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Table of Contents

Agency/Action/Subject Index	iii
Rules Affected Index	iv
Agency Index (Title numbers assigned)	xix
Gubernatorial Approvals	
Nursing, Oklahoma Board of (Title 485)	1533
Pharmacy, Oklahoma State Board of (Title 535)	1534
Uniform Building Code Commission (Title 748)	1534
Gubernatorial Disapprovals	
Funeral Board, Oklahoma (Title 235)	1537
Legislative Disapprovals	
Medical Licensure and Supervision, State Board of (Title 435)	1539
Permanent Final Adoptions	
Corporation Commission (Title 165)	1541, 1549, 1583
Education, State Department of (Title 210)	1586, 1594, 1596
Fire Marshal Commission, State (Title 265)	1599
Health, Oklahoma State Department of (Title 310)	1601, 1603
Law Enforcement Education and Training, Council on (Title 390)	1604, 1606, 1609, 1611, 1612
Medical Licensure and Supervision, State Board of (Title 435)	1612, 1613
Nursing, Oklahoma Board of (Title 485)	1615
Pharmacy, Oklahoma State Board of (Title 535)	1640, 1641
Uniform Building Code Commission (Title 748)	1644, 1645, 1646, 1659
Executive Orders (Title 1)	1673

Agency/Action/Subject Index

CORPORATION Commission (Title 165)

Permanent Final Adoptions

- Electric Utility Rules (Chapter 35) 1541
- Telecommunications Services (Chapter 55) 1549
- Oklahoma Universal Service (Chapter 59) 1583

EDUCATION, State Department of (Title 210)

Permanent Final Adoptions

- School Administration and Instructional Services
(Chapter 10) 1586
- Staff (Chapter 20) 1594
- Finance (Chapter 25) 1596

FUNERAL Board, Oklahoma (Title 235)

Gubernatorial Disapprovals

- Funeral Services Licensing (Chapter 10) 1537

FIRE Marshal Commission, State (Title 265)

Permanent Final Adoptions

- Fireworks (Chapter 45) 1599

GOVERNOR

Executive Orders

- Ordering flags at half-staff to honor Hospitalman Eric D.
Warren (12-17) 1673

HEALTH, Oklahoma State Department of (Title 310)

Permanent Final Adoptions

- Communicable Disease and Injury Reporting
(Chapter 515) 1601
- Hospital Standards (Chapter 667) 1603

LAW Enforcement Education and Training, Council on (Title 390)

Permanent Final Adoptions

- Agency Authority and Objectives (Chapter 1) 1604
- Administrative Procedures (Chapter 2) 1606
- Basic Peace Officer Certification Training
(Chapter 15) 1609
- CDS Detector Dog Certification (Chapter 30) 1611
- Bomb Detector Dog Certification (Chapter 31) 1612

MEDICAL Licensure and Supervision, State Board of (Title 435)

Legislative Disapprovals

- Physicians and Surgeons (Chapter 10) 1539

Permanent Final Adoptions

- Physical Therapists and Assistants (Chapter 20) 1612
- Occupational Therapists and Assistants (Chapter 30) 1613

NURSING, Oklahoma Board of (Title 485)

Gubernatorial Approvals

- Administration (Chapter 1) 1533
- Licensure of Practical and Registered Nurses
(Chapter 10) 1533

Permanent Final Adoptions

- Administration (Chapter 1) 1615
- Licensure of Practical and Registered Nurses
(Chapter 10) 1615

PHARMACY, Oklahoma State Board of (Title 535)

Gubernatorial Approvals

- Administrative Operations (Chapter 1) 1534
- Pharmacies (Chapter 15) 1534

Permanent Final Adoptions

- Administrative Operations (Chapter 1) 1640
- Pharmacies (Chapter 15) 1641

UNIFORM Building Code Commission (Title 748)

Gubernatorial Approvals

- Administrative Operations (Chapter 1) 1534
- General Provisions (Chapter 3) 1534
- Adopted Codes (Chapter 20) 1534

Permanent Final Adoptions

- Administrative Operations (Chapter 1) 1644
- General Provisions (Chapter 3) 1645
- Adopted Codes (Chapter 20) 1646, 1659

Rules Affected Index

[(E) = Emergency action]

Rule	Register Page	Rule	Register Page
10:15-23-2.1.	[NEW] (E) 95	55:10-5-8.	[AMENDED] 925
10:15-25-4.	[AMENDED] (E) 96	55:10-5-10.	[AMENDED] 925
25:15-1-2.	[AMENDED] 451	55:10-5-11.	[AMENDED] 927
25:15-1-3.	[AMENDED] 452	55:10-7-1.	[AMENDED] 928
25:15-1-4.	[AMENDED] 453	55:10-7-2.	[AMENDED] 928
25:30-1-2.	[AMENDED] 457	55:10-7-9.	[AMENDED] 928
25:30-1-3.	[AMENDED] 458	55:10-9-1.	[AMENDED] 929
25:30-3-4.	[AMENDED] 458	55:10-9-6.	[AMENDED] 929
25:30-7-1.	[AMENDED] 458	55:10-9-8.	[AMENDED] 929
25:30-7-3.	[AMENDED] 459	55:10-9-10.	[AMENDED] 929
25:30-9-3.	[AMENDED] 459	55:10-11-7.	[AMENDED] 930
35:2-3-10.	[REVOKED] 583	55:10-11-9.	[AMENDED] 930
35:3-1-5.	[NEW] 895	55:10-11-10.	[AMENDED] 931
35:10-1-3.	[AMENDED] 584	55:10-13-1.	[AMENDED] 931
35:15-3-2.	[AMENDED] 897	55:10-13-2.	[AMENDED] 932
35:15-11-52.	[AMENDED] 898	55:10-13-4.	[AMENDED] 932
35:15-11-53.	[AMENDED] 899	55:10-13-5.	[AMENDED] 932
35:15-11-54.	[AMENDED] 899	55:10-13-6.	[AMENDED] 932
35:15-11-55.	[AMENDED] 901	55:10-13-7.	[AMENDED] 933
35:15-11-56.	[AMENDED] 902	55:10-13-8.	[AMENDED] 933
35:15-15-72.	[REVOKED] 902	55:10-13-9.	[AMENDED] 933
35:17-3-6.	[AMENDED] 903	55:10-13-10.	[AMENDED] 933
35:17-3-11.	[AMENDED] 906	55:10-13-12.	[AMENDED] 933
35:17-3-13.	[AMENDED] 909	55:10-13-13.	[AMENDED] 933
35:17-3-14.	[AMENDED] 910	55:10-13-16.	[AMENDED] 933
35:17-3-25.	[AMENDED] 911	55:10-13-20.	[AMENDED] 934
35:17-4-4.	[AMENDED] 913	55:10-15-4.	[AMENDED] 934
35:17-4-9.	[AMENDED] 914	55:10-15-9.	[AMENDED] 934
35:17-4-11.	[AMENDED] 916	55:10-15-11.	[AMENDED] 934
35:17-4-12.	[AMENDED] 917	55:10-17-6.	[AMENDED] 934
35:17-4-21.	[AMENDED] 918	55:10-17-7.	[AMENDED] 935
35:30-17-13.	[AMENDED] 585	55:10-17-9.	[AMENDED] 935
35:30-17-89.1.	[AMENDED] 585	55:10-17-10.	[AMENDED] 935
35:30-43-1.	[NEW] (E) 351	55:10-17-12.	[AMENDED] 936
35:30-43-2.	[NEW] (E) 351	87:10-1-2.	[AMENDED] (E) 11
35:37-3-1.	[AMENDED] 586	87:10-17-3.	[AMENDED] (E) 12
35:37-3-3.	[AMENDED] 586	87:10-19-1.	[AMENDED] (E) 14
35:37-5-1.	[AMENDED] 586	160:5-1-2.	[AMENDED] 936
35:37-5-2.	[AMENDED] 586	165:5-1-3.	[AMENDED] 939
35:40-15-1.	[NEW] 587	165:5-1-5.	[AMENDED] 939
35:40-15-2.	[NEW] 587	165:5-1-26.	[AMENDED] 940
35:40-15-3.	[NEW] 587	165:5-3-1.	[AMENDED] 947
35:40-15-4.	[NEW] 588	165:5-5-1.	[AMENDED] 940
35:40-15-5.	[NEW] 588	165:5-7-6.1.	[NEW] 942
35:40-15-6.	[NEW] 588	165:5-7-6.2.	[NEW] 942
35:40-15-7.	[NEW] 588	165:5-7-9.	[AMENDED] 943
35:44-1-2.	[AMENDED] (E) 352	165:5-7-27.	[AMENDED] 944
35:44-1-2.	[AMENDED] 920	165:5-7-35.1.	[NEW] 945
35:44-1-3.	[AMENDED] 921	165:5-9-2.	[AMENDED] 946
35:44-3-3.	[AMENDED] 921	165:5-9-3.	[AMENDED] 947
55:10-1-3.	[AMENDED] 921	165:10-1-2.	[AMENDED] 950
55:10-3-3.	[AMENDED] 923	165:10-1-4.	[AMENDED] 950
55:10-3-6.	[AMENDED] 923	165:10-3-4.	[AMENDED] 950
55:10-3-11.	[AMENDED] 923	165:10-3-10.	[AMENDED] 950
55:10-3-13.	[AMENDED] 923	165:10-3-28.	[AMENDED] 950
55:10-5-1.	[AMENDED] 924	165:10-5-5.	[AMENDED] 950
55:10-5-2.	[AMENDED] 924	165:10-7-5.	[AMENDED] 950
55:10-5-4.	[AMENDED] 924	165:10-7-16.	[AMENDED] 950
55:10-5-5.	[AMENDED] 924	165:10-7-19.	[AMENDED] 950
55:10-5-6.	[AMENDED] 924	165:10-7-20.	[AMENDED] 950
55:10-5-7.	[AMENDED] 925	165:10-7-24.	[AMENDED] 950

