits
 - (D) 20.2204 - Reports of planned special exposures
 - (E) 20.2205 - Reports to individuals of exceeding dose limits
 - (F) 20.2207 - Reports of transactions involving nationally tracked sources
- (14) **Subpart N, Exemptions and Additional Requirements.**
 - (A) 20.2301 - Applications for exemptions
 - (B) 20.2302 - Additional requirements
- (15) **Appendices to Part 20.**
 - (A) Appendix A. Protection Factors for Respirators
 - (B) Appendix B.
 - (i) Table 1. Annual limits on intake (ALIs) and derived air concentration (DACs) of radionuclides for occupational exposure
 - (ii) Table 2. Effluent concentrations
 - (iii) Table 3. Concentrations for release to sewerage
 - (iv) List of Elements
 - (C) Appendix C. Quantities of Licensed Material Requiring Labeling
 - (D) Appendix E. Nationally Tracked Source Thresholds
 - (E) Appendix G. Requirements for transfers of low-level radioactive waste intended for disposal at licensed land disposal facilities and manifests.

[OAR Docket #12-448; filed 4-25-12]

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

[OAR Docket #12-447]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

- Subchapter 3. Radiation Machines - Common Requirements
Part 3. Radiation Safety Management
252:410-3-33 [AMENDED]
Subchapter 11. Use of X-rays and/or Particles for Therapeutic Purposes in the Healing Arts and Veterinary Medicine
Part 1. General Provisions
252:410-11-1 [AMENDED]
252:410-11-2 [AMENDED]
252:410-11-4 [AMENDED]
Part 7. Radiation Safety Management
252:410-11-71 [AMENDED]
252:410-11-74 [AMENDED]
252:410-11-75 [AMENDED]
252:410-11-81 [AMENDED]

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

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ANALYSIS:

The proposed rulemaking amends Subchapter 11 rules regulating the used of radiation producing machines for therapeutic purposes in the healing arts. The term "medical event" is defined. Permittees are required to develop procedures to guard against medical events and similar incidents. Requirements for treatment planning simulators and other imaging equipment are updated to address newer technologies used in Oklahoma. The duration of certain record keeping requirements is increased to the life of the radiation machine permit. Changes have been proposed to the record keeping requirements in Subchapter 3 to complement those in Subchapter 11.

The Radiation Management Advisory Council voted to amend portions of the rules proposed by staff. These amendments allowed for electronic approval of treatment plans and clarified a separate document was not required to document the treatment plan. These amendments were in OAC 252:410-11-1(e)(9) and OAC 252:410-11-2(b).

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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, 2012:

SUBCHAPTER 3. RADIATION MACHINES - COMMON REQUIREMENTS

PART 3. RADIATION SAFETY MANAGEMENT

252:410-3-33. Recordkeeping

(a) Subchapters 11 through 17. Unless exempted, persons subject to Subchapters 11, 13, 15 and/or 17 must maintain the following records:

- (1) DEQ permit and registration documentation;
(2) a written radiation management program;
(3) written operating and emergency procedures which include restrictions required for the safe operation of each machine;
(4) *required records of surveys and survey reports;
(5) *survey instrument calibration records;
(6) computer verifications, repair, maintenance, corrective actions and modifications;
(7) machine manufacturer specifications and instructions,
(8) personnel monitoring records;
(9) a copy of all correspondence to and from DEQ regarding each machine; and
(10) training records giving dates, locations, topics and hours of both initial and refresher training, instructor names, sign-in sheets, a copy of each examination given, and examination scores.

(b) Additional requirements for Subchapter 11. Persons subject to Subchapter 11 must maintain the following additional records:

- (1) a record of each medical event which identifies the date, operator, practitioner, radiological physicist and describes the incident and any corrective actions,
(2) records of leakage radiation measurements in accordance with 252:410-11-51;
(3) recorded maximum value of the absorbed dose rate as specified by the manufacturer for machine parameters in accordance with 252:410-11-64;
(4) *calibrations of machines and dosimetry systems in accordance with 252:410-11-73 and 74 and 75;
(5) *spot-check measurements, qualified expert reviews and corrective actions taken to remedy identified deficiencies in accordance with 252:410-11-76;
(6) records of acceptance testing and initial surveys in accordance with 252:410-11-72;
(7) *records of maintenance and modifications; and

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(86) A current copy of the following documents must be maintained at or in the area of the control panel:

- (A) operating and emergency procedures;
- (B) quality assurance and quality control plan;
- (C) manufacturer specifications and instructions;
- (D) record of the maximum value of the absorbed dose rate specified by the manufacturer for machine parameters;
- (E) latest machine/system calibration; and
- (F) records of the most recent spot-check measurements and qualified expert reviews.

(c) **Additional requirements for Subchapter 15.** Persons subject to Subchapter 15 must maintain the following additional *records:

- (1) *records of daily system inspections and maintenance;
- (2) utilization records;
- (3) records of alarm system and entrance control checks;
- (4) records of personnel monitoring;
- (5) at each temporary job site, a copy of the operating and emergency procedures, applicable rules, latest survey records, records of equipment problems identified in daily checks at the temporary job site, and, when operating under reciprocity, a copy of the primary authorization or permit authorizing the use of the licensed machines, and for each survey instrument at each temporary job site, verification of current calibration.

(d) **Additional requirements for Subchapter 17.** Persons subject to Subchapter 17 must maintain the current electrical circuit diagrams of the particle accelerator and its safety interlock systems.

(e) **Date and signature.** Records marked with asterisks (*) must also contain the date and signature of the individual performing the service.

(f) **Location.** All records must be kept in the principal office of the permittee and made available for DEQ review.

(g) **Duration.** Records shall be kept for the duration specified in Subchapter 1.

SUBCHAPTER 11. USE OF X-RAYS AND /OR PARTICLES FOR THERAPEUTIC PURPOSES IN THE HEALING ARTS AND VETERINARY MEDICINE

PART 1. GENERAL PROVISIONS

252:410-11-1. General provisions and description

(a) **Scope.** This Subchapter establishes requirements for the use of radiation machines (x-ray systems and particle accelerators) for therapeutic purposes in the healing arts and in the practice of veterinary medicine.

(b) **Applicability.** The requirements of this Subchapter apply to any person who possesses a therapeutic system described in subsection (a) of this section and causes radiation to

be produced through the operation or testing of the machine in the state.

(c) **Authorization required.** No persons subject to this Subchapter may perform any radiation management activity with such a therapeutic system unless:

- (1) they hold a DEQ-issued radiation machine operating permit and have registered their system with DEQ;
- (2) their therapeutic systems and management of radiation safety meet the applicable requirements of this Chapter; and
- (3) they are supervised by a practitioner as defined in this section.

(d) **Related requirements.** Persons subject to this Subchapter are also subject to the general requirements of Subchapter 1, the permitting and registration requirements of Subchapters 3 and 7, ~~and the radiation protection standards in Subchapter 20~~ the radiation protection standards in Subchapter 20, and all requirements of Subchapter 23.

(e) **Definitions.** As used in this Subchapter:

(1) "**<1 MeV system**" means a therapeutic system with energies of less than 1 MeV.

(2) "**Pre-1989 system**" means a therapeutic system manufactured prior to March 1, 1989.

(3) "**Post-1989 system**" means a therapeutic system manufactured on or after March 1, 1989.

(4) "**Medical event**" means any event, except for events resulting from a direct intervention by a patient or human research subject that could not have been reasonably prevented by the ~~licensee~~ permittee, in which the administration of radiation therefrom results in either:

(A) a dose that differs from the prescribed dose by more than 0.05 Sv (5 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin; and

- (i) the total dose or dosage delivered differs from the prescribed dosage by 20 percent or more or falls outside the prescribed dosage range; or
- (ii) the fractionated dose delivered differs from the prescribed dose, for a single fraction, by 50 percent or more;

(B) a dose that exceeds 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin from an administration of a dose or dosage to the wrong individual or human research subject; or

(C) a dose to the skin or an organ or tissue other than the treatment site that exceeds by 0.5 Sv (50 rem) to an organ or tissue and 20 percent the dose expected from the administration defined in the ~~written direct~~ written prescribed dose.

(5) "**Practitioner**" means an individual who is licensed by ~~either the Oklahoma Board of Medical Examiners~~ the State Board of Medical Licensure and Supervision or the State Board of Osteopathic Examiners, to practice medicine and surgery or by the State Board of Veterinary Medicine Examiners ~~in the healing arts or to practice veterinary science~~ medicine. This licensed individual may delegate the task of applying radiation for purposes of therapy to others who are not so licensed but shall maintain

control over and retain full responsibility for all radiation applications.

(6) "Prescribed dose" means the localized therapeutic dose to be delivered as described in the treatment plan.

(67) "System of 1 MeV or more" means a therapeutic system with energies of one MeV or more.

(78) "Therapeutic system" means an x-ray system or particle accelerator that produces x-rays and/or particles used for therapeutic purposes in the healing arts and in the practice of veterinary medicine.

(9) "Treatment Plan" means an authorized practitioner's order for the administration of therapeutic radiation as specified in OAC 252:410-11-2(b).

252:410-11-2. Accountability for therapeutic systems used to treat humans

Permit applicants, whose therapeutic systems will be used to treat humans, must designate in the application the practitioners who will be in charge of the treatments and certify that the designees have had substantial training and experience in deep therapy techniques or in the use of therapeutic systems. Applicants shall also comply with 252:410-3-3, 3-31 and 3-32.

(a) Designation of authorized practitioners. Permit applicants, whose therapeutic systems will be used to treat humans, must designate in their application the practitioners who will supervise treatments and certify that those designees have had substantial training and experience in the therapy techniques for which they will be authorized.

(b) Treatment plan. A treatment plan in written or electronic form must be approved by an authorized practitioner before the initial administration of therapeutic radiation.

(1) The treatment plan must contain the patient's name, dose per fraction, number of doses, total dose, and sufficient information to accurately describe proper localization of the therapeutic dose.

(2) If, because of the emergent nature of the patient's condition, a delay in order to provide a treatment plan or revision to a treatment plan would jeopardize the patient's health, an oral directive is acceptable. The information in the oral directive must be documented in writing as soon as possible. A treatment plan must be prepared within 48 hours of the oral directive.

(3) Permittees shall retain records of each treatment plan for 3 years.

(c) Procedures for treatment planning and administration of therapeutic radiation. Permittees shall develop, implement and maintain written procedures to provide high confidence that:

(1) The patient's identity is verified before each administration; and

(2) Each administration of therapeutic radiation is in accordance with the treatment plan.

252:410-11-4. Operational requirements for practitioners; Medical event

Therapeutic system permittees shall notify DEQ by telephone of any treatment of a human which results in a medical

event. Notice must be given no later than the next business day after the event and followed up with a written notice report within 15 days after discovery of the medical event. The written report shall include the names of the permittee, the prescribing practitioner, the radiological physicist and the radiological technician, a brief description of the event, why the event occurred, the effect on the individual who received the treatment, what improvements are needed to prevent recurrence, actions taken to prevent recurrence, whether the permittee notified the individual or individual's responsible relative or guardian and if not, why, and if there was notification, what information was provided. Neither the notice or report shall identify the individual receiving the treatment by name.

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252:410-11-71. Radiation protection plan

All radiation machine permittees therapeutic system permittees and applicants shall comply with applicable requirements in Subchapter 3.

252:410-11-74. Calibrations of systems of 1 MeV or more

(a) **Frequency.** A system of 1 MeV or more must be calibrated before it is first used for irradiation of a patient and thereafter at least every 12 months and when any change occurs in the system which might significantly alter the calibration, spatial distribution, or other characteristics of the therapy beam.

(b) **Protocol and procedures.** The calibration of systems of 1 MeV or more shall be performed using an established calibration protocol acceptable to DEQ. One acceptable calibration protocol is entitled, "~~A Protocol for the Determination of Absorbed Dose from High Energy Photon and Electron Beams,~~" Task Group 21, Radiation Therapy Committee, American Association of Physicists in Medicine, Medical Physics 10(6): 741-771, Nov/Dec 1983. "AAPM's TG-51 Protocol for Clinical Reference Dosimetry of high-energy photon and electron beams.", Medical Physics 26 (9): 1847-1890, Sept. 1999. If another protocol is used, the person performing the calibration needs to record the name and methods used in the calibration report. Upon review of the report, DEQ may require a copy of the protocol for review and/or may require that calibration be performed under another protocol.

(c) **Performance.** The calibration shall be performed under the direct supervision of a radiological physicist.

(d) **Dosimetry system.** Full calibration radiation measurements of systems of 1 MeV or more shall be performed with a dosimetry system that has:

- (1) a calibration factor for cobalt-60 gamma rays traceable to a national standard;
- (2) been calibrated within the previous two years and after any servicing that may have affected its calibration;
- (3) been calibrated in such a fashion that an uncertainty can be stated for the radiation quantities monitored by the system; and
- (4) had constancy checks performed on the system as specified by a radiological physicist.

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(e) **Precision.** Calibrations shall be in sufficient detail that the dose at a reference point in soft tissue may be calculated to within an uncertainty of 5 percent.

(f) **Outcome.** The calibration of the therapy beam shall include but not be limited to:

- (1) verification that the therapeutic system is operating in compliance with the design specifications concerning the:
 - (A) light localizer and back-pointer alignment with the isocenter when applicable,
 - (B) variation in the axis of rotation for the table, gantry and jaw system, and
 - (C) beam flatness and symmetry at the specified depth;
- (2) the absorbed dose rate at various depths of water for the range of field sizes used, for each effective energy, that will verify the accuracy of the dosimetry of all therapy procedures utilized with that therapy beam;
- (3) the uniformity of the radiation field to include symmetry and flatness;
- (4) dependency of beam output on gantry angle;
- (5) verification that existing isodose charts applying to the machine continue to be valid or are updated to existing machine conditions; and
- (6) verification of transmission and electron buildup factors for all accessories such as wedges, shadow trays attached to the radiation head to support auxiliary beam blocking material, and compensators.

252:410-11-75. Treatment planning Simulators simulators and other imaging equipment used in the therapeutic process.

~~Simulators used for therapy treatment planning must be calibrated annually by a qualified expert. This calibration must include checks for the:~~

- ~~(1) accuracy of the TSD (target source distance) indicator;~~
- ~~(2) variation in the axis of rotation for the table gantry and jaw system;~~
- ~~(3) integrity of the isocenter; and~~
- ~~(4) degree of congruence of the radiation field with the field indicated by the localizing device, which must be within five millimeters of any field edge.~~

(a) Policies and procedures for imaging equipment. Therapeutic system permittees shall develop policies and procedures to ensure the proper operation of all imaging equipment used in the treatment planning or treatment process.

(b) Calibration of imaging equipment. Imaging equipment used for treatment planning and delivery must be calibrated annually by a qualified expert. This calibration must include:

- (1) For conventional simulators:
 - (A) Collimator, gantry, and couch isocenter determination, and coincidence;
 - (B) verification of table positioning under typical patient load;
 - (C) high and low contrast resolution;

(D) imaging dose and
(E) all monthly and daily spot checks required by OAC 252:410-11-75(c).

(2) For CT simulators:

- (A) Indexing and positioning accuracy under scanner control;
- (B) gantry tilt indication accuracy and reproducibility;
- (C) spatial and contrast resolution;
- (D) imaging dose and
- (E) all monthly and daily spot checks required by OAC 252:410-11-75(c).

(3) For other x-ray imaging equipment used in treatment planning or delivery:

- (A) Beam quality and energy if applicable;
- (B) imaging dose and
- (C) all monthly and daily spot checks required by OAC 252:410-11-75(c).

(c) Periodic Spot Checks. Periodic spot checks are required to ensure that the previous calibration is still valid. Daily and Monthly Spot checks of imaging equipment may be performed by radiation therapy technologists, x-ray technologist or other similarly qualified personnel. Spot checks shall be reviewed by a qualified expert at least annually. These spot checks must include:

(1) Monthly checks for conventional simulators:

- (A) Accuracy verification for field size, gantry and collimator angle, cross hair centering, and focal spot indicator;
- (B) light field, radiation field coincidence and
- (C) image quality.

(2) Daily checks for conventional simulators:

- (A) Localizing laser alignment and
- (B) distance indicator.

(3) Monthly checks for CT simulators:

- (A) Orientation of gantry, wall and ceiling lasers with respect to imaging plane;
- (B) orientation of CT table top with respect to imaging plane;
- (C) table position indicator accuracy, reproducibility;
- (D) x-ray field uniformity and
- (E) CT number verification for 4 or more materials.

(4) Daily checks for CT simulators:

- (A) Alignment of gantry lasers with imaging plane;
- (B) CT number verification for water;
- (C) image noise and
- (D) in plane spatial integrity.

(5) Monthly checks for other x-ray imaging equipment used in treatment planning or delivery:

- (A) Imaging and treatment coordinate system coincidence (four cardinal angles for planar imaging);
- (B) scaling or geometric distortion and
- (C) image quality.

(6) Daily checks for other x-ray imaging equipment used in treatment planning or delivery: Imaging and treatment coordinate system coincidence.

252:410-11-81. Records

Records required by this Subchapter shall be maintained as required by 252:410-1-4(b) and 252:410-3-33, except that records of calibration determinations required by 252:410-11-73 and 252:410-11-74 shall be maintained for five (5) years after completion of the full calibration. Records of manufacturer specified maximum dose rate, acceptance testing and initial surveys required in 252:410-11-64 and 252:410-11-72 must be maintained until the permit holder is no longer subject to radiation management requirements.

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

[OAR Docket #12-449]

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RULES:

- Subchapter 19. X-Ray Fluorescence Instruments Used or Lead-Based Paint Detection [REVOKED]
252:410-19-1. General provisions and requirements [REVOKED]
252:410-19-2. Definitions. [REVOKED]
252:410-19-3. XRF permit required [REVOKED]
252:410-19-4. LPB-XRF permit application [REVOKED]
252:410-19-5. Action on applications [REVOKED]
252:410-19-6. LPB-XRF permit application fee [REVOKED]
252:410-19-7. Conditions of LPB-XRF permit [REVOKED]
252:410-19-8. Instrument and source management [REVOKED]
252:410-19-9. Radiation safety [REVOKED]
252:410-19-10. Recordkeeping [REVOKED]
252:410-19-11. Disposition of LPB-XRF instruments [REVOKED]

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ANALYSIS:

The proposed rulemaking revokes Subchapter 19. X-ray fluorescence instruments used for lead-based paint analysis previously regulated by Subchapter 19 are now regulated under the provisions of the Atomic Energy Act. Accordingly Subchapter 19 is no longer needed.

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 1, 2012:

SUBCHAPTER 19. X-RAY FLUORESCENCE INSTRUMENTS USED FOR LEAD-BASED PAINT DETECTION [REVOKED]

252:410-19-1. General provisions and requirements [REVOKED]

- (a) Applicability. This Subchapter applies to portable x ray fluorescence spectroscopy instruments, containing sources of radioactive material, which are moved from location to location and are used or intended to be used for lead based paint detection, and to their owners, lessors, lessees and operators.
(b) Exemptions. Instruments exempt from this rule include XRF instruments that are:
(1) nonportable and stationary;
(2) used only at one location for laboratory purposes;
(3) portable but not used to detect lead in paint; or
(4) regulated under the Atomic Energy Act or by the Nuclear Regulatory Commission.
(c) Related requirements. Persons subject to this Subchapter are also subject to Subchapter 1, Subchapter 7, and Subchapter 20.
(d) LBP certification. Persons using XRF instruments may also be required to obtain lead based paint certification in accordance with 252:110, Lead based Paint Management.

252:410-19-2. Definitions [REVOKED]

For purposes of this Subchapter, these terms shall have the following meanings:

- "Authorization" means a formal DEQ approval to operate under the an LBP XRF general permit.
"LBP" means lead based paint.
"LBP XRF" describes a category or activity related to x ray fluorescence spectroscopy instruments used for detecting lead in paint.
"LBP XRF instrument" means a portable x ray fluorescence spectroscopy instrument which is moved from location to location to detect lead in paint.
"LBP XRF permit" includes a DEQ approved LBP XRF reciprocity recognition; and

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~~"Permittee" means the holder of a DEQ issued LBP XRF permit and includes the holder of a DEQ LBP XRF reciprocity recognition.~~

~~"XRF instrument" means an x ray fluorescence spectroscopy instrument which contains sources of radioactive material not regulated under the Atomic Energy Act or by the Nuclear Regulatory Commission.~~

252:410-19-3. XRF permit required [REVOKED]

~~(a) **Required.** Any person who owns or leases a LBP XRF instrument and operates it or causes it to be operated in the state must be authorized under a LBP XRF permit. No permit is required of LBP XRF operators employed by LBP XRF permittees; each LBP XRF operator is covered by the terms and requirements of his employer's LBP XRF permit. However, all employed operators must individually comply with 252:410-19-7 and 8.~~

~~(b) **Duration.** A LBP XRF permit is effective for one year from the date of its issuance and is renewable.~~

252:410-19-4. LBP-XRF permit application [REVOKED]

~~An application must meet the requirements of Subchapter 7 and include plans and procedures for LBP XRF instrument access control, leak detection testing, shutter operation checks and disposal.~~

252:410-19-5. Action on applications [REVOKED]

~~Application review, issuance/denial, amendment, renewal or reciprocity of LBP XRF permits shall be in accordance with Subchapter 7.~~

252:410-19-6. LBP-XRF permit application fee [REVOKED]

~~The application fee for a new or renewed LBP XRF permit is \$500.00.~~

252:410-19-7. Conditions of LBP-XRF permit [REVOKED]

~~General regulatory requirements of 252:410-1-4 apply to the conditions of LBP XRF permits.~~

252:410-19-8. Instrument and source management [REVOKED]

~~(a) **Access control.** A LBP XRF instrument must be kept in a locked or otherwise secured area when not in use. Access to the instrument shall be limited to individuals trained in its use and operation and in radiation safety.~~

~~(b) **Instrument/source list.** A LBP XRF permittee shall maintain an updated list for each instrument stating:~~

- ~~(1) the name and address of the manufacturer;~~
- ~~(2) the instrument model and serial number;~~
- ~~(3) the radioisotope and activity of the instrument's source and the date the activity was measured;~~

~~(4) a history of the repair, sale or transfer of each LBP XRF instrument and source; and~~

~~(5) the method and place of disposal of the instrument's source.~~

~~(c) **Instrument/source physical inventory.** Each LBP XRF permittee shall conduct a semi-annual physical inventory to account for all LBP XRF instruments and sources.~~

~~(d) **Instrument/source usage log.** The LBP XRF permittee shall maintain an annotated date log on each LBP XRF instrument and its source, which includes but is not limited to a check in and check out system showing the location and date of use and identity of the operator.~~

~~(e) **Instrument/source testing.**~~

~~(1) **Leak detection.** A leak test shall be conducted on each LBP XRF instrument at least once every six (6) months according to the LBP XRF permittee's written leak test plan and procedures for test analysis and reports. If the test reveals the presence of 0.005 microcuries of removable radioactive material, the LBP XRF permittee shall remove the source and any associated contaminated equipment from service immediately and have it decontaminated, repaired, or disposed.~~

~~(2) **Shutter operation.** The operation of a LBP XRF instrument shutter shall be tested at least once every three (3) months.~~

~~(f) **Malfunctions.** When any LBP XRF instrument is found to be malfunctioning, the LBP XRF permittee shall either have it repaired by an authorized repair facility or dispose of it in accordance with 252:410-19-11(b).~~

~~(g) **Labeling.** LBP XRF permittees shall plainly label each LBP XRF instrument case with their name, address and contact number(s).~~

~~(h) **Radioactive source replacement or repair.** Radioactive source housings shall be opened for source replacement or other maintenance or repair procedures only by persons authorized to specifically conduct such procedures by a State Agreement license.~~

252:410-19-9. Radiation safety [REVOKED]

~~Prior to operating a LBP XRF instrument, an operator must:~~

~~(1) have received instruction in radiation safety and have demonstrated an understanding of:~~

- ~~(A) characteristics of radiation;~~
- ~~(B) units of radiation dose and quantity of radioactivity in the instrument source;~~
- ~~(C) hazards of exposure to radiation from the instrument;~~
- ~~(D) levels of radiation from the LBP XRF instrument;~~
- ~~(E) methods of controlling the instrument's radiation dose;~~
- ~~(F) radiation safety practices, including prevention of contamination;~~
- ~~(G) use of personnel dosimetry equipment; and~~
- ~~(H) instrument operating and emergency procedures; and~~

(2) have received copies of all manufacturer and other instrument operating and safety procedures.

252:410-19-10. Recordkeeping [REVOKED]

(a) ~~General. The LBP XRF permittee shall keep, available for review by DEQ at his principal place of business in Oklahoma, a copy of his LBP XRF permit, the application on which it is based, and the following records:~~

- ~~(1) instrument/source list and physical inventory for as long as a LBP XRF instrument is used or stored in Oklahoma and for a minimum of three years thereafter;~~
- ~~(2) instrument/source test results for at least three (3) years;~~
- ~~(3) individual personnel dosimetry results in accordance with the requirements of Subchapter 20;~~
- ~~(4) instrument/source usage log for at least three (3) years;~~
- ~~(5) access control plan;~~
- ~~(6) instrument testing procedures and schedules; and~~
- ~~(7) description by date, name and/or place of any LBP XRF instrument and/or source which is transferred or disposed.~~

~~(b) Combined records. Instrument/source lists and physical inventories may be combined with leak test and shutter test records as a single record.~~

252:410-19-11. Disposition of LBP-XRF instruments [REVOKED]

~~(a) Transfer and/or sale of LBP XRF instruments. No person or manufacturer shall transfer a LBP XRF instrument for use in Oklahoma to any person who does not hold a current DEQ issued LBP XRF permit.~~

~~(b) Disposal. When a LBP XRF radioactive source is no longer effective, useful or needed, the LBP XRF permittee shall return the source and/or the instrument to the manufacturer or dispose it at a site permitted for such disposal. LBP XRF permittees who are lessees of LBP XRF instruments shall return the source to the lessor for final disposition.~~

[OAR Docket #12-449; filed 4-25-12]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 606. OKLAHOMA POLLUTANT DISCHARGE ELIMINATION SYSTEM (OPDES) STANDARDS**

[OAR Docket #12-450]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. Introduction
252:606-1-4. Date of federal regulations incorporated [AMENDED]

AUTHORITY:
Environmental Quality Board, 27A O.S. § 2-2-101; Water Quality Management Advisory Council, 27A O.S. § 2-2-201; and 27A O.S. §§ 2-6-103, 2-6-203, 2-6-402 and 2-6-501.

DATES:
Comment period:
September 1 through October 4, 2011
Public hearing:
October 11, 2011, November 15, 2011

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November 15, 2011
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November 21, 2011
Submitted to House:
November 21, 2011
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December 21, 2011

Legislative approval:
March 29, 2012
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March 29, 2012
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July 1, 2012

SUPERSEDED EMERGENCY ACTIONS:
N/A

INCORPORATION BY REFERENCE:
Incorporated standards as they existed on July 1, 2011:
40 CFR § 110.6 (Notice of oil discharge)
40 CFR Part 116 (Designation of Hazardous Substances)
40 CFR Part 117 (Determination of Reportable Quantities for Hazardous Substances)

The following sections and Appendices from 40 CFR Part 122 (NPDES Permit Regulations):

- (A) 122.1(b) - (Scope of NPDES permit requirements)
- (B) 122.2 - (Definitions)
- (C) 122.3 - (Exclusions)
- (D) 122.4 - (Prohibitions)
- (E) 122.5 - (Effect of permit)
- (F) 122.6 - (Continuation of expiring permits)
- (G) 122.7(b) and (c) - (Confidential information)
- (H) 122.21 - (Application for a permit)
- (I) 122.22 - (Signatories)
- (J) 122.24 - (Concentrated aquatic animal production facilities)
- (K) 122.25 - (Aquaculture projects)
- (L) 122.26 - (Stormwater discharges)
- (M) 122.27 - (Silviculture)
- (N) 122.28(a) and (b) - (General permits)
- (O) 122.29 - (New sources and new dischargers)
- (P) 122.30 - What are the objectives of the storm water regulations for small MS4s?
- (Q) 122.31 - As a tribe, what is my role under the NPDES storm water program?
- (R) 122.32 - As an operator of a small MS4, am I regulated under the NPDES storm water program?
- (S) 122.33 - If I am an operator of a regulated small MS4, how do I apply for an NPDES permit and when do I have to apply?
- (T) 122.34 - As an operator of a regulated small MS4, what will my NPDES MS4 storm water permit require?
- (U) 122.35 - As an operator of a regulated small MS4, may I share the responsibility to implement the minimum control measures with other entities?
- (V) 122.36 - As an operator of a regulated small MS4, what happens if I don't comply with the application or permit requirements in " 122.33 through 122.35?"
- (W) 122.41 - (Permit conditions)
- (X) 122.42 - (Conditions for specified categories of permits)
- (Y) 122.43 - (Establishing permit conditions)
- (Z) 122.44 - (Establishing permit limitations, standards and other conditions)
- (AA) 122.45 - (Calculating permit conditions)
- (BB) 122.46 - (Permit duration)
- (CC) 122.47(a) - (Schedules of compliance)
- (DD) 122.48 - (Monitoring requirements)
- (EE) 122.50 - (Disposal into wells)
- (FF) 122.61 - (Permit transfer)
- (GG) 122.62 - (Permit modification)
- (HH) 122.63 - (Minor modifications of permits)

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(II) 122.64 - (Permit termination)

(JJ) Appendices A through I

40 CFR Part 123

The following sections from 40 CFR Part 124 (Procedures for Decision Making):

(A) 124.1 - (Introduction)

(B) 124.2 - (Definitions)

(C) 124.3(a), (c), and (d) - (Application for a permit)

(D) 124.5(a), (c), (d) and (f) - (Modification of permits)

(E) 124.6(a), (c), (d) and (e) - (Draft permit)

(F) 124.7 - (Statement of basis of conditions where no fact sheet is adopted)

(G) 124.8 - (Fact sheet)

(H) 124.10(a)(1)(ii), (a)(1)(iii), (a)(1)(v), (b), (c), (d), and (e) - (Public notice)

(I) 124.11 - (Public comments and requests for hearings)

(J) 124.12(a) and (c) - (Public hearings)

(K) 124.13 - (Obligation of protestors, etc., to raise all issues)

(L) 124.14 - (Reopening)

(M) 124.15 - (Issuance & effective dates of permits)

(N) 124.17(a) and (c) - (Response to comments)

(O) 124.51(a) and (b) - (Specific permitting procedures-purpose and scope)

(P) 124.52 - (Permits required on a case-by-case basis)

(Q) 124.56 - (Fact sheets)

(R) 124.57(a) - (Public notice)

(S) 124.59 - (Comments from government agencies)

(T) 124.62 - (Decision on variances)

(U) 124.66 - (Thermal variance procedures)

The following Subparts from 40 CFR Part 125 (Criteria and Standards for NPDES):

(A) Subpart A (Technology-based treatment)

(B) Subpart B (Criteria for aquaculture projects)

(C) Subpart D (Fundamentally different factors)

(D) Subpart H (Alternative effluent limitations)

(E) Subpart I (New cooling water intakes)

(F) Subpart J (Existing cooling water intakes)

40 CFR Part 129 (Toxic Pollutant Effluent Standards)

40 CFR Part 136 (Testing and Laboratory)

40 CFR Part 261

40 CFR Part 302 (Reportable Quantities and Notification)

40 CFR §§ 401-471 (Effluent guidelines and standards)

The following Sections from 40 CFR Part 503, Subpart A (General Provisions):

(A) 503.1 (Purpose and applicability)

(B) 503.2 (Compliance period)

(C) 503.3 (Permits and direct enforceability)

(D) 503.4 (Relationship to other regulations)

(E) 503.5 (Additional or more stringent requirements)

(F) 503.6(a)-(e), (g)-(j) (Exclusions)

(G) 503.7 (Requirement for a person who prepares biosolids)

(H) 503.8 (Sampling and analysis)

(I) 503.9 (General definitions)

The following Sections from Part 503, Subpart B (Land Application):

(A) 503.10(a),(b)(1)&(2),(e),(f),(g) (Applicability)

(B) 503.11 (Special definitions)

(C) 503.12 (General requirements)

(D) 503.13 (Pollutant limits)

(E) 503.14 (Management practices)

(F) 503.15 (Operational standards - pathogens and vector attraction reduction)

(G) 503.16(a) (Frequency of monitoring)

(H) 503.17(a) (Recordkeeping)

(I) 503.18 (Reporting)

40 CFR Part 503.13, Tables I, II and III

The following sections from 40 CFR Part 503, Subpart D (Pathogens and Vector Attraction Reduction):

(A) 503.30 (Scope)

(B) 503.31 (Special definitions)

(C) 503.32(a), (b) (Pathogens)

(D) 503.33(a), (b)(1)-(11) (Vector attraction reduction)

The following sections from 40 CFR Part 503, Subpart E (Incineration):

(A) 503.40 (Applicability)

(B) 503.41 (Special definitions)

(C) 503.42 (General requirements)

(D) 503.43 (Pollutant (Metal) limits)

(E) 503.44 (Operational standard - total hydrocarbons)

(F) 503.45 (Management practices)

(G) 503.46 (Frequency of monitoring)

(H) 503.47 (Recordkeeping)

(I) 503.48 (Reporting)

The following Appendices from 40 CFR Part 503:

(A) Appendix A (Procedure to determine the annual whole biosolids application rate for a biosolids)

(B) Appendix B (Pathogen treatment processes)

Incorporating rules:

252:606-1-4

Availability:

The standards are on file at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma, 73102, and are available to the public for examination Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m.