165:10-9-1. [AMENDED]	950	165:55-5-13. [AMENDED]	1562
165:10-9-2. [AMENDED]	950	165:55-5-14. [AMENDED]	1562
165:10-9-3. [AMENDED]	950	165:55-5-20. [AMENDED]	1563
165:10-9-4. [AMENDED]	950	165:55-5-21. [AMENDED]	1563
165:10-11-3. [AMENDED]	950	165:55-5-22. [AMENDED]	1563
165:10-21-21. [AMENDED]	950	165:55-5-23. [AMENDED]	1563
165:10-21-22. [AMENDED]	950	165:55-5-30. [AMENDED]	1563
165:10-21-36. [AMENDED]	950	165:55-5-32. [AMENDED]	1564
165:10-21-45. [AMENDED]	950	165:55-5-34. [AMENDED]	1564
165:10-21-55. [AMENDED]	950	165:55-5-36. [AMENDED]	1564
165:10-21-58. [AMENDED]	950	165:55-5-50. [REVOKED]	1564
165:10-21-78. [AMENDED]	950	165:55-5-64. [REVOKED]	1565
165:10-21-80. [AMENDED]	950	165:55-5-65. [REVOKED]	1565
165:10-21-82. [AMENDED]	950	165:55-5-66. [REVOKED]	1565
165:10-21-82.2. [AMENDED]	950	165:55-5-67. [REVOKED]	1567
165:10-21-82.3. [AMENDED]	950	165:55-5-68. [REVOKED]	1567
165:10-29-3. [NEW]	950	165:55-5-69. [REVOKED]	1567
165:30-3-1. [AMENDED]	952	165:55-5-70. [REVOKED]	1567
165:30-3-3. [AMENDED]	953	165:55-5-71. [REVOKED]	1567
165:30-3-11. [AMENDED]	953	165:55-5-72. [REVOKED]	1567
165:30-3-17. [AMENDED]	955	165:55-5-73. [REVOKED]	1567
165:30-3-71. [AMENDED]	955	165:55-5-74. [REVOKED]	1567
165:30-3-75. [AMENDED]	955	165:55-5-75. [REVOKED]	1567
165:30-3-92. [AMENDED]	955	165:55-5-76. [REVOKED]	1567
165:30-7-6. [AMENDED]	956	165:55-9-1. [AMENDED]	1568
165:30-7-12. [AMENDED]	956	165:55-9-2. [AMENDED]	1568
165:30-7-15. [NEW]	957	165:55-9-4. [AMENDED]	1569
165:30-10-45. [AMENDED]	957	165:55-9-8. [AMENDED]	1569
165:30-13-2. [AMENDED]	957	165:55-9-14. [AMENDED]	1569
165:30-13-20. [AMENDED]	958	165:55-11-4. [AMENDED]	1570
165:30-13-26. [AMENDED]	959	165:55-11-7. [AMENDED]	1571
165:30-15-4. [AMENDED]	960	165:55-11-12. [AMENDED]	1571
165:30-16-1. [AMENDED]	961	165:55-11-13. [AMENDED]	1571
165:30-16-11. [NEW]	961	165:55-11-14. [AMENDED]	1572
165:30-19-3. [AMENDED]	961	165:55-13-1. [AMENDED]	1572
165:30-19-4. [AMENDED]	962	165:55-13-2. [AMENDED]	1572
165:30-19-19. [AMENDED]	962	165:55-13-10. [AMENDED]	1572
165:30-21-4. [AMENDED]	963	165:55-13-12. [AMENDED]	1573
165:30-21-16. [AMENDED]	963	165:55-13-12.1. [NEW]	1574
165:35-34-1. [AMENDED]	1541	165:55-13-20. [AMENDED]	1574
165:35-34-3. [AMENDED]	1542	165:55-13-22. [AMENDED]	1575
165:35-34-4. [NEW]	1544	165:55-13-23. [AMENDED]	1575
165:35-37-1. [AMENDED]	1546	165:55-13-24. [AMENDED]	1575
165:35-37-4. [AMENDED]	1546	165:55-13-30. [AMENDED]	1576
165:35-43-1. [NEW]	1547	165:55-13-31. [REVOKED]	1576
165:35-43-2. [NEW]	1547	165:55-13-50. [AMENDED]	1576
165:35-43-3. [NEW]	1547	165:55-13-51. [AMENDED]	1576
165:35-43-4. [NEW]	1547	165:55-13-52. [AMENDED]	1576
165:35-43-5. [NEW]	1548	165:55-13-53. [AMENDED]	1576
165:35-43-6. [NEW]	1548	165:55-15-1. [AMENDED]	1577
165:35-43-7. [NEW]	1548	165:55-15-3. [REVOKED]	1578
165:55-1-1. [AMENDED]	1550	165:55-15-5. [AMENDED]	1578
165:55-1-4. [AMENDED]	1550	165:55-17-29. [AMENDED]	1579
165:55-1-13. [AMENDED]	1554	165:55-22-5. [AMENDED]	1579
165:55-3-1. [AMENDED]	1554	165:55-22-9. [AMENDED]	1580
165:55-3-20. [AMENDED]	1557	165:55-23-1. [AMENDED]	1581
165:55-3-22. [AMENDED]	1557	165:55-25-1. [AMENDED]	1581
165:55-3-23. [AMENDED]	1558	165:55, App. A. [REVOKED]	1582
165:55-3-31. [REVOKED]	1559	165:59-3-62. [AMENDED]	1583
165:55-5-1. [AMENDED]	1559	165:59-7-1. [AMENDED]	1585
165:55-5-2. [AMENDED]	1559	165:59-7-6. [AMENDED]	1585
165:55-5-3. [REVOKED]	1559	175:10-7-5. [AMENDED]	964
165:55-5-10. [AMENDED]	1560	175:10-7-6. [AMENDED]	964
165:55-5-10.1. [REVOKED]	1560	175:10-7-31. [NEW]	964
165:55-5-10.2. [AMENDED]	1561	175:10-9-55. [NEW]	964
165:55-5-10.3. [AMENDED]	1561	210:1-3-2. [AMENDED] (E)	96
165:55-5-11. [AMENDED]	1561	210:1-3-2. [AMENDED]	965

Rules Affected Index – *continued*

210:1-5-7. [AMENDED] (E)	100	252:100-7-18. [AMENDED]	995
210:1-5-7. [AMENDED]	969	252:100-8-2. [AMENDED]	605
210:1-5-8. [AMENDED] (E)	101	252:100-8-4. [AMENDED]	609
210:1-5-8. [AMENDED]	970	252:100-8-31. [AMENDED]	611
210:10-1-9. [REVOKED] (E)	14	252:100-8-33. [AMENDED]	618
210:10-1-9. [REVOKED]	972	252:100-8-51.1. [AMENDED]	620
210:10-1-18. [NEW]	973	252:100-31-1. [AMENDED]	997
210:10-1-19. [NEW]	975	252:100-31-2. [AMENDED]	997
210:10-1-20. [NEW]	1587	252:100-31-4. [NEW]	998
210:10-9-6. [AMENDED]	1588	252:100-31-7. [AMENDED]	998
210:10-13-22. [NEW]	1589	252:100-31-13. [AMENDED]	998
210:15-27-1. [AMENDED] (E)	103	252:100-31-15. [AMENDED]	998
210:15-27-1. [AMENDED]	977	252:100-31-16. [AMENDED]	999
210:15-27-2. [NEW]	978	252:100-31-25. [AMENDED]	999
210:15-27-3. [NEW]	979	252:100-31-26. [AMENDED]	1000
210:15-34-1. [NEW]	980	252:100-31-27. [REVOKED]	1001
210:15-34-2. [NEW]	981	252:100, App. Q. [REVOKED]	590
210:15-34-3. [NEW]	981	252:100, App. Q. [NEW]	590
210:15-34-4. [NEW]	981	252:110-1-1. [AMENDED]	1002
210:15-34-5. [NEW]	981	252:110-1-2. [AMENDED]	1002
210:15-34-6. [NEW]	982	252:110-1-7. [REVOKED]	1002
210:15-34-7. [NEW]	982	252:110-5-1. [AMENDED]	1002
210:15-34-8. [NEW]	982	252:110-15-1. [NEW]	1003
210:15-34-9. [NEW]	982	252:110-15-2. [NEW]	1004
210:15-34-10. [NEW]	982	252:110-15-3. [NEW]	1004
210:15-34-11. [NEW]	983	252:110-15-4. [NEW]	1004
210:15-34-12. [NEW]	983	252:110-15-5. [NEW]	1004
210:15-34-13. [NEW]	983	252:110-15-6. [NEW]	1005
210:15-34-14. [NEW]	983	252:205-3-1. [AMENDED]	620
210:15-34-15. [NEW]	983	252:410-1-7. [AMENDED]	621
210:15-34-16. [NEW]	983	252:410-3-33. [AMENDED]	627
210:20-9-98. [AMENDED]	1595	252:410-10-1. [AMENDED]	621
210:20-9-104. [NEW]	1596	252:410-10-35. [AMENDED]	622
210:25-5-5. [AMENDED]	1597	252:410-10-40. [AMENDED]	624
210:30-5-1. [AMENDED]	984	252:410-10-71. [AMENDED]	625
240:1-3-9. [AMENDED]	459	252:410-11-1. [AMENDED]	628
240:5-1-3. [NEW]	461	252:410-11-2. [AMENDED]	629
240:10-1-2. [AMENDED]	461	252:410-11-4. [AMENDED]	629
240:10-1-4. [NEW]	463	252:410-11-71. [AMENDED]	629
240:10-1-5. [NEW]	463	252:410-11-74. [AMENDED]	629
240:10-3-20. [AMENDED]	463	252:410-11-75. [AMENDED]	630
240:10-3-23. [AMENDED]	463	252:410-11-81. [AMENDED]	631
240:10-3-24. [REVOKED]	464	252:410-19-1. [REVOKED]	631
240:10-3-41. [AMENDED]	465	252:410-19-2. [REVOKED]	631
240:10-3-45. [AMENDED]	465	252:410-19-3. [REVOKED]	632
240:10-3-54. [NEW]	466	252:410-19-4. [REVOKED]	632
240:15-11-1. [AMENDED]	466	252:410-19-5. [REVOKED]	632
240:21-1-1. [AMENDED]	467	252:410-19-6. [REVOKED]	632
240:21-1-2. [AMENDED]	467	252:410-19-7. [REVOKED]	632
240:21-1-3. [AMENDED]	468	252:410-19-8. [REVOKED]	632
240:21-1-4. [NEW]	468	252:410-19-9. [REVOKED]	632
240:21-3-1. [REVOKED]	468	252:410-19-10. [REVOKED]	633
240:21-3-2. [REVOKED]	468	252:410-19-11. [REVOKED]	633
240:21-3-3. [REVOKED]	468	252:410-20-1. [AMENDED]	625
240:21-3-4. [REVOKED]	468	252:515-1-2. [AMENDED]	1006
240:21-3-5. [REVOKED]	468	252:515-1-3. [AMENDED]	1010
240:21-3-6. [REVOKED]	468	252:515-3-1. [AMENDED]	1010
240:21-7-1. [AMENDED]	468	252:515-3-2. [AMENDED]	1010
240:21-7-2. [AMENDED]	469	252:515-3-6. [AMENDED]	1011
240:21-7-3. [AMENDED]	469	252:515-3-39. [AMENDED]	1011
240:21-7-5. [AMENDED]	469	252:515-19-1. [AMENDED]	1011
252:4-7-73. [AMENDED]	988	252:515-19-38. [AMENDED]	1012
252:4-7-74. [AMENDED]	989	252:515-19-40. [AMENDED]	1012
252:100-1-3. [AMENDED]	990	252:515-21-1. [AMENDED]	1012
252:100-2-1. [AMENDED]	589	252:515-21-2. [AMENDED]	1012
252:100-2-3. [AMENDED]	589	252:515-21-3. [AMENDED]	1013
252:100-7-15. [AMENDED]	994	252:515-21-4. [AMENDED]	1013

252:515-21-5. [AMENDED]	1013	252:641, App. C. [REVOKED]	1061
252:515-21-32. [AMENDED]	1013	252:641, App. C. [NEW]	1061
252:515-21-32.1. [AMENDED]	1014	252:656-1-1. [AMENDED]	1062
252:515-21-33. [AMENDED]	1014	252:656-1-2. [AMENDED]	1062
252:515-21-34. [AMENDED]	1014	252:656-1-3. [NEW]	1063
252:515-21-35. [AMENDED]	1014	252:656-3-1. [AMENDED]	1063
252:515-21-36. [AMENDED]	1014	252:656-3-2. [AMENDED]	1063
252:515-21-51. [AMENDED]	1014	252:656-3-4. [AMENDED]	1064
252:515-21-71. [AMENDED]	1015	252:656-3-5. [AMENDED]	1067
252:515-21-72. [AMENDED]	1015	252:656-3-6. [AMENDED]	1068
252:515-21-74. [AMENDED]	1016	252:656-3-8. [REVOKED]	1069
252:515-21-75. [AMENDED]	1016	252:656-3-9. [AMENDED]	1069
252:515-21-91. [AMENDED]	1016	252:656-3-10. [AMENDED]	1070
252:515-21-92. [AMENDED]	1016	252:656-9-2. [AMENDED]	1070
252:515-21-111. [AMENDED]	1017	252:656-25-1. [AMENDED]	1071
252:515-21-112. [AMENDED]	1017	252:656-25-2. [AMENDED]	1071
252:515, App. H. [REVOKED]	1019	252:656-27-1. [NEW]	1071
252:515, App. H. [NEW]	1019	252:656-27-2. [NEW]	1072
252:515, App. I. [REVOKED]	1025	252:656-27-3. [NEW]	1072
252:515, App. I. [NEW]	1025	252:656-27-4. [NEW]	1073
252:606-1-4. [AMENDED]	634	252:656-27-5. [NEW]	1073
252:619-1-4. [AMENDED]	1030	265:45-1-1. [NEW]	1600
252:619-3-2. [AMENDED]	1031	265:45-1-2. [NEW]	1600
252:619-3-3. [REVOKED]	1032	265:45-1-3. [NEW]	1600
252:619-5-2. [REVOKED]	1032	265:45-1-4. [NEW]	1600
252:621-1-1. [AMENDED]	1033	265:45-1-5. [NEW]	1600
252:621-3-4. [REVOKED]	1033	265:45-1-6. [NEW]	1600
252:621-3-5. [REVOKED]	1034	310:515-1-3. [AMENDED]	1602
252:621-3-6. [REVOKED]	1034	310:515-1-4. [AMENDED]	1602
252:621-5-2. [REVOKED]	1034	310:515-1-8. [AMENDED]	1603
252:621-5-3. [REVOKED]	1035	310:667-13-5. [NEW]	1604
252:621-5-4. [REVOKED]	1035	317:2-1-2. [AMENDED] (E)	187
252:621-7-1. [AMENDED]	1035	317:2-1-2. [AMENDED]	470
252:623-1-7. [AMENDED]	635	317:2-1-15. [NEW] (E)	188
252:626-9-2. [AMENDED]	1036	317:2-1-15. [NEW]	471
252:626-9-8. [AMENDED]	1036	317:10-1-1. [AMENDED]	1074
252:626-9-9. [AMENDED]	1037	317:10-1-12. [AMENDED]	1074
252:626-9-14. [NEW]	1041	317:30-3-2. [AMENDED]	1076
252:626-13-1. [AMENDED]	1042	317:30-3-5. [AMENDED]	472
252:626-13-2. [AMENDED]	1042	317:30-3-19.1. [NEW]	1075
252:626-13-3. [AMENDED]	1043	317:30-3-40. [AMENDED]	1077
252:626-13-4. [AMENDED]	1043	317:30-3-42. [AMENDED]	1078
252:626-13-5. [AMENDED]	1043	317:30-3-57. [AMENDED]	1078
252:627-1-1. [NEW]	1045	317:30-5-7. [AMENDED]	1085
252:627-1-2. [NEW]	1045	317:30-5-12. [AMENDED]	1086
252:627-1-3. [NEW]	1045	317:30-5-42.6. [AMENDED]	1107
252:627-1-4. [NEW]	1046	317:30-5-58. [NEW] (E)	190
252:627-1-5. [NEW]	1046	317:30-5-58. [NEW]	475
252:627-1-6. [NEW]	1047	317:30-5-95.24. [AMENDED] (E)	414
252:627-1-7. [NEW]	1047	317:30-5-95.24. [AMENDED]	1126
252:627-3-1. [NEW]	1047	317:30-5-95.25. [AMENDED] (E)	415
252:627-3-2. [NEW]	1047	317:30-5-95.25. [AMENDED]	1127
252:627-3-3. [NEW]	1048	317:30-5-95.26. [AMENDED] (E)	415
252:627-3-4. [NEW]	1048	317:30-5-95.26. [AMENDED]	1127
252:627-5-1. [NEW]	1049	317:30-5-95.27. [AMENDED] (E)	415
252:627, App. A. [NEW]	1050	317:30-5-95.27. [AMENDED]	1127
252:631-1-3. [AMENDED]	1051	317:30-5-95.28. [AMENDED] (E)	416
252:631-3-3. [AMENDED]	1051	317:30-5-95.28. [AMENDED]	1128
252:631-3-11. [AMENDED]	1053	317:30-5-95.29. [AMENDED] (E)	416
252:641-1-2. [AMENDED]	1054	317:30-5-95.29. [AMENDED]	1128
252:641-1-3. [AMENDED]	1055	317:30-5-95.30. [AMENDED] (E)	416
252:641-3-2. [AMENDED]	1056	317:30-5-95.30. [AMENDED]	1128
252:641-3-4. [AMENDED]	1057	317:30-5-95.31. [AMENDED] (E)	417
252:641-9-2. [AMENDED]	1058	317:30-5-95.31. [AMENDED]	1129
252:641-10-2. [AMENDED]	1058	317:30-5-96.2. [AMENDED]	1080
252:641-10-3. [AMENDED]	1059	317:30-5-122. [AMENDED]	1081
252:641-15-3. [AMENDED]	1060	317:30-5-123. [AMENDED]	1089