ANALYSIS:

The Department proposes to update the date of publication for the federal regulations incorporated by reference from July 1, 2010, to July 1, 2011.

CONTACT PERSON:

The contact person is Mark Hildebrand. Mark may be contacted at: Mark.Hildebrand@deq.ok.gov (e-mail), (405) 702-8100 (phone) or (405) 702-8101 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The DEQ's mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1, WITH AN EFFECTIVE DATE OF JULY 1, 2012:

SUBCHAPTER 1. INTRODUCTION

252:606-1-4. Date of federal regulations incorporated

When reference is made to 40 CFR it means, unless otherwise specified, the volume of 40 CFR as published on July 1, ~~2010~~ 2011.

[OAR Docket #12-450; filed 4-25-12]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 623. PRETREATMENT FOR CENTRAL TREATMENT TRUSTS

[OAR Docket #12-451]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

252:623-1-7 Incorporation by reference [AMENDED]

AUTHORITY:

Environmental Quality Board, 27A O.S. § 2-2-101; Water Quality Management Advisory Council, 27A O.S. § 2-2-201; and 27A O.S. §§ 2-6-103, 2-6-203, 2-6-402 and 2-6-501.

DATES:

Comment period:

September 1, 2011, through October 4, 2011

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Adoption:

November 15, 2011

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Effective:
July 1, 2012

SUPERSEDED EMERGENCY ACTIONS:
N/A

INCORPORATION BY REFERENCE:

Incorporated standards as they existed on July 1, 2011:

The following sections of 40 CFR Part 403; as published on July 1, 2011

- (A) § 403.5
- (B) § 403.6
- (C) § 403.7
- (D) § 403.8(f)(2)(viii)
- (E) § 403.12(b), (c), (d) and (p)
- (F) § 403.13
- (G) § 403.15
- (H) § 403.16
- (I) § 403.17

Incorporating rules:

252:623-1-7

Availability:

The standards are on file at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma, 73102, and are available to the public for examination Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m.

ANALYSIS:

The Department proposes to update the date of publication for the federal regulations incorporated by reference from July 1, 2010, to July 1, 2011.

CONTACT PERSON:

The contact person is Mark Hildebrand. Mark may be contacted at: Mark.Hildebrand@deq.ok.gov (e-mail), (405) 702-8100 (phone) or (405) 702-8101 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The DEQ's mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1, WITH AN EFFECTIVE DATE OF JULY 1, 2012:

SUBCHAPTER 1. GENERAL PROVISIONS

252:623-1-7. Incorporation by reference

The following sections and subsections of Title 40 Chapter I, Subchapter N, Part 403 of the CFR as published on ~~July 1, 2010~~ July 1, 2011 are adopted and incorporated by reference:

- (1) § 403.5
- (2) § 403.6
- (3) § 403.7
- (4) § 403.8(f)(2)(viii)
- (5) § 403.12(b), (c), (d) and (p)
- (6) § 403.13
- (7) § 403.15
- (8) § 403.16

(9) § 403.17

[OAR Docket #12-451; filed 4-25-12]

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

[OAR Docket #12-442]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions of Child Welfare Services
- Part 3. Child Welfare Confidentiality
340:75-1-44 through 340:75-1-45 [AMENDED]
- Part 7. Interstate Compact on the Placement of Children
340:75-1-86 [AMENDED]
- Subchapter 3. Child Protective Services
- 340:75-3-6.1 [AMENDED]
- 340:75-3-7.1 [AMENDED]
- 340:75-3-7.3 [AMENDED]
- 340:75-3-8.4 [AMENDED]
- 340:75-3-10.1 through 340:75-3-10.2 [AMENDED]
- Subchapter 4. Family-Centered and Community Services
- Part 1. ~~Voluntary~~ Family-Centered Services [AMENDED]
- 340:75-4-9 [AMENDED]
- 340:75-4-12.1 [AMENDED]
- 340:75-4-13 through 340:75-4-14 [REVOKED]
- Subchapter 6. Permanency Planning
- Part 1. General Provisions
340:75-6-1 [AMENDED]
- Part 5. Permanency Planning Services
340:75-6-30 through 340:75-6-31.1 [AMENDED]
- 340:75-6-31.3 [AMENDED]
- Part 7. Family and Child Individualized Service Planning Components
340:75-6-40.5 [AMENDED]
- 340:75-6-46 [AMENDED]
- Part 8. Role of the Child Welfare Worker
340:75-6-48 [AMENDED]
- 340:75-6-48.3 [AMENDED]
- Part 11. Permanency Planning and Placement Services
340:75-6-85.2 [AMENDED]
- 340:75-6-91 [AMENDED]
- Part 13. Independent Living
340:75-6-110 [AMENDED]
- Subchapter 7. Foster Home Care
- Part 1. General Provisions
340:75-7-2 [AMENDED]
- Part 2. Development of Resources
340:75-7-10 [AMENDED]
- 340:75-7-12 [AMENDED]
- 340:75-7-14 through 340:75-7-15 [AMENDED]
- 340:75-7-18 [AMENDED]
- 340:75-7-18.1 [NEW]
- 340:75-7-19 [AMENDED]
- 340:75-7-24 [AMENDED]
- Part 4. Roles and Responsibilities
340:75-7-37 through 340:75-7-37.1 [AMENDED]
- Part 5. Eligibility and Payments
340:75-7-51 through 340:75-7-52 [AMENDED]
- Part 6. Foster Home Care Support Services
340:75-7-65 [AMENDED]
- Part 8. Continuous Quality Assessment of a Resource Home
340:75-7-94 [AMENDED]
- Subchapter 13. Other Child Welfare Services and Medical Services for Children in Out-of-Home Care
- Part 2. Title IV-E Eligibility and Reimbursability
340:75-13-12 through 340:75-13-13 [AMENDED]
- 340:75-13-15 [REVOKED]
- 340:75-13-16 through 340:75-13-18 [AMENDED]

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340:75-13-21 [AMENDED]
Part 7. Medical Services
340:75-13-74 [AMENDED]
340:75-13-75 [AMENDED]
340:75-13-79 through 340:75-13-80 [AMENDED]
Subchapter 15. Adoptions
Part 2. Legal Base and Scope of the Adoption Program
340:75-15-6 [AMENDED]
Part 6. Adoption Process
340:75-15-42 [AMENDED]
340:75-15-45 [AMENDED]
340:75-15-47 [AMENDED]
Part 10. Integrated Family Assessment and Preparation Process
340:75-15-82 [AMENDED]
340:75-15-84 [AMENDED]
340:75-15-87 [AMENDED]
340:75-15-88 [AMENDED]
340:75-15-89 [AMENDED]
Part 12. Adoption Placement Services
340:75-15-103 [AMENDED]
Part 14. Post Adoption Services
340:75-15-128.1 [AMENDED]
340:75-15-128.4 through 340:75-15-128.5 [AMENDED]
340:75-15-132 [AMENDED]
Subchapter 16. Mental Health Treatment Services
Part 1. Inpatient Mental Health Treatment
340:75-16-30 [AMENDED]
Subchapter 18. Continuous Quality Improvement
340:75-18-1 [AMENDED]
340:75-18-3 through 340:75-18-15 [REVOKED]
(Reference APA WF 11-06)

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; HB 2136 and HB 1734; Section 40.1 of Title 10 of the Oklahoma Statutes (10 O.S. § 40.1); 10 O.S. § 40.3; 10 O.S. § 40.6; 10 O.S. § 7505-5.3; 10 O.S. § 7508-1.2; 10 O.S. § 7510-2.1 through 7510-2.5; 10A O.S. § 1-1-105; 10A O.S. § 1-2-102; 10A O.S. § 1-4-204; 10A O.S. § 1-4-706; 10A O.S. § 1-4-707; 10A O.S. § 1-4-806; 10A O.S. § 1-4-807; 10A O.S. § 1-4-809; 10A O.S. § 1-6-103; 10A O.S. § 1-6-105; 10A O.S. § 1-7-103; 10A O.S. § 1-7-111; 10A O.S. § 1-7-112; 10A O.S. § 1-7-115; 10A O.S. § 1-1-101; 10A O.S. § 1-9-106; 10A O.S. § 1-9-114; 10A O.S. § 1-9-118; and Section 552 of Title 5 of the United States Code (U.S.C. 5 § 552); 25 U.S.C. § 1912; 25 U.S.C. § 1913; 25 U.S.C. § 1915; and 25 U.S.C. § 1951.

DATES:

Comment period:

December 16, 2011 through January 17, 2012

Public hearing:

None requested

Adoption:

January 24, 2012

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January 24, 2012

Submitted to House:

January 24, 2012

Submitted to Senate:

January 24, 2012

Gubernatorial approval:

February 29, 2012

Legislative approval:

Failure of the Legislature to disapprove the rule(s) resulted in approval on March 29, 2012.

Final adoption:

March 29, 2012

Effective:

June 1, 2012

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed revisions to Chapter 75 Subchapters 1, 3, 4, 6, 7, 13, 15, 16, and 18 amend the rules to: (1) conform with statutory requirements; (2) clarify processes; and (3) incorporate recently passed legislation.

CONTACT PERSON:

Dena Thayer, Programs Administrator, Office of Intergovernmental Relations and Policy, Policy Management Unit, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-4326.

DUE TO EXCESSIVE LENGTH OF THESE RULES (AS DEFINED IN OAC 655:10-7-12), THE FULL TEXT OF THESE RULES WILL NOT BE PUBLISHED. THE RULES ARE AVAILABLE FOR PUBLIC INSPECTION AT THE DEPARTMENT OF HUMAN SERVICES, SEQUOYAH BUILDING, OKLAHOMA CITY AND AT THE SECRETARY OF STATE'S OFFICE OF ADMINISTRATIVE RULES. THE FOLLOWING SUMMARY HAS BEEN PREPARED PURSUANT TO 75 O.S., SECTION 255(B):

OAC 340:75-1-44 is amended to: (1) update requirements for disclosure in cases of death or near-death of a child pursuant to House Bill (HB) 2136 and Section 1-6-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-6-105); and (2) update sentence structure.

OAC 340:75-1-45 is amended to update taglines.

OAC 340:75-1-86 is amended to update taglines, formatting, and sentence structure.

OAC 340:75-3-6.1 is amended to update requirements related to conducting an investigation instead of an assessment in certain circumstances in accordance with HB 2136 and 10A O.S. § 1-2-102.

OAC 340:75-3-7.1 is amended to change response time for investigations or assessments.

OAC 340:75-3-7.3 is amended to clarify when an assessment or investigation is conducted according to 10A O.S. § 1-1-105 and HB 1734 passed in 2009 and 10A O.S. § 1-2-102 and HB 2136 passed in 2010.

OAC 340:75-3-8.4 is amended to update the funding source for the Child Abuse Multidisciplinary Account.

OAC 340:75-3-10.1 is amended to update sentence structure, position title, and formatting.

OAC 340:75-3-10.2 is amended to update language to conform to the verbiage used in 10A O.S. § 1-1-105 regarding "some credible evidence" to constitute a finding of child abuse or neglect.

OAC 340:75-4-9 is amended to update the purpose and philosophy of family-centered services.

OAC 340:75-4-12.1 is amended to: (1) update family-centered services and community-based services process information; (2) move instructive information to ITS sections; and (3) update statutory requirements related to voluntary foster care per 10A O.S. § 1-7-112.

OAC 340:75-4-13 and 340:75-4-14 are revoked because information is either obsolete or combined in another related Section.

OAC 340:75-6-1 is amended to update sentence structure and add statutory cites to existing information that include 10A O.S. §§ 1-4-706 and 1-4-204.

OAC 340:75-6-30 is amended to update: (1) exceptions to the frequency of visitation; and (2) formatting and sentence structure.

OAC 340:75-6-31 is amended to: (1) state legislative intent per 10A O.S. § 1-1-101 related to a child placed outside the home; (2) update the purpose of permanency planning; (3) include the requirements of 10A O.S. § 1-4-706 to make every effort to place the child with a suitable relative of the child and to give careful consideration that the first placement made is the best available placement to provide permanency for the child in the event that reunification fails or is delayed; (4) move instructive information related to determining the child's permanency plan to ITS; (5) include the 10A O.S. § 1-4-707 option for the court to place the child with the non-custodial parent; (6) include the 10A O.S. § 1-7-103 cite and information related to the returning the child to the parent or legal guardian from whom the child was removed with prior approval of the court; (7) include the 10A O.S. § 1-4-809 statutory cite related to the court's finding that reasonable efforts to reunite the child and family are not required; (8) include statutory cite of 10A O.S. § 1-4-707 and update information related to final permanency orders; and (9) update sentence structure and formatting.

OAC 340:75-6-31.1 is amended to delete the obsolete term "permanency meetings."

OAC 340:75-6-31.3 is amended to: (1) add statutory cites to existing information; (2) include requirement for national criminal history records search for adults residing in the home prior to trial reunification per HB 2136 passed in 2010 and 10A O.S. § 1-4-806; (3) require notice to individual being fingerprinted per Section 50.12 of Title 28 of the Code of Federal Regulations (28 C.F.R. § 50.12); (4) include the exception to fingerprinting language from 10A O.S. § 1-7-111; and (5) add language from 28 C.F.R. § 50.12 related to confidentiality of the national criminal history record check.

OAC 340:75-6-40.5 is amended to add HB 2136 passed in 2010 and 10A O.S. § 1-4-807: (1) requirement that all service provider progress and critical incident reports are submitted to the court and delivered to certain parties; and (2) the definition of "social record" is updated, clarifying that it does not include service provider progress or critical incident reports.

OAC 340:75-6-46 is amended to update sentence structure and language.

OAC 340:75-6-48 is amended to update sentence structure.

OAC 340:75-6-48.3 is amended to delete inadvertent punctuation in the tagline.

OAC 340:75-6-85.2 is amended to spell out an acronym and update formatting.

OAC 340:75-6-91 is amended to update the process and requirements for child care services for Child Welfare clients.

OAC 340:75-6-110 is amended to correct an error related to the voluntary placement of youth after age 18 requirements.

OAC 340:75-7-2 is amended to add definitions for "alternate caregiver," "applicant," and "targeted recruitment related to foster care."

OAC 340:75-7-10 is amended to update: (1) sentence structure and terminology to current usage; and (2) 10A O.S. § 1-9-114 requirements related to recruitment and retention of Bridge resource homes.

OAC 340:75-7-12 is amended to: (1) include notifications to Oklahoma Department of Human Services (OKDHS) by the Bridge resource parent when certain changes in the household occur; and (2) update sentence structure and formatting.

OAC 340:75-7-14 is amended to update Section tagline and sentence structure.

OAC 340:75-7-15 is amended to: (1) update taglines, sentence structure, and formatting; (2) include requirement for a background check request from Family Advocacy for the active or retired military foster home applicant or adult household member; (3) clarify that signature on certain forms grants OKDHS permission to conduct background searches; (4) add failure to notify OKDHS of a new household member or refusal of a household member who remains in the home to consent to a background check as a ground for cancellation of the foster care contract; (5) add 28 C.F.R. § 901 and 10A O.S. § 1-7-115 cites and authority for OKDHS to contract or otherwise collaborate with local law enforcement agencies to perform background checks related to determining suitability of the prospective kinship home.

OAC 340:75-7-18 is amended to: (1) cite the statutory requirement pursuant to 10A O.S. § 1-7-111 for OKDHS to conduct a foster parent eligibility assessment and background checks; (2) clarify the foster home applicant's signature on certain forms authorizes OKDHS to conduct a background search; (3) require applicant to complete a certain form related to applicant's income and management of income; (4) require applicant and each household member to submit a certain form regarding the person's health and behavioral health, when indicated; (5) require documentation of the applicant's marriage history; (6) require a certain notice to the court when a relative considered for placement is denied placement; and (7) move instructive information to ITS.

OAC 340:75-7-18.1 is issued to create a Section related to approval of the specialized community home.

OAC 340:75-7-19 is amended to update processes and procedures related to the joint assessment and approval of foster homes.

OAC 340:75-7-24 is amended to: (1) cite statutes, requirements, and considerations related to the establishment of kinship foster care standards, kinship placement, and notice to the court when a relative placement does not occur; (2) clarify relationships created by marriage and kinship start-up training stipend; and (3) clarify when foster care maintenance payments begin per 10A O.S. § 1-9-106.

OAC 340:75-7-37 is amended to: (1) cite statutory responsibility of the Bridge resource parent to comply with performance standards per 10A O.S. §§ 1-9-106 and 1-9-118; (2) describe the Bridge resource parent as a member of the professional team serving the child in OKDHS custody; (3) clarify the Bridge resource parent's responsibility to the child, child's family, and OKDHS.

OAC 340:75-7-37.1 is amended to: (1) cite statutory authority per 10A O.S. § 1-9-114 for OKDHS to engage in activities designed to recruit foster homes; and (2) restructure information and update sentence structure and formatting.

OAC 340:75-7-51 is amended to: (1) set out options for payment of foster care maintenance payments; (2) update overpayment or underpayment of foster care maintenance payment options and processes; and (3) update process related to the death of a Bridge resource parent.

OAC 340:75-7-52 is amended to clarify: (1) the Bridge resource home, approved for a specific child, is closed when the child is no longer in the home;

and (2) that foster home contract termination occurs subsequent to a request by the Bridge resource parent only when there are no pending issues of concern with the home.

OAC 340:75-7-65 is amended to: (1) allow respite vouchers to be used when funding is available; (2) require alternate caregivers to participate in a yearly re-assessment; (3) update responsibility for the foster parent helpline; and (4) update sentence structure.

OAC 340:75-7-94 is amended to: (1) clarify the purpose of the written plan of compliance; (2) require notice to the foster parent when a decision is made to not return a child to the foster home after conclusion of a child abuse or neglect investigation; and (3) clarify the foster parent's right to request and receive a fair and impartial hearing regarding decisions that affect certification, retention, or placement of a child in the home.

OAC 340:75-13-12 is amended to: (1) update Section tagline; and (2) text.

OAC 340:75-13-13 is amended to clarify that: (1) Title IV-E determination is made based on the child's circumstances in the month of the child's removal from the home and up to the point of removal; and (2) the child must be deprived of parental support or care according to 1996 Aid to Families with Dependent Children (AFDC) policy and the household's countable income must be below the 1996 AFDC need standard.

OAC 340:75-13-15 is revoked.

OAC 340:75-13-16 is amended to update sentence structure and taglines.

OAC 340:75-13-17 is amended to clarify: (1) when Title IV-E eligibility re-determinations are made; and (2) that Title IV-E eligibility ends when a judicial determination is made that OKDHS has not made reasonable efforts to finalize a permanency plan and that the child remains ineligible until the court makes the finding that reasonable efforts have been made.

OAC 340:75-13-18 is amended to update sentence structure and formatting.

OAC 340:75-13-21 is amended to add taglines and update sentence structure and formatting.

OAC 340:75-13-74 is amended to move instructive information to ITS.

OAC 340:75-13-75 is amended to: (1) move instructive information to ITS; and (2) update sentence structure and formatting.

OAC 340:75-13-79 is amended to update sentence structure, add taglines, and restructure information.

OAC 340:75-13-80 is amended to: (1) update sentence structure, add taglines, move instructive information to ITS; and (2) clarify the ages at which a youth must re-apply for medical coverage.

OAC 340:75-15-6 is amended to update sentence structure.

OAC 340:75-15-42 is amended to update sentence structure and delete duplicative information found in other related Sections.

OAC 340:75-15-45 is amended to: (1) identify professionals who may be involved in the adoption process; (2) clarify when the Affidavit of Information Disclosure for Adoption is completed and reviewed by the prospective adoptive family; and (3) move instructive information to ITS.

OAC 340:75-15-47 is amended to update sentence structure and Section title.

OAC 340:75-15-82 is amended to include statutory cite and language related to: (1) recruitment of adoptive homes via adoption exchanges per 10 O.S. § 7510-2.1; (2) photographs and descriptions provided to the adoption exchange per 10 O.S. § 7510-2.2; (3) exemptions to utilizing an adoption exchange and providing information to the exchange per 10 O.S. § 7510-2.1 through 7510-2.5; (4) change in the child's current status reported to the adoption exchange per 10 O.S. § 7510-2.4; and (5) withdrawal of the child from the adoption per 10 O.S. § 7510-2.5.

OAC 340:75-15-84 is amended to update sentence structure and move instructive information to ITS.

OAC 340:75-15-87 is amended to: (1) cite and include language from 10 O.S. § 7505-5.3 related to the OKDHS requirement to conduct an inquiry into the Bridge resource applicant and each household member's background to determine if the home is suitable for the child in OKDHS custody; (2) restructure information and move instructive information to ITS; (3) clarify the Child Abuse and Neglect Information Search (CANIS) for the private adoptive applicant; (4) cite statutory authority for an exception to fingerprinting per 10A O.S. § 1-7-111; (5) reposition existing information; and (6) clarify that a Bridge resource applicant may be approved for adoption when the applicant and home meet the foster home and adoption program eligibility standards.

OAC 340:75-15-88 is amended to update sentence structure, taglines, and restructure information.

OAC 340:75-15-89 and 340:75-15-103 are amended to update sentence structure and tagline.

OAC 340:75-15-128.1 is amended to: (1) clarify the standard monthly adoption assistance payments set out in OKDHS Appendix C-20, Children

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and Family Services Division (CFSD) Rates Schedule, corresponds to the child's age; (2) update sentence structure; (3) clarify when a adoption assistance agreement is established by OKDHS in Oklahoma, all subsequent modifications of the agreement remain under the control and authority of OKDHS regardless of the state of residence of the adoptive parent; and (4) update sentence structure.

OAC 340:75-15-128.4 is amended to update sentence structure and formatting.

OAC 340:75-15-128.5 is amended to: (1) clarify that the adoption assistance amount is negotiated and OKDHS establishes the payment amount when the parties do not agree; (2) cite statutory authority and language allowing the OKDHS Director for good cause shown, to approve adoption assistance payments on behalf of a child subject to the jurisdiction of this state, but residing in another state, up to the maximum foster care reimbursement allowable in the state of residence; and (3) update sentence structure and taglines.

OAC 340:75-15-132 is amended to track the statutory language of 10 O.S. § 7508-1.2 and add information related to the affidavit of non-disclosure and matching registrants with eligible persons.

OAC 340:75-16-30 is amended to delete an obsolete policy cite.

OAC 340:75-18-1 is amended to include information stricken from other related Sections combined in this Section including information regarding: (1) assessing and ensuring contractor compliance; (2) evaluating achievement of outcomes for children and families; and (3) providing ongoing support and training.

OAC 340:75-18-3 is revoked as unnecessary or obsolete.

OAC 340:75-18-4 and 340:75-18-5 are revoked and language moved to a related section of ITS.

OAC 340:75-18-6 through 340:75-18-15 are revoked as no longer necessary in this Subchapter or are repositioned in related Sections.

[OAR Docket #12-442; filed 4-25-12]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 105. AGING SERVICES DIVISION

[OAR Docket #12-441]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 10. Policies and Procedures Manual for Title III of the Older Americans Act of 1965, As Amended

Part 1. Introduction

340:105-10-3 [AMENDED]

Part 7. Program Standards for Services Funded Under Title III

340:105-10-50.1 [AMENDED]

340:105-10-72 [AMENDED]

340:105-10-74 [AMENDED]

340:105-10-75 [AMENDED]

Subchapter 11. State Long-Term Care Ombudsman Program

Part 37. State Long-Term Care Ombudsman Program

340:105-11-249 [AMENDED]

340:105-11-250 [AMENDED]

(Reference APA WF 11-05)

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2 and 4 of the Oklahoma Constitution; and Sections 305 and 307 of The Older Americans Act of 1965, As Amended.

DATES:

Comment period:

December 16, 2011 through January 17, 2012

Public hearing:

None requested

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January 24, 2012

Submitted to Governor:

January 24, 2012

Submitted to House:

January 24, 2012

Submitted to Senate:

January 24, 2012

Gubernatorial approval:

February 29, 2012

Legislative approval:

Failure of the Legislature to disapprove the rule(s) resulted in approval on March 29, 2012.

Final adoption:

March 29, 2012

Effective:

July 1, 2012

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The proposed amendments to Chapter 105 Subchapter 10 and Subchapter 11 amend the rules to: (1) clarify salary range requirements; (2) match federal taxonomy definitions; and (3) standardize, outline procedures, and modify requirements regarding the use of registered dietitians and nutrition education activities.

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 1, 2012:

SUBCHAPTER 10. POLICIES AND PROCEDURES MANUAL FOR TITLE III OF THE OLDER AMERICANS ACT OF 1965, AS AMENDED

PART 1. INTRODUCTION

340:105-10-3. Definitions

(a) **Definitions.** The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Abuse" means the willful:

- (A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm or pain or mental anguish; or
- (B) deprivation by a person, including a caregiver, of goods or services necessary to avoid physical harm, mental anguish, or mental illness.

"Act" means the Older Americans Act (OAA) of 1965 as amended.

"Activities of daily living (ADL)" means:

- (A) eating;
- (B) dressing;
- (C) bathing;
- (D) toileting;
- (E) transferring in and out of bed or chair; and
- (F) walking.

"Aging and Disability Resource Center" means an entity established by the State as part of the state system of coordinated long-term care to provide:

- (A) comprehensive information on the full range of available public and private long-term care programs, options, service providers, and resources within a community, including information on the availability of integrated long-term care;
- (B) personal counseling to assist a person assess existing or anticipated long-term care needs; and
- (C) access to publicly-supported long-term care programs for which a person may be eligible, by serving as a convenient point of entry for such programs.

"Area Agency on Aging (AAA)" means ~~an~~ designated agency designated under ~~per~~ Section 305(a)(2)(A) of the OAA, Section 305(a)(2)(A) or the State Agency performing the functions of an AAA under the OAA, per ~~Section 305(b)(5) of the OAA.~~

"Assistive device" means an assistive technology device that has the same meaning given in Section 3 of the Assistive Technology Act of 1998, [29 U.S.C. 3002]-

"At risk for institutional placement" means that an older person is unable to perform at least two activities of daily living without substantial assistance such as verbal reminding, physical cuing, or supervision and is determined by the State to be in need of placement in a long-term care facility.

"CFR" means Code of Federal Regulations in the Federal Register published by the United States (U.S.) Department of Health and Human Services, Office of Human Development, and Administration on Aging (AoA).

"Caregiver" means an adult family member, or another person, who is an informal provider of in-home and community care to a person 60 years of age or older.

"Case management service" means a service provided to an older person, at the direction of the older person or a family member of the older person:

- (A) by a person who is trained or experienced in the case management skills required to deliver the services and coordination described in (B) of this paragraph;
- (B) to assess the needs, and arrange, coordinate, and monitor an optimum package of services to meet the needs of the older person; and
- (C) including services and coordination, such as:
 - (i) comprehensive assessment of the older person's physical, psychological, and social needs;
 - (ii) development and implementation of a service plan with the older person to mobilize the formal and informal resources and services identified in the assessment to meet the needs of the older person, including coordination of the resources and services with:
 - (I) other plans existing for various formal services, such as hospital discharge plans; and
 - (II) the information and assistance services funded by Title III of OAA;

- (iii) monitoring formal and informal service delivery to ensure services specified in the plan are provided;
- (iv) periodic reassessment and revision of the status of the older person with:
 - (I) the older person; or
 - (II) if necessary, a primary caregiver or family member of the older person; and
- (v) advocacy on behalf of the older person for needed services or resources in accordance with the wishes of the older person.

"Child" means a person ~~who is not older than 18 years of age:~~

- (A) with a grandparent or other relative as a caregiver; and
- (B) not older than 18 years of age; or
- (C) a person 19-59 years of age who has a severe disability and lives with a grandparent or older person who is a relative caregiver.

"Civic engagement" means a person or a collective action designed to address a public concern or an unmet human, educational, health care, environmental, or public safety need.

"Comprehensive and coordinated system" means a system for providing all necessary supportive services, including nutrition services, in a manner designed to:

- (A) facilitate accessibility to and utilization of all supportive services and nutrition services provided within the geographic area served by such system by any public or private agency or organization;
- (B) develop and make the most efficient use of supportive services and nutrition services in meeting the needs of older persons;
- (C) use available resources efficiently and with a minimum of duplication; and
- (D) encourage and assist public and private entities having unrealized potential for meeting the service needs of older persons to assist the older persons on a voluntary basis.

"Construction," with respect to multipurpose senior centers, means building a new facility, including the costs of land acquisition and architectural and engineering fees or making modifications to or in connection with an existing facility in excess of double the square footage of the original facility and all physical improvements.

"Department" means U.S. United States Department of Health and Human Services (DHHS).

"Direct services" means any activity performed to provide services directly to an older person by the staff of a service provider, AAA, or State Agency in a single planning and service area.

"Disability" means a mental or physical impairment, or a combination of mental and physical impairments, resulting in substantial functional limitations in one or more major life activity areas ~~of the major life activities of~~ such as:

- (A) self-care;
- (B) receptive and expressive language;

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- (C) learning;
- (D) mobility;
- (E) self-direction;
- (F) capacity for independent living;
- (G) economic self-sufficiency;
- (H) cognitive functioning; ~~and~~
- (I) emotional adjustment.