Rules Affected Index – *continued*

317:30-5-211.2. [AMENDED]	474	317:35-5-2. [AMENDED]	1150
317:30-5-211.10. [AMENDED]	1103	317:35-5-4. [AMENDED]	1154
317:30-5-240. [AMENDED] (E)	417	317:35-5-8. [AMENDED]	1150
317:30-5-240. [AMENDED]	1129	317:35-5-41.8. [AMENDED]	1158
317:30-5-240.1. [AMENDED] (E)	417	317:35-5-42. [AMENDED]	479
317:30-5-240.1. [AMENDED]	1129	317:35-5-43. [AMENDED]	1156
317:30-5-240.2. [AMENDED] (E)	418	317:35-6-15. [AMENDED]	1161
317:30-5-240.2. [AMENDED]	1130	317:35-7-15. [AMENDED]	1161
317:30-5-241. [AMENDED] (E)	419	317:35-7-37. [AMENDED]	1150
317:30-5-241. [AMENDED]	1131	317:35-7-48. [AMENDED]	1151
317:30-5-241.1. [AMENDED] (E)	420	317:35-7-60. [AMENDED]	1151
317:30-5-241.1. [AMENDED]	1132	317:35-7-60.1. [AMENDED]	1153
317:30-5-241.2. [AMENDED] (E)	422	317:35-9-1. [AMENDED]	1163
317:30-5-241.2. [AMENDED]	1134	317:35-9-5. [AMENDED]	1163
317:30-5-241.3. [AMENDED] (E)	425	317:35-9-25. [AMENDED]	1164
317:30-5-241.3. [AMENDED]	1137	317:35-9-45. [AMENDED]	1164
317:30-5-241.4. [AMENDED] (E)	426	317:35-9-48.1. [AMENDED]	1165
317:30-5-241.4. [AMENDED]	1138	317:35-9-49. [AMENDED]	1166
317:30-5-241.5. [AMENDED] (E)	426	317:35-9-97. [AMENDED]	1166
317:30-5-241.5. [AMENDED]	1139	317:35-10-38. [AMENDED]	1166
317:30-5-276. [AMENDED] (E)	429	317:35-13-7. [AMENDED]	1170
317:30-5-276. [AMENDED]	1141	317:35-15-1. [AMENDED]	1166
317:30-5-281. [AMENDED] (E)	430	317:35-17-1. [AMENDED]	1172
317:30-5-281. [AMENDED]	1142	317:35-17-2. [AMENDED]	1173
317:30-5-291. [AMENDED]	478	317:35-17-3. [AMENDED] (E)	204
317:30-5-296. [AMENDED]	478	317:35-17-3. [AMENDED]	1176
317:30-5-306. [AMENDED]	1107	317:35-17-4. [AMENDED]	1178
317:30-5-307. [AMENDED]	1107	317:35-17-5. [AMENDED]	1178
317:30-5-326.1. [AMENDED]	1104	317:35-17-11. [AMENDED]	1180
317:30-5-327. [AMENDED]	1105	317:35-17-12. [AMENDED]	1183
317:30-5-327.1. [AMENDED]	1105	317:35-17-14. [AMENDED]	1183
317:30-5-327.2. [REVOKED]	1106	317:35-17-15. [AMENDED]	1187
317:30-5-328. [NEW]	1106	317:35-17-16. [AMENDED]	1187
317:30-5-390. [AMENDED]	1081	317:35-17-17. [REVOKED]	1188
317:30-5-410. [AMENDED]	1082	317:35-17-18. [AMENDED]	1188
317:30-5-420. [AMENDED]	1082	317:35-17-19. [AMENDED]	1188
317:30-5-423. [AMENDED]	1082	317:35-17-21.1. [AMENDED]	1189
317:30-5-465. [REVOKED]	1086	317:35-17-24. [AMENDED]	1189
317:30-5-466. [REVOKED]	1086	317:35-18-1. [AMENDED]	1190
317:30-5-467. [REVOKED]	1087	317:35-18-2. [AMENDED]	1190
317:30-5-480. [AMENDED]	1083	317:35-18-3. [AMENDED]	1190
317:30-5-482. [AMENDED]	1092	317:35-18-4. [AMENDED]	1190
317:30-5-495. [AMENDED]	1083	317:35-18-5. [AMENDED]	1190
317:30-5-515. [AMENDED]	1083	317:35-18-6. [AMENDED]	1191
317:30-5-535. [AMENDED]	1083	317:35-18-7. [AMENDED]	1192
317:30-5-596. [AMENDED] (E)	431	317:35-18-9. [AMENDED]	1192
317:30-5-596. [AMENDED]	1144	317:35-18-10. [AMENDED]	1192
317:30-5-596.1. [AMENDED] (E)	434	317:35-18-11. [AMENDED]	1193
317:30-5-596.1. [AMENDED]	1146	317:35-19-3. [AMENDED]	1167
317:30-5-664.5. [AMENDED]	1088	317:35-19-8. [AMENDED]	1167
317:30-5-676. [AMENDED]	478	317:35-19-9. [AMENDED]	1167
317:30-5-696. [AMENDED]	1108	317:35-22-1. [AMENDED]	1157
317:30-5-698. [AMENDED]	1111	317:35-23-2. [AMENDED]	1193
317:30-5-741. [AMENDED] (E)	434	317:35-23-3. [AMENDED]	1194
317:30-5-741. [AMENDED]	1147	317:35-23-4. [AMENDED]	1194
317:30-5-760. [AMENDED]	1083	317:40-1-1. [AMENDED]	1195
317:30-5-763. [AMENDED] (E)	193	317:40-5-3. [AMENDED]	1200
317:30-5-763. [AMENDED]	1114	317:40-5-5. [AMENDED]	1202
317:30-5-1011. [AMENDED]	1084	317:40-5-8. [REVOKED]	1203
317:30-5-1012. [AMENDED]	1097	317:40-5-9. [AMENDED]	1204
317:30-5-1014. [AMENDED]	1097	317:40-5-13. [AMENDED]	1204
317:30-5-1023. [AMENDED]	1098	317:40-5-59. [AMENDED]	1205
317:30-5-1027. [AMENDED]	1101	317:40-5-101. [AMENDED]	1206
317:30-5-1076. [AMENDED]	1084	317:40-5-113. [AMENDED]	1208
317:30-5-1154. [AMENDED]	1088	317:40-5-152. [AMENDED]	1198
317:30-5-1201. [AMENDED]	1102	317:40-7-4. [AMENDED]	1199
317:35-3-2. [AMENDED]	1148	317:40-7-12. [AMENDED]	1208