"Disease prevention and health promotion services"

means providing:

- (A) health risk assessments;
- (B) routine health screening, such as hypertension, glaucoma, cholesterol, cancer, vision, hearing, diabetes, bone density, oral health, ~~and~~ or nutrition screening;
- (C) nutritional counseling and educational services for an older ~~persons~~ person and ~~their~~ his or her primary caregivers;
- (D) evidence-based health promotion programs, including programs related to prevention and mitigation of effects of chronic disease, such as:
 - (i) osteoporosis;
 - (ii) hypertension;
 - (iii) obesity;
 - (iv) diabetes;
 - (v) cardiovascular disease;
 - (vi) oral or dental disease;
 - (vii) alcohol and substance abuse reduction;
 - (viii) smoking cessation;
 - (ix) weight loss and control;
 - (x) stress management;
 - (xi) falls prevention;
 - (xii) physical activity; and
 - (xiii) improved nutrition;
- (E) programs regarding physical fitness, group exercise, and music, art, and dance movement therapy, including programs for multigenerational participation provided by:
 - (i) an institution of higher education;
 - (ii) a local educational agency, as defined in Section 1471 of the Elementary and Secondary Education Act of 1965; or
 - (iii) a community-based organization;
- (F) home injury control services, including screening of high risk home environments and provision of educational programs on injury prevention, such as fall and fracture prevention;
- (G) screening for the prevention of depression, coordination of community mental health services, provision of educational activities, and referral to psychiatric and psychological services;
- (H) educational programs on the availability, benefits, and appropriate use of preventive health services covered under Title XVIII of the Social Security Act;
- (I) medication management screening and education to prevent incorrect medication and adverse drug reactions;

(J) information concerning diagnosis, prevention, treatment, and rehabilitation ~~concerning~~ of age related diseases and chronic disabling conditions, including:

- (i) osteoporosis;
- (ii) cardiovascular ~~diseases~~ disease;
- (iii) diabetes; and
- (iv) Alzheimer's disease and related disorders with neurological and organic brain dysfunction;
- (K) gerontological counseling; and
- (L) counseling regarding social services and follow-up health services based on any of the services described in (A) through (K) of this subsection.

"Elder abuse" means abuse of an older person.

"Eldercare (National Campaign)" means the AoA sponsored program to establish and promote public and private partnerships addressing the needs of the growing population of older persons and their caregivers.

"Elder justice" means efforts to:

- (A) prevent, detect, treat, intervene in, and respond to elder abuse, neglect, and exploitation;
- (B) protect older persons with diminished capacity while maximizing their autonomy; and
- (C) recognize a person's rights, including the right to be free of abuse, neglect, and exploitation.

"Elderly client" means a person:

- (A) eligible or receiving OAA services; and
- (B) 60 years of age or older; or
- (C) less than 60 years of age with a diagnosis of early onset dementia.

"Ethnicity status." See "Race or ethnicity status."

"Exploitation" means the fraudulent or otherwise illegal, unauthorized, or improper act or process of a person, including a caregiver or fiduciary, ~~that uses~~ using the resources of an older person for monetary or personal benefit, profit, or gain, or that ~~results~~ result in depriving an older person of rightful access to, or use of, benefits, resources, belongings, or assets. Within this definition, a caregiver is a person who has the responsibility for the care of an older person, either voluntarily, by contract, ~~by~~ receipt of payment for care, or as a result of the operation of law and is a family member or other person providing, on behalf of the person or of a public or private agency, organization, or institution, compensated or uncompensated care to an older person.

"Fiduciary" means a person or entity with the legal responsibility to make decisions on behalf of and for the benefit of another person and to act in good faith and with fairness and includes a trustee, a guardian, a conservator, ~~an~~ executor, ~~an~~ agent under a financial power of attorney or health care power of attorney, or a representative payee.

"Focal point" means a facility established to encourage the maximum collocation and coordination of services for older persons.

"Frail" means a condition of functionally impaired determined because the older person:

- (A) is unable to perform at least two activities of daily living without substantial human assistance,

including verbal reminding, physical cueing, or supervision; or

(B) due to a cognitive or other mental impairment, requires substantial supervision because the person behaves in a manner posing a serious health or safety hazard to self or another person.

"Grandparent or older person who is a relative caregiver" means a grandparent or a stepgrandparent of a child or a relative of a child by blood, marriage, or adoption who is 55 years of age or older and:

- (A) lives with the child;
- (B) is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and
- (C) has a legal relationship to the child, such as legal custody or guardianship; or is raising the child informally.

"Grantee agency" means an agency that receives funds granted or awarded by the sponsoring agency. The AAAs are grantees of the State Agency and the service providers are grantees of the AAAs.

"Grantor agency" means an agency that grants or awards funds to another entity. The State Agency is the grantor agency for the AAAs and the AAAs are the grantor agencies for the service providers.

"Greatest economic need" means the need resulting from an income level, at or below the poverty line.

"Greatest social need" means the need caused by non-economic factors, including physical and mental disabilities, language barriers, and cultural, geographical, or social isolation, including that caused by racial or ethnic status that restricts the person's ability to perform normal daily tasks or threatens the person's capacity to live independently.

"Hispanic-serving institution" means the same as in Section 502 of the Higher Education Act of 1965 [20 U.S.C. 1101a].

"Impairment in activities of daily living" means the inability to perform one or more of the six impairments in activities of daily living (ADL) without personal assistance, or stand-by assistance, supervision, or cues.

"Impairment in instrumental activities of daily living" means the inability to perform one or more of the eight instrumental activities of daily living (IADL) without personal assistance, or stand-by assistance, supervision, or cues.

"Informal care" means care not provided as part of a public or private formal service program.

"Information and assistance (I & A)" means a service for older persons that:

- (A) provides older persons current information on services available within their communities including information relating to assistive technology;
- (B) links older persons with the opportunities and services available within their communities;
- (C) establishes adequate follow-up procedures to the maximum extent practicable; and

(D) serves the entire community of older persons, particularly those with greatest social and economic need and those at risk for institutional placement.

"In-home service" means:

- (A) services of homemakers and home health aides;
- (B) visiting and telephone reassurance;
- (C) chore maintenance;
- (D) in-home respite care for families, including adult day care as a respite service for families;
- (E) minor modification of homes necessary to facilitate the ability of older persons to remain at home, and not available under other programs. Not more than \$250 per client may be expended annually for such modification; and
- (F) personal care services.

"Instrumental activities of daily living (IADL)" means:

- (A) preparing meals;
- (B) shopping for personal items;
- (C) managing medication;
- (D) managing money;
- (E) using the telephone;
- (F) doing heavy housework;
- (G) doing light housework; and
- (H) making use of available transportation without assistance.

"Integrated long-term care" means items and services that consist of:

- (A) with respect to long-term care:
 - (i) items or services provided under a State plan for medical assistance under the Sooner-Care program established under Title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], including nursing facility services, home and community-based services, personal care services, and case management services provided under the plan; and
 - (ii) any other supports, items, or services that are available under any federally funded long-term care program;
- (B) with respect to other health care, items and services covered under:
 - (i) the Medicare program established under Title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.];
 - (ii) the State plan for medical assistance under the SoonerCare program; or
 - (iii) any other federally funded health care program; and
- (C) ~~includes~~ including such items or services that are provided under a public or private managed care plan or through any other service provider.

"Legal assistance" means legal advice and representation by an attorney to an older person who has economic or social needs and includes, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney and counseling or representation by a non-lawyer where permitted by law.

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"Living alone" means a one person household, using the census definition of household, where the householder lives by himself or herself in an owned or rented place of residence in a non-institutional setting, including board and care facilities, assisted living units, and group homes.

"Low income minority elderly" means a minority older person with annual income at or below the federally established poverty line.

"Low income non-minority elderly" means an older person who is not a minority with an annual income at or below the federally established poverty line.

"Means testing" means the use of an older person's income or resource to deny or limit the person's receipt of services.

"Minority elderly" means a person ~~age 60~~ years of age or older who is:

- (A) American Indian or Alaskan Native;
- (B) Asian;
- (C) Black or African American;
- (D) Hispanic or Latino; or
- (E) Native Hawaiian or ~~Other~~ Other Pacific Islander.

"Multipurpose senior center" means a community facility for the organization and provision of a broad spectrum of services, ~~to include~~ including the provision of health, such as mental health, social, nutritional, and educational services and facilities for recreational activities for older persons.

"NAPIS" means the National Aging Program Information System.

"Neglect" means the failure of a caregiver or fiduciary to provide the goods or services ~~that are~~ necessary to maintain the health or safety of an older person or self-neglect.

"Nonprofit" means an agency, institution, or organization owned or operated by one or more corporations or associations having no part of the net earnings or benefit of any private shareholder or individual.

"OAA" means the Older Americans Act of 1965, as amended.

"OKDHS" means Oklahoma Department of Human Services.

"Older person" or "older individual" means anyone 60 years of age or older.

"Periodic," as used in the OAA with respect to evaluations of and public hearings on activities carried out under ~~State~~ state and ~~Area Plans~~ area plans, means, at a minimum, once each fiscal year.

"Planning and service area (PSA)" means an area designated by the State Agency under Section 305(a)(1)(E) of the OAA, as amended, for the purposes of developing and coordinating service systems.

"Poverty" means the income level defined each year by the Office of Management and Budget (OMB); and adjusted by the DHHS Secretary in accordance with subsection 673(2) of the Community Services Block Grant Act. The annual DHHS Poverty Guidelines provide dollar thresholds representing poverty levels for various size households ~~of various sizes~~.

"Poverty line" means the official poverty line as defined by OMB ~~in accordance with~~ per Section 673(2) of the Community Services Block Grant Act, ~~per~~ and Section 9902(2) of Title 42 of the U.S. Code.

"Project" as used in Section 306(a)(1) of the OAA with respect to the provision of supportive and nutrition services, means an entity awarded a subgrant or contract from an AAA to provide services under the Area Plan.

"Race or ethnicity status" reflects the requirements of OMB for obtaining information from persons regarding their self-identification of race and ethnicity.

(A) Race includes:

(i) American Indian or Alaskan Native: a person having origins in any of the original peoples of North America, including Central America, and who maintains tribal affiliation or community attachment;

(ii) Asian: a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam;

(iii) Black or African American: a person having origins in any of the black racial groups of Africa;

(iv) Native Hawaiian or Other Pacific Islander: a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands; and

(v) White: a person having origins in any of the peoples of Europe, the Middle East, or North Africa.

(B) Ethnicity includes:

(i) Hispanic or Latino: a person of Cuban, Mexican, Puerto Rican, Central or South American, or other Spanish culture or origin, regardless of race; and

(ii) Not Hispanic or Latino.

"Rural" means an area not defined as urban by AoA.

"Rural counties" means counties not considered urban as defined by AoA.

"Rural elderly" means older persons not considered living in urban counties as defined by AoA.

"SUOA" means Special Unit on Aging, a unit of Oklahoma Department of Human Services (OKDHS) Aging Services Division (ASD).

"Self-directed care" means an approach to providing services, including programs, benefits, supports, and technology under the OAA intended to assist a person with activities of daily living, in which:

(A) services, including the amount, duration, scope, provider, and location of such services; are planned, budgeted, and purchased under the direction and control of the person;

(B) a person is provided with information and assistance as are necessary and appropriate to make informed decisions about care options;

(C) the needs, capabilities, and preferences of a person with respect to such services are assessed by the AAA, or other agency designated by the AAA, involved;

(D) based on the assessment, the AAA, or other agency designated by the AAA, develops together with the person and the person's family, caregiver, or legal representative:

- (i) a plan of services for the person that specifies the services the person will be responsible for directing;
- (ii) a determination of the role of family members, and others the person wants to participate, in providing services under the plan; and
- (iii) a budget for such services; and

(E) the AAA or State Agency provides for oversight of self-directed receipt of services, including steps to ensure the quality of services provided and the appropriate use of funds under the OAA.

"Self-neglect" means an adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including:

- (A) obtaining essential food, clothing, shelter, and medical care;
- (B) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or
- (C) managing one's own financial affairs.

"Service provider," as used in Section 306(a)(1) of the OAA with respect to the provision of supportive and nutrition services, means an entity awarded a subgrant or contract from an AAA to provide services under the ~~Area Plan~~area plan.

"Severe disability," as used to carry out the provisions of the OAA, means a severe chronic disability attributable to mental or physical impairment of a person that:

- (A) is likely to continue indefinitely; and
- (B) results in substantial functional limitation in three or more of the major life activities of:
 - (i) self-care;
 - (ii) receptive and expressive language;
 - (iii) learning;
 - (iv) mobility;
 - (v) self-direction;
 - (vi) capacity for independent living; and
 - (vii) economic self-sufficiency.

"Sponsoring agency" means a multipurpose or umbrella organization of a grantee.

"State Agency" means the agency designated by the State under Section 305(a)(1) of the OAA, as amended. In Oklahoma, the State Agency is OKDHS ASD.

"State system of long-term care" means the federal, state, and local programs and activities administered by a state ~~that provide, providing~~ support, or facilitate access to long-term care for persons in the state.

"Subgrantee" means an agency that subcontracts with a grantee agency. Subgrantee usually refers to the service

provider, but it is possible for a service provider to subcontract with another entity.

"Taxonomy" means the uniform set of service definitions and service unit measures adopted by AoA for national reporting on programs and activities under Title III of the OAA.

"Unit of general purpose local government" means:

- (A) a political subdivision of the state having general authority and not limited to only one function or combination of related functions; or
- (B) an Indian tribal organization.

"Urban" means areas defined by AoA comprised of an:

- (A) urbanized area, a central place and its adjacent densely settled territories with a combined minimum population of 50,000; or
- (B) incorporated place or census designated place with 20,000 or more inhabitants.

"Urban counties" means urban areas as defined by AoA. Counties in Oklahoma considered urban are:

- (A) Canadian;
- (B) Cleveland;
- (C) Comanche;
- (D) Creek;
- (E) Garfield;
- (F) Logan;
- (G) McClain;
- (H) Oklahoma;
- (I) Osage;
- (J) Pottawatomie;
- (K) Rogers;
- (L) Sequoyah;
- (M) Tulsa; and
- (N) Wagoner.

(b) **Authority.** The authority for this Section is OMB Notice of Action 0985-0008.

PART 7. PROGRAM STANDARDS FOR SERVICES FUNDED UNDER TITLE III

340:105-10-50.1. Title III services taxonomy

(a) **Rule.** Parts B, C, D, and E of Title III authorize the development of a variety of services to meet the needs of older persons. A comprehensive listing of services that may be funded, service definitions, and service units are included in (1) through (15) of this paragraph.

- (1) Personal care - one hour; provides personal assistance, stand-by assistance, supervision, or cues.
- (2) Homemaker - one hour; provides assistance preparing meals, shopping for personal items, managing money, using the telephone, or doing light housework.
- (3) Chore - one hour; provides assistance with heavy housework, yard work, or sidewalk maintenance.
- (4) Home delivered meal - one meal; provides a qualified person at the person's place of residence a meal that:
 - (A) complies with the most recent Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture;

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- (B) provides, if one meal is served, a minimum of 33 and 1/3 percent of the current dietary reference intakes (DRI) as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences;
- (C) provides, if two meals are served together, a minimum of 66 and 2/3 percent of the allowances; and
- (D) provides, if three meals are served together, 100 percent of the allowances.
- (5) Adult day care or adult day health - one hour; provides personal care for dependent adults in a supervised, protective, and congregate setting during some portion of a day. Services offered in conjunction with adult day care or adult day health typically include social and recreational activities, training, counseling, and services such as rehabilitation, medications assistance, and home health aide services for adult day health.
- (6) Case management - one hour; provides assistance either in the form of access or care coordination in circumstances where the older person is experiencing diminished functioning capacities, personal conditions, or other characteristics requiring the provision of services by formal service providers or family caregivers. Case management activities include:
- (A) assessing needs;
- (B) developing care plans;
- (C) authorizing and coordinating services among providers; and
- (D) providing follow-up and reassessment, as required.
- (7) Congregate meal - one meal; provides a qualified person in a congregate or group setting, a meal that:
- (A) complies with the most recent Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture;
- (B) provides, if one meal is served, a minimum of 33 and 1/3 percent of the DRI as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences;
- (C) provides, if two meals are served together, a minimum of 66 and 2/3 percent of the allowances; and
- (D) provides, if three meals are served together, 100 percent of the allowances.
- (8) Nutrition counseling - one session per participant; provides individualized guidance to a person who is at nutritional risk because of health or nutrition history, dietary intake, medications use, or chronic illnesses, or to caregivers. Counseling is provided one-on-one by a registered dietician and addresses the options and methods for improving nutrition status.
- (9) Assisted transportation - one one-way trip; provides assistance and transportation, including escort, to a person who has difficulties, physical or cognitive, using regular vehicular transportation.
- (10) Transportation - one one-way trip; provides transportation using a vehicle for a person who requires help in going from one location to another. ~~Does and does not~~ include any other activity.
- (11) Legal assistance - one hour; provides legal advice, counseling, and representation by an attorney or other person acting under the supervision of an attorney.
- (12) Nutrition education - one session per participant; a program promoting better health by providing accurate and culturally sensitive nutrition, physical fitness, or health information, as it relates to nutrition, information, and instruction to participants, caregivers, or both, in a group or individual setting overseen by a dietitian or person of comparable expertise.
- (13) Information and assistance - one contact; a one-on-one contact between a service provider and an older client or caregiver. Activities involving contact with multiple current or potential clients or caregivers, such as publications, publicity campaigns, and other mass media activities, are not counted as a unit of service. Internet ~~Web site~~ website hits are counted only if information is requested and supplied. This service:
- (A) provides older persons with current information on services available within their communities;
- (B) links older persons with the opportunities and services available within their communities; and
- (C) establishes adequate follow-up procedures, to the maximum extent practicable.
- (14) Outreach - one contact; provides persons with intervention initiated by an agency or organization for the purpose of identifying potential clients or their caregivers and encouraging their use of existing services and benefits. Outreach is a one-on-one contact between a service provider and an older client or caregiver. Activities involving contact with multiple current or potential clients or caregivers, such as publications, publicity campaigns, and other mass media activities, are not counted as a unit of service.
- (15) Funded "Other" category.
- (A) Advocacy or representation - one hour; provides action taken on behalf of an older person to secure the person's rights or benefits. Advocacy or representation includes receiving, investigating, and working to resolve disputes or complaints. It does not include services provided by an attorney or person under the supervision of an attorney.
- (B) Education or training - one session; provides formal and informal opportunities for older persons to acquire knowledge, experience, or skills. Includes individual or group events designed to increase awareness.
- (C) Health promotion - one event; provides health promotion or disease prevention information, instruction, or activities, such as exercise, to participants, caregivers, or both, in a group or individual setting. Examples include:
- (i) individual health screenings; such as blood pressure screenings. The event is documented by a participant sign-in sheet at the time of the screening; or

- (ii) a health promotion program in an individual or group setting. The program is counted as one event.
- (D) Home repair - one job; provides minor repairs, modifications, or maintenance on a home owned and occupied by an eligible participant, up to \$250 annually per participant.
- (E) Coordination of services - unit to be determined by Aging Services Division (ASD); provides for the administration or delivery of a service for which direct cost is not funded by Title III. The AAA contacts ASD regarding use of this category.
- (F) National Family Caregiver Support Program service categories are:
 - (i) information services - one activity; provides caregivers information on resources and services available to the public or persons within their communities. Information services are for activities directed to large audiences of current or potential caregivers, such as disseminating publications, conducting media campaigns, and other similar activities;
 - (ii) access assistance - one contact; assists caregivers in obtaining access to the services and resources available within their communities. To the maximum extent practicable, access assistance ensures persons receive the services needed by establishing adequate follow-up procedures. Internet ~~Web site~~website hits are counted only ~~if~~when information is requested and supplied;
 - (iii) counseling - one session per participant; assists caregivers in the areas of health, nutrition, and financial literacy, and in making decisions and solving problems relating to their caregiver roles. This includes counseling to persons, support groups, and caregiver training of individual caregivers and families;
 - (iv) respite care - one hour; provides temporary, substitute supports or living arrangements for care recipients in order to provide a brief period of relief or rest for caregivers. When the specific service units purchased via a direct payment, such as cash or voucher, can be tracked or estimated, the service unit is reported by hour; otherwise, the unit of service is one payment. Respite care is:
 - (I) in-home respite, such as personal care, homemaker, and other in-home respite;
 - (II) respite provided by attendance of the care recipient at a senior center or other nonresidential program; or
 - (III) institution respite provided by placing the care recipient in an institutional setting, such as a nursing home for a short period of time as a respite to the caregiver or summer camp as a respite for grandparents caring for children; and
 - (v) supplemental services - provides services on a limited basis to complement the care provided

by caregivers. The unit and service are determined by ASD. The AAA contacts ASD regarding use of this category.

- (b) **Authority.** The authority for this Section is the Office of Management and Budget Notice of Action 0985-0008 and Sections 339 and 371 through 373 of the Older Americans Act of 1965, as amended.
- (c) **Procedures.** The AAA:
 - (1) incorporates provisions of the rule into its policies and procedures manual;
 - (2) provides technical assistance to prospective service project applicants regarding the rule in the development of services; and
 - (3) utilizes the rule as an indicator in the evaluation of service project proposals.
- (d) **Cross references.** See OAC 340:105-10-40 and 340:105-10-51.

340:105-10-72. Congregate meals project staffing requirements

- (a) **Policy.** Each congregate meals project maintains sufficient staff to carry out the required service activities.
- (b) **Authority.** The authority for this Section is Section 1321.11 of Title 45 of the Code of Federal Regulations.
- (c) **Procedures.** The congregate meals project is required to:
 - (1) employ a full-time director who is empowered with the necessary authority to conduct the daily management and administrative functions of the project;
 - (2) obtain the nutrition consultation services of a licensed registered dietitian (RD) ~~to provide monthly nutrition consultations either an employee or independent consultant, unless provided by the area agency on aging (AAA) or through a statewide contract. The RD:~~
 - (A) ~~is an employee or independent consultant hired by the project or the Area Agency on Aging (AAA).~~ A paid caterer or certified dietary manager is not acceptable in this position. If obtaining the services of a licensed RD consultant exceeds three months, the nutrition project or AAA:
 - (i) provides ~~to Aging Services Division (ASD)~~ documentation of hiring efforts in the form of newspaper advertisements and job announcements to Aging Services Division (ASD);
 - (ii) requests in writing a temporary waiver for an additional period of time, not to exceed three months; and
 - (iii) submits a revised budget reflecting the re-allocation of funds not used while the position was vacant; ~~and.~~
 - (B) The AAA shall notify ASD contract monitor(s) within 72 hours following the loss of RD services by project or AAA.
 - (C) The state RD shall be contacted to approve menu substitutions in the absence of an RD.
 - (~~B~~D) The RD verifies by signature on the monthly Form 02AG025E, Dietary Consultant's Report, the

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~~monthly~~ performance of the required consultation requirements activities, including:

- (i) limiting site visits to one per day per RD;
- (ii) visiting each site at least every other month for a minimum total of six site visits per year;
- ~~(iii)~~ monitoring food service to include measurement of food temperatures and portion sizes, and assessment of food quality and adherence to contract specifications;
- ~~(iiiiv)~~ training staff and volunteers ~~monthly~~ in areas of food service management, nutrition, food safety, and sanitation;
- ~~(ivv)~~ assessing participant satisfaction and preferences;
- ~~(vvi)~~ reviewing menu and commodity utilization;
- ~~(vii)~~ approving and coordinating monthly nutrition education programs;
- ~~(viii)~~ providing nutrition education and counseling, when appropriate, to meal participants;
- (viii) monitoring perpetual inventory;
- (ix) documenting site recommendations for improvement;
- (x) documenting on the date of the site visit the number of:

- (I) reservations;
- (II) meals prepared;
- (III) meals served; ~~and~~
- (IV) leftovers; and
- (V) menu substitutions; and

(xi) providing individual consultation for participants whose nutritional score on Form 02AG002E, Part I, Older Americans Act Assessment, page 4, Determine your nutritional health, is six or more to:

- (I) congregate meals participants, upon participant's approval; and
- (II) homebound meal participants, where feasible, and upon participant's approval;

(3) ~~provide quarterly~~ providing a nutrition project consultation, which at least quarterly that includes:

- (A) assessing food preferences; ~~and~~
- (B) preparing menus and documenting nutrition analysis to meet one third recommended dietary allowance for each meal; and

(4) ~~determine~~ determining appropriate staffing patterns for each meal site in the project service area. AAAs are the final authority on appropriate staffing patterns in the Title III projects.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-71, 340:105-10-73 through 340:105-10-80, and 340:105-10-86.

340:105-10-74. Nutrition education

(a) **Policy.** The congregate and home delivered meals programs provide formal nutrition education to project participants.

(b) **Authority.** The authority for this Section is Sections 331(3) and 339(2)(J) of the Older Americans Act of 1965, as amended.

(c) **Procedures.** Nutrition education is ~~provided~~ registered dietician (RD) approved and:

- ~~(1) in consultation with a registered dietitian or a person with comparable expertise;~~
- ~~(2) at least once per month;~~
- ~~(3) provided~~ to congregate and home delivered meals participants; and
- ~~(4) documented on Form 02AG025E, Dietary Consultant's Report; and~~
- (4) participant questions related to the nutrition education are responded to by the RD.

(d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-70 through 340:105-10-73, and 340:105-10-75 through 340:105-10-80.

340:105-10-75. Congregate meals planning

(a) **Policy.** The congregate meals project conducts appropriate meal planning for the congregate meals service with the consultation of persons competent in the field of nutrition, food service, and the needs of older persons.

(b) **Authority.** The authority for this Section is Section 339 of the Older Americans Act of 1965, as amended and Section 1321.11 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** Menus:

- (1) are prepared or approved by a registered dietitian (RD) who considers the special needs of older persons. The RD ensures that each meal served contains at least:

(A) one-third of the dietary reference intakes as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences; and

(B) 600 calories. The recommended level is 750 to 850 calories;

- (2) are planned on a ~~quarterly~~ six-month basis with a ~~six~~ minimum four-week cycle ~~repeated once each quarter~~ with seasonal changes. Nutritional adequacy is documented with computer analysis and meal pattern by the RD.

(A) Maintenance of optimal nutritional status through menu planning is reflected in menus moderate in fat, salt, and simple sugars and high in fiber.

(B) Form 02AG018E, Project Menu Plan - Nutrition Program for the Elderly, is submitted quarterly to the area agency on aging (AAA) and is available to the State Agency RD for random review upon request;

- (3) are signed by the RD and posted at the nutrition site;
- (4) reflect:

(A) special diets to meet the medical needs of eligible participants. When special diets are provided to meet the medical needs of eligible participants:

- (i) a valid written physician's order is on file for each participant receiving a special diet. The physician's order indicates the participant is restricted to the special diet and the duration of the special diet. If the participant is consuming a

- liquid supplement in addition to a meal, the supplement is not reimbursed through the Nutrition Services Incentive Program as a separate meal; and
- (ii) special diets are planned and prepared under the supervision of the RD; and
- (B) where feasible, religious, ethnic, cultural, or regional dietary requirements or preferences of a major portion of the group of participants at a congregate meals site;
- (5) are served as planned unless the RD reviews and approves an appropriate substitution. A complete menu move from one day to another does not constitute a substitution. When substitutions are made, the project maintains and submits to the State Agency at the end of each month the:
 - (A) date of substitution;
 - (B) original menu item(s); and
 - (C) substituted menu item(s);
- (6) are based on accurate production forecasting that does not include a margin for oversized portions or second servings. Leftover foods are not taken from the kitchen by staff, participants, or volunteers;
- (7) may include, where feasible, provisions for the celebration of special occasions for participants, for example, birthdays and holidays; and
- (8) allow for food items within the meat, vegetable and fruit, and dessert groups to vary for the same days of the week, from week_to_week, in order to provide a variety of foods and nutrients.
- (d) **Cross references.** See OAC 340:105-10-50.1(a)(4) and (7), 340:105-10-51, 340:105-10-68 through 340:105-10-74, 340:105-10-76 through 340:105-10-80, and 340:105-10-86.

SUBCHAPTER 11. STATE LONG-TERM CARE OMBUDSMAN PROGRAM

PART 37. STATE LONG-TERM CARE OMBUDSMAN PROGRAM

340:105-11-249. Area Agency on Aging ombudsman supervisor

- (a) **Definition.** Under the program supervision of the Office of the State Long-Term Care Ombudsman and the general direction of the director of an Area Agency on Aging, the ombudsman supervisor I provides leadership in development, coordination, and implementation of the Long-Term Care Ombudsman Program and receives, investigates, and resolves complaints made by or on behalf of residents of long-term care facilities.
- (b) **Examples of duties.** Examples of duties include:
 - (1) recruiting, screening, training, and supervising ombudsman volunteers; using guidelines provided by state ombudsman staff;

- (2) publicizing the services of the State Long-Term Care Ombudsman Program and issues affecting older residents of long-term care facilities through media releases, public speaking, and other means;
- (3) coordinating with state ombudsman staff in complaint investigation and resolution, identification of priority issues, and certification of new ombudsman volunteers;
- (4) maintaining confidentiality of files and other information pertaining to complaints and complainants;
- (5) keeping the director of the designated area ombudsman entity informed of the current situation and needs at the local level, recommending plans for meeting needs, and advising the director of resources required for their implementation;
- (6) being available to residents of long-term care facilities in the planning and service areas (PSA), visiting each facility regularly, and working cooperatively with administrators and staff; and
- (7) serving as a consultant to community organizations and agencies on issues and needs affecting older long-term care facility residents, techniques of working with these older people, and the solution of special problems.
- (c) **Education and experience.** The required education and experience is graduation from a standard four year high school and two years of responsible full-time paid employment in social, health, or aging services or related occupation that involves meeting the public.
 - (1) Any equivalent full-time study in an accredited college or university may be substituted for the required work experience.
 - (2) Passing the General Educational Development (GED) test is accepted in lieu of graduation from a standard four year high school.
- (d) **Salary range.** The comparable job family descriptor (JFD) for this position is Adult Protective Services Specialist, #H26A. A person in this position may not be paid more hired at a salary more than the midpoint nor paid more than the maximum of the approved salary range for Oklahoma Department of Human Services (OKDHS) Office of Personnel Management (OPM) Pay Band I. For the purpose of determining annual salary longevity pay shall not be considered.

340:105-11-250. Area Agency on Aging ombudsman supervisor II

- (a) **Definition.** Under the program supervision of the Office of the State Long-Term Care Ombudsman and the general direction of the director of an Area Agency on Aging, the ombudsman supervisor II provides leadership in development, coordination, and implementation of the Long-Term Care Ombudsman Program and receives, investigates, and resolves complaints made by or on behalf of residents of long-term care facilities.
- (b) **Examples of duties.** Examples of duties include:
 - (1) recruiting, screening, training, and supervising ombudsman volunteers; using guidelines provided by state ombudsman staff;

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- (2) publicizing the services of the State Long-Term Care Ombudsman Program and issues affecting older residents of long-term care facilities through media releases, public speaking, and other means;
- (3) coordinating with state ombudsman staff in complaint investigation and resolution, identification of priority issues, and certification of new ombudsman volunteers;
- (4) maintaining confidentiality of files and other information pertaining to complaints and complainants;
- (5) keeping the director of the designated area ombudsman entity informed of the current situation and needs at the local level, recommending plans for meeting needs, and advising the director of resources required for their implementation;
- (6) being available to residents of long-term care facilities in the planning and service areas (PSA), visiting each facility regularly, and working cooperatively with administrators and staff; and
- (7) serving as a consultant to community organizations and agencies on issues and needs affecting older long-term care facility residents, techniques of working with these older people, and the solution of special problems.
- (c) **Education and experience.** The required education and experience is:
- (1) graduation from an accredited four year college or university with major course work in social work, health, gerontology, general social sciences, or related field; or
- (2) an equivalent combination of education and experience, substituting one year of full-time paid experience in such areas as community organization, public health, social work, or related field for each year of the required education, with a maximum substitution of two years.
- (d) **Salary range.** The comparable job family descriptor (JFD) for this position is Adult Protective Services Specialist, #H26B. A person in this position may not be paid more hired at a salary more than the midpoint nor paid more than the maximum of the approved salary range for Oklahoma Department of Human Services (OKDHS) Office of Personnel Management (OPM) Pay Band J. For the purpose of determining annual salary longevity pay shall not be considered.

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TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 3. ADMINISTRATIVE SERVICES

[OAR Docket #12-454]

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PERMANENT final adoption

RULES:
Subchapter 11. Risk Management
Part 1. Drug Policy
377:3-11-5. Substance screening [AMENDED]
377:3-11-6. Substance to be tested [AMENDED]
377:3-11-8. Collection procedures [AMENDED]
377:3-11-9. Consequences of refusal [AMENDED]

377:3-11-10. Consequences of positive test results [AMENDED]
377:3-11-11. Job applicant and employee ~~rights~~opportunities [AMENDED]
377:3-11-12. Severability [AMENDED]

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377:3-11-5. Substance screening [AMENDED]
377:3-11-6. Substance to be tested [AMENDED]
377:3-11-8. Collection procedures [AMENDED]
377:3-11-9. Consequences of refusal [AMENDED]
377:3-11-10. Consequences of positive test results [AMENDED]
377:3-11-11. Job applicant and employee ~~rights~~opportunities [AMENDED]
377:3-11-12. Severability [AMENDED]

Gubernatorial approval:
January 11, 2012
Register publication:
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12-41

INCORPORATIONS BY REFERENCE:
N/A

ANALYSIS:
This rule interprets House Bill 2033 (2011), pertaining to drug and alcohol testing of employees and job applicants, as found in 75 O.S., Section 551-563, also known as the Standards for Workplace Drug and Alcohol Testing Act.

CONTACT PERSON:
JLynn Hartman, Director of Government Relations, Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, (405) 530-2866

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 1, 2012:

SUBCHAPTER 11. RISK MANAGEMENT

PART 1. DRUG POLICY

377:3-11-5. Substance screening

Drug and alcohol testing may be required for employees and job applicants under the following circumstances:

- (1) **Job applicant testing.** Every job applicant who is conditionally offered employment in the following job families shall be tested:
 - (A) Juvenile Justice Specialist;
 - (B) Youth Guidance Specialist;
 - (C) Police Officer;
 - (D) Recreational Therapist;
 - (E) Institutional Safety & Security Coordinator;
 - (F) Registered Nurse;
 - (G) Licensed Practical Nurse;
 - (H) Nursing Manager; ~~and~~
 - (I) Food Service Personnel; and
 - (J) Psychological Clinician.

(2) **Reasonable suspicion testing. For-cause testing.**

~~Any employee may be tested, at the request of the Executive Director or, if he is unavailable, the Chief of Staff, if a reasonable suspicion exists that the employee has violated this policy while on duty. A reasonable suspicion may be drawn from specific objective and articulate facts and reasonable inferences drawn from those facts in light of experience, and, among other things, may be based upon:~~ Any employee may be requested or required to undergo drug or alcohol testing at any time it is reasonably believed that an employee may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances:

- (A) Observable phenomena such as:
 - (i) The physical symptoms or manifestations of being under the influence of a drug or alcohol while at work or on duty; or
 - (ii) The direct observation of drug or alcohol use while at work or on duty;
- (B) A report of drug or alcohol use while at work or on duty provided by reasonable and credible sources and which has been independently corroborated;
- (C) Evidence that an individual has tampered with a drug or alcohol test during his employment with OJA; or Information that an employee has tampered with drug or alcohol testing at any time;
- (D) Evidence that an employee is involved in the use, possession, sale, solicitation, or transfer of drugs while on duty or while on any OJA premises or premises with which OJA has contracted services, or operating any OJA vehicle, machinery, or equipment; ;
- (E) Drugs or alcohol on or about the employee's person or in the employee's vicinity;
- (F) Negative performance patterns; or
- (G) Excessive or unexplained absenteeism or tardiness.

(3) **Post-accident testing.** Any employee may be tested when the Director of Safety and Risk Management has a reasonable suspicion that the employee or another person has sustained a ~~work related~~ an injury while at work or that Office of Juvenile Affairs property has been damaged as a direct result of the employee's use of drugs or alcohol, including damage to equipment, ~~in an amount~~

~~reasonably estimated at the time of the accident to exceed \$500.00. No employee who tests positive for the presence of substances, as set forth in 63 O.S., § 465.20, or who consumes or intakes such substances in a manner prohibited by such section, or who refuses to take a drug or alcohol test shall be eligible for Workers' Compensation Benefits.~~

(4) **Post-rehabilitation.** Any employee who has had a ~~confirmed~~ positive test or has participated in a drug or alcohol dependency treatment program may be tested ~~without prior notice~~ for a period of up to two (2) years, commencing with the employee's return to work.

(5) **Random Testing.** The Executive Director may order random drug testing for OJA permanent, temporary or probationary employees who hold a position within the applicable job families as listed in paragraph one of this rule. The affected employees shall be notified of the effective date and process for testing.

377:3-11-6. Substances to be tested

~~The following substances or their metabolites will be subjects for testing.~~ Testing for substances or their metabolites shall include, but not be limited to, the following:

- (1) alcohol;
- (2) marijuana;
- (3) opiates/synthetic narcotics such as:
 - (A) codeine (a.k.a. Tylenol #3 and #4, etc., cough syrups, Robitussin AC);
 - (B) hydrocodone (a.k.a. Vicodin or Lortab);
 - (C) hydromorphone (a.k.a. Dilaudid);
 - (D) meperidine (a.k.a. Demerol);
 - (E) methadone (a.k.a. Dolophine);
 - (F) oxycodone (a.k.a. Percodan or Percocet);
 - (G) propoxyphene (a.k.a. Darvon);
 - (H) heroin;
 - (I) morphine;
- (4) cocaine;
- (5) phencyclidine;
- (6) amphetamines:
 - (A) amphetamines (a.k.a. Dexadrine, Benzedrine);
 - (B) methamphetamines (a.k.a. Desoxyn);
 - (C) methylenedioxyamphetamines;
 - (D) methylenedioxymethamphetamines;
 - (E) phentermine (a.k.a. Adipex, Fastin, Ioamin);
- (7) barbiturates:
 - (A) amobarbital (a.k.a. Amytal);
 - (B) butalbital (a.k.a. Fiorinal, Fioricet);
 - (C) pentobarbital (a.k.a. Nembutal);
 - (D) secobarbital (a.k.a. Seconal; NOTE: Amobarbital and secobarbital combination to form Tuinal.
- (8) benzodiazepines:
 - (A) diazepam (a.k.a. Valium);
 - (B) chlordiazepam (a.k.a. Librium);
 - (C) alprazolam (a.k.a. Xanax);
 - (D) clorazepate (a.k.a. Tranxene); and
- (9) methaqualone (a.k.a. Quaalude, Parest, Sopor).

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(10) Any other substance approved for testing by the Commissioner of Health of the Oklahoma State Department of Health (OSDH).

377:3-11-8. Collection procedures

Collection of samples for drug and alcohol testing shall be in accordance with the Drug and Alcohol Testing Rules of the OSDH. A written record of the chain of custody of the sample shall be maintained from the time of the collection of the sample until the sample is no longer required.

377:3-11-9. Consequences of refusal

(a) **Employees.** Any employee who refuses testing under this policy shall be subject to discipline up to and including discharge from employment. Inability to give an adequate urine sample shall be deemed a refusal, but the employee may overcome this conclusion by providing conclusive medical evidence of a pre-existing condition, which prevents the production of an adequate sample. Adulteration of a specimen of a drug or alcohol test shall be considered as a refusal to test.

(b) **Job applicants.** Any job applicant who has received a conditional offer of employment from OJA and who refused to undergo drug and alcohol testing will not be hired by OJA. Unreasonable delay in submitting to testing shall be deemed a refusal.

377:3-11-10. Consequences of positive test results

(a) ~~Any positive test results shall be confirmed by gas chromatography, gas chromatography mass spectroscopy, or an equivalent scientifically accepted method of equal or greater accuracy as prescribed by the State Board of Health.~~

(b) Any employee who has a ~~confirmed~~ positive test result will be subject to discipline up to and including discharge from employment. Such an employee will also be referred to the Administrator of Employee Assistance Program. After evaluation, the employee may be required to complete drug and alcohol education and/or treatment. Unsuccessful completion or refusal to participate will result in termination of employment.

(b) Any job applicant who has received a conditional offer of employment and who has a confirmed positive test result will not be hired by OJA.

(c) An employee discharged on the basis of a refusal to undergo drug or alcohol testing or a positive drug or alcohol test shall be considered to have been discharged for misconduct for purposes of unemployment compensation benefits as provided for in Section 2-406A of Title 40. In order to prove misconduct, the employer need only provide proof of a testing policy and either a refusal to take a drug or alcohol test or a positive test result.

377:3-11-11. Job applicant and employee ~~rights~~ opportunities

(a) **Explanation of test results.**

(1) Any job applicant who has received a conditional offer of employment and who has a confirmed positive test

result shall have an opportunity to confidentially explain the result orally and in writing to the Director of Safety and Risk Management.

(2) Any employee who has a ~~confirmed~~ positive test result shall have an opportunity to confidentially explain the result orally and in writing to the Director of Safety and Risk Management.

(3) An employee may challenge a positive test result within 24 hours of notice of a positive test result. The cost of such confirmation test shall be the responsibility of the employee unless the confirmation test reverses the findings of the challenged positive test.

(b) ~~**Confidentiality.** All information relating to employee drug testing will be treated with strict confidence. All records relating to drug testing will be kept separate from personnel files.~~

(c) ~~**Information.** Test records—Records of all drug and alcohol test results and related information shall be the property of OJA and, upon the request of the job applicant or employee tested, shall be made available for inspection and copying to the applicant or employee. OJA will not release such records to any person other than the job applicant, employee, or the employee's review officer, unless the job applicant or employee, in writing and following receipt of the test results, has expressly granted permission for OJA to release such records or pursuant to in order to comply with a valid judicial or administrative court order. If OJA contracts with another employer, OJA may share drug or alcohol testing results of any tested person who works pursuant to such contractual agreement.~~

(d) ~~**Appeal.** Any employee disciplined pursuant to this policy shall have grievance and appeal rights as provided by the OJA Rules and by the Oklahoma Merit Protection Commission in accordance with the Oklahoma Personnel Act, Title 74, Section 840.1 et seq.~~

377:3-11-12. Severability

If any portion of this policy is declared or adjudged unconstitutional, such declaration or adjudication shall not affect the remaining portions of the ~~Policy~~ policy.

[OAR Docket #12-454; filed 4-25-12]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 10. OFFICE OF JUVENILE AFFAIRS

[OAR Docket #12-455]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 7. Contract Programs and Services

Part 3. Contract-Based Residential Care

377:10-7-20. Specialized residential high intensity treatment programs (Level E) [AMENDED]

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10A O.S. §2-7-101(H)(3) and 2-7-101(I)(1) and 75 O.S. § 302(A)(1).

DATES:

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Failure of the Legislature to disapprove the rules resulted in approval on April 13, 2012

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

Proposed rule revisions are to provide for clarifying language and citation references pertaining OJA Level E facilities.

CONTACT PERSON:

JLynn Hartman, Director of Government Relations, Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, (405) 530-2866

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 1, 2012:

SUBCHAPTER 7. CONTRACT PROGRAMS AND SERVICES

PART 3. CONTRACT-BASED RESIDENTIAL CARE

377:10-7-20. Specialized residential high intensity treatment programs (Level E)

The standardized set of criteria for each "Level E" community based residential care facility is provided in (1)-(9) of this Section.

(1) **Nature of program services.** Intervention is characterized by a highly structured environment and regularly scheduled contact with professional staff. Crisis intervention shall be formalized on a 24-hour basis.

(A) Social services shall be delivered in both group and individual sessions. The primary goal shall be behavior-focused. Structured group treatment shall be provided at a minimum of two hours per week. Individual treatment shall be provided at a minimum of one hour per week. Families shall be involved in the therapeutic process, as indicated by the juvenile's individual treatment plan.

(B) The residential component of this level shall include 24-hour awake supervision by professional staff. Juveniles in this level are considered a high risk to themselves or the community. The contractor shall be required to assist in apprehending and returning to the facility juveniles who are AWOL.

(2) **Description of juveniles to be served.** Juveniles in this group have displayed extreme antisocial and aggressive behavior but are typically not psychotic, although may have DSM IV R diagnosis and may receive psychotropic medication. Juveniles may frequently exhibit serious behavioral problems, which may reflect emotional disturbance. Juveniles may have resided in an OJA-operated or private institution, residential psychiatric facility, or other community-based placement prior to placement into "Level E." In many instances, juveniles may be placed into this program as a diversion from institutionalization. These juveniles require a structured, controlled environment with a high degree of supervision accompanied by intensive services. Juveniles considered for placement into a "Level E" facility evidence a combination of behavioral descriptors including:

- (A) very high AWOL risk;
- (B) dysfunctional behavior in public school settings;
- (C) repeated indiscriminate acts of violence and aggression toward peers, property and/or authority figures;
- (D) multiple delinquent offenses; and
- (E) may have substance abuse related problems, coupled with:

- (i) a current diagnostic evaluation that calls for placement into a highly structured community-based setting;
- (ii) multiple failed placements in community-based residential care, especially "Level D₂"; "Level D Plus₂"; and OJA-operated group homes;
- (iii) institution eligibility; or
- (iv) parole eligibility from the institution with a recommendation for community placement into a staff secure facility.

(3) **Educational services.** The facility shall provide educational opportunities to conform with the standards of the State Board of Education. The facility shall provide juveniles enrolled in the public education program six hours of structured classroom education as outlined by the local board of the appropriate school boards district. Four of the six hours shall include math, social studies, English and science. Certified teachers shall provide educational services. The facility shall ensure that each juvenile completes a pre- and post-program test to measure educational progress using a test approved in writing by OJA. The facility shall enter the testing data into the OJA database. ~~Four of the six hours shall include math, social studies, English and science. Certified teachers shall provide educational services. Programs~~

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~~shall have in-house education operated in conjunction with the local school districts.~~ The facility shall ensure that:

- (A) each juvenile is provided the training and education appropriate to the juvenile's abilities;
 - (B) special, remedial, and vocational education are available; and
 - (C) tutoring services are provided for juveniles who need them.
- (4) **Recreational services.** The facility shall provide supervised indoor and outdoor recreation for each juvenile. The facility shall develop and maintain a policy, which includes a written recreational program as required by 340:110-3-152(e)(7), and as set forth in an individual treatment plan or contract. The Executive Director or the affected division director shall approve the policy.—The program shall include clearly defined objectives designed to attain positive behavior changes. Recreational programs may be available either on campus or through facilities in the community as outlined in 340:110-3-154(b)(1)(A)(B) and 340:110-3-154.1(a)(3)(N).
- (5) **Employment services.** The facility shall provide necessary services to prepare juveniles for employment and, when appropriate, facilitate job placement and job retention.
- (6) **Staffing guidelines.** Facilities shall be staffed in accordance with DHS rule 340:110-3-153.1(d) for Executive Program Director qualifications. In addition, the following requirements shall be used for other facility positions:
- (A) One full-time Administrator, who shall direct the treatment plans for each juvenile, ~~participate in providing individual or group interactions~~ implement and supervise the facility's programs and services, administratively supervise the counseling staff and administer the program. The administrator shall be on 24-hour call.
 - (B) One Consultant is available for each facility. Consultation is provided on an as needed basis by a Psychiatrist, Psychologist, MSW, Licensed Social Worker, Licensed Professional Counselor, or Licensed ~~Martial~~ Marital and Family Therapist who shall be available to the ~~Executive Director~~ executive director and all counseling and direct care staff;
 - (C) The program shall employ ~~two~~ recreation specialists, if applicable, as designated in the facility contract;
 - (D) At a minimum, each program must have a:
 - (i) certified teacher;
 - (ii) part-time secretary; and
 - (iii) nutritionist who in accordance with DHS Rule (340:110-3-154.4) is responsible for:

- (I) planning meals; and
- (II) assuring compliance with licensing and Health Department standards.

(7) **Direct care staffing guidelines.** The contractor must meet the staffing guidelines set forth in the Department of Human Services "~~Standards for Child Placing Agencies~~" or "~~Standards for standards for Residential Child Care Facilities~~". Staffing shall be sufficient to allow for at least two direct-care staff at all times, one of which is a licensed counselor on the evening shift.

(8) **Reporting requirements.**

- (A) Counseling and direct-care staff shall:
 - (i) participate in developing treatment plans for each juvenile;
 - (ii) provide individual and group interactions with the juveniles;
 - (iii) provide crisis intervention and assist with the juveniles in the on-site classroom;
 - (iv) participate with the juveniles in recreational opportunities or interact with the juvenile in the experiential/recreational component as required by the programmatic requirements;
 - (v) prepare daily log narrative as to each juvenile's behavior;
 - (vi) participate in the weekly staffings of each juvenile; and
 - (vii) provide information for court reports.

(B) Facility shall submit a monthly and year-end report to OJA as outlined in the facility's contract.

(9) **Staff training.** The facility director shall be responsible for ensuring staff meet the training requirements as set forth in DHS ~~Licensing Standards~~ licensing standards for Residential Child Care Facilities Rule 340:110-3-153.1 (m & n) and Oklahoma Health Care Authority (OHCA) 317:30-5-1043. In addition, each staff shall have an orientation training, which shall include a behavior management course on a passive restraint modality such as MANDT training.

(10) **Description of facility.** The facility must be free standing and meet all fire, health and safety standards and ~~Standards for Child Placing Agencies or standards for Residential Child Care Facilities.~~ If a provider seeks to establish a "Level E" Program on an existing campus, the provider shall develop and submit to the ~~Executive Director~~ executive director or the affected division director a written, demonstrable plan to totally separate this program from a lower level program. Staff may not be shared unless they serve only part-time at each program. Populations may not commingle ~~on a daily basis.~~

[OAR Docket #12-455; filed 4-25-12]

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

[OAR Docket #12-424]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Chapter 16. Standards and Criteria for Community Residential Mental Health Facilities [AMENDED]

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101 and 3-315.

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Failure of the Legislature to disapprove the rules resulted in approval on March 29, 2012

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N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 16 are part of the Department's review of Title 450. The proposed rules clarify existing rules and are intended to comply with statutory changes.

CONTACT PERSON:

Gretchen Geis, Administrative Rules Liaison, Department of Mental Health and Substance Abuse Services, Post Office Box 53277, Oklahoma City, Oklahoma 73152-3277, (405) 521-6365.

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, 2012:

SUBCHAPTER 1. GENERAL PROVISIONS

450:16-1-2. Definitions

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

"Abuse" means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a resident by a caretaker responsible for the resident's health, safety, or welfare, including but not limited to: non-accidental physical injury or mental anguish; sexual abuse; sexual exploitation; use of mechanical restraints without proper authority; the intentional use of excessive or unauthorized force aimed at hurting or injuring the resident; or deprivation of food, clothing, shelter, or healthcare by a caretaker responsible for providing these services to a resident.

"ADL" means activities of daily living.

"Administrator" means the person who is in charge of a community residential mental health facility and who devotes at least one-third (1/3) of his or her full working time to on-the-job supervision of the community residential mental health facility.

"Adults who have a serious mental illness" are persons eighteen (18) years of age or older who meet the following criteria:

- (A) Currently or at any time during the past year have had a diagnosable mental, behavioral or emotional disorder of sufficient duration to meet criteria specified within DSM-IV with the exception of "V" codes, substance abuse disorders, and developmental disorders, unless they co-occur with another diagnosable serious mental illness; AND
- (B) Based on a client assessment scale, has at least moderate to severe impairment in the following areas:
 - (i) Feeling, mood and affect,
 - (ii) Thinking,
 - (iii) Family relationships,
 - (iv) Interpersonal skills,
 - (v) Role performance,
 - (vi) Socio-legal, or
 - (vii) Self care/basic needs.

"Clubhouse" means a psychiatric rehabilitation program currently certified as a Clubhouse through the International Center for Clubhouse Development (ICCD).

"CMHC" means community mental health center.

"Continuity of care agreements" means an agreement between the community residential mental health facility and providers of critical and comprehensive community based behavioral health services, including but not limited to a provider of inpatient behavioral health care and a local provider of community-based behavioral health services. Continuity of care agreements shall specify the responsibility of each entity related to assuring continuous and coordinated care on behalf the residents.

"Co-occurring disorder" means any combination of mental health and substance abuse symptoms or diagnosis in a resident.

"Corporal punishment" means any physical punishment including, but not limited to punching, slapping, kicking, spanking, or whipping.

"Crisis stabilization" means emergency, psychiatric, and substance abuse services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment,

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and, if needed, referral to an ODMHSAS certified facility having nursing and medical support available.

"Critical incident" means an occurrence or set of events inconsistent with the routine operation of the community residential mental health facility or the routine care of a resident. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to residents, staff and visitors; medication errors; residents that are absent without leave (AWOL); neglect or abuse of a resident; fire; unauthorized disclosure of information; damage to or theft of property belonging to a resident or the community residential mental health facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"Direct care staff" means any staff member who, in the performance of his or her routine duties has contact with residents and is required to meet the training requirements for community residential mental health staff as listed in the "Standards and Criteria for Community Mental Health Residential Facilities".

"Enhanced residential care facility" means a community residential mental health facility meeting all statutory and regulatory requirements of the ODMHSAS and OSDH and which specifically serves only "Adults who have a serious mental illness" who cannot be accommodated in a non-enhanced community residential mental health facility.

"General psychiatricpsychosocial rehabilitation program" or **"PSR"** means a type of psychiatric rehabilitation program which focuses on long term recovery and maximization of self-sufficiency, role function and independence. General psychiatricpsychosocial rehabilitation programs may be organized within a variety of structures which seek to optimize the participants' potential for occupational achievement, goal setting, skill development and increased quality of life.

"Health care services" means services provided by health care professionals and includes, but is not limited to dentists, optometrists, and podiatrists.

"Independent living skills, assistance in development of" means all activities directed at assisting individuals in the development of skills necessary to live and function within the community.

"Integrated Client Information System" or **"ICIS"** is a comprehensive management information system based on national standards for mental health and substance abuse databases. It is a repository of diverse data elements that provide information about organizational concepts, staffing patterns, client profiles, program or treatment focus, and many other topics of interest to clinicians, administrators and consumers. It includes unique identifiers for agencies, staff and clients that provide the ability to monitor the course of client services throughout the statewide ODMHSAS network. ICIS collects data from hospitals, community mental health centers, substance abuse agencies, domestic violence service providers, community residential mental health facilities, prevention programs, and centers for the homeless which are operated or funded in part by ODMHSAS.

"Medication administration technician course" is an educational program from an institute of higher learning which has been reviewed and approved by the OSDH pursuant to 310:680-11-1 and affords the student a certificate of training in the administration of medication and measuring and documenting vital signs.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

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

"OSDH" means Oklahoma State Department of Health.

"Personal care" means assistance with meals, dressing, movement, bathing, or other personal needs, or general supervision of the physical and mental well-being of a person who is currently unable to maintain a private, independent residence, or who has limited abilities in the managing of his or her person, whether or not a guardian has been appointed for such person.

"Recovery" means a journey of healing and transformation enabling a person with a mental health and/or substance abuse diagnosis to live a meaningful life in the community of his or her choice while striving to achieve his or her full potential. The process of recovery leads individuals toward the highest level of autonomy of which they are capable. Key characteristics of recovery include:

(A) Recovery is self directed, personal and individualized (not defined by treatment providers or agencies);

(B) Recovery is holistic. Recovery is a process through which one gradually achieves greater balance of mind, body and spirit in relation to other aspects of one's life that can include family, work and community;

(C) Recovery moves beyond symptom reduction and relief (i.e. meaningful connections in the community, overcoming specific skill deficits, establishing a sense of quality and well-being);

(D) Recovery is both a process of healing (regain-ing) and a process of discovery (moving beyond);

(E) Recovery encompasses the possibility for individuals to test, make mistakes and try again; and

(F) Recovery can occur within or outside the context of professionally directed treatment.

"Registered/licensed dietitian" means a person who is registered as a dietitian by the American Dietetic Association and licensed by the Oklahoma Board of Medical Licensure and Supervision.

"Resident" means a person residing in a residential care facility certified by ODMHSAS.

"Resident committee" or **"Resident government"** means any established group within the facility comprised of residents, led by residents and meets regularly to address resident concerns to support the overall operations of the facility.

"Residential care facility" or **"RCF"** means any house, home, establishment or institution licensed pursuant to the

provisions of the Oklahoma Residential Care Home Act 63 O.S., §§ 1-819 through 1-840, other than a hotel, fraternity or sorority house, or college or university dormitory, is certified pursuant to 43 O.S. § 3-315 as a Community Residential Mental Health Facility and offers or provides residential accommodations, food service and supportive assistance to its residents or houses any resident requiring supportive assistance that are ambulatory, essentially capable of managing their own affairs and not routinely requiring nursing care or intermediate care.

"Restraint" refers to manual, mechanical, and chemical methods that are intended to restrict the movement or normal functioning of a portion of the individual's body.

"Seclusion" means the placement of an individual or individuals alone in a room or other area from which egress is prevented by a physical barrier.

"Sentinel event" is a type of critical incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a consumer. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to: suicide, homicide, criminal activity, assault and other forms of violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death.

"Socialization activities" means all activities which encourage interaction and the development of communication, interpersonal, social and recreational skills, and can include client education.

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

"Supportive assistance" means the service rendered to any person which is sufficient to enable the person to meet an adequate level of daily living. Supportive assistance includes but is not limited to housekeeping, assistance in the preparation of meals, assistance in the safe storage, distribution and administration of medications, and assistance in personal care as is necessary for the health and comfort of such person. The term "supportive assistance" shall not be interpreted or applied so as to prohibit the participation of residents in housekeeping or meal preparation tasks as a part of the written treatment plan for the training, habilitation or rehabilitation of the resident prepared with the participation of the resident, the mental health or drug or alcohol services case manager assigned to the resident and the administrator of facility, or his or her designee. Supportive assistance shall not include medical service.

"Volunteer" means any individual providing direct services to residents, and who is not on the facility's payroll, but

fulfills a defined role within the facility. This definition does not include special entertainment/visiting groups.

SUBCHAPTER 5. SERVICES

450:16-5-2. ~~Service schedules and documentation~~ Socialization and recreation Services

(a) Onsite socialization and recreation activities shall be provided by the RCF to residents a minimum of three (3) times per week, and shall occur on separate days. These activities shall total a minimum of three (3) hours of activity per week, and shall be provided in addition to exercise and daily living skills.

(b) Additional activities shall be provided by the RCF, away from the facility, two (2) or more times per week for those who do not attend Clubhouse or general psychiatric rehabilitation programs or for those who choose to attend the activities away from the facility.

(c) To insure variety, a minimum of three (3) of the activities offered per week, exclusive of ADL and exercise, shall be different activities.

(d) Residents shall be involved in the planning of activities.

(ae) A monthly calendar of scheduled recreational and social activities shall be developed and posted in each building occupied by residents throughout the RCF.

(bf) Calendars of actual recreational and social activities shall be filed at the end of each month and maintained for at least six (6) months following the expiration of the period of certification.

(eg) Documentation of the scheduled social and recreation activities shall be made and kept as follows:

(1) There shall be a record of whether, or not, each of the scheduled activities for each month were held.

(2) There shall be a record of the residents' participation in each of the month's scheduled activities.

(3) The records in (1) and (2) shall be retained for at least six (6) months following the expiration of the period of certification.

(h) Compliance with 450:16-5-2 shall be determined by on-site observation; resident, staff, and CMHC staff interviews; and RCF documentation such as calendar of events, facility attendance sheets, residents' council minutes or compliance with 450:16-29-8, if an Enhanced Residential Care facility, a review of the RCF monthly activity calendars of planned events; case managers, treatment provider staff, and resident interviews.

450:16-5-2.1. ~~Services delivery and documentation~~ [REVOKED]

(a) ~~Documentation of the scheduled recreational and social activities shall be made and kept as follows:~~

~~(1) There shall be a record of whether, or not, each of the scheduled activities, for each month, were held.~~

~~(2) There shall be a record of the residents' participation in each of the month's scheduled activities.~~

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(3) The records in 450:16-5-2.1(a)(1) and (2) shall be retained for at least six (6) months following the expiration of the period of certification.

(b) Compliance with 450:16-5-2.1 shall be determined by a review of the documentation in 450:16-5-2.1(a)(1) and (2).

450:16-5-3. Termination of services to residents [REVOKED]

(a) ~~In order to protect the resident's rights, and insure involvement of the resident's case manager, the RCF shall be required to contact, consult with and obtain the approval of the resident, prior to terminating services to the resident. Consultation with the resident's family or significant other, when involved with the resident's care, and the local and receiving CMHC or other treatment provider prior to moving or relocating any resident who is a mental health client with ODMHSAS shall be documented. No movement or relocation of any mental health client shall be conducted without such prior consultation and approval. If any relevant parties shall disagree with the movement, there shall be substantial reason(s) documented in the RCF's records. If a mental health client is moved or relocated without prior consultation and approval, it shall be deemed a violation of these Standards and Criteria, and grounds for immediate suspension or termination of certification, except for a documented emergency, such as threat, danger, illness, accident or injury affecting the life, health, safety, and well being of the resident, etc., requiring an immediate relocation of the resident. However, the CMHC or other treatment provider shall be notified immediately.~~

(b) ~~In the event of the death of a resident, a summary statement shall be placed in the individual resident's file, and notification made to the Patient Advocate General of ODMHSAS in accordance with 450:16-7-1 and 450:16-7-2.~~

(c) ~~Compliance with 450:16-5-3 shall be determined by a review of Patient Advocate General records; resident files; other RCF documentation as relevant and applicable; or resident, family, or significant other interviews.~~

450:16-5-4. Independent Living Skills Development

(a) The RCF shall provide instruction and assistance in utilization of community resources and activities, such as post office, veteran services, Indian Health services, health fair, county fair, church, and independent housing services.

(b) Residents should receive instruction and assistance in utilization of primary health resources, and in substance disorder recovery resources such as twelve-step or similar support resources as is appropriate and desired by the resident.

(c) The RCF shall offer residents assistance with money management, including budgeting for independent housing, working with landlords, and understanding lease agreements. This assistance shall be offered through individual or group instruction or classes.

(d) Residents shall be individually assisted and instructed regarding activities of daily living, including but not limited to personal hygiene and grooming, a minimum of five (5) days per week.