317:40-7-15.	[AMENDED]	1209	340:25-5-339.	[AMENDED]	783
317:40-7-21.	[AMENDED]	1209	340:25-5-340.	[AMENDED]	783
317:45-1-3.	[AMENDED]	1211	340:25-5-345.2.	[AMENDED]	784
317:45-1-4.	[AMENDED]	1212	340:25-5-350.1.	[AMENDED]	785
317:45-9-4.	[AMENDED]	484	340:25-5-350.3.	[AMENDED]	785
317:45-11-10.	[AMENDED]	485	340:40-7-8.	[AMENDED]	788
317:45-11-12.	[AMENDED]	486	340:40-7-11.	[AMENDED]	791
317:45-11-24.	[AMENDED]	487	340:50-3-1.	[AMENDED]	794
317:45-13-1.	[AMENDED]	488	340:50-3-2.	[AMENDED]	796
317:50-1-2.	[AMENDED]	1213	340:50-3-3.	[AMENDED]	797
317:50-1-3.	[AMENDED]	1214	340:50-5-3.	[AMENDED]	799
317:50-1-4.	[AMENDED]	1218	340:50-5-28.	[AMENDED]	799
317:50-3-2.	[AMENDED]	1215	340:50-5-45.	[AMENDED]	800
317:50-3-4.	[AMENDED]	1219	340:50-7-29.	[AMENDED]	802
317:50-5-2.	[AMENDED]	1216	340:50-7-30.	[AMENDED]	804
317:50-5-4.	[AMENDED]	1220	340:50-9-1.	[AMENDED]	806
318:10-1-6.	[AMENDED]	725	340:50-9-4.	[AMENDED]	809
318:10-1-11.	[AMENDED]	725	340:50-9-5.	[AMENDED]	810
325:20-1-21.	[AMENDED]	1221	340:50-9-6.	[AMENDED]	811
325:20-1-22.	[AMENDED]	1222	340:65-1-2.	[AMENDED]	813
325:35-1-13.	[AMENDED] (E)	724	340:65-3-1.	[AMENDED]	815
325:45-1-18.	[AMENDED]	1222	340:65-3-4.	[AMENDED]	818
325:75-1-15.	[AMENDED]	1223	340:65-3-7.	[AMENDED]	819
340:2-1-8.	[AMENDED]	1225	340:65-3-8.	[AMENDED]	819
340:2-1-42.	[AMENDED]	1226	340:65-5-1.	[AMENDED]	820
340:2-3-2.	[AMENDED]	726	340:75-1-44.	[AMENDED]	635
340:2-3-32.	[AMENDED]	732	340:75-1-45.	[AMENDED]	635
340:2-3-33.	[AMENDED]	734	340:75-1-86.	[AMENDED]	635
340:2-3-35.	[AMENDED]	735	340:75-3-6.1.	[AMENDED]	635
340:2-3-36.	[AMENDED]	736	340:75-3-7.1.	[AMENDED]	635
340:2-3-37.	[AMENDED]	741	340:75-3-7.3.	[AMENDED]	635
340:5-3-4.	[AMENDED]	743	340:75-3-8.4.	[AMENDED]	635
340:5-5-4.	[AMENDED]	744	340:75-3-10.1.	[AMENDED]	635
340:5-5-6.	[AMENDED] (E)	104	340:75-3-10.2.	[AMENDED]	635
340:5-5-6.	[AMENDED]	745	340:75-4-9.	[AMENDED]	635
340:10-3-5.	[AMENDED]	749	340:75-4-12.1.	[AMENDED]	635
340:10-3-31.	[AMENDED]	752	340:75-4-13.	[REVOKED]	635
340:10-3-32.	[AMENDED]	753	340:75-4-14.	[REVOKED]	635
340:10-3-40.	[AMENDED]	754	340:75-6-1.	[AMENDED]	635
340:10-3-56.	[AMENDED]	755	340:75-6-30.	[AMENDED]	635
340:10-3-57.	[AMENDED]	757	340:75-6-31.	[AMENDED]	635
340:10-20-1.	[REVOKED]	759	340:75-6-31.1.	[AMENDED]	635
340:20-1-4.	[AMENDED]	760	340:75-6-31.3.	[AMENDED]	635
340:20-1-10.	[AMENDED]	761	340:75-6-40.5.	[AMENDED]	635
340:20-1-11.	[AMENDED]	762	340:75-6-46.	[AMENDED]	635
340:20-1-17.	[AMENDED]	764	340:75-6-48.	[AMENDED]	635
340:20-1-20.	[AMENDED]	765	340:75-6-48.3.	[AMENDED]	635
340:25-1-1.2.	[AMENDED]	766	340:75-6-85.2.	[AMENDED]	635
340:25-1-2.1.	[AMENDED]	767	340:75-6-91.	[AMENDED]	635
340:25-1-5.1.	[AMENDED]	767	340:75-6-110.	[AMENDED]	635
340:25-5-66.	[AMENDED]	768	340:75-7-2.	[AMENDED]	635
340:25-5-67.	[AMENDED]	768	340:75-7-10.	[AMENDED]	635
340:25-5-110.1.	[AMENDED]	769	340:75-7-12.	[AMENDED]	635
340:25-5-117.	[AMENDED]	770	340:75-7-14.	[AMENDED]	635
340:25-5-123.	[AMENDED]	771	340:75-7-15.	[AMENDED]	635
340:25-5-124.	[AMENDED]	771	340:75-7-18.	[AMENDED]	635
340:25-5-140.	[AMENDED]	772	340:75-7-18.	[NEW]	635
340:25-5-140.1.	[AMENDED]	773	340:75-7-19.	[AMENDED]	635
340:25-5-168.	[AMENDED]	774	340:75-7-24.	[AMENDED]	635
340:25-5-171.	[AMENDED]	777	340:75-7-37.	[AMENDED]	635
340:25-5-176.	[AMENDED]	778	340:75-7-37.1.	[AMENDED]	635
340:25-5-178.	[AMENDED]	779	340:75-7-51.	[AMENDED]	635
340:25-5-179.1.	[AMENDED]	780	340:75-7-52.	[AMENDED]	635
340:25-5-200.	[AMENDED]	780	340:75-7-65.	[AMENDED]	635
340:25-5-200.1.	[AMENDED]	782	340:75-7-94.	[AMENDED]	635
340:25-5-201.1.	[AMENDED]	782	340:75-13-12.	[AMENDED]	635
340:25-5-270.	[AMENDED]	782	340:75-13-13.	[AMENDED]	635