(e) The RCF shall provide or arrange for instruction to residents on at least a quarterly basis regarding early warning signs of diseases to better educate residents in the identification of possible health problems. Training dates, topic, attendees, and the speaker(s) or trainer(s) shall be documented.

(f) The RCF shall provide or arrange for instruction to residents on at least a quarterly basis regarding psychiatric illnesses and medication, as well as use of and dependence on substances (including nicotine and caffeine) to enable the resident to understand his or her illness and to help residents make better decisions about substance use and psychiatric treatment management in order to help them achieve recovery goals. Training dates, topic, attendees, and the speaker(s) or trainer(s) shall be documented.

(g) Compliance with 450:16-5-4 shall be determined by on-site observation; resident, staff, and CMHC staff interviews; RCF documentation such as calendar of events, residents' council minutes, and other in house documentation.

450:16-5-5. Provision of physical exercise

(a) The RCF shall offer residents physical exercise a minimum of twenty (20) minutes, three (3) days per week.

(b) Compliance with 450:16-5-5 shall be determined by on-site observation; resident, staff, and CMHC staff interviews; and RCF documentation such as calendar of events.

450:16-5-6. Termination of services to residents

(a) In order to protect the resident's rights, and insure involvement of the resident's case manager, the RCF shall be required to contact, consult with and obtain the approval of the resident, prior to terminating services to the resident. Consultation with the resident's family or significant other, when involved with the resident's care, and the local and receiving CMHC or other treatment provider prior to moving or relocating any resident who is a mental health client with ODMHSAS shall be documented. No movement or relocation of any mental health client shall be conducted without such prior consultation and approval. If any relevant parties shall disagree with the movement, there shall be substantial reason(s) documented in the RCF's records.

(b) In the event of the death of a resident, a summary statement shall be placed in the individual resident's file, and notification made to the ODMHSAS Office of Consumer Advocacy in accordance with 450:16-7-1.

(c) Compliance with 450:16-5-6 shall be determined by a review of Office of Consumer Advocacy records; resident files; other RCF documentation as relevant and applicable; or resident, family, or significant other interviews.

SUBCHAPTER 7. CRITICAL INCIDENTS

450:16-7-1. Critical incidents

(a) The RCF shall have written policies and procedures requiring documentation and reporting of critical incidents to ODMHSAS.

(b) The documentation of critical incidents shall contain, at a minimum:

- (1) Facility name and signature of the person(s) reporting the incident;
- (2) Names of the resident(s), or staff member(s) involved;
- (3) Time, date, and physical location of the incident;
- (4) Time and date incident was reported and name of person within the facility to whom it was reported;
- (5) Description of incident;
- (6) Severity of each injury, if applicable. Severity shall be indicated as follows:

- (A) No off-site medical care required or first aid care administered on-site;
- (B) Medical care by a physician or nurse or follow-up attention required; or
- (C) Hospitalization or immediate off-site medical attention was required;

(7) Resolution or action taken, date resolution or action was taken, and signature of the facility administrator.

(c) Critical incidents shall be reported to ODMHSAS with specific timeframes, as follows:

(1) Critical incidents requiring medical care by a physician or nurse or follow-up attention and incidents requiring hospitalization or immediate off-site medical attention shall be delivered via fax, or ODMHSAS designated electronic system, to ODMHSAS Provider Certification within twenty-four (24) hours of the incident being documented.

(2) Critical incidents involving allegations constituting a sentinel event or resident abuse shall be reported to ODMHSAS immediately via telephone or fax, but not more than twenty-four (24) hours of the incident. If reported by telephone, the report shall be followed with a written report within twenty-four (24) hours.

(d) Compliance with 450:16-7-1 shall be determined by a review of RCF policy and procedures, and critical incident reports at the RCF and those submitted to ODMHSAS.

450:16-7-2. Critical incidents, documentation of [REVOKED]

(a) The proper documentation of critical incidents is necessary to promote enhancement of resident care.

(b) The documentation of critical incidents shall contain, at a minimum:

- (1) The name and signature of the person(s) reporting the incident;
- (2) Identity of each resident or staff member involved;
- (3) Facility name;
- (4) Time and date incident was reported and name of person within the facility to whom it was reported;
- (5) Description of incident;
- (6) Time, place and date incident occurred;
- (7) The severity of each injury, if applicable. Severity shall be indicated as follows:

- (A) No off site medical care required or first aid care administered on-site;

(B) Medical care by a physician or nurse or follow-up attention required; or

(C) Hospitalization or immediate off site medical attention was required;

(8) Resolution or action taken, date action taken, and signature of the facility administrator.

(e) Compliance with 450:16-7-2 shall be determined by a review of the RCF's critical incident reports.

450:16-7-3. Critical incidents, reporting of [REVOKED]

(a) The RCF shall report the following critical incidents to ODMHSAS.

(b) Critical incidents requiring medical care by a physician or nurse or follow up attention and incidents requiring hospitalization or immediate off site medical attention shall be delivered via fax or mail to ODMHSAS Provider Certification within twenty four (24) hours of the incident being documented.

(c) Critical incidents involving allegations constituting a sentinel event or resident abuse shall be reported to ODMHSAS immediately via telephone or fax, but not more than twenty four (24) hours of the incident. If reported by telephone, the report shall be followed with a written report within twenty four (24) hours.

(d) Compliance with 450:16-7-3 shall be determined by a review of critical incident reports at the RCF and those submitted to ODMHSAS.

SUBCHAPTER 9. LICENSURE

450:16-9-1. Licensure

(a) To insure compliance with the Oklahoma statutes (63 O.S. §§1-820 through 1-840), Department of Health regulations (OAC Title 310, Chapter 680) and protect the rights and safety of residential care clients, RCFs shall be licensed by the Oklahoma State Department of Health.

(b) Compliance with 450:16-9-1 shall be determined by a review of the RCF's current OSDH documentation supporting that the RCF has a valid license licensure.

SUBCHAPTER 11. SAFETY

450:16-11-1. First aid supplies and fire fighting equipmentEmergency equipment

(a) Residents and staff are entitled to a safe environment and accommodations. Staff of an RCF shall know the exact location, contents, and use of first aid supply kits and firefighting equipment. First aid supplies and firefighting equipment shall be located in areas in the RCF as designated by the State Fire Marshall or local authorities.

(b) The RCF shall have smoke detectors and each smoke detector shall be in working order.

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(c) The RCF shall have battery back-up lights and the back-up lights shall be in working order.

(d) Compliance with 450:16-11-1 shall be determined by on-site observation a review of RCF training documentation; a review of OSDH reports; staff interviews of staff on duty, but not less than one (1) or more than five (5).

SUBCHAPTER 13. QUALITY OF LIFE

450:16-13-1. Meals

(a) To insure proper diet and nutrition, residents shall be offered three (3) meals per day, seven (7) days per week.

(b) Meals must be well balanced and, if required by OSDH, approved by a registered/licensed dietitian.

(c) Residents shall receive meal servings adequate to satisfy nutritional needs and satisfy hunger.

(d) Residents must receive between-meal snacks at least one (1) time per day, unless contraindicated due to a special diet approved by a registered/licensed dietitian.

(e) Meals shall be served in a clean, sanitary environment.

(f) Compliance with 450:16-13-1 shall be determined by a review of resident, staff and CMHC staff interviews; review of menus with documentation of dietician's approval; comparison of menu with meal served; and review of OSDH inspection reports; review of documentation on staff training by dietician, if applicable; observation of at least one (1) meal; and review of activity and meal schedule.

450:16-13-2. Nutrition [REVOKED]

(a) ~~To insure proper nutrition, meals must be well balanced and, if required by OSDH, approved by a registered/licensed dietitian.~~

(b) ~~Compliance with 450:16-13-2 shall be determined by a review of documentation on staff training by dietitian in menu substitutions if facilities provide special diets, review of menu with documentation of dietician's approval, observation of at least one (1) meal, resident interviews, and review of OSDH inspection reports~~

450:16-13-3. Meal servings [REVOKED]

(a) ~~Residents shall receive meal servings adequate to satisfy nutritional needs and satisfy hunger.~~

(b) ~~Compliance with 450:16-13-3 shall be determined by a review of menu with documentation of dietician's approval; observation of at least one (1) meal; resident interviews, staff and CMHC staff interviews, and review of OSDH inspection reports.~~

450:16-13-4. Between-meal snack [REVOKED]

(a) ~~Residents must receive between meal snacks at least one (1) time per day, unless contraindicated due to a special diet approved by a registered/licensed dietitian.~~

(b) ~~Compliance with 450:16-13-4 shall be determined by resident, staff and CMHC staff interviews, on site observation and a review of activity and meal schedule.~~

450:16-13-5. Meal environment [REVOKED]

(a) ~~The RCF shall serve meals in a clean, sanitary environment.~~

(b) ~~Compliance with 450:16-13-5 shall be determined by on-site observation; resident, staff, and CMHC staff interviews; and OSDH documentation.~~

450:16-13-7. Availability of clothing ~~Clothing~~

(a) The RCF shall assure residents have clothing and shoes appropriate to the season.

(b) Clothing, including shoes, worn by residents shall be clean, in good repair, and be of appropriate size.

(c) Residents shall have personal possession of their own clothing unless contraindicated according to RCF documentation, corroborated by CMHC staff.

(d) The RCF shall have a mechanism for provision of clothing for residents who do not have sufficient or appropriate clothing of their own.

(e) Compliance with 450:16-13-7 shall be determined by on-site observation; and resident, staff, and CMHC staff interviews.

450:16-13-8. Availability of shoes [REVOKED]

(a) ~~The RCF shall assure residents have shoes appropriate to the season.~~

(b) ~~Compliance with 450:16-13-8 shall be determined by on-site observation; and resident, staff, and CMHC staff interviews.~~

450:16-13-9. Condition of residents' clothing [REVOKED]

(a) ~~Clothing, including shoes, worn by residents shall be clean, in good repair, and be of appropriate size.~~

(b) ~~Compliance with 450:16-13-9 shall be determined by on-site observation; and resident, staff, and CMHC staff interviews.~~

450:16-13-10. Residents' personal possession of clothing [REVOKED]

(a) ~~Residents shall have personal possession of their own clothing unless contraindicated according to RCF documentation, corroborated by CMHC staff.~~

(b) ~~Compliance with 450:16-13-10 shall be determined by on-site observation; and resident, staff, and CMHC staff interviews.~~

450:16-13-11. Provision of clothing [REVOKED]

(a) ~~The RCF shall have a mechanism for provision of clothing for residents who do not have sufficient or appropriate clothing of their own.~~

(b) ~~Compliance with 450:16-13-11 shall be determined by on-site observation; and resident, staff, and CMHC staff interviews.~~

450:16-13-12. Grooming and hygiene supplies

- (a) The RCF shall provide residents with grooming and hygiene supplies, including hair care supplies, as needed. The grooming and hygiene supplies shall take ethnicity and allergies into consideration.
- (b) Compliance with 450:16-13-12 shall be determined by on-site observation; and resident, staff, and CMHC staff interviews.

450:16-13-13. Training in hygiene issues [REVOKED]

- ~~(a) Hygiene issues and activities of daily living shall be addressed in the activities provided to residents a minimum of five (5) days per week.~~
- ~~(b) Compliance with 450:16-13-13 shall be determined by on-site observation; resident, staff, and CMHC staff interviews; and RCF documentation such as posted activities schedules.~~

450:16-13-14. Hygiene of residents [REVOKED]

- ~~(a) The RCF shall insure the hygiene and grooming of the residents.~~
- ~~(b) Compliance with 450:16-13-14 shall be determined by on-site observation; and resident, staff, and CMHC staff interviews.~~

450:16-13-15. Frequency of activities [REVOKED]

- ~~(a) Recreation and socialization activities shall be provided by the RCF to residents a minimum of three (3) times per week excluding exercise and ADL on separate days totaling six (6) hours or more per week.~~
- ~~(b) Compliance with 450:16-13-15 shall be determined by on-site observation; resident, staff, and CMHC staff interviews; and RCF documentation such as calendar of events.~~

450:16-13-16. Frequency of activities held away from residential care facility [REVOKED]

- ~~(a) Activities shall be provided by the RCF, away from the facility, two (2) or more times per week for those who do not attend Clubhouse or general psychosocial rehabilitation programs or for those who choose to attend the activities away from the facility.~~
- ~~(b) Compliance with 450:16-13-16 shall be determined by on-site observation; resident, staff, and CMHC staff interviews; and RCF documentation such as calendar of events and facility attendance sheets or compliance with 450:16-29-8, if an Enhanced Residential Care facility.~~

450:16-13-17. Variety of activities [REVOKED]

- ~~(a) To insure variety, the RCF shall provide a minimum of three (3) different activities per week, exclusive of ADL and exercise.~~
- ~~(b) Compliance with 450:16-13-17 shall be determined by on-site observation; resident, staff, and CMHC staff interviews; and RCF documentation such as calendar of events and residents' council minutes.~~

450:16-13-18. Utilization of community resources [REVOKED]

- ~~(a) The RCF shall provide instruction and assistance in utilization of community resources and activities, such as post office, veteran services, Indian Health Services, health fair, county fair, and church.~~
- ~~(b) In addition, residents should receive instruction and assistance in utilization of primary health resources, and in substance disorder recovery resources such as twelve step or similar support resources as is appropriate and desired by the resident.~~
- ~~(c) Compliance with 450:16-13-18 shall be determined by on-site observation; resident, staff, and CMHC staff interviews; and RCF documentation such as calendar of events and residents' council minutes.~~

450:16-13-19. Resident involvement in activities planning [REVOKED]

- ~~(a) Residents shall be involved in the planning of activities.~~
- ~~(b) Compliance with 450:16-13-19 shall be determined by on-site observation; resident, staff, and CMHC staff interviews; and RCF documentation such as calendar of events and residents' council minutes.~~

450:16-13-20. Provision of physical exercise [REVOKED]

- ~~(a) The RCF shall offer residents physical exercise a minimum of twenty (20) minutes, three (3) days per week.~~
- ~~(b) Compliance with 450:16-13-20 shall be determined by on-site observation; resident, staff, and CMHC staff interviews; and RCF documentation such as calendar of events.~~

450:16-13-22. Assistance with money management [REVOKED]

- ~~(a) The RCF shall offer residents assistance with money management through individual or group instruction or classes.~~
- ~~(b) Compliance with 450:16-13-22 shall be determined by on-site observation; resident, staff, and CMHC staff interviews; and a review of RCF documentation.~~

450:16-13-24. Activities of daily living [REVOKED]

- ~~(a) Residents shall be individually assisted and instructed regarding activities of daily living a minimum of five (5) days per week.~~
- ~~(b) Compliance with 450:16-13-24 shall be determined by on-site observation; resident, staff, and CMHC staff interviews; and RCF documentation such as calendar of events.~~

450:16-13-25. Hair care [REVOKED]

- ~~(a) The RCF shall provide residents with basic hair care.~~
- ~~(b) Compliance with 450:16-13-25 shall be determined by on-site observation; resident, staff, and CMHC staff interviews; and RCF documentation.~~

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450:16-13-27. ~~Bed linens, pillows~~ Linens

- (a) The RCF shall provide bed linens, to minimally include, bedspreads, upper and bottom bed sheets, and pillow cases. Blankets should be provided if requested by the resident. All bed linens shall be clean and in good repair.
- (b) The RCF shall provide pillows, which are clean and in good repair.
- (c) The RCF shall provide sufficient clean towels and wash cloths to all residents as needed.
- (d) Compliance with 450:16-13-27 shall be determined by on-site observation; and a review of OSDH reports.

450:16-13-27.1. ~~Bed linens~~ [REVOKED]

- (a) ~~The RCF shall provide bed linens, to minimally include, bedspreads, upper and bottom bed sheets, and pillow cases. Blankets should be provided if requested by the resident. All bed linens shall be clean and in good repair.~~
- (b) ~~Compliance with 450:16-13-27.1 shall be determined by on-site observation of residents' beds; and a review of OSDH reports.~~

450:16-13-28. ~~Towels and washcloths~~ [REVOKED]

- (a) ~~The RCF shall provide sufficient clean towels and wash cloths to all residents as needed.~~
- (b) ~~Compliance with 450:16-13-28 shall be determined by on-site observation; and a review of OSDH reports.~~

450:16-13-33. ~~Cleanliness and condition, facility--~~ indoor odors

- (a) The indoor environment of the RCF shall be free from offensive odors, and free from any accumulation of dirt, rubbish, and dust.
- (b) The exterior environment of the RCF shall be free from an accumulation of rubbish, and safety hazards.
- (c) The furniture of the RCF shall be clean and in good repair.
- (d) The floors of the RCF shall be clean and in good repair.
- (e) The walls of the RCF shall be clean and in good repair.
- (f) The ceilings of the RCF shall be clean and in good repair.
- (g) Compliance with 450:16-13-33 shall be determined by on-site observation; and a review of OSDH reports.

450:16-13-33.1. ~~Cleanliness, facility indoor environment~~ [REVOKED]

- (a) ~~The indoor environment of the RCF shall be free from any accumulation of dirt, rubbish, and dust.~~
- (b) ~~Compliance with 450:16-13-33.1 shall be determined by on-site observation; and a review of OSDH reports.~~

450:16-13-33.2. ~~Cleanliness, facility exterior environment~~ [REVOKED]

- (a) ~~The exterior environment of the RCF shall be free from an accumulation of rubbish, and safety hazards.~~
- (b) ~~Compliance with 450:16-13-33.2 shall be determined by on-site observation; and a review of OSDH reports.~~

450:16-13-33.3. ~~Cleanliness and condition, of facility furniture~~ [REVOKED]

- (a) ~~The furniture of the RCF shall be clean and in good repair.~~
- (b) ~~Compliance with 450:16-13-33.3 shall be determined by on-site observation; and a review of OSDH reports.~~

450:16-13-34. ~~Floors~~ [REVOKED]

- (a) ~~The floors of the RCF shall be clean and in good repair.~~
- (b) ~~Compliance with 450:16-13-34 shall be determined by on-site observation; and a review of OSDH reports.~~

450:16-13-35. ~~Walls~~ [REVOKED]

- (a) ~~The walls of the RCF shall be clean and in good repair.~~
- (b) ~~Compliance with 450:16-13-35 shall be determined by on-site observation; and a review of OSDH reports.~~

450:16-13-35.1. ~~Ceilings~~ [REVOKED]

- (a) ~~The ceilings of the RCF shall be clean and in good repair.~~
- (b) ~~Compliance with 450:16-13-35.1 shall be determined by on-site observation; and a review of OSDH reports.~~

450:16-13-36. ~~Indoor recreational~~ Recreational equipment

- (a) The RCF shall make available indoor recreational equipment such as, but not limited to, crafts, checkers, and other board games, to the residents.
- (b) The RCF shall make available outdoor recreational equipment such as, but not limited to, horseshoes, badminton, and volleyball, to the residents.
- (c) Compliance with 450:16-13-36 shall be determined by on-site observation.

450:16-13-37. ~~Outdoor recreational equipment~~ [REVOKED]

- (a) ~~The RCF shall make available outdoor recreational equipment such as, but not limited to, horseshoes, badminton, and volleyball, to the residents.~~
- (b) ~~Compliance with 450:16-13-37 shall be determined by on-site observation.~~

450:16-13-38. ~~Smoke detectors~~ [REVOKED]

- (a) ~~The RCF shall have smoke detectors and each smoke detector shall be in working order.~~
- (b) ~~Compliance with 450:16-13-38 shall be determined by on-site observation; and a review of OSDH reports.~~

450:16-13-39. ~~Battery back-up lights~~ [REVOKED]

- (a) ~~The RCF shall have battery back-up lights and the back-up lights shall be in working order.~~
- (b) ~~Compliance with 450:16-13-39 shall be determined by on-site observation.~~

450:16-13-40. Fire extinguishers [REVOKED]

- (a) ~~The RCF shall have fire extinguishers and each extinguisher shall be checked and maintained yearly.~~
- (b) ~~Compliance with 450:16-13-40 shall be determined by on-site observation.~~

450:16-13-45. Health education [REVOKED]

- (a) ~~The RCF shall provide or arrange for instruction to residents on at least a quarterly basis regarding early warning signs of diseases to better educate residents in the identification of possible health problems.~~
- (b) ~~The RCF shall document the dates, topic, attendees, and the speaker(s) or trainer(s) of the instruction.~~
- (c) ~~Compliance with 450:16-13-45 shall be determined by resident, staff, and appropriate CMHC staff interviews; and a review of in-house documentation.~~

450:16-13-46. Mental health and substance abuse education [REVOKED]

- (a) ~~The RCF shall provide or arrange for instruction to residents on at least a quarterly basis regarding psychiatric illnesses and medication, as well as use of and dependence on substances (including nicotine and caffeine) to enable the resident to understand his or her illness and to help residents make better decisions about substance use and psychiatric treatment management in order to help them achieve recovery goals.~~
- (b) ~~The RCF shall document the dates, topic, attendees, and the speaker(s) or trainer(s) of the instruction.~~
- (c) ~~Compliance with 450:16-13-46 shall be determined by resident, staff, and appropriate CMHC staff interviews; and a review of in-house documentation.~~

450:16-13-48. Medication

- (a) The RCF shall comply with all OSDH medication regulations and have a current OSDH report free of medication related deficiencies.
- (b) RCF staff persons who have successfully completed medication administration technician training, or appropriately licensed personnel, shall administer medications.
- (c) Compliance with 450:16-13-48 shall be determined by a review of OSDH inspection reports; a review of the RCF's medication administration documentation and personnel records; and staff and resident interviews.

450:16-13-48.1. Medication, administration [REVOKED]

- (a) ~~RCF staff persons who have successfully completed medication administration technician training shall administer medications.~~
- (b) ~~Compliance with 450:16-13-48.1 shall be determined by staff and resident interviews, a review of OSDH site inspection reports, a review of the RCF's medication administration documentation and personnel records.~~

450:16-13-49. Quality of life, pre-annual recertification [REVOKED]

- (a) ~~To encourage maintenance of, and foster continued improvement in, quality of resident care, compliance with Sections 450:16-13-1 through 450:16-13-48 shall be reviewed and assessed during an unannounced site visit prior to the annual recertification review visit.~~
- (b) ~~A written report of the results of this review may be provided to the facility, the ODMHSAS Board, or other authorities as appropriate.~~

SUBCHAPTER 15. RESIDENT RIGHTS

450:16-15-1. Resident rights

Each facility certified by or under contract with ODMHSAS shall comply with the applicable rules in Title 450, Chapter 15. Consumer Rights, including but not limited to rules for resident grievance policy.

450:16-15-5. Resident's grievance policy [REVOKED]

- (a) ~~Each RCF shall comply with the applicable rules in Title 450, Chapter 15. Consumer Rights.~~

SUBCHAPTER 23. TRANSPORTATION

450:16-23-1. Transportation

- (a) The RCF shall provide or arrange transportation for residents for essential ~~community~~-community based services as defined in the residents outpatient behavioral health treatment plan, including but not limited to behavioral health rehabilitation services, medical clinic, lab, intake and assessment, and crisis intervention services and transportation for other required local routine medical examinations and care. Such transportation shall be at no cost to the residents.
- (b) All staff persons who drive RCF vehicles in the transportation of the residents shall have a valid and appropriate Oklahoma driver's license (i.e., a bus driver must have a commercial chauffeur's license).
- (c) RCF staff who transport residents shall be currently certified in first aid and cardiopulmonary resuscitation (CPR).
- (d) Compliance with 450:16-23-1 shall be determined by a review of RCF documentation; staff interviews; client interviews; and appropriate CMHC staff interviews.

SUBCHAPTER 27. BEHAVIOR

450:16-27-1. Punishment abuse [REVOKED]

- (a) ~~The RCF shall have written policies and procedures regarding client behavior, strictly prohibiting certain actions which shall include, but are not limited to:~~
 - (1) ~~Corporal punishment;~~
 - (2) ~~Abuse;~~
 - (3) ~~Verbal abuse; or~~

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(4) Any other action that is, or could be, potentially harmful to the resident.

(b) Compliance with 450:16-27-1 shall be determined by a review of RCF documentation; resident interviews; staff interviews; and appropriate CMHC staff interviews.

450:16-27-2. Discipline or supervision by residents [REVOKED]

(a) Residents shall not discipline or supervise other residents.

(b) RCF policy should clearly state that at no time may an RCF resident supervise or discipline another RCF resident.

(c) Compliance with 450:16-27-2 shall be determined by a review of RCF documentation (policies and procedures, rules, other); resident interviews; staff interviews; and appropriate CMHC staff interviews.

450:16-27-3. Seclusion and restraints [REVOKED]

(a) Seclusion or chemical, mechanical or physical restraint of residents is prohibited.

(b) Compliance with 450:16-27-3 shall be determined by a review of RCF documentation of prohibition; resident interviews; staff interviews; and appropriate CMHC staff interviews.

450:16-27-4. Denial or withholding of food [REVOKED]

(a) RCF staff shall not deny a resident a nutritionally adequate daily diet, e.g., a resident who is habitually late for meals shall not be denied food as a means of encouraging promptness.

(b) Compliance with 450:16-27-4 shall be determined by a review of RCF documentation; resident interviews; staff interviews; and appropriate CMHC staff interviews.

450:16-27-5. Resident Behavior

(a) The RCF shall have written policies and procedures regarding resident behavior, strictly prohibiting certain actions which shall include, but are not limited to:

- (1) Corporal punishment;
- (2) Abuse;
- (3) Verbal abuse;
- (4) Seclusion or chemical, mechanical or physical restraint of residents; or
- (5) Any other action that is, or could be, potentially harmful to the resident.

(b) RCF policy should clearly state that at no time may an RCF resident supervise or discipline another RCF resident.

(c) RCF staff shall not deny a resident a nutritionally adequate daily diet, e.g., a resident who is habitually late for meals shall not be denied food as a means of encouraging promptness.

(d) Compliance with 450:16-27-5 shall be determined by a review of RCF documentation (policies and procedures, rules, other); resident interviews; staff interviews; and appropriate CMHC staff interviews.

SUBCHAPTER 29. ENHANCED RESIDENTIAL CARE

450:16-29-5. General admission criteria for Enhanced RCFs [REVOKED]

(a) ~~Individuals to be served by the Enhanced RCF shall be adults who have a serious mental illness.~~

(b) ~~Compliance with 450:16-29-5 shall be determined by a review of the ICIS client data core from the referring hospital or CMHC as found in the Enhanced RCF records.~~

450:16-29-7. Admission criteria for Enhanced RCFs

(a) Individuals to be served by the Enhanced RCF shall be adults who have a serious mental illness.

(b) The Enhanced RCF shall have written admission criteria.

(1) This written admission criteria shall be on file and accessible at the Enhanced RCF to ODMHSAS staff.

(2) The criteria shall indicate the Enhanced RCF serves individuals who cannot be accommodated in a RCF, a lesser intensive residential service setting or based on the judgment of the individual's treatment team from the referring CMHC or the ODMHSAS inpatient unit that a RCF or other placement would not provide the structured environment needed by the consumer at this time.

(c) Compliance with 450:16-29-7 shall be determined by a review of, the written admission criteria, resident interviews, client records showing prior failed placements, ~~ICIS~~ODMHSAS client data cores, correspondence or minutes of meetings between the RCF and CMHC, and CMHC staff interviews.

450:16-29-8. Enhanced RCF activities

(a) Enhanced RCF activities shall include a minimum of three (3) on-site activities and two (2) activities away from the RCF per week. These activities shall be separate weekly-scheduled, structured and supervised group activities, and conducted on two (2) different days of each week. These group activities shall total at least twelve (12) hours of activity per week, which shall include at least two (2) activities away from the RCF.

- (1) Group activities shall be accessible to all residents.
- (2) Activities shall be in addition to exercise and daily living skills training.
- (3) Activities shall be age appropriate.
- (4) Activities should be based on resident's individual and collective preferences.

(b) Compliance with 450:16-29-8 shall be determined by a review of activities calendar, residents' files, and interviews with residents, staff and CMHC staff.

450:16-29-9. Training requirements, enhanced RCF administrators [REVOKED]

~~Administrators of an Enhanced RCF shall comply with the requirements of section 450:16-21-4.~~

**SUBCHAPTER 30. PRE-ANNUAL
RECERTIFICATION**

450:16-30-1. Pre-annual recertification

(a) To encourage maintenance of, and foster continued improvement in, quality of resident care, compliance with Subchapters 5 (Services) and 13 (Quality of Life) shall be reviewed and assessed during an unannounced site visit prior to the annual recertification review visit.

(b) A written report of the results of this review may be provided to the facility, the ODMHSAS Board, or other authorities as appropriate.

[OAR Docket #12-424; filed 4-18-12]

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 27. STANDARDS AND CRITERIA
FOR MENTAL ILLNESS SERVICE
PROGRAMS**

[OAR Docket #12-425]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Chapter 27. Standards and Criteria for Mental Illness Service Programs
[NEW]

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, and 3-323A.

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N/A

ANALYSIS:

In accordance with the Administrative Procedures Act the proposed rules for Chapter 27 are part of the Department's review of Title 450. The proposed rules establish rules for the Mental Illness Service Programs.

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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, 2012:

SUBCHAPTER 1. GENERAL PROVISIONS

450:27-1-1. Purpose

(a) This chapter sets forth the Standards and Criteria used in the certification of certain facilities or organizations providing mental health treatment services and implements 43A O.S. § 3-323A which authorizes the Board of Mental Health and Substance Abuse Services, or the Commissioner upon delegation by the Board, to certify facilities as a Mental Illness Service Program.

(b) The rules regarding the certification process including but not necessarily limited to application, fees and administrative sanctions are found in the Oklahoma Administrative Code, Title 450 Chapter 1, Subchapters 5 and 9.

450:27-1-2. Definitions

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

"Abuse" means the causing or permitting of harm or threatened harm to the health, safety, or welfare of a consumer by a staff responsible for the consumer's health, safety, or welfare, including but not limited to: non-accidental physical injury or mental anguish; sexual abuse; sexual exploitation; use of mechanical restraints without proper authority; the intentional use of excessive or unauthorized force aimed at hurting or injuring the resident; or deprivation of food, clothing, shelter, or healthcare by a staff responsible for providing these services to a consumer.

"Case management services" means planned referral, linkage, monitoring and support, and advocacy provided in partnership with a consumer to assist that consumer with self sufficiency and community tenure and take place in the individual's home, in the community, or in the facility, in accordance with a service plan developed with and approved by the consumer and qualified staff.

"Clinical privileging" means an organized method for treatment facilities to authorize an individual permission to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, training, experience, competence, judgment, and other credentials.

"Community-based Structured Crisis Center" or "CBSCC" means a program of non-hospital emergency services for mental health and substance abuse crisis stabilization as authorized by 43A O.S. §3-317, including, but not limited to, observation, evaluation, emergency treatment and referral, when necessary, for inpatient psychiatric or substance abuse services. This service is limited to CMHC's who are certified by the Department of Mental Health and Substance Abuse

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Services or facilities operated by the Department of Mental Health and Substance Abuse Services.

"Community mental health center" or "CMHC" means a facility offering a comprehensive array of community-based mental health services, including but not limited to, inpatient treatment, outpatient treatment, partial hospitalization, emergency care, consultation and education; and, certain services at the option of the center, including, but not limited to, prescreening, rehabilitation services, pre-care and aftercare, training programs, and research and evaluation.