Rules Affected Index – continued

340:75-13-15. [REVOKED]	635	340:110-1-9. [AMENDED]	1242
340:75-13-16. [AMENDED]	635	340:110-1-9.1. [AMENDED]	1244
340:75-13-17. [AMENDED]	635	340:110-1-9.3. [AMENDED]	1245
340:75-13-18. [AMENDED]	635	340:110-1-10.1. [AMENDED]	1247
340:75-13-21. [AMENDED]	635	340:110-1-13. [AMENDED]	1249
340:75-13-74. [AMENDED]	635	340:110-1-15. [AMENDED]	1249
340:75-13-75. [AMENDED]	635	340:110-1-44. [AMENDED]	1250
340:75-13-79. [AMENDED]	635	340:110-1-46. [AMENDED]	1250
340:75-13-80. [AMENDED]	635	340:110-1-47.2. [AMENDED]	1251
340:75-15-6. [AMENDED]	635	340:110-1-54. [AMENDED]	1252
340:75-15-42. [AMENDED]	635	340:110-1-54.1. [AMENDED]	1253
340:75-15-45. [AMENDED]	635	360:10-3-13. [AMENDED]	489
340:75-15-47. [AMENDED]	635	360:10-3-24. [AMENDED]	489
340:75-15-82. [AMENDED]	635	360:10-3-25. [AMENDED]	490
340:75-15-84. [AMENDED]	635	360:10-3-29.1. [AMENDED]	490
340:75-15-87. [AMENDED]	635	360:10-5-16. [AMENDED]	490
340:75-15-88. [AMENDED]	635	360:10-5-79. [AMENDED]	491
340:75-15-89. [AMENDED]	635	360:15-1-2. [AMENDED]	492
340:75-15-103. [AMENDED]	635	360:15-1-20. [AMENDED]	492
340:75-15-128.1. [AMENDED]	635	365:1-1-4. [AMENDED]	1254
340:75-15-128.4. [AMENDED]	635	365:10-1-15. [AMENDED] (E)	253
340:75-15-128.5. [AMENDED]	635	365:10-1-15. [AMENDED]	1256
340:75-15-132. [AMENDED]	635	365:10-1-16. [NEW]	1256
340:75-16-30. [AMENDED]	635	365:10-1-31. [AMENDED]	1257
340:75-18-1. [AMENDED]	635	365:10-1-32. [AMENDED]	1257
340:75-18-3. [REVOKED]	635	365:10-5-150. [AMENDED]	1258
340:75-18-4. [REVOKED]	635	365:10-5-155. [AMENDED]	1258
340:75-18-5. [REVOKED]	635	365:10-5-164. [NEW]	1260
340:75-18-6. [REVOKED]	635	365:10-5-177. [AMENDED]	1260
340:75-18-7. [REVOKED]	635	365:10-29-1. [NEW] (E)	16
340:75-18-8. [REVOKED]	635	365:10-29-1. [NEW]	1262
340:75-18-9. [REVOKED]	635	365:10-29-2. [NEW] (E)	17
340:75-18-10. [REVOKED]	635	365:10-29-2. [NEW]	1262
340:75-18-11. [REVOKED]	635	365:10-29-3. [NEW] (E)	17
340:75-18-12. [REVOKED]	635	365:10-29-3. [NEW]	1262
340:75-18-13. [REVOKED]	635	365:10-29-4. [NEW] (E)	17
340:75-18-14. [REVOKED]	635	365:10-29-4. [NEW]	1262
340:75-18-15. [REVOKED]	635	365:10-29-5. [NEW] (E)	17
340:100-3-4. [AMENDED]	823	365:10-29-5. [NEW]	1263
340:100-3-6. [AMENDED]	825	365:10-29-6. [NEW] (E)	17
340:100-3-16. [NEW]	826	365:10-29-6. [NEW]	1263
340:100-3-27. [AMENDED]	828	365:10-29-7. [NEW] (E)	17
340:100-3-27.1. [AMENDED]	831	365:10-29-7. [NEW]	1263
340:100-3-27.2. [AMENDED]	834	365:10-29-8. [NEW] (E)	17
340:100-3-27.3. [REVOKED]	835	365:10-29-8. [NEW]	1263
340:100-3-27.4. [AMENDED]	836	365:10-29-9. [NEW] (E)	17
340:100-3-27.5. [AMENDED]	836	365:10-29-9. [NEW]	1263
340:100-3-34. [AMENDED]	837	365:10-29-10. [NEW] (E)	17
340:100-3-40. [AMENDED]	838	365:10-29-10. [NEW]	1263
340:100-5-20. [AMENDED]	839	365:10, App. PP. [NEW] (E)	18
340:100-5-35. [AMENDED]	1227	365:10, App. PP. [NEW]	1264
340:105-10-3. [AMENDED]	638	365:10, App. QQ. [NEW] (E)	20
340:105-10-50.1. [AMENDED]	643	365:10, App. QQ. [NEW]	1266
340:105-10-72. [AMENDED]	645	365:10, App. RR. [NEW] (E)	29
340:105-10-74. [AMENDED]	646	365:10, App. RR. [NEW]	1275
340:105-10-75. [AMENDED]	646	365:10, App. SS. [NEW] (E)	32
340:105-11-249. [AMENDED]	647	365:10, App. SS. [NEW]	1278
340:105-11-250. [AMENDED]	647	365:10, App. TT. [NEW] (E)	34
340:110-1-6. [AMENDED]	1230	365:10, App. TT. [NEW]	1280
340:110-1-8.3. [AMENDED]	1230	365:10, App. UU. [NEW]	1281
340:110-1-8.4. [NEW]	1238	365:10, App. VV. [NEW]	1283
340:110-1-8.5. [NEW]	1238	365:15-7-3. [AMENDED]	1286
340:110-1-8.6. [NEW]	1238	365:15-7-30. [AMENDED]	1286
340:110-1-8.7. [NEW]	1239	365:25-3-1. [AMENDED]	1287
340:110-1-8.8. [NEW]	1240	365:25-3-14. [AMENDED]	1291
340:110-1-8.9. [NEW]	1241	365:25-5-3. [AMENDED]	1295
340:110-1-8.10. [NEW]	1241	365:25-5-4. [AMENDED]	1295

365:25-5-34. [AMENDED]	1295	385:25-1-33. [AMENDED]	1309
365:25-5-35. [AMENDED]	1296	385:25-1-39. [REVOKED]	1309
365:25-5-43. [AMENDED]	1296	385:25-1-40. [REVOKED]	1309
377:3-11-5. [AMENDED] (E)	319	385:25-1-41. [AMENDED]	1309
377:3-11-5. [AMENDED]	649	385:25-1-43. [AMENDED]	1309
377:3-11-6. [AMENDED] (E)	320	385:30-1-3. [AMENDED]	1310
377:3-11-6. [AMENDED]	649	385:30-1-9. [AMENDED]	1310
377:3-11-8. [AMENDED] (E)	320	385:35-1-1. [REVOKED]	1311
377:3-11-8. [AMENDED]	650	385:35-1-2. [REVOKED]	1311
377:3-11-9. [AMENDED] (E)	320	385:35-1-3. [REVOKED]	1311
377:3-11-9. [AMENDED]	650	385:35-1-4. [REVOKED]	1311
377:3-11-10. [AMENDED] (E)	320	390:1-1-4. [AMENDED]	1604
377:3-11-10. [AMENDED]	650	390:1-1-6. [AMENDED]	1606
377:3-11-11. [AMENDED] (E)	321	390:2-1-2. [AMENDED]	1606
377:3-11-11. [AMENDED]	650	390:2-1-4. [AMENDED]	1607
377:3-11-12. [AMENDED] (E)	321	390:2-1-11. [AMENDED]	1608
377:3-11-12. [AMENDED]	650	390:15-1-13. [AMENDED]	1609
377:10-7-20. [AMENDED]	651	390:15-1-18. [AMENDED]	1610
380:30-1-2. [AMENDED]	1296	390:15-3-7. [AMENDED]	1610
385:1-1-2. [AMENDED]	1298	390:15-3-8. [AMENDED]	1610
385:1-1-4. [AMENDED]	1298	390:30-1-6. [AMENDED]	1611
385:1-1-5. [AMENDED]	1298	390:31-1-3. [AMENDED]	1612
385:1-1-6. [AMENDED]	1298	390:31-1-5. [AMENDED]	1612
385:1-1-11. [AMENDED]	1298	435:10-1-4. [AMENDED] (E)	354
385:1-1-13. [NEW]	1299	435:20-5-10. [NEW]	1613
385:15-1-3. [AMENDED]	1299	435:30-1-2. [AMENDED]	1614
385:15-1-4. [AMENDED]	1299	435:30-1-16. [AMENDED]	1614
385:15-1-6. [AMENDED]	1299	450:-27-5-44. [NEW]	670
385:15-1-8. [AMENDED]	1300	450:15-3-8. [AMENDED]	493
385:15-1-9. [AMENDED]	1300	450:15-3-45. [AMENDED]	493
385:15-1-18. [AMENDED]	1301	450:15-3-66. [AMENDED]	494
385:15-1-20. [AMENDED]	1301	450:15-3-85. [AMENDED]	495
385:15-1-21. [AMENDED]	1301	450:15-7-3. [AMENDED]	495
385:15-1-22. [AMENDED]	1302	450:15-7-4. [AMENDED]	496
385:15-1-25. [AMENDED]	1302	450:15-7-6. [AMENDED]	496
385:15-1-32. [AMENDED]	1302	450:16-1-2. [AMENDED]	653
385:20-1-1. [AMENDED]	1303	450:16-5-2. [AMENDED]	655
385:20-1-2. [AMENDED]	1303	450:16-5-2.1. [REVOKED]	655
385:20-1-3. [AMENDED]	1304	450:16-5-3. [REVOKED]	656
385:20-1-6. [REVOKED]	1304	450:16-5-4. [NEW]	656
385:20-1-7. [AMENDED]	1304	450:16-5-5. [NEW]	656
385:20-1-9. [AMENDED]	1304	450:16-5-6. [NEW]	656
385:20-1-10. [AMENDED]	1304	450:16-7-1. [AMENDED]	656
385:20-1-11. [AMENDED]	1304	450:16-7-2. [REVOKED]	657
385:20-1-12. [AMENDED]	1304	450:16-7-3. [REVOKED]	657
385:20-1-13. [AMENDED]	1304	450:16-9-1. [AMENDED]	657
385:20-1-14. [AMENDED]	1305	450:16-11-1. [AMENDED]	657
385:20-1-15. [AMENDED]	1305	450:16-13-1. [AMENDED]	658
385:20-1-16. [AMENDED]	1305	450:16-13-2. [REVOKED]	658
385:20-1-17. [AMENDED]	1306	450:16-13-3. [REVOKED]	658
385:20-1-19. [REVOKED]	1306	450:16-13-4. [REVOKED]	658
385:20-1-20. [AMENDED]	1306	450:16-13-5. [REVOKED]	658
385:20-1-21. [AMENDED]	1306	450:16-13-7. [AMENDED]	658
385:20-1-22. [AMENDED]	1306	450:16-13-8. [REVOKED]	658
385:25-1-1. [AMENDED]	1307	450:16-13-9. [REVOKED]	658
385:25-1-2. [AMENDED]	1307	450:16-13-10. [REVOKED]	658
385:25-1-4. [AMENDED]	1307	450:16-13-11. [REVOKED]	658
385:25-1-5. [AMENDED]	1307	450:16-13-12. [AMENDED]	659
385:25-1-7. [AMENDED]	1307	450:16-13-13. [REVOKED]	659
385:25-1-12. [AMENDED]	1307	450:16-13-14. [REVOKED]	659
385:25-1-13. [AMENDED]	1308	450:16-13-15. [REVOKED]	659
385:25-1-15. [AMENDED]	1308	450:16-13-16. [REVOKED]	659
385:25-1-22. [AMENDED]	1308	450:16-13-17. [REVOKED]	659
385:25-1-23. [AMENDED]	1308	450:16-13-18. [REVOKED]	659
385:25-1-24. [AMENDED]	1308	450:16-13-19. [REVOKED]	659
385:25-1-25. [AMENDED]	1308	450:16-13-20. [REVOKED]	659
385:25-1-31. [AMENDED]	1309	450:16-13-22. [REVOKED]	659

Rules Affected Index – *continued*

450:16-13-24.	[REVOKED]	659	450:27-7-4.	[NEW]	671
450:16-13-25.	[REVOKED]	659	450:27-7-5.	[NEW]	671
450:16-13-27.	[AMENDED]	660	450:27-7-6.	[NEW]	671
450:16-13-27.1.	[REVOKED]	660	450:27-7-7.	[NEW]	671
450:16-13-28.	[REVOKED]	660	450:27-7-21.	[NEW]	671
450:16-13-33.	[AMENDED]	660	450:27-7-22.	[NEW]	672
450:16-13-33.1.	[REVOKED]	660	450:27-7-23.	[NEW]	672
450:16-13-33.2.	[REVOKED]	660	450:27-7-24.	[NEW]	672
450:16-13-33.3.	[REVOKED]	660	450:27-7-25.	[NEW]	672
450:16-13-34.	[REVOKED]	660	450:27-7-26.	[NEW]	672
450:16-13-35.	[REVOKED]	660	450:27-7-27.	[NEW]	673
450:16-13-35.1.	[REVOKED]	660	450:27-7-28.	[NEW]	673
450:16-13-36.	[AMENDED]	660	450:27-7-29.	[NEW]	673
450:16-13-37.	[REVOKED]	660	450:27-7-30.	[NEW]	673
450:16-13-38.	[REVOKED]	660	450:27-7-31.	[NEW]	673
450:16-13-39.	[REVOKED]	660	450:27-7-32.	[NEW]	674
450:16-13-40.	[REVOKED]	661	450:27-7-33.	[NEW]	674
450:16-13-45.	[REVOKED]	661	450:27-7-34.	[NEW]	674
450:16-13-46.	[REVOKED]	661	450:27-7-41.	[NEW]	674
450:16-13-48.	[AMENDED]	661	450:27-7-42.	[NEW]	675
450:16-13-48.1.	[REVOKED]	661	450:27-7-43.	[NEW]	675
450:16-13-49.	[REVOKED]	661	450:27-7-44.	[NEW]	675
450:16-15-1.	[AMENDED]	661	450:27-7-45.	[NEW]	675
450:16-15-5.	[REVOKED]	661	450:27-7-46.	[NEW]	675
450:16-23-1.	[AMENDED]	661	450:27-7-47.	[NEW]	675
450:16-27-1.	[REVOKED]	661	475:1-1-1.	[AMENDED]	1312
450:16-27-2.	[REVOKED]	662	475:1-5-6.	[AMENDED]	1312
450:16-27-3.	[REVOKED]	662	475:1-5-11.	[AMENDED]	1312
450:16-27-4.	[REVOKED]	662	475:10-1-2.	[AMENDED]	1313
450:16-27-5.	[NEW]	662	475:10-1-3.	[AMENDED]	1313
450:16-29-5.	[REVOKED]	662	475:10-1-5.	[AMENDED]	1313
450:16-29-7.	[AMENDED]	662	475:10-1-9.	[AMENDED]	1314
450:16-29-8.	[AMENDED]	662	475:10-1-10.	[AMENDED]	1314
450:16-29-9.	[REVOKED]	662	475:10-1-11.	[AMENDED]	1315
450:16-30-1.	[NEW]	663	475:10-1-15.	[AMENDED]	1316
450:27-1-1.	[NEW]	663	475:10-1-16.	[AMENDED]	1316
450:27-1-2.	[NEW]	663	475:10-1-20.	[AMENDED]	1316
450:27-1-3.	[NEW]	665	475:10-1-21.	[AMENDED]	1316
450:27-1-4.	[NEW]	665	475:10-1-22.	[AMENDED]	1316
450:27-1-5.	[NEW]	666	475:15-1-2.	[AMENDED]	1317
450:27-1-6.	[NEW]	666	475:15-1-3.	[AMENDED]	1317
450:27-3-1.	[NEW]	666	475:20-1-5.	[AMENDED]	1318
450:27-3-2.	[NEW]	666	475:20-1-7.	[AMENDED]	1319
450:27-3-3.	[NEW]	666	475:20-1-8.	[AMENDED]	1319
450:27-3-3.1.	[NEW]	666	475:25-1-7.	[AMENDED]	1319
450:27-3-21.	[NEW]	666	475:25-1-9.	[AMENDED]	1319
450:27-3-22.	[NEW]	666	475:25-1-10.	[AMENDED]	1320
450:27-3-23.	[NEW]	667	475:25-1-12.	[AMENDED]	1320
450:27-3-24.	[NEW]	667	475:30-1-4.	[AMENDED]	1320
450:27-3-25.	[NEW]	667	475:30-1-6.	[AMENDED]	1321
450:27-3-26.	[NEW]	667	475:30-1-10.	[AMENDED]	1322
450:27-3-41.	[NEW]	667	475:30-1-11.	[AMENDED]	1322
450:27-3-42.	[NEW]	668	475:30-1-15.	[AMENDED]	1323
450:27-3-43.	[NEW]	668	475:45-1-1.	[AMENDED]	1323
450:27-3-61.	[NEW]	668	475:45-1-2.	[AMENDED]	1323
450:27-3-62.	[NEW]	668	475:45-1-3.	[AMENDED]	1323
450:27-5-1.	[NEW]	668	475:45-1-4.	[AMENDED]	1323
450:27-5-2.	[NEW]	669	475:45-1-5.	[AMENDED]	1324
450:27-5-21.	[NEW]	669	475:50-1-4.	[AMENDED]	1324
450:27-5-22.	[NEW]	669	475:55-1-2.	[AMENDED]	1325
450:27-5-23.	[NEW]	669	475:55-1-5.	[AMENDED]	1325
450:27-5-41.	[NEW]	670	485:1-1-1.	[AMENDED]	1615
450:27-5-42.	[NEW]	670	485:10-1-1.	[AMENDED]	1617
450:27-5-45.	[NEW]	670	485:10-1-2.	[AMENDED]	1617
450:27-7-1.	[NEW]	670	485:10-1-3.	[AMENDED]	1618
450:27-7-2.	[NEW]	670	485:10-5-12.	[AMENDED]	1619
450:27-7-3.	[NEW]	670	485:10-7-1.	[AMENDED]	1619