"Consumer" means an individual, adult, adolescent, or child, who has applied for, is receiving or has received evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 as client(s) or patient(s) or resident(s) or a combination thereof.

"Consumer advocacy" includes all activities on behalf of the consumer to assist with or facilitate resolution of problems in the acquisition of resources or services needed by the consumer.

"Co-occurring disorder" (COD) means any combination of mental health symptoms and substance abuse symptoms or diagnoses that affect a consumer and are typically determined by the current Diagnostic and Statistical Manual of Mental Disorders.

"Co-occurring disorder capability" means the organized capacity within any type of program to routinely screen, identify, assess, and provide properly matched interventions to consumers with co-occurring disorders.

"Co-occurring disorder enhanced" means that the program (or subunit of the program) provides a specialized service designed for individuals with co-occurring disorders, usually with a higher level of available service capacity or intensity for the co-occurring substance use disorder than would be the case in a comparable co-occurring disorder capable program.

"Crisis Diversion" means an unanticipated, unscheduled situation requiring supportive assistance, face-to-face or telephone, to resolve immediate problems before they become overwhelming and severely impair the individual's ability to function or maintain in the community.

"Crisis Intervention" means actions taken, and services provided to address emergency psychological, physiological, and safety aspects of alcohol, drug-related, and mental health crises.

"Crisis stabilization" means emergency, psychiatric, and substance abuse services for the resolution of crisis situations and may include placement of an individual in a protective environment, basic supportive care, and medical assessment, and, if needed, referral to an ODMHSAS certified facility having nursing and medical support available.

"Critical incident" or "Incident" means an occurrence or set of events inconsistent with the routine operation of a facility, service setting, or otherwise routine care of a consumer. Critical incidents specifically include but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff and visitors; medication errors; residential consumers that are missing or considered in to have eloped; neglect or abuse of a consumer;

fire; unauthorized disclosure of information; damage to or theft of property belonging to consumers or the facility; other unexpected occurrences; or events potentially subject to litigation. An incident may involve multiple individuals or results.

"Cultural competency" means the ability to recognize, respect, and address the unique needs, worth, thoughts, communications, actions, customs, beliefs and values that reflect an individual's racial, ethnic, religious, sexual orientation, and/or social group.

"DSM" means the most current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

"Emergency detention" means the detention of a person who appears to be a person requiring treatment in a facility approved by the Commissioner of Mental Health and Substance Abuse Services as appropriate for such detention after the completion of an emergency examination, either in person or via telemedicine, and a determination that emergency detention is warranted as defined in Title 43A O.S. Section 5-206.

"Emergency examination" means the examination of a person who appears to be a mentally ill person, an alcohol-dependent person, or drug-dependent person and a person requiring treatment, and whose condition is such that it appears that emergency detention may be warranted by a licensed mental health professional to determine if emergency detention of the person is warranted.

"Evidence based practice" means programs or practices that are supported by research methodology and have produced consistently positive patterns of results when replicated within the intent of the published guidance.

"Face-To-Face" for the purposes of the delivery of behavioral health care, means a face-to-face physical contact and in-person encounter between the health care provider and the consumer, including the initial visit. The use of telemedicine shall be considered a face-to-face encounter.

"Facilities or Facility" means entities as described in Title 43A O.S. § 1-103(7), community mental health centers, residential mental health facilities, community based structured crisis centers, certified services for the alcohol and drug dependent, programs of assertive community treatment, eating disorder treatment, gambling addiction treatment, and narcotic treatment programs.

"Licensed mental health professional" or "LMHP" as defined in Title 43A §1-103(11).

"Linkage" refers to the communication and coordination with other service providers to assure timely appropriate referrals between the CMHC and other providers.

"Medication error" means an error in prescribing, dispensing or administration of medication, regardless if the error reached the consumer, e.g., omission of prescribed drugs, giving drugs not prescribed, prescribing inappropriate drugs, prescribing or administering incorrect dosages, incorrectly filling or labeling prescriptions, incorrectly transcribing medication orders.

"ODMHSAS" means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Oklahoma Administrative Code" or "OAC" means the publication authorized by 75 O.S. § 256 known as The

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

"Performance Improvement" or "PI" means an approach to the continuous study and improvement of the processes of providing health care services to meet the needs of consumers and others. Synonyms, and near synonyms include continuous quality improvement, continuous improvement, organization-wide quality improvement and total quality management.

"Program of Assertive Community Treatment" or "PACT" is a clinical program that provides continuous treatment, rehabilitation, and support services to persons with mental illness in settings that are natural to the consumer.

"Progress notes" mean a chronological written description of services provided to a consumer, resident, client, or patient that documents, utilizing acceptable documentation practices, the consumer's response related to the intervention plan or services provided.

"Psychological-Social evaluations" are in-person interviews conducted by professionally trained personnel designed to elicit historical and current information regarding the behavior and experiences of an individual, and are designed to provide sufficient information for problem formulation and intervention.

"Psychotherapy" or "Therapy" means a goal directed process using generally accepted clinical approaches provided face-to-face by a qualified service provider with consumers in individual, group or family settings to promote positive emotional or behavioral change.

"Recovery Support Specialist" or "RSS" means an individual who has completed the ODMHSAS RSS training and has passed the ODMHSAS RSS exam.

"Rehabilitation Services" means face-to-face individual or group services provided by qualified staff to develop skill necessary to perform activities of daily living and successful integration into community life.

"Resident" means a person residing in a community living program certified by ODMHSAS.

"Residential treatment" means a structured, 24-hour supervised treatment program for individuals who are mentally ill with a minimum of twenty-one (21) hours of therapeutic services provided per week with the emphasis on stabilization and rehabilitation for transfer to a less restrictive environment. Stay in the program is time limited.

"Restraint" refers to manual, mechanical, and chemical methods that are intended to restrict the movement or normal functioning of a portion of an individual's body.

"Screening" means the process to determine whether the person seeking assistance needs further comprehensive assessment.

"Sentinel event" is a type of incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase

"or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome to a consumer. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to: suicide, homicide, criminal activity, assault and other forms of violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death.

"Service plan" or "Treatment plan" means the document used during the process by which a qualified service provider and the consumer together and jointly identify and rank problems, establish agreed-upon immediate short-term and long-term goals, and decide on the treatment process and resources to be utilized.

"Socialization" means all activities, which encourage interaction and the development of communication, interpersonal, social and recreational skills and can include consumer education.

"Supportive services" refers to assistance with the development of problem-solving and decision-making skills to maintain or achieve optimal functioning within the community and can include consumer education.

"Trauma informed capability" means the capacity for a facility and all its programs to recognize and respond accordingly to the presence of the effects of past and current traumatic experiences in the lives of its consumers.

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

"Wellness" means the condition of good physical, mental and emotional health, especially when maintained by an appropriate diet, exercise, and other lifestyle modifications.

450:27-1-3. Meaning of verbs in rules

The attention of the facility is drawn to the distinction between the use of the words "shall," "should," and "may" in this chapter:

- (1) "Shall" is the term used to indicate a mandatory statement, the only acceptable method under the present standards.
- (2) "Should" is the term used to reflect the most preferable procedure, yet allowing for the use of effective alternatives.
- (3) "May" is the term used to reflect an acceptable method that is recognized but not necessarily preferred.

450:27-1-4. Meaning of other terms

(a) Program(s) and facility(ies) are interchangeable terms and refer to the Mental Illness Service Program as stipulated in 43A O.S. § 3-323A.

(b) Program components refer to the specific services offered as portions of the overall facility program.

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450:27-1-5. Services

All facilities providing services pursuant to standards and criteria established in OAC 450:27 shall have a group of services herein designated as core mental illness treatment services in accordance with 450:27-3-1.

450:27-1-6. Applicability

The standards and criteria for services as subsequently set forth in this chapter are applicable to Mental Illness Service Programs stated in each subchapter.

SUBCHAPTER 3. ORGANIZATION STRUCTURE AND ADMINISTRATIVE OPERATIONS

PART 1. SERVICES AND FACILITY ORGANIZATION

450:27-3-1. Required Core Services

(a) Facilities providing mental illness treatment services shall document how the program is organized to provide a group of services herein designated as core services. Required services include:

- (1) Screening intake and referral services;
- (2) Emergency services; and
- (3) Outpatient therapy services.

(b) Other services may be offered and, if offered, will be in compliance with OAC 450, as applicable, including but not limited to those services referenced in 450:27-721 Additional Mental Health Treatment Services.

(c) Compliance with 450:27-3-1 (a) and (b) shall be determined by a review of written service descriptions; facility policies; and, other materials as applicable.

450:27-3-2. Availability of services

(a) Program descriptions must be available that describe how required core services are available to individuals on a daily basis or as publicly posted. Posted information must also identify how individuals can access emergency care at times other than the scheduled operating hours for non-emergency services.

(b) Compliance with 450:27-3-2 shall be determined by a review of written materials; facility policies; and, other documents as applicable.

450:27-3-3. Organizational and facility description

(a) The program shall have a written organizational description which is reviewed annually by its governing authority and minimally includes descriptions of:

- (1) Population(s) to be served;
- (2) The overall program mission statement; and,
- (3) The annual goals and objectives for the program, including the goal of continued progress for the agency in providing recovery oriented, culturally competent, and trauma informed services.

(b) The provider's governing authority shall review and approve the mission statement and annual goals and objectives and document their approval.

(c) The provider shall make the organizational description, mission statement and annual goals available to staff.

(d) The provider shall make the organizational description, mission statement and annual goals available to the general public upon request.

(e) Compliance with OAC 450:27-3-3 shall be determined by a review of the facility's target population definition; facility policies and procedures; mission statement; written plan for professional services; and, any other supporting documentation.

450:27-3-3.1. Organizational and facility description; program components

(a) Each behavioral health provider shall have in writing, by program component or service, the following:

- (1) Description of specific services by program component, including the philosophy of recovery oriented and person centered service delivery;
- (2) Descriptions of qualifications required of staff providing treatment and related services;
- (3) Admission and exclusionary criteria that identify the type of consumers for whom the services with the program component are primarily intended; and,
- (4) Program component goals and objectives, including making progress toward trauma informed, and culturally competent service delivery; and

(b) Compliance with OAC 450:27-3-3.1 shall be determined by a review of the facility's target population definition; facility policies and procedures; written plan for professional services; and, any other supporting documentation.

PART 3. HUMAN RESOURCES ORGANIZATION

450:27-3-21. Personnel policies and procedures

(a) The facility shall have written personnel policies and procedures approved by the governing authority.

(b) Current and complete copies of personnel policies and procedures shall be available to staff at each service location.

(c) All employees shall have access to personnel policies and procedures, as well as other rules and regulations governing the conditions of their employment.

(d) Compliance with 450:27-3-21 shall be determined by a review of written personnel policies and procedures, and other supporting documentation provided.

450:27-3-22. Job descriptions

(a) There shall be job descriptions for all positions. The descriptions must set forth minimum qualifications and duties of each position retained to perform services for the facility, including fulltime, part time, and contractual employees as well as consultants..

(b) Employees and consultants shall have access to and individually be knowledgeable about their own job descriptions and related accountabilities.

(c) Compliance with 450:27-3-22 shall be determined by a review of written job descriptions for all facility positions, interviews with staff, and other supporting documentation provided.

450:27-3-23. Volunteers

(a) If volunteers are utilized, the program will have specific policies and procedures to define the purpose, scope, training, supervision related to the use of volunteers.

(b) A qualified staff member shall be assigned as the volunteer coordinator.

(c) Policies and procedures for volunteers and the services they perform shall be initially approved by the governing authority and upon revision.

(d) There shall be documentation to verify orientation of each volunteer which shall enable him or her to have knowledge of program goals and familiarity with routine procedures. At a minimum, volunteer orientation shall include training on the following:

- (1) Confidentiality and protection of consumer's rights, as well as the legal ramifications of State and Federal regulations concerning confidentiality;
- (2) The facility's policies and procedures;
- (3) Any other necessary information to ensure that volunteer staff members are knowledgeable enough to carry out the responsibilities of their position; and
- (4) Signed acknowledgement by each volunteer that they have received the above training and have been oriented to the scope, policies, goals and expectation for the duties they volunteer to perform.

(f) Compliance with 450: 27-3-23 shall be determined by a review of volunteer policies and procedures; designation of a volunteer coordinator; written orientation plan; orientation program; written goals and objectives; volunteer personnel files; and volunteer records.

450:27-3-24. Staff qualifications

(a) The facility shall maintain, for each staff who provides clinical services, documentation of qualifications or training specific to the clinical services they provide within the facility.

(b) Documentation shall be organized within a clinical privileging framework that is based on policies and procedures approved by the governing authority.

(c) Compliance with 450:27-5-24 shall be determined by a review of staff personnel files and other supporting documentation provided.

450:27-3-25. Staff development

(a) The facility shall have a written plan for the professional growth and development of all staff.

(b) This plan shall include, but not be limited to:

- (1) new employee orientation;
- (2) in-service training and education programs; and

(3) mechanisms for insuring outside continuing educational opportunities for staff members.

(c) The results of performance improvement activities, facility licensing, accrediting, and audit findings and recommendations shall be addressed and documented in the staff development and clinical privileging processes.

(d) Staff competency development shall be aligned with the organization's goals and incorporate a training plan, training activities, and supervision designed to improve competencies of all staff.

(e) Staff education and in-service training programs shall be evaluated by the provider at least annually.

(f) Compliance with 450:27-3-25 shall be determined by a review of the staff development plan; clinical privileging processes; documentation of in-service training programs; and other supporting documentation provided.

450:27-3-26. Annually required in-service training for all employees

(a) The facility shall arrange for and document in-service training for each employee no less frequently than every 12-month on the following topics:

- (1) Fire and safety;
- (2) Consumer's rights and the constraints of the Mental Health Patient's Bill of Rights;
- (3) Confidentiality;
- (4) Cultural Competence; and
- (5) Impact of trauma.

(b) Compliance with 450:27-3-26 shall be determined by a review of in-service training records; personnel records; and other supporting written information provided.

PART 5. SAFETY AND RISK MANAGEMENT

450:27-3-41. Health and Safety; facility environment

(a) The facility shall obtain an annual fire and safety inspection from the State Fire Marshall or local authorities which documents approval for occupancy and use at each site where services are provided.

(b) The facility shall appoint a safety officer.

(c) Facility grounds shall be maintained in a manner to provide a safe environment for consumers, personnel, and visitors.

(d) First aid supplies and firefighting equipment shall be maintained in appropriately designated areas within the facility

(e) The staff shall know the exact location of first aid supply kits and firefighting equipment.

(f) The facility shall post written plans and diagrams noting emergency evacuation routes in case of fire, and shelter locations in case of severe weather, at each site where services are provided.

(g) There shall be an emergency power system to provide lighting throughout each location where consumers receive services.

(h) Compliance with 450:27-3-41 shall be determined by visual observation; posted evacuation plans; a review of the provider's annual fire and safety inspection report; and a review

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of policy, procedures and other supporting documentation provided.

450:27-3-42. Health and Safety; emergency procedures

(a) The facility shall have an emergency preparedness program to assure continuation of necessary services in the event of disasters or related emergencies.

(b) The emergency preparedness program shall be evaluated annually and be updated as needed.

(c) The facility shall ensure there is a written plan to cope with internal and external disasters including, but not limited to, tornados, fires, and chemical spills.

(d) Compliance with 450:27-3-42 shall be determined by visual observation; posted plans; and, a review of policy, procedures and other supporting documentation provided.

450:27-3-43. Incident Reporting; procedures

(a) The facility shall have written policies and procedures requiring documentation and reporting of unusual incidents and analysis of the contributors to the incident, with attention to issues that may reflect opportunities for system level or program level improvement.

(b) Policies shall be in accordance with documentation and submission requirements as stipulated in 450:27-7-47 Incident Reporting; documentation and notification.

(c) Compliance for 450:27-3-43 will be determined by review of policies and procedures, review of incidents reported, as applicable, to ODMSHAS, and staff interviews.

PART 7. SPECIAL POPULATIONS

450:27-3-61. Americans with Disabilities Act of 1990

(a) Under Titles 11 and 111 of the ADA, the facility shall comply with the "Accessibility Guidelines for Buildings and Facilities (ADAAG) for alterations and new construction." United States government facilities are exempt for the ADA as they shall comply with the "Uniform Federal Accessibility Standards (UFAS)", effective August 7, 1984. Also available for use in assuring quality design and accessibility is the American National Standards Institute (ANSI) A117.1 "American National Standard for Accessible and Usable Buildings and Facilities."

(b) State and local standards for accessibility and usability may be more stringent than ADA, UFAs, or ANSI A 117.1. The facility shall assume responsibility for verification of all applicable requirements and comply with the most stringent standards.

(c) The facility shall have written policy and procedures providing or arranging for services for persons who fall under the protection of the Americans With Disabilities Act of 1990 and provide documentation of compliance with applicable Federal, state, and local requirements. A recommended reference is the "Americans With Disabilities Handbook" published the in U.S. Equal Employment Opportunities Commission and the U.S. Department of Justice.

(d) Compliance with 450:27-3-61 shall be determined through a review of facility written policy and procedure; and any other supporting documentation.

450:27-3-62. Human Immunodeficiency Virus (HIV), and Acquired Immunodeficiency Syndrome (AIDS)

(a) The facility shall have a policy of non-discrimination against persons with HIV infection or AIDS.

(b) All facilities shall observe the Universal Precautions For Transmission of Infectious Diseases as set forth in, "Occupational Exposure to Bloodborne Pathogens" published by the (U.S.) Occupations Safety Health Administration [OSHA]; and

(1) There shall be written documentation the aforestated Universal Precautions are the policy of the facility;

(2) In-service training regarding the Universal Precautions shall be a part of employee orientation and, at least once per year, is included in employee in-service training.

(c) Compliance with 450:27-3-62 is determined by reviews of facility policy and procedure and in-service training records, schedules, or other documentation.

SUBCHAPTER 5. QUALITY MANAGEMENT OF OPERATIONS

PART 1. OPERATIONS TO SUPPORT CONTINUOUS PROGRAM MANAGEMENT

450:27-5-1. Information analysis and planning

(a) The facility shall have a defined and written plan to solicit, collect, analyze and use input from consumers and other stakeholders to create and evaluate services that meet or exceed their expectations. This should also include, but is not limited to information from:

- (1) Consumers;
- (2) Governing Authority;
- (3) Staff;
- (4) Stakeholders;
- (5) Outcomes management processes and
- (6) Quality record review

(b) The information analysis plan shall define a continuously operating system to collect data and information no less frequently than quarterly to effectively manage the organization.

(c) Information collected shall be analyzed to improve consumer services and organizational performance as referenced in 450-27-5-2.

(d) The facility shall prepare an end of year management report, which shall include but not be limited to:

- (1) an analysis of the information gathered and
- (2) performance improvement program findings.

(e) The management report shall be communicated and made available to, among others:

- (1) the governing authority,

- (2) facility staff, and
- (3) funders/payers if and when requested.
- (f) Compliance with OAC 450:27-5-1 shall be determined by a review of information gathered; facility goals and objectives; and other supporting documentation provided.

450:27-5-2. Performance improvement program

- (a) The facility shall have an ongoing performance improvement program designed to objectively and systematically monitor, evaluate and improve the quality of consumer care.
- (b) The facility shall appoint a performance improvement officer.
- (c) The Performance improvement program shall also address the fiscal management of the organization.
- (d) The facility shall have an annual written plan for performance improvement activities. The plan shall include but not be limited to:
 - (1) Outcomes management specific to each program component which minimally measures:
 - (A) efficiency;
 - (B) effectiveness; and
 - (C) consumer satisfaction.
 - (2) A quarterly quality consumer record review to evaluate and ensure, among others:
 - (A) the quality of services delivered;
 - (B) the appropriateness of services;
 - (C) patterns of service utilization;
 - (D) consumers are provided an orientation to services, and actively involved in making informed choices regarding the services they receive;
 - (E) assessments are thorough, timely and complete;
 - (F) treatment goals and objectives are based on, at a minimum,
 - (i) assessment findings, and
 - (ii) consumer input;
 - (G) services provided are related to the treatment plan goals and objectives;
 - (H) services are documented as prescribed by policy; and
 - (I) the service plan is reviewed and updated as prescribed by policy.
 - (3) Clinical privileging; and,
 - (4) Review of critical and unusual incidents and consumer grievances and complaints.
- (e) The facility shall monitor the implementation of the performance improvement plan on an ongoing basis and make adjustments as needed.
- (f) Performance improvement findings shall be communicated and made available to, among others:
 - (1) the governing authority;
 - (2) facility staff;
 - (3) consumers;
 - (4) stakeholders; and
 - (5) funders/payors, as requested.
- (g) Compliance with 450:27-5-2 shall be determined by a review of the written program evaluation plan; written program

evaluations (annual and/or special or interim); program goals and objectives; and other supporting documentation provided).

PART 3. OPERATIONS FOR SERVICE DOCUMENTATION

450:27-5-21. Clinical record keeping system

- (a) Each facility must establish and maintain an organized clinical record system for the collection and documentation of information appropriate to the treatment processes; and which insures organized, easily retrievable, usable clinical records stored under confidential conditions and with planned retention and disposition.
- (b) Compliance with 450:27-5-21 may be determined by on-site observation, a review of policies and procedures, treatment records, performance improvement guidelines, interviews with staff, and other facility documentation.

450:27-5-22. Clinical record system; basic requirements

- (a) The facility's policies and procedures shall:
 - (1) Define the content of the consumer record.
 - (2) Define storage, retention and destruction requirements for consumer records.
 - (3) Require consumer records be maintained in locked equipment which is kept within a locked room, vehicle, or premise.
 - (4) Require legible entries in consumer records, signed with first name or initial, last name, and dated by the person making the entry.
 - (5) Require the consumer's name be typed or written on each page in the consumer record; or appear on each screen of an electronic record.
 - (6) Require a signed consent for treatment before a consumer is admitted on a voluntary basis.
- (b) If electronic clinical (medical) records are maintained, the facility will have proof of compliance with federal and state statutes related to electronic medical records, encryption, and other required features.
- (c) Compliance with 450:27-5-22 shall be determined by a review of the following: facility policy, procedures or operational methods; clinical records; other facility provided documentation; and PI information and reports.

450:27-5-23. Record access for clinical staff

- (a) The facility shall assure consumer records are readily accessible to all staff providing services to consumers. Such access shall be limited to the minimum necessary to carry out the staff member's job functions or the purpose for the use of the records.
- (b) Compliance with 450:27-5-23 shall be determined by on-site observation and staff interviews.

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PART 5. OPERATIONS FOR PROTECTION OF CONSUMER RIGHTS

450:27-5-41. Confidentiality of mental health and drug or alcohol abuse treatment information (a) **Facility confidentiality policy, procedures and practices must comply with federal and state law, guidelines, and standards, and with OAC 450:15-3-20.1, OAC 450:15-3-60, as applicable.**

(b) Compliance with 450:27-5-41 shall be determined review of facility policies, on-site observation, and review of clinical documentation.

450:27-5-42. Consent for release of information

(a) Facility consent for releases of information must comply with federal and state law, guidelines, and standards, and with OAC 450:15-3-20.2. Validity of written consent and releases of information.

(b) Compliance with 450:27-5-42 shall be determined by a review of facility policies, clinical record forms, on-site observation, and by review of clinical documentation.

450:27-5-43. Consumer Rights

(a) Facility policies, procedures, and practices related to consumer rights must comply with federal and state law, guidelines, 450:15-3-3. Notification of the Bill of Rights, and 450:15-3-27. Synopsis of the bill of rights, and other related provisions within OAC 450:15.

(b) Compliance with 450:27-5-43 shall be determined by a review of facility policies, clinical record forms, on-site observation, and review of clinical documentation.

450:27-5-44. Right to name a treatment advocate

(a) As applicable and provided for within state and federal law, policies, procedures, and practices the facility shall establish provisions by which consumers shall be informed of and be provided the right to name a treatment advocate as stipulated in 450:15-3-28. Right to name a Treatment Advocate.

(b) Compliance with 450:27-5-44 shall be determined by a review of facility policies, clinical record forms, on-site observation, and review of clinical documentation.

450:27-5-45. Consumer's grievance policy

(a) The facility shall have a written grievance policy and provisions to inform consumers of their rights to file a grievance in accordance with 450:15-3-45.

(b) Compliance with 450:27-5-45 shall be determined by a review of facility policies, clinical record forms, on-site observation, and review of clinical documentation.

SUBCHAPTER 7. CLINICAL SERVICES

PART 1. REQUIRED SERVICES

450:27-7-1. Core behavioral health services

(a) Each facility shall minimally provide the following services:

- (1) Screening intake and referral services;
- (2) Emergency services; and
- (3) Outpatient therapy services.

(b) Compliance with 450:27-7-1 shall be determined observation and review of clinical records that document the provision of services the above listed services.

450:27-7-2. Screening services

(a) Facility policy and procedure shall require that a screening of each potential consumer's service needs be completed in a timely manner and specify timeframes within which screenings will be initiated and completed.

(b) Policy should ensure the availability of a basic screening for those who present regardless of funding source.

(c) Policy should describe practices to be followed to ensure screenings are culturally appropriate, as well as maximize recognition of the prevalence of co-occurring mental health and substance use disorders.

(d) Policies should also indicate how referrals and linkages are facilitated on behalf of those determined ineligible for facility services as identified in the screening process in accordance with OAC 450:27-7-4.

(e) Procedures should reference how crises are managed as those emerge in the screening process.

(f) Facility policy should specify the minimal information to be collected and methods by which that is obtained for clinically appropriate and responsive screenings.

(g) The consumer, family as appropriate, and others as appropriate and approved by the consumer shall be an active participant(s) in the screening process.

(h) Compliance with 450:27-7-2 shall be determined by a review of clinical records, and policy and procedures.

450:27-7-3. Intake and assessment services

(a) Facility policies shall describe, upon determination of appropriate admission to the facility service(s), the procedures by which intake and assessment occur.

(b) Information shall include, but not be limited to, the following:

- (1) Behavioral, including substance use, abuse, and dependence;
- (2) Emotional, including issues related to past or current trauma;
- (3) Physical/medical including medications;
- (4) Social and recreational; and
- (5) Vocational/military.

(c) The facility shall have policy and procedures specific to each program service which dictate timeframes by when assessments must be completed and documented.

(d) The policy shall specify how screening and assessment information is maintained and stored in the event the consumer is not admitted for program services,

(e) The consumer, family as appropriate, and others as appropriate and approved by the consumer shall be an active participant(s) intake and assessment process.

(f) Compliance with 450:27-7-3 shall be determined by a review of clinical records, and policy and procedures.

450:27-7-4. Screening, intake and assessment services, access or referral to needed services

(a) Facility policies and procedures governing the screening, intake and assessment services shall specify the following:

- (1) The information to be obtained on all applicants for referrals, in lieu of admissions;
- (2) The procedure to be followed when an applicant or referral is found to be ineligible for admission;
- (3) The procedures for accepting referrals from outside agencies or organizations;
- (4) Methods of collection of information from family members, significant others or other social service agencies;
- (5) Methods for obtaining a physical examination or continued medical care where indicated; and,
- (6) Referral to other resources when the consumer has treatment or other service needs the facility cannot meet.

(b) Compliance with 450:27-7-4 shall be determined by a review of clinical records, and policy and procedures.

450:27-7-5. Ongoing assessment

(a) The facility's policies and procedures shall delineate the process, protocols, and timeframes by which on-going clinical assessments occur.

(b) Compliance with 450:27-7-5 shall be determined by a review of the clinical records and agency policies and procedures.

450:27-7-6. Outpatient therapy services

(a) Outpatient services shall be provided and shall include a range of services to consumers based on their needs regarding emotional, social and behavioral problems.

(b) Outpatient therapy services shall include one or more of the following:

- (1) Individual therapy;
- (2) Group therapy;
- (3) Family therapy;

(c) Compliance with 450:27-7-6 shall be determined by a review of written policy and procedures; program descriptions, and clinical records.

450:27-7-7. Emergency services

The facility shall provide accessible co-occurring disorder capable response services for psychiatric and/or substance abuse emergencies. Facility policies and procedures shall include no arbitrary barriers to access emergency services based on active substance use or designated substance levels.

- (1) Assessment and response to psychiatric and/or substance abuse emergencies shall be available and provided

directly by qualified facility staff during the facility's hours of operations.

(2) Methods by which consumers and others can access emergency services accessed beyond the facility's scheduled hours/days of operation shall be posted and visible to the public.

(3) Best practice diversion and crisis intervention procedures should be utilized and stipulated in facility treatment protocols.

(4) The facility shall also provide arrangements for emergency services beyond the facility's scheduled hours/days of operation for consumers admitted to their program.

(5) This service shall also include availability of 24-hour referral to higher levels of care than those offered by the facility, including but not limited to inpatient treatment.

(6) Referral services for additional emergency services shall include actively working with local sheriffs and courts regarding the appropriate referral process and appropriate court orders (43A O.S. §§ 5-201 through 5-407).

(7) Compliance with 450:27-7-7 shall be determined by a review of policy and procedures, referral agreements, emergency contract records, staff schedules, and clinical records.

PART 3. ADDITIONAL OR OPTIONAL SERVICES

450:27-7-21. Additional treatment services;

(a) If the facility provides the following additional services those shall be provided in accordance with related standards described within OAC 450:27 and other portions of OAC:450, as applicable.

- (1) Case Management Services;
- (2) Medication Services;
- (3) Pharmacy Services; Peer Recovery Support Services;
- (4) Wellness Activities and Supports;
- (5) Behavioral Health Rehabilitation Services;
- (6) Day treatment services for children and adolescents; and,

(b) If the facility provides the following services, in addition to those stipulated in 450:27-7-1. and 450:27-7-21, separate ODMHSAS certification will be required in accordance with OAC 450. including but not limited to the following:

- (1) Community Residential Mental Health Facilities, per OAC 450:16;
- (2) Alcohol and Drug Treatment Programs, per OAC 450:18;
- (3) Community Based Structured Crisis Services, per OAC 450:23;
- (4) Comprehensive Community Addiction Recovery Centers, per OAC 450:24;
- (5) Programs of Assertive Community Treatment, per OAC 450:55;

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(6) Eating Disorder Treatment Programs, per OAC 450:60;

(7) Gambling Treatment Programs, per OAC 450:65; and/or,

(8) Opioid Substitution Treatment Programs, per OAC 450:70

(c) Compliance with 450:27-7-21 is determined by review of program descriptions, clinical documentation, and review of ODMHSAS Certification findings additional applicable portions of OAC 450.

450:27-7-22. Case management services

(a) If provided, case management services shall empower consumers to access and use needed services and meet self-determined goals. These services include resource skills development and consumer advocacy provided in various settings based on consumer need. These services include referral, linkage, monitoring and support, and advocacy assistance provided in partnership with a client to support that client in self sufficiency and community tenure. Needs should be determined, at least in part, by completion of a strengths based assessment in partnership with the consumer and family members, as applicable, and utilized in the development of a case management plan. The case management plan can be incorporated in the overall services plan.

(b) If case management services are provided, policies and procedures should articulate that an assessment includes evidence that the following are evaluated:

(1) Consumer's level of functioning within the community;

(2) Consumer's job skills and potential; and/or educational needs;

(3) Consumer strengths and resources;

(4) Consumer's present living situation and support system;

(5) Consumer's use of substances and orientation to changes related to substance use;

(6) Consumer's medical and health status;

(7) Consumer's needs or problems which interfere with the ability to successfully function in the community; and

(8) Consumer's goals.

(c) Compliance with 450:27-7-22 shall be determined by a review of policy and procedures and clinical documentation.

450:27-7-23. Case management services, staff credentials

(a) If provided, case management services will be delivered by qualified staff that are certified as a behavioral health case manager pursuant to Oklahoma Administrative Code, Title 450, Chapter 50, as permitted by OAC and state statute.

(b) Compliance with 450:27-7-23 shall be determined by a review of the facility personnel records and credentialing files.

450:27-7-24. Medication clinic services

(a) If provided, medication clinic services shall include an assessment of each individual's condition and needs; and an assessment of the effectiveness of those services.

(b) Medication clinic services shall be co-occurring capable and shall utilize accepted practice guidelines for psychopharmacologic management of co-occurring disorders.

(c) The facility may offer comprehensive medication clinic services to consumers in need of this service, including, but not limited to:

(1) Prescribing or administering medication, including evaluation and assessment of the medication services provided.

(2) Medication orders and administration:

(A) Only licensed staff physicians, medical residents or consultant physicians shall write medication orders and prescriptions.

(B) A list of those physicians authorized to prescribe medications shall be maintained and regularly updated.

(C) A list of licensed staff members authorized to administer medications shall be maintained and regularly updated.

(D) If physician's assistants and/or nurse practitioners write medication orders, or prescriptions those functions are performed consistent with state and federal law.

(d) Compliance with 450:27-7-24 shall be determined by on-site observation and a review of the following: clinical records, written policy and procedures, and roster of licensed, credentialed staff.

450:27-7-25. Medication clinic, medication monitoring

(a) If medication services are provided, medication administration, storage and control, and consumer reactions shall be regularly monitored.

(b) Facilities shall assure proper storage and control of medications, immediate response if incorrect or overdoses occur, and have appropriate emergency supplies available if needed.

(1) Written procedures for medication administration shall be available and accessible in all medication storage areas, and available to all staff authorized to administer medications.

(2) All medications shall be kept in locked, non-consumer accessible areas. Conditions which shall be considered in medication storage are light, moisture, sanitation, temperature, ventilation, and the segregation and safe storage of poisons, external medications, and internal medications.

(3) Telephone numbers of the state poison centers shall be immediately available in all locations where medications are prescribed, administered, and stored.

(c) Compliance with 450:27-7-25 shall be determined by on-site observation and a review of the following: written policy and procedures, clinical records, and PI records.

450:27-7-26. Pharmacy services

(a) If medication services are provided, the facility shall make available access to pharmacy services to meet consumers' psychiatric needs. Provision of services may be made through agreement with another program, through a pharmacy

in the community, or through their own Oklahoma licensed pharmacy.

(b) Compliance with 450:27-7-26 may be determined by a review of the following: clinical records; written agreements for pharmacy services; on-site observation of in-house pharmacy; and State of Oklahoma pharmacy license.

450:27-7-27. Peer support services

(a) If provided, the facility shall have written policies specific to peer support services.

(b) Peer support services shall be provided in accordance with OAC 450: 53 and other provisions stipulated in OAC 450 and state statute.

(c) These services shall

(1) Be based on an individualized, recovery-focused service philosophy that allows individuals the opportunity to learn to manage their own recovery and advocacy process;

(2) Recognize the unique value of services being provided by persons with lived experience who are able to demonstrate their own hopefulness and recovery;

(3) Enhance the development of natural supports, coping skills, and other skills necessary to function as independently as possible in the community, including, but not limited to assisting re-entry into the community after a hospitalization or other institutional settings;

(d) Behavioral health providers offering these services shall have provisions in place for direct supervision and other supports for staff providing this service.

(e) Compliance with 450:27-7-27 shall be determined by a review of the following: documentation of linkage activities and agreements; clinical records; policy and procedures.

450:27-7-28. Recovery Support Specialists, staff credentials

(a) Recovery Support Services shall be provided only by staff certified as a Recovery Support Specialist in accordance with OAC 450:53.

(b) The facility shall retain records to verify compliance with training and certification requirements of each provider of this service.

(c) Compliance for 450:27-7-28 shall be determined by a review of the facility personnel records.

450:27-7-29. Wellness services and supports

(a) If provided, the facility shall have written policies specific to wellness services and supports.

(b) Wellness services and supports shall be consumer-driven services to promote healthy lifestyles and behaviors which may include and not be limited to smoking cessation activities, exercise, stress management, and education on nutrition.

(c) These services shall be based on an individualized, recovery-focused service philosophy that allows individuals the opportunity to learn to manage their own wellness

(d) Compliance for 450:27-7-29 shall be determined by a review of the following: documentation of activities and agreements; clinical records and policy and procedures.

450:27-7-30. Behavioral health rehabilitation services; general requirements

(a) Behavioral health rehabilitation services, if provided, shall be organized as a separate programmatic unit operated by the facility with extended hours offered two or more times per week and/or as specifically arranged sessions on behalf of consumers in need of this service.

(b) Facility policies and procedures shall stipulate how rehabilitation services are organized and provided.

(1) The facility shall describe the behavioral health rehabilitation service components that optimize participants' potential for occupational and/or educational achievement, goal setting, skill development, and increased quality of life, therefore maximizing the individual's independence and increased reliance on community and peer support.

(2) The facility shall design rehabilitation services specific the age and cultural needs of participants, which can be children and/or adults.

(3) The facility shall establish in policy and procedure and program descriptions, minimum staff ratios to assure participants have choices in activities and staff with whom they work.

(c) Compliance with 450:27-7-30 shall be determined by on-site observation; interviews with participants; interviews with staff; a review of policy and procedures; and a review of clinical records.

450:27-7-31. Behavioral health rehabilitation services; rehabilitation unit programs

(a) Behavioral health rehabilitation services offered as separate programmatic unit shall provide sessions three or more hours in length two or more times per week.

(b) The rehabilitation program(s) with extended hours shall be designed to provide an array of services that focus on long term recovery and maximize self-sufficiency, role functioning, and independence as distinguished from the symptom stabilization function of acute or other levels of care.

(c) Individualized goals and personal preferences for consumers receiving this service shall be specifically addressed on service plans.

(d) The service shall incorporate the following functions and characteristics:

(1) Recovery Orientation. The service elements include a recovery oriented service plan, participant goal setting, employment and educational support services, and a staff philosophy of recovery reinforced in service elements and activities.

(2) Empowerment Orientation. The service elements include peer support and, leadership skill development.

(3) Competency Orientation. The service elements include curriculum based life skills training (covering self-management of illness, independent living skills, social skills, and work related skills), a multi-dynamic learning approach, an explicit focus on generalization to contexts beyond the immediate learning task and transfer of

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skills to real life situations and a community based supports component that provides on-going in home or community based support services, based on consumer need and choice, in the areas of housing, employment, education and the development of natural supports (i.e., family, cultural and social).

(e) The program shall be designed and operated in such a manner that participants and staff work alongside one another to embody the functions referenced in 450:27-7-31(d).

(1) The work completed is work generated by the program component. No work for outside individuals or agencies is acceptable within this service.

(2) All work or training is designed for participants to develop or regain self-worth, purpose and confidence. It is not intended to be job-specific training.

(f) Compliance with 450:27-7-31 shall be determined by on-site observation; interviews with participants; interviews with staff; a review of policy and procedures; and a review of clinical records.

450:27-7-32. Behavioral health rehabilitation services; Individual and Group Services

(a) The facility may offer behavioral health rehabilitation services in individual or group settings, other than or in addition to those defined 450:27-7-31.

(b) Facility policy and procedures shall outline the way these services are provided, including but not limited to the populations served, staff qualifications for providing the service, and general design(s) by which these services are provided.

(c) Individualized goals and personal preferences for consumers receiving this service shall be specifically addressed on service plans.

(d) Compliance with 450:27-7-32 shall be determined by on-site observation; interviews with participants; interviews with staff; a review of policy and procedures; and a review of clinical records.

450:27-7-33. Behavioral health rehabilitation services, staff credentials

(a) Staff providing this service shall have proof that they meet current ODMHSAS requirements as a Behavioral Health Rehabilitation Specialist (BHRS).

(b) Compliance with 450:27-7-33 will be determined by a review of facility personal files, individual staff records, and verification with organizations providing required training.

450:27-7-34. Day treatment services for children and adolescents

(a) Day treatment services are designed for non-residential consumers who spend only a part of a twenty-four (24) hour period in the program.

(1) Hours of operation shall be held during periods which make it possible for consumers to receive a minimum of three (3) hours of treatment and services each day

in the program, excluding time spent in fulfillment of academic educational activities as required by law; and,

(2) Services provided shall be co-occurring disorders capable and include, at a minimum, the following:

(A) Weekly individual therapy, group, and family therapy;

(B) Social skills development through activities which encourage interaction and the development of communications and interpersonal skills;

(C) Integrated attention to decision making and healthy skill building regarding substance use, including nicotine and caffeine;

(D) Recreation and leisure activities;

(E) Emergency services;

(F) Habilitation services;

(G) Referral to other resources when indicated by treatment goals and objectives; and,

(H) Provide, or arrange for, academic education as required by state or federal law.

(b) Compliance with 450:27-7-34 shall be determined by on-site observation; and a review of the following: clinical records, policy and procedures, and program descriptions.

PART 5. CLINICAL DOCUMENTATION

450:27-7-41. Clinical record content, screening, intake and assessment, documentation

(a) The facility shall complete a face-to face screening with each individual to determine appropriateness of admission in accordance with 450:27-7-2. Screening services.

(b) The facility shall document the face-to-face screening conducted how the consumer was assisted to identify goals, how the consumer received integrated screening to identify both immediate and ongoing needs and how the consumer was assisted to determine appropriateness of admission, and/or to access other appropriate services.

(c) Upon determination of appropriate admission, consumer demographic information shall be collected, as defined by facility policies and procedures.

(d) For persons admitted to service, the facility shall complete a psychological-social assessment which gathers sufficient information to assist the consumer develop an individualized service plan.

(e) An intake assessment update, to include date, identifying information, source of information, present needs, present life situation, current level of functioning, and what consumer wants in terms of service, is acceptable as meeting requirements of 450:27-7-41 only on re-admissions within one (1) year of previous admission at the facility.

(f) Compliance with 450:27-7-41 shall be determined by a review of the following: psychological-social assessment instruments; consumer records; case management assessments; interviews with staff and consumers; policies and procedures and other facility documentation.

450:27-7-42. Behavioral health service plan; documentation

- (a) The service plan is developed and finalized with the active participation of the consumer and a support person or advocate if requested by the consumer. In the case of children under the age of 18, it is performed with the participation of the parent or guardian and the child as age and developmentally appropriate. The service plan shall provide the formation of measurable service objectives and reflect ongoing changes in goals and objectives based upon consumer's progress or preference or the identification of new needs, challenges and problems.
- (b) The service plan shall be based on information obtained in the mental health assessment, other information provided on behalf of the consumer, and includes the evaluation of the assessment information by the clinician and the consumer.
- (c) For adults, the service plan must be focused on recovery. For children the plan should address school and education concerns and assisting the family in caring for the child in the least restrictive level of care.
- (d) Service plans must be completed within six (6) treatment sessions and adhere to the format and content requirements described in the facility policy and procedures.
- (e) Service plan updates should occur at a minimum of every 6 months during which services are provided and adhere to the format and content requirements described in the facility policy and procedures.
- (f) Service plans, both comprehensive and update, must include dated signatures for the consumer (if over age 14), the parent/guardian (if under age 18 or otherwise applicable), and the primary service practitioner.
- (g) Compliance with 450:27-7-42 shall be determined by a review of the clinical records, policies and procedures, and interviews with staff and consumers, and other agency documentation.

450:27-7-43. Clinical record content, on-going assessment; documentation

- (a) On-going reassessments shall be documented in the clinical record in accordance with 450:27-7-5 and within the timeframes stipulated by facility policy.
- (b) Information gained in the on-going assessment process should be reflected in updated service plans.
- (c) Compliance with 450:27-7-43 shall be determined by a review of the clinical records and agency policies and procedures.

450:27-7-44. Progress notes

- (a) Progress notes shall chronologically describe the services provided, the consumer's response to the services provided, and the consumer's progress in treatment and adhere to the format and content requirements described in the facility policy and procedures.
- (b) Progress notes shall be documented according to the following time frames:

- (1) Outpatient staff must document each visit or transaction, except for assessment completion or service plan development, including missed appointments;
- (2) Behavioral health rehabilitation services and day treatment programs for children and adolescents staff must maintain a daily, member sign-in/sign-out record of member attendance, and shall write a progress note daily or a summary progress note weekly.
- (c) Compliance with 450:27-7-44 shall be determined by a review of clinical records and policies and procedures.

450:27-7-45. Other records content

- (a) The consumer record shall contain copies of all consultation reports concerning the consumer.
- (b) When psychometric or psychological testing is done, the consumer record shall contain a copy of a written report describing the test results and implications or recommendations for treatment.
- (c) The consumer record shall contain any additional information relating to the consumer, which has been secured from sources outside the program.
- (d) Compliance with 450:27-7-45 shall be determined by a review of clinical records.

450:27-7-46. Discharge summary

- (a) A discharge summary shall document the consumer's progress made in treatment; response to services rendered; and recommendation for any referrals, if deemed necessary. It shall include a discharge plan which lists written recommendations, and specific referrals for implementing aftercare services, including medications. Aftercare plans shall be developed with the knowledge and cooperation of the consumer, when possible.
- (b) A discharge summary shall be entered in each consumer's record within fifteen (15) calendar days of discharge from facility services.
- (c) In the event of death of a consumer, in lieu of a discharge summary, a summary statement including applicable information shall be documented in the record.
- (d) Compliance with 450:27-7-46 shall be determined by a review of closed consumer records.

450:27-7-47. Incident reporting; documentation and notification

- (a) The facility shall document the occurrence of critical or similar incidents, as defined in facility policy and in accordance with OAC 450:27-3-43.
- (b) Incident reports shall minimally include:
 - (1) the facility, name and signature of the person(s) reporting the incident;
 - (2) the name(s) of the consumer(s), staff member(s) or property involved;
 - (3) the time, date and physical location of the critical incident;
 - (4) the time and date the incident was reported and name of the staff person within the facility to whom it was reported;

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- (5) a description of the incident;
- (6) resolution or action taken, date action taken, and signature of appropriate staff; and
- (7) severity of each injury, if applicable. Severity shall be indicated as follows:

- (A) No off-site medical care required or first aid care administered on-site;
- (B) Medical care by a physician or nurse or follow-up attention required; or
- (C) Hospitalization or immediate off-site medical attention was required;

(b) Incidents shall be reported to ODMHSAS within specific timeframes, as follows:

- (1) Incidents requiring medical care by a physician or nurse or follow-up attention and incidents requiring hospitalization or immediate off-site medical attention shall be delivered via fax or other approved modalities that assure submission to ODMHSAS Provider Certification within twenty-four (24) hours of the incident being documented.
- (2) Incidents involving allegations against staff, reports of consumer abuse, or sentinel events shall be reported to ODMHSAS immediately via telephone or fax, but not more than twenty-four (24) hours of the incident. If reported by telephone, the report shall be followed with a written report within twenty-four (24) hours.

(c) Compliance with 450:27-7-47 shall be determined by a review of facility policy and procedures; critical incident reports at the facility and those submitted to ODMHSAS, performance improvement program documents and reports, and staff interviews.

[OAR Docket #12-425; filed 4-18-12]

TITLE 610. STATE REGENTS FOR HIGHER EDUCATION CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #12-429]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 13. Minority Teacher Recruitment Center [REVOKED]
- 610:1-13-1. Minority Teacher Recruitment Center [REVOKED]
- 610:1-13-2. Membership [REVOKED]
- 610:1-13-3. Programs and services [REVOKED]

AUTHORITY:

70 O.S. Sections 6-129.1 and 6-130; 74 O.S. 3906, Oklahoma State Regents for Higher Education

DATES:

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SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

The rule revocations are necessary because statutory authorization for the program expired on July 1, 2011.

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 MAY 55, 2012:

SUBCHAPTER 13. MINORITY TEACHER RECRUITMENT CENTER [REVOKED]

610:1-13-1. Purpose [REVOKED]

The purpose of this Subchapter is to describe the Minority Teacher Recruitment Center (MTRC). The MTRC is designed for the recruiting, retaining, and placing of minority teachers in public schools of the State of Oklahoma [70 O.S. § 6-130]. The Act states that such efforts shall include but not be limited to:

- (1) The provision and coordination of support services to teacher training programs in state institutions of higher education, including the funding of grants for campus-based recruitment, retention and placement programs that assist minority students who intend to become teachers;
- (2) The establishment and development of recruiting programs for potential minority teachers, including pre-collegiate curricular courses that emphasize school success and the opportunity to investigate teaching as a career choice, future teacher clubs and collegiate programs designed to recruit students making transitions from other careers and other areas of study;
- (3) The hosting of conferences dealing with issues that effect minority teacher recruitment, retention, and placement;
- (4) The creation of activities in the public and private schools of Oklahoma which enhance the image of the teaching profession; and
- (5) The creation and development of placement services providing assistance to both minority educators and school districts seeking to hire qualified minority teachers. [70 O.S. § 6-130]

610:1-13-2. Minority Teacher Recruitment Center [REVOKED]

The MTRC has a 19 member Minority Teacher Recruitment Advisory Committee. The advisory Committee has oversight of the implementation of MTRC and shall advise the operation of the MTRC. Duties:

- (1) Make recommendations on the annual operating budget of the Minority Teacher Recruitment Center and verify that the funds allocated to the Center through the Oklahoma State Regents for Higher Education are utilized exclusively by the Center by function;
- (2) Advise the Oklahoma State Regents for Higher Education of unmet needs within the state in the implementation of the Center's activities;
- (3) Annually comment publicly on the progress of the Center;
- (4) Assist the Oklahoma State Regents for Higher Education in developing and reporting information about the Center when necessary;
- (5) Meet as often as necessary to conduct business; and
- (6) Keep official minutes of the Committee meetings which shall be made available to the public upon request. [70 O.S. § 6-129.1 D]

610:1-13-3. Programs and services [REVOKED]

To achieve its primary goal of recruiting, retaining, and placing minority teachers in the public schools of the State of Oklahoma, the MTRC offers a variety of programs and services. Parties interested in the programs and services can obtain additional information by contacting the MTRC at the State Regents for Higher Education office.

- (1) Academic Commitment to Education (ACE). The ACE program is an exemplary program that encourages high school students who possess high academic and leadership standards to consider teaching as a viable career. The yearlong course is designed to provide opportunities for students to explore the education system, learn about different areas and levels of teaching, conduct observations, and focus on portfolio development. The program takes a hands on, practical approach to teaching careers and is taught by instructors selected by the school principal.
- (2) Leadership, Education and Achievement Program (LEAP). LEAP is a course designed for middle school and junior high school students and targeted towards those students that exhibit the potential for academic success. Like ACE, LEAP is also a yearlong course which encourages students to consider a career in education. However, other careers are observed as well. The course provides students with the skills necessary to be successful in high school and college and prepares them for high academic achievement. Preparation also involves activities for advancing leadership skills, team building skills, and service learning. Instructors are selected by the principal.
- (3) Collegiate Grant Program. The Collegiate Grant Program supports the overall objectives of the MTRC by providing a link between institutions of higher education, MTRC pre-collegiate programs, and K-12 districts in the

interest of promoting, recruiting, and retaining teachers. Grants provided to the colleges of education within these various institutions enable pre-collegiate and collegiate students to gain a better understanding of careers in education and allow them to interact with professionals already in the field. Some of the grants support financial aid for students, on-campus skill development activities, and mentor/parent/peer support structures for prospective teachers.

[OAR Docket #12-429; filed 4-18-12]

**TITLE 610. STATE REGENTS FOR HIGHER EDUCATION
CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS**

[OAR Docket #12-428]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 23. Oklahoma Higher Learning Access Program
- 610:25-23-2. Eligibility of participants [AMENDED]
- 610:25-23-3. Applications [AMENDED]
- 610:25-23-4. Program requirements [AMENDED]
- 610:25-23-5. Securing Program benefits [AMENDED]
- 610:25-23-6. Retaining eligibility in postsecondary education [AMENDED]
- 610:25-23-8. Administrative responsibilities [AMENDED]
- 610:25-23-9. Heroes Promise [NEW]

AUTHORITY:

70 O.S. §2601 et seq.; 70 O.S. §3206(i); Oklahoma State Regents for Higher Education

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SUPERSEDED EMERGENCY ACTIONS:

N/A

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N/A

ANALYSIS:

The proposed rule changes address the following issues:
Second Family Income Check When Oklahoma's Promise Students Begin College Beginning with the 2012 high school graduating class, Oklahoma's Promise students will be subject to a second family income check at the time they start college. If the student's family income exceeds \$100,000 at that time, the student will permanently lose their eligibility for the Oklahoma's Promise award. Data from 2009 Oklahoma's Promise college freshmen indicates that

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about 2 percent of the freshmen students may lose their eligibility for the award due to this provision.

SB 610 changed and simplified the definition of the income that will be counted toward the \$100,000 limit to "federal adjusted gross income." Previously, the law had defined income as all "taxable and nontaxable" income. This change will significantly reduce the complexity of implementing the second income check. However, this definition change applies only to the second income check at the time the student begins college. The definition of income for the \$50,000 family income limit when the student initially applies for Oklahoma's Promise in the 8th, 9th, or 10th grade has not changed and remains defined as all "taxable and nontaxable" income.

The amendments clarify that income information submitted by students and their parents through the Free Application for Federal Student Aid (FAFSA) will be used to determine compliance with the new second income check. New College Grade Point Average (GPA) Requirements Oklahoma's Promise students starting college in fall 2012 and each year thereafter will be subject to new statutory GPA standards that require the student to "achieve a minimum cumulative grade point average of 2.0 on a 4.0 scale or its equivalent for courses taken through the student's sophomore year and achieve a minimum grade point average of 2.5 on a 4.0 scale or its equivalent for courses taken during the student's junior year and thereafter" (Title 70, Section 2603 of the Oklahoma Statutes).

The rule revisions reflect an amendment in SB 610 to delay the implementation of new college GPA requirements so that they will apply to students entering college in 2012 and thereafter. This statutory change was requested by the State Regents so that the requirements would not be applied to students/parents for whom it was not a condition at the time the student enrolled in the program in the 8th, 9th, or 10th grade.

Students that do not have at least a 2.0 cumulative GPA upon the completion of 60 earned semester credit hours will permanently lose their eligibility for the Oklahoma's Promise award. 2009-10 data indicates that possibly 10 percent of Oklahoma's Promise college sophomores may be disqualified.

Students must also achieve at least a 2.5 cumulative GPA calculated only on courses taken after the completion of 60 earned semester credit hours. If the student's GPA for these courses drops below 2.5, the student will lose eligibility for the award until they raise their GPA to 2.5. Data compiled from 2009-10 Oklahoma's Promise award recipients indicates that possibly 18 percent of college juniors in the program may be disqualified. Federal "Satisfactory Academic Progress" (SAP) Standards HB 1421 requires that, beginning in 2012-13, all Oklahoma's Promise college students (not just entering freshmen) meet the "satisfactory academic progress" (SAP) standards required for the retention of federal student financial aid. Federal SAP policy contains both GPA requirements and minimum standards for completing courses in which the student enrolls. This requirement is in addition to the statutory GPA requirement discussed above and will apply to all Oklahoma's Promise award recipients whether or not they are also receiving federal student financial aid. Any Oklahoma's Promise student who is ineligible to receive federal financial aid for failure to meet institutional SAP requirements will also be ineligible to receive the Oklahoma's Promise award. If the student regains their eligibility for federal student aid, the student could also regain their eligibility for the Oklahoma's Promise award. A survey of Oklahoma colleges and universities earlier in 2011 indicated that possibly 3 percent of Oklahoma's Promise students might be disqualified for failure to meet the SAP standards. "Heroes Promise" legislation HB 1343 created a new unique category of participation in the Oklahoma Higher Learning Access Program for children of military personnel killed in the line of duty after January 1, 2000. This new category is called the "Heroes Promise." The legislation establishes some unique provisions for these students, including the following:

Allows an eligible student up to age 21 to enroll in the program and begin receiving the benefit in college.

Exempts eligible students from the program's family income limits, both at the time of application and at the time the student begins college.

Exempts eligible students from the high school curricular and conduct standards. Other Changes and Clarifications

The amendments clarify that an incomplete application must be completed by the official date of the student's graduation from high school or the last day of classes for that school year, whichever is later.

The amendments delete language describing the high school curricular requirements that applied to students graduating high school in 2010 and prior years.

The amendments add pre-calculus to the list of math courses eligible to meet the math high school curriculum requirements, a change that has already been made to the regular college admission curricular requirements.

The amendments clarify language related to a few administrative activities and documents.

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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 MAY 25, 2012:

SUBCHAPTER 23. OKLAHOMA HIGHER LEARNING ACCESS PROGRAM

610:25-23-2. Eligibility of participants

Eligibility to participate in the program must be established by both the student and his/her parent(s), custodial parent(s), or guardian(s). Students enrolled in the eighth, ninth or tenth grade at a public or private school and whose parents' income meets the financial need criteria are eligible to apply to become a program participant. Students educated by other means who are between the ages of thirteen (13) and fifteen (15) are eligible to apply to become a program participant. Eligibility requirements to participate in the program include the following:

(1) The student must be a resident of the state of Oklahoma or be enrolled in a school district located in this state that serves students who reside in both this state and an adjacent state pursuant to a contract as authorized in Section 5-117.1 of Title 70 of the Oklahoma Statutes; and

(2) The student's parent(s), custodial parent(s), or guardian(s) must establish financial need.

(A) To meet the program's financial need criteria, the income of the student's parent(s) from taxable and nontaxable sources shall not exceed \$50,000 per year at the time the student applies for participation in the program. A student who was adopted while in the permanent custody of the Department of Human Services, in the court-ordered custody of a licensed private nonprofit child-placing agency, or federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, shall not be subject to the determination of financial qualification at the time the student applies for participation in the program.

(B) Parents of students making application to the program must use one of the following options to establish financial need eligibility:

(i) Documentation of their most recent calendar (tax) year income. Parents of tenth-grade applicants may use the calendar (tax) year income that coincides with the spring semester of the tenth-grade if the application is submitted by the required deadline ~~parents' income is expected to be significantly less than the previous year;~~ or

(ii) Documentation of current yearly income from an officially approved application for free or reduced price school meals or other state or federal means-tested programs as determined by the State Regents. The State Regents may limit use of this option to pilot projects as determined by the State Regents. If requested by the State Regents, parents may be required to provide additional documentation of income.

(C) For students that are subject to court-ordered joint custody arrangements, the OSRHE shall use guidelines consistent with regulations for federal Title IV student financial aid programs to determine which parent(s) shall meet the financial need criteria.

610:25-23-3. Applications

(a) Students and their parent(s), custodial parent(s), or guardian(s) must complete fully an application form provided by the Oklahoma State Regents for Higher Education (OSRHE). If a student's legal custody is the subject of an active legal proceeding, the student may submit an application without the information of their parent(s), custodial parent(s), or guardian(s). The application will be treated as an incomplete application per section (h) below until the student's legal custody is determined.

(b) The application shall include either:

- (1) an agreement form upon which the school site contact person (see rule 610:25-23-8 for policies related to the contact person) shall certify that the student meets the financial need criteria and which verifies that the student and his/her parent(s), custodial parent(s), or guardian(s) agree to the program's requirements. The agreement form shall be retained in the student's permanent record and a copy forwarded to the OSRHE. A copy of the agreement form must be received by the OSRHE for the student to be considered enrolled in the program; or
- (2) an agreement form submitted directly to the OSRHE by the student and their parent(s), custodial parent(s), or guardian(s), which shall be processed and verified by the OSRHE.

(c) Students participating in the Oklahoma Higher Learning Access Program shall provide their social security number, or their student identification number used by their local school, to the OSRHE. The OSRHE shall keep the numbers confidential and use them only for administrative purposes.

(d) Any falsified or incomplete information on the application forms may result in the student's disqualification from the program.

(e) Applications will be accepted throughout the school year.

(f) Contact persons should forward copies of agreement forms to the OSRHE monthly, but not later than June 30 of each school year.

(g) Persons applying directly to the OSRHE must submit agreement forms to the OSRHE no later than June 30. If June 30 is not a business day, agreement forms shall be submitted no later than the first business day thereafter. Applications mailed to the OSRHE must be postmarked by June 30, or the next

business day if applicable, to be considered timely submitted to the OSRHE.

(h) Applicants submitting incomplete applications shall be provided an opportunity to provide the required documentation to complete their application. Applications that remain an application that remains incomplete by the official date ~~time~~ the student graduates high school or the last day of classes for the school year in which the student graduates, whichever is later, will not be accepted. Students that graduate high school early must complete the application by their official date of graduation.

610:25-23-4. Program requirements

(a) Students shall agree to abide by the following provisions:

- (1) Attend school regularly and to do homework regularly;
- (2) Refrain from substance abuse;
- (3) Refrain from commission of crimes or delinquent acts;
- (4) Have school work and school records reviewed by mentors designated pursuant to the program;
- (5) Provide information requested by the Oklahoma State Regents for Higher Education [OSRHE] or the State Board of Education; and
- (6) Participate in program activities. [70 O.S. § 2605]

(b) The student's parent(s), custodial parent(s), or guardian(s) shall witness the student's agreement and further agree to:

- (1) Assist the student in achieving compliance with the agreements;
- (2) Confer, when requested to do so, with the school contact person, other school personnel, and program mentors;
- (3) Provide information requested by the ~~Oklahoma State Regents for Higher Education~~ OSRHE or the State Board of Education; and
- (4) Assist the student in completing forms and reports required for program participation, making application to institutions and schools of higher learning, and filing applications for student grants and scholarships. [70 O.S. § 2605]

~~(c) Students in the program graduating high school prior to 2010 must complete the following 17 unit core curriculum with a minimum 2.5 grade point average (GPA) on a 4.0 grading scale, by the time they graduate from high school. For the purpose of calculating the required core curriculum GPA, core courses in English, lab science, mathematics, history and citizenship skills, foreign or non-English language, computer technology, or "additional" subject areas must be transcribed with a letter grade that has a corresponding numerical value. If the school district assigns a course a grade of "pass" without a numerical value, the OSRHE will assign a letter grade of "D" or the lowest passing grade that the high school assigns to courses. If the required one unit, year, or set of competencies in fine arts (music, art, or drama) or speech is fulfilled on a pass/fail or competency basis, the course(s) will be accepted and excluded from the required core curriculum GPA calculation.~~

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- ~~(1) Four units, or years, of English (grammar, composition, literature; should include an integrated writing component);~~
 - ~~(2) Two units, or years, of lab science (biology, chemistry, physics, or any lab science certified by the school district; general science with or without a lab may not be used to meet this requirement);~~
 - ~~(3) Three units, or years, of mathematics (Algebra I, Algebra II, geometry, trigonometry, math analysis, calculus, Advanced Placement Statistics);~~
 - ~~(4) Three units, or years of history and citizenship skills (1 unit of American history and 2 units from the subjects of history, economics, geography, government and/or non-Western culture);~~
 - ~~(5) Two units, or years, of a foreign or non-English language (both units, or years, of the same language), or Two units, or years, of computer technology (courses in programming, hardware, and business computer applications such as word processing, databases, spreadsheets and graphics will qualify; keyboarding and typing classes do not qualify);~~
 - ~~(6) Two additional units, or years, of subjects listed above, or any Advanced Placement (AP) course(s) except AP courses in applied fine arts (art history and music theory will count; studio art courses will not count);~~
 - ~~(7) One unit, year, or set of competencies of fine arts (music, art, or drama) or speech.~~
- (d) Students in the program graduating high school in 2010 and thereafter must complete the following 17-unit core curriculum with a minimum 2.5 grade-point-average (GPA) on a 4.0 grading scale, by the time they graduate from high school. For the purpose of calculating the required core curriculum GPA, core courses in English, lab science, mathematics, history and citizenship skills, foreign or non-English language, computer technology, or "additional" subject areas must be transcribed with a letter grade that has a corresponding numerical value. If the school district assigns a course a grade of "pass" without a numerical value, the OSRHE will assign a letter grade of "D" or the lowest passing grade that the high school assigns to courses. If the required one unit, year, or set of competencies in fine arts (music, art, or drama) or speech is fulfilled on a pass/fail or competency basis, the course(s) will be accepted and excluded from the required core curriculum GPA calculation.
- (1) Four units, or years, of English (grammar, composition, literature; should include an integrated writing component);
 - (2) Three units, or years, of lab science (biology, chemistry, physics, or any lab science certified by the school district; general science with or without a lab may not be used to meet this requirement);
 - (3) Three units, or years, of mathematics (Algebra I, Algebra II, geometry, trigonometry, math analysis, pre-calculus [must have completed geometry and Algebra II], calculus, Advanced Placement Statistics);
 - (4) Three units, or years of history and citizenship skills (1 unit of American history and 2 units from the

subjects of history, economics, geography, government and/or non-Western culture);

- (5) Two units, or years, of a foreign or non-English language (both units, or years, of the same language), or Two units, or years, of computer technology (courses in programming, hardware, and business computer applications such as word processing, databases, spreadsheets and graphics will qualify; keyboarding and typing classes do not qualify);
 - (6) One additional unit, or year, of subjects listed above, or any Advanced Placement course except AP courses in applied fine arts (art history and music theory will count; studio art courses will not count);
 - (7) One unit, year, or set of competencies of fine arts (music, art, or drama) or speech.
- (de) The program curricular requirements for English, science, mathematics, history and citizenship skills are identical with the curricular requirements for college admission set by the OSRHE. Any change by the OSRHE to the curricular requirements for college admission shall also apply to the program curricular requirements.
- (ef) Advanced students who complete core courses in earlier grades will not be required to take additional courses for purposes of the requirements of this program.
- (fg) Strict parameters regulate the substitution of applied courses (OSRHE Policy Statement on Admission to, Retention in and Transfer Among Colleges and Universities of the State System).
- (gh) Exceptions to the required core curriculum will be considered according to the following:
- (1) Students attending schools, or homeschool students participating in other educational programs, which do not offer all the core curriculum courses will be allowed to satisfy the requirements subject to the following provisions:
 - (A) Core curriculum requirements which are also required for regular college admission (~~OSRHE Policy Statement on Admission to, Retention in and Transfer Among Colleges and Universities of the State System~~ policy on Institutional Admission and Retention) will be subject to the OSRHE Policy on Remediation and Removal of High School Curricular Deficiencies.
 - (B) Any other core curriculum requirements must be satisfied during the first twenty-four (24) hours of college coursework. Any exceptions to the twenty-four (24) hour limitation must be requested in writing and shall be subject to approval by the Chancellor.
 - (2) Students who have documented proficiency in a non-English language equivalent to at least two (2) units of high school study may be exempted from the requirement of two (2) units of a foreign or non-English language.
 - (3) Any other requests for exceptions to the core curriculum requirement must be submitted in writing to the Chancellor. Upon approval of the exception, the student may be eligible for program benefits; provided, such approval may require the satisfaction of any core curriculum

requirements omitted in high school or other educational program.

(hi) Students must attain a minimum 2.5 cumulative GPA on a 4.0 grading scale for all work attempted in grades nine through twelve.

(ij) Homeschool students and students graduating from a high school not accredited by the State Board of Education must achieve a composite score of 22 or higher on the ACT test or the equivalent SAT test score. Only ACT and SAT test scores from tests administered on national test dates prior to the student's high school graduation will be considered.

610:25-23-5. Securing Program benefits

(a) To qualify for the program benefits for the first semester or other academic unit of postsecondary enrollment, the participant must:

(1) Be a resident of this state both at the time of application to the program and at the time the student graduates from high school, or have been enrolled in a school district located in this state that serves students who reside in both this state and an adjacent state pursuant to a contract as authorized in Section 5-117.1 of Title 70 of the Oklahoma Statutes.

(2) Have graduated within the previous three years from a high school or other educational program if homeschooled. The Oklahoma State Regents for Higher Education (OSRHE) may award benefits for a student's first semester or other academic unit of postsecondary enrollment taken more than three (3) years after the student graduates from high school, or other educational program if homeschooled, if the student is a member of the Armed Forces of the United States, the Reserve Corps of the Armed Forces of the United States, or the Oklahoma National Guard, and is ordered to active duty or active duty for special work or training and due to the duty commitment the student is unable to enroll prior to the end of the three-year period. Such three-year period shall be extended by the length of the term of duty.

(3) Have a record of satisfactory compliance with the agreements and program requirements described in 610:25-23-4. Students failing to comply with the agreement and program requirements shall not be eligible for awards. Compliance shall be verified by the local contact person upon a form provided by the OSRHE. Final verification of compliance shall be determined by the OSRHE. A copy of the student's final high school transcript shall be submitted by the local contact person with the student's verification form.

(4) Have satisfied admission standards as established by the Oklahoma State Regents for Higher Education OSRHE for first-time-entering students for the appropriate type of institution (OSRHE Policy Statement on Admission to, Retention in and Transfer Among Colleges and Universities of the State System) or, if attending a private institution, satisfy the admission standards determined by the private institution; provided, that no student participating in the program shall be admitted into an institution of higher education by special admission standards.

(5) Have secured admission to, and enrolled in, an institution which is a member of The Oklahoma State System of Higher Education, a postsecondary program offered pursuant to a duly approved cooperative agreement between a public technology center and an institution of The Oklahoma State System of Higher Education, or a private institution of higher learning located within this state and accredited pursuant to Section 4103 of Title 70 of the Oklahoma Statutes.

(6) Be a United States citizen or lawfully present in the United States. This provision shall not apply to any student that was enrolled in the program prior to the end of 2006-07 school year.

(b) For students receiving the program benefit award for the first time in 2012-13 and thereafter, at the time the student begins postsecondary education and prior to receiving any program benefit award, the federal adjusted gross income ~~from taxable and nontaxable sources~~ of the student's parent(s) shall not exceed \$100,000 per year. The determination of financial qualification as set forth in this paragraph shall be based on the income of the student, not the income of the parent(s), if the student:

(1) is determined to be independent of the student's parents for federal financial aid purposes,

(2) was in the permanent custody of the Department of Human Services at the time the student enrolled in the program, or

(3) was in the court-ordered custody of a federally-recognized Indian tribe, as defined by the federal Indian Child Welfare Act, at the time the student enrolled in the program.

(c) A student who was adopted while in the permanent custody of the Department of Human Services, in the court-ordered custody of a licensed private nonprofit child-placing agency, or federally recognized Indian tribe, as defined by the federal Indian Child Welfare Act, shall be subject to the following financial qualification at the time the student begins postsecondary education and prior to receiving any program benefit award:

(1) For a student adopted between birth and twelve (12) years of age, the federal adjusted gross income ~~from taxable and nontaxable sources~~ of the student's parent(s) may not exceed \$150,000 per year.

(2) For a student adopted between thirteen (13) and seventeen (17) years of age, the federal adjusted gross income ~~from taxable and nontaxable sources~~ of the student's parent(s) may not exceed \$200,000 per year.

(3) If the student is determined to be independent of the student's parents for federal financial aid purposes, the determination of financial qualification shall be based on the income of the student, not the income of the parent(s).

(d) Award recipients shall apply for financial aid at the institution in which they enroll.

(e) All students eligible to receive the program benefit award for the first time in 2012-13 and thereafter must complete an application for federal student financial aid (Free Application for Federal Student Aid or FAFSA) or its equivalent. Students

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not eligible to complete the FAFSA will be provided an alternate method by the OSRHE. Income information submitted through the FAFSA, or an alternate method if necessary, shall be used to determine compliance with the income limits described in sections (b) and (c) above.

(f) Any person incarcerated in a state, federal, or private correctional facility shall not be eligible to receive program benefits.

610:25-23-6. Retaining eligibility in postsecondary education

(a) To retain eligibility for program benefits while pursuing a program of higher learning in an institution of The Oklahoma State System of Higher Education, the student shall maintain good academic standing and satisfactory academic progress according to standards of the Oklahoma State Regents for Higher Education (OSRHE). Students attending an eligible private institution shall maintain good academic standing and satisfactory academic progress according to the standards of the institution in which they are enrolled. [70 O.S. § 2603; OSRHE Policy II-2-46.3]

(b) Effective January 1, 2008, any student receiving the program benefit award that is expelled or suspended for more than one semester from an institution of higher education for conduct reasons shall permanently lose eligibility for program benefits. (c) For students receiving the program benefit award for the first time in ~~2012-13~~~~2010-11~~ and thereafter, the student must achieve a minimum cumulative grade point average of 2.0 on a 4.0 scale or its equivalent for courses taken through the student's sophomore year and achieve a minimum grade point average of 2.5 on a 4.0 scale or its equivalent for courses taken during the student's junior year and thereafter.

(1) Any Oklahoma's Promise student with a cumulative grade point average of less than 2.0 upon the completion of sixty (60) earned semester credit hours, or its equivalent, shall permanently lose eligibility for program benefits. The cumulative grade point average at the end of the enrollment period during which the student completes their sixtieth (60th) earned semester credit hour, or its equivalent, shall be calculated by the institution in which the student is enrolled to determine compliance with this provision. The institution shall notify the OSRHE if the student fails to meet this requirement.

(2) To remain eligible for the award, an Oklahoma's Promise student must also achieve a 2.5 cumulative grade point average for courses taken after the completion of sixty (60) earned semester credit hours, or its equivalent. The first check of this grade point average requirement will be conducted by the institution in which the student is enrolled at the end of the enrollment period during which the student completes their ninetieth (90th) earned semester credit hour, or its equivalent. The grade point average calculation shall include all earned semester credit hours, or their equivalent, starting with the enrollment period immediately following the enrollment period during which the student completed their sixtieth (60th) earned semester credit hour, or its equivalent. Thereafter, the institution in which the student is enrolled shall check the cumulative

grade point average for courses taken after the completion of sixty (60) earned semester credit hours, or its equivalent, at the end of each enrollment period. Any student whose cumulative grade point average at the required check points is below 2.5, shall be ineligible for program benefits until the cumulative grade point average for courses taken after the completion of sixty (60) earned semester credit hours or its equivalent is raised to 2.5 or above. Any period of ineligibility for failure to meet the requirements of this provision shall count against the student's maximum time period of award eligibility.

(3) For institutions within the Oklahoma State System of Higher Education, the student's grade point average shall be calculated using the methodology defined as "Cumulative Grade Point Average" in the OSRHE policy on grading.

(d) Beginning in 2012-13, all Oklahoma's Promise students receiving the award in college will be required to meet federal satisfactory academic progress (SAP) standards as defined by the institution in which they are enrolled. This requirement is in addition to the statutory GPA requirement described in section (c) above and will apply to all Oklahoma's Promise award recipients whether or not they are receiving federal student financial aid. Any Oklahoma's Promise student that is ineligible to receive federal financial aid due to failure to meet SAP standards will also be ineligible to receive the Oklahoma's Promise award.

610:25-23-8. Administrative responsibilities

The Oklahoma Higher Learning Access Act established administrative roles and responsibilities for the Oklahoma State Regents for Higher Education (OSRHE) and the State Board of Education.

~~(1) On a form provided by the Oklahoma State Regents for Higher Education, every~~Every public school district shall designate at least one contact person, ~~who shall be a counselor or teacher,~~ at each Oklahoma public school site in which eighth, ninth- or tenth-grade classes are taught. When requested by the ~~State Regents~~ OSRHE, the State Board of Education shall assist the ~~State Regents~~ OSRHE to ensure the designation of contact persons. Private schools shall also designate at least one school official as a contact person. For students who are educated by other means, a parent or guardian or other person approved by the ~~State Regents~~ OSRHE shall be designated as the contact person. [70 O.S. § 2605]

(A) The contact person shall be responsible for processing student applications for the program according to the rules and regulations established by the OSRHE.

(B) The contact person shall maintain the agreements, which shall be executed on forms provided by the OSRHE.

(C) The local contact person shall:

- (i) monitor the student's compliance with the terms of the agreement;
- (ii) document transfer out of state, death, and other conditions; and

- (iii) report on circumstances of noncompliance to the OSRHE.
- (D) Compliance with the program requirements for attending school regularly, refraining from substance abuse, and refraining from criminal or delinquent acts shall be determined according to the local school district's policy.
- (E) The local district contact person shall report program participants who transfer into or out of the district to the OSRHE and identify the local education agency (LEA) and site from which or to which the student transferred.
- (F) Beginning in April of the student's year of graduation, the local contact person shall gather from the program participants and his/her records, information which substantiates ~~that whether or not~~ the program requirements have been met ~~and the higher education institution in which the student has enrolled or plans to enroll.~~
- (G) ~~The agreement certification~~ student's program verification form should be completed, signed, dated, and forwarded to the OSRHE as soon after the student's graduation as possible.
- (2) The local school district where an Oklahoma Higher Learning Access Program student is attending when the student begins participation in the program and any subsequent school district where the student attends shall forward information regarding the student's participation in the program to a school to which the student transfers upon the school's request for the student's records. [70 O.S. § 2605]
- (3) The Oklahoma State Regents for Higher Education shall:
 - (A) designate personnel to coordinate tracking of program records for the years when students participating in the program are still in the public schools, provide staff development for contact persons in the public schools, and provide liaison with the State Board of Education and local organizations and individuals participating in the program [70 O.S. § 2605];
 - (B) coordinate and develop policies and procedures to implement the Oklahoma Higher Learning Access Act;
 - (C) coordinate the publication and distribution of program awareness information and materials;
 - (i) Each school year, every fifth- through ninth-grade student in the public and private schools of Oklahoma and students educated by other means who are in the equivalent of the fifth through ninth grade shall be apprised, together with his/her parents, custodial parent, or guardian, of the student's opportunity for access to higher learning under the Oklahoma Higher Learning Access Program [70 O.S. § 2605];
 - (ii) ~~The Oklahoma State Regents for Higher Education~~ OSRHE and the State Board of Education shall develop, promote, and coordinate a public awareness program to be utilized in making

- students and parents aware of the program [70 O.S. § 2605];
- (D) coordinate the provision of technical assistance to local school districts and individual participants;
- (E) administer the Oklahoma Higher Learning Access Trust Fund;
- (F) process applications submitted directly to the OSRHE;
- (G) determine final eligibility for the program award.

610:25-23-9. Heroes Promise

HB 1343 of the 2011 Oklahoma legislative session amended the Oklahoma Higher Learning Access Act to authorize certain persons to participate in the Oklahoma Higher Learning Access Program and to qualify for the program benefits. This category of program participation shall be referred to as the "Heroes Promise" program. Except as otherwise provided in this section, the administrative rules of the Oklahoma Higher Learning Access Program shall apply to participants in the Heroes Promise program.

(1) Eligibility: A student shall be eligible to participate in the Heroes Promise program if the student meets the following criteria:

(A) The student is a child of any person killed after January 1, 2000, in the line of duty in any branch of the United States Armed Forces or who died after January 1, 2000, as a result of an injury sustained while in the line of duty in any branch of the United States Armed Forces and the person who was killed or died filed an individual or joint Oklahoma income tax return for the tax year prior to the year during which the person was killed or died.

(B) The student is a resident of Oklahoma or is enrolled in a school district located in this state that serves students who reside in both this state and an adjacent state pursuant to a contract as authorized in Section 5-117.1 of Title 70 of the Oklahoma Statutes.

(C) The student executes an agreement to participate in the program.

(2) Application and Enrollment:

(A) Eligible students enrolled in a public or private school in the eighth-, ninth-, or tenth-grade, and eligible students educated by other means between the ages of thirteen (13) and sixteen (16) may apply to participate in the program.

(B) Eligible students who have completed the tenth grade or who have reached age sixteen (16) shall be given the opportunity to apply to participate in the program prior to reaching the age of twenty-one (21).

(C) An eligible student shall not be required to establish financial need as described in 610:25-23-2(2).

(D) To apply, the student and/or their parent, custodial parent, or guardian shall submit appropriate documentation of eligibility including, but not limited to:

(i) A copy of an individual or joint Oklahoma income tax return filed by the parent of the student

for the tax year prior to the year during which the parent was killed or died.

(ii) Documentation of the parent's death after January 1, 2000 while in the line of duty or as a result of injury sustained while in the line of duty in any branch of the United States Armed Forces.

(iii) Documentation that the student is a resident of Oklahoma or is enrolled in a school district located in this state that serves students who reside in both this state and an adjacent state pursuant to a contract as authorized in Section 5-117.1 of Title 70 of the Oklahoma Statutes.

(3) Exemption from Oklahoma Higher Learning Access Program Requirements: Students eligible for the Heroes Promise program shall not be subject to the program requirements contained in 610:25-23-4 (Program requirements).

(4) Securing Program Benefits: An eligible student may qualify for a Heroes Promise award which includes payment of an amount equivalent to resident tuition or other tuition pursuant to Section 2604 of Title 70 of the Oklahoma Statutes for the first semester or other academic unit of postsecondary enrollment if the student meets the following criteria:

(A) The student has satisfied admission standards as determined by the Oklahoma State Regents for Higher Education for first-time-entering students for the appropriate type of institution, or, if attending a private institution, has satisfied admission standards as determined by the private institution. No student participating in the Heroes Promise program shall be admitted into an institution of higher education by special admission standards.

(B) The student has secured admission to, and, prior to reaching the age of twenty-one (21), has enrolled in an institution which is a member of The Oklahoma State System of Higher Education, a postsecondary vocational-technical program offered pursuant to a duly approved cooperative agreement between a technology center school and an institution of The Oklahoma State System of Higher Education, or a private institution of higher learning located within this state and accredited pursuant to Section 4103 of Title 70 of the Oklahoma Statutes. The Oklahoma State Regents for Higher Education may award the Heroes Promise benefit for a student's first semester or other academic unit of postsecondary enrollment taken after the student turns twenty-one (21) years of age if the student is a member of the Armed Forces of the United States, the Reserve Corps of the Armed Forces of the United States, or the Oklahoma National Guard, and is ordered to active duty or active duty for special work or training and due to the duty commitment the student is unable to enroll before the student reaches twenty-one (21) years of age. The period of the extension shall be the length of the term of duty.

(C) Except as otherwise provided in this section, students eligible for the Heroes Promise award benefits shall not be subject to the provisions of 610:25-23-5 (Securing Program benefits).

(D) Except as otherwise provided in this section, the payment of Heroes Promise award benefits shall be subject to the provisions of 610:25-23-7 (Payment of awards; policies and limitations).

(E) A student that qualifies for the Oklahoma Higher Learning Access Program benefit based on both their Heroes Promise eligibility and completion of the regular program requirements shall only receive a single program benefit.

(5) Retaining Eligibility in Postsecondary Education: To retain eligibility for the Heroes Promise award while pursuing a program of higher learning at an eligible Oklahoma institution, the student must maintain compliance with the provisions of 610:25-23-6 (Retaining eligibility in postsecondary education)

[OAR Docket #12-428; filed 4-18-12]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #12-433]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
710:1-1-2 [AMENDED]

AUTHORITY:

68 O.S. § 203; Oklahoma Tax Commission

DATES:

Comment Period:

January 3, 2012 to February 6, 2012

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February 7, 2012

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February 14, 2012 [Commission Order No. 2012-02-14-02]

Submitted to Governor:

February 17, 2012

Submitted to House:

February 17, 2012

Submitted to Senate:

February 17, 2012

Gubernatorial approval:

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Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 13, 2012

Final adoption:

April 13, 2012

Effective:

May 25, 2012

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

This amendment is needed to change the title of the administrative officer of the Tax Commission to effectively communicate the duties of the administrator of the Tax Commission include the day-to-day operations of the agency.

CONTACT PERSON:

Lisa R. Haws, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, Ok 73194, 405-521-3133.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 25, 2012:

SUBCHAPTER 1. GENERAL PROVISIONS

710:1-1-2. ~~General Description~~ description of the Oklahoma Tax Commission

(a) **History.** The Oklahoma Tax Commission, from its inception in 1931, has been responsible for the collection and administration of various tax sources and the apportionment of these revenues to state funds which provide monies for education, transportation, recreation, social welfare, and the myriad of other services provided for the citizens of Oklahoma.

(b) **Composition.** The Tax Commission is comprised of three members (Chairman, Vice Chairman, and Secretary-Member) who are appointed by the Governor with the advice and consent of the State Senate and serve terms of six years each. The Commission appoints an ~~Administrator~~ administrator who is the ~~Administrative Officer~~ administrator officer of the Commission and manages the activities of its employees. The title of the administrative officer shall be Executive Director.

(c) **Duties.** It is the Commission's responsibility to supervise the administration and enforcement of state tax laws and the collection of a majority of all state-levied taxes and fees. The Commission directs the collection and distribution of the tax and license sources under its administration and, by statute, is responsible for apportioning such tax revenues to the various state funds. In addition, the Oklahoma Tax Commission allocates directly to local units of government certain state-collected levies earmarked to counties, school districts and municipalities. On a contract basis with individual municipalities and counties, the Tax Commission is involved with the administration, collection and distribution of city and county sales taxes and city use taxes.

(d) **Areas of administration.** The public may make submissions and requests to the Commission in the following areas of taxation and licensing:

- (1) Admission Tax
- (2) Aircraft Excise
- (3) Aircraft License
- (4) Alcoholic Beverage Tax
- (5) Alternative Fuels Surcharge
- (6) Amateur Radio Operators License
- (7) Beverage Tax & License

- (8) Bingo Tax
- (9) Charity Games Tax
- (10) Cigarette Tax & License
- (11) Coin Device Decals and Distributor Permits
- (12) Controlled Dangerous Substances Tax Stamps
- (13) County Clerk Fees
- (14) Diesel Fuel Excise Tax
- (15) Documentary Stamp Tax
- (16) Driving Record Fee
- (17) Energy Resources Assessment
- (18) Estate Tax
- (19) Farm Implement Tax Stamp
- (20) Fireworks License
- (21) Franchise Tax
- (22) Freight Car Tax
- (23) Gasoline Excise Tax
- (24) Gross Production Tax
- (25) Horsetrack Gaming Fees
- (26) Income Tax
- (27) Indigent Health Care
- (28) Marginal Well Fee
- (29) Mixed Beverage Gross Receipts
- (30) Motor Vehicle Collections
- (31) Multiple Injury Fund
- (32) Non-Game Wildlife Improvement
- (33) Occupational Health & Safety Tax
- (34) Oklahoma Tax Commission Reimbursement
- (35) Organ Donor Program
- (36) Pari-Mutuel Tax
- (37) Pari-Mutuel Exotic Wager Tax
- (38) Petroleum Excise Tax
- (39) Pick Six Tax
- (40) Public Services Penalties
- (41) Rural Electric Co-op License
- (42) Sales Tax
- (43) Sales Tax Permits
- (44) Sales Tax Vendor's Lists
- (45) Salvage Dealers License
- (46) Special Fuel Decals
- (47) Special Fuel Use Tax
- (48) Special License Plates
- (49) Special Printing Account
- (50) Storage Leakage Fund
- (51) Telecommunications for the Hearing-Impaired Surcharge
- (52) Tobacco Products Tax & License
- (53) Transport & Reclaimer License Fees
- (54) Tribal Cigarette & Tobacco Payments
- (55) Unclassified Receipts
- (56) Use Tax
- (57) Vehicle Revenue Tax Stamps
- (58) Veterans Affairs Improvement Fund
- (59) Warrant Release Filing Fee
- (60) Waste Tire Recycling Fee
- (61) Workers' Compensation

(e) **Main offices.** The main offices of the Oklahoma Tax Commission are located at: M. C. Connors Building,

Permanent Final Adoptions

2501 Lincoln Boulevard, Oklahoma City, Oklahoma 73194
(405)521-3160.

[OAR Docket #12-433; filed 4-20-12]

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

[OAR Docket #12-434]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Excise on Tobacco Products
710:70-5-5 [AMENDED]

AUTHORITY:

Oklahoma Tax Commission; 68 O.S. " 203 & 403.1

DATES:

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February 17, 2012

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

This amendment is needed to change the due date for the reporting and remitting of tobacco products tax to be consistent with the due dates for other tax reports under the Tax Commission's new operating system

CONTACT PERSON:

Lisa R. Haws, Tax Policy Analyst, Tax Policy and Research Division,
Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City,
Ok 73194, 405-521-3133.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING RULES ARE CONSIDERED
FINALLY ADOPTED AS SET FORTH IN 75 O.S.
SECTION 308.1(A), WITH AN EFFECTIVE DATE
OF MAY 25, 2012:**

SUBCHAPTER 5. EXCISE ON TOBACCO PRODUCTS

**710:70-5-5. Due dates for timely filing of monthly
tobacco products tax reports and paying
tax**

(a) On or before the ~~fifteenth (15th)~~ twentieth (20th) day of the calendar month immediately following the calendar month in which the tobacco products subject to taxation were first received, delivered, possessed, used or in any manner dealt with in this State, the Monthly Tobacco Products Tax Reports and payment of the tax due shall be submitted to the Oklahoma Tax Commission. If such due date is a Saturday, Sunday or a holiday recognized by the executive department of this State, then the due date shall be the next official working day for the Oklahoma Tax Commission immediately following the Saturday, Sunday or holiday.

(b) Any report or payment mailed and postmarked by the United States Postal Service on or prior to the due date shall be considered to have been filed or paid on the due date.

(c) All excise tax or monthly reports due and not paid or submitted to the Commission on or before the due date shall be delinquent.

[OAR Docket #12-434; filed 4-20-12]

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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

1:2011-11B.

SECOND AMENDED EXECUTIVE ORDER 2011-11

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the power and authority vested in me by the provisions of Subsection D of Section 840-2.14 of Title 74 of the Oklahoma Statutes, hereby order a state agency hiring freeze.

For purposes of this hiring freeze, each statewide elected official shall perform the duties of a Cabinet Secretary in approving or disapproving exemptions to this hiring freeze. These duties shall be accomplished in the same manner as other official actions by the elected officials.

This hiring freeze shall be implemented by all agencies in accordance with the following guidelines:

1. It is my direction that no audits of classified positions or reallocation of unclassified positions shall be initiated or conducted at the request of any agency unless specifically approved by the appropriated Cabinet Secretary.
2. All audits resulting from a classification grievance shall be exempted from the provisions of this Executive Order.
3. All hiring, reinstatement, promotion or acceptances of transferred Information Technology positions, regardless of the Cabinet area of responsibility for which the individual is employed, shall require the approval of the Secretary of Information Technology and Telecommunications.
4. Except as specifically provided and authorized by this order, all affected state agencies are prohibited from hiring, reinstating, or promoting employees and from accepting a transferred employee from another agency without the express approval by the relevant Cabinet Secretary if any one of the following statements apply:
 - a. The position is newly created, reinstated after elimination, or is transferred from another agency.
 - b. The position is being hired at a higher salary and/or cost to the state.
 - c. The position has been open for more than 180 days.
5. For positions meeting any one of the criteria outlined above in paragraph 4, an exception to this hiring freeze may be granted only pursuant to special conditions as declared and memorialized by the Chief Administrative Officer of any agency by submitting a request to, and receiving approval from, the appropriate Cabinet Secretary for that

agency. A request by the Chief Administrative Officer of any agency, and approval by the Cabinet Secretary, shall be made in the following manner:

- a. The Chief Administrative Officer shall submit a request to the appropriate Cabinet Secretary fully stating the special conditions requiring the submission of the request.
 - b. Such requests shall be submitted through the Office of Personnel Management's electronic exception process, if the electronic exemption process is available.
 - c. The Cabinet Secretary shall indicate approval of the submitted request for the granting of an exception of this hiring freeze.
 - d. All approved requests and Cabinet Secretary findings shall be maintained in the Office of Personnel Management's exception system and in accordance with the Records Management Act.
 - e. In the event of a vacancy in a Cabinet Secretary position, the Secretary of State shall act as the approving authority for the hiring freeze exception request.
 - f. All requests for hiring freeze exceptions for agencies reporting to the Secretary of Human Resources and Administration shall be directed to the Secretary of Finance and Revenue who shall have the authority to review and approve those requests.
6. The Director of the Office of State Finance is hereby directed to develop and implement procedures necessary to carry out the provisions of this Executive Order.
 7. The Director of the Office of State Finance is authorized to require Cabinet Secretaries to provide him with periodic accountings of their approvals and disapprovals of requests for exemptions to this hiring freeze. These reports shall be provided to the Governor. Additionally, to ensure proper monitoring, the Director of the Office of State Finance is authorized to develop a protocol that requires Cabinet Secretaries to regularly report all hiring actions in their respective areas of responsibility, including hiring decisions that do not require Cabinet Secretary approval.
 8. The Oklahoma Military Department shall not be required to comply with this order for hiring personnel and contracts for which the department receives total federal government reimbursement.
 9. Notwithstanding the requirements of this Order, a Cabinet Secretary has the discretion to impose more restrictive requirements on hiring, reinstating or promoting employees in any one or all of the agencies within the their area of Cabinet responsibility.

Executive Orders

Copies of this Executive Order shall be distributed to the Secretary for Finance and Revenue for immediate implementation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 19th day of April, 2012.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Michelle R. Day
Assistant Secretary of State

[OAR Docket #12-432; filed 4-19-12]

1:2012-8.

EXECUTIVE ORDER 2012-08

I, Mary Fallin, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Thursday, April 19, 2012, in memory of those killed and injured in the bombing of the Alfred P. Murrah Federal Building on April 19, 1995.

We shall never forget the one hundred sixty-eight individuals who lost their lives, including nineteen children, or the more than eight hundred fifty others who were injured. The people of Oklahoma will always remember the courage and compassion of those from around the world who were involved in the rescue and recovery and tremendous outpouring of goodwill by countless others.

This executive order shall be forwarded to the Director of the Department of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of State government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 17th day of April, 2012.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Michelle R. Day
Assistant Secretary of State

[OAR Docket #12-430; filed 4-18-12]

1:2012-9.

EXECUTIVE ORDER 2012-09

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to 25 O.S. § 90.19, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Monday, April 23, 2012, to honor Sergeant James E. Dutton, an Oklahoma soldier, who died on March 31, 2012, at the age of 25 while on active duty supporting Operation Enduring Freedom in Afghanistan.

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.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 19th day of April, 2012.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Michelle R. Day
Assistant Secretary of State

[OAR Docket #12-431; filed 4-19-12]