485:10-7-2. [AMENDED]	1620	490:10-1-3.4. [NEW]	1337
485:10-7-4. [AMENDED]	1621	490:10-1-3.5. [NEW]	1338
485:10-7-5. [AMENDED]	1622	490:10-1-3.6. [NEW]	1338
485:10-8-1. [NEW]	1622	490:10-1-4. [AMENDED]	1338
485:10-9-1. [AMENDED]	1622	490:10-1-5. [AMENDED]	1339
485:10-9-2. [AMENDED]	1623	490:10-1-5.1. [NEW]	1339
485:10-9-4. [AMENDED]	1625	490:10-1-5.2. [NEW]	1339
485:10-9-5. [AMENDED]	1626	490:10-1-9. [REVOKED]	1339
485:10-10-2. [AMENDED]	1626	490:10-1-10. [REVOKED]	1340
485:10-10-3. [AMENDED]	1626	490:10-1-11. [AMENDED]	1340
485:10-10-5. [AMENDED]	1626	490:10-3-1. [AMENDED]	1340
485:10-10-6. [AMENDED]	1627	490:10-3-2. [AMENDED]	1341
485:10-10-7. [AMENDED]	1627	490:10-3-3. [AMENDED]	1341
485:10-10-8. [AMENDED]	1627	490:10-3-4. [AMENDED]	1342
485:10-10-8.1. [AMENDED]	1627	490:10-3-5. [AMENDED]	1342
485:10-10-10. [AMENDED]	1628	490:10-3-6. [AMENDED]	1343
485:10-11-1. [AMENDED]	1628	490:10-5-3. [AMENDED]	1343
485:10-11-2. [AMENDED]	1629	490:10-5-5. [AMENDED]	1344
485:10-11-3. [AMENDED]	1631	490:10-7-3. [AMENDED]	1345
485:10-13-1. [AMENDED]	1631	490:10-8-2. [AMENDED]	1345
485:10-13-2. [AMENDED]	1631	490:10-8-3. [AMENDED]	1345
485:10-13-3. [AMENDED]	1631	490:10-8-4. [AMENDED]	1345
485:10-15-4. [AMENDED]	1631	490:10-8-5. [AMENDED]	1345
485:10-15-4.1. [REVOKED]	1633	490:10-8-5.1. [AMENDED]	1346
485:10-15-5. [AMENDED]	1633	490:10-8-6. [AMENDED]	1346
485:10-15-6. [AMENDED]	1634	490:10-8-7. [AMENDED]	1346
485:10-15-7. [AMENDED]	1635	490:10-8-8. [AMENDED]	1346
485:10-15-8. [AMENDED]	1635	490:10-8-10. [AMENDED]	1346
485:10-15-9. [AMENDED]	1636	490:10-8-11. [AMENDED]	1346
485:10-15-9.1. [NEW]	1636	490:10-8-13. [AMENDED]	1347
485:10-16-1. [AMENDED]	1636	490:10-8-14. [AMENDED]	1347
485:10-16-2. [AMENDED]	1637	490:10-13-1. [AMENDED]	1347
485:10-16-3. [AMENDED]	1637	490:10-13-2. [AMENDED]	1348
485:10-16-4. [AMENDED]	1638	490:10-13-3. [AMENDED]	1349
485:10-16-5. [AMENDED]	1638	490:15-1-3. [AMENDED]	1351
485:10-16-6. [AMENDED]	1638	490:15-1-3.1. [AMENDED]	1351
485:10-16-7. [AMENDED]	1639	490:15-1-4. [AMENDED]	1351
485:10-16-8. [AMENDED]	1639	490:15-3-2. [AMENDED]	1351
485:10-18-2. [AMENDED]	1639	490:15-3-3. [NEW]	1352
485:10-18-3. [AMENDED]	1640	530:10-3-22. [AMENDED]	1353
485:10-18-4. [AMENDED]	1640	530:10-7-19. [REVOKED]	1354
485:10-18-5. [AMENDED]	1640	530:10-9-37. [AMENDED]	1354
490:1-1-1. [AMENDED]	1326	530:10-9-38. [AMENDED]	1354
490:1-1-2. [AMENDED]	1326	530:10-9-52. [AMENDED]	1354
490:1-3-1. [AMENDED]	1328	530:10-9-100. [AMENDED]	1355
490:1-3-2. [AMENDED]	1328	530:10-9-111. [AMENDED]	1355
490:1-5-2. [AMENDED]	1329	530:10-9-131. [AMENDED]	1355
490:1-5-2.1. [AMENDED]	1329	530:10-15-58. [NEW] (E)	63
490:1-5-3. [AMENDED]	1329	530:10-15-58. [NEW]	1356
490:1-5-6. [NEW]	1329	530:10-17-77. [AMENDED]	1356
490:1-5-7. [AMENDED]	1329	530:10, App. A. [REVOKED] (E)	64
490:1-5-7.1. [AMENDED]	1330	530:10, App. A. [NEW] (E)	64
490:1-5-8. [AMENDED]	1330	530:10, App. A. [REVOKED]	1358
490:1-6-1. [REVOKED]	1330	530:10, App. A. [NEW]	1358
490:1-7-1. [AMENDED]	1333	535:1-11-1. [AMENDED]	1641
490:1-7-2. [AMENDED]	1333	535:15-3-4.1. [AMENDED]	1641
490:1-9-1. [AMENDED]	1330	535:15-3-17. [AMENDED]	1642
490:1-9-2. [AMENDED]	1331	535:15-6-9. [AMENDED]	1642
490:1-9-3. [AMENDED]	1331	535:15-16-1. [NEW]	1642
490:1-9-4. [AMENDED]	1331	535:15-16-2. [NEW]	1642
490:1-9-5. [AMENDED]	1334	535:15-16-3. [NEW]	1642
490:10-1-1. [AMENDED]	1335	535:15-16-4. [NEW]	1643
490:10-1-2.1. [AMENDED]	1335	535:15-16-5. [NEW]	1643
490:10-1-3. [AMENDED]	1336	535:15-16-6. [NEW]	1644
490:10-1-3.1. [NEW]	1336	535:15-16-7. [NEW]	1644
490:10-1-3.2. [NEW]	1337	540:50-1-1. [NEW] (E)	893
490:10-1-3.3. [NEW]	1337	540:50-1-2. [NEW] (E)	893

Rules Affected Index – *continued*

540:50-1-3. [NEW] (E)	893	590:10-9-1. [AMENDED] (E)	52
540:50-1-4. [NEW] (E)	893	590:10-9-1. [AMENDED]	503
540:50-1-5. [NEW] (E)	894	590:15-1-2. [AMENDED]	504
540:50-1-6. [NEW] (E)	894	590:15-1-12. [AMENDED]	504
540:50-1-7. [NEW] (E)	894	590:15-1-18. [AMENDED]	505
540:50-1-8. [NEW] (E)	894	590:25-9-17. [AMENDED]	506
540:50-1-9. [NEW] (E)	894	590:25-9-20. [AMENDED]	506
550:1-5-2. [AMENDED]	1359	590:25-15-2. [AMENDED]	507
550:1-7-2.1. [AMENDED]	1360	590:35-7-1. [AMENDED]	508
585:2-1-1. [AMENDED]	1361	590:35-13-9. [AMENDED]	508
585:2-1-2. [AMENDED]	1361	590:35-15-3. [AMENDED]	509
585:2-1-3. [AMENDED]	1361	590:35-19-7. [AMENDED]	509
585:2-1-4. [AMENDED]	1361	595:1-15-3. [AMENDED]	1370
585:2-1-5. [AMENDED]	1361	595:10-1-1. [AMENDED]	1372
585:2-3-1. [AMENDED]	1361	595:10-1-3. [AMENDED]	1372
585:2-3-5. [AMENDED]	1362	595:10-1-5. [AMENDED]	1375
585:2-3-6. [AMENDED]	1362	595:10-1-8. [REVOKED]	1377
585:2-3-7. [AMENDED]	1362	595:10-1-9. [REVOKED]	1377
585:2-3-8. [AMENDED]	1362	595:10-1-10. [AMENDED]	1378
585:2-5-5. [AMENDED]	1362	595:10-1-12. [AMENDED]	1379
585:2-5-6. [AMENDED]	1363	595:10-1-18. [AMENDED]	1379
585:2-5-7. [AMENDED]	1363	595:10-1-19. [AMENDED]	1380
585:2-5-10. [REVOKED]	1364	595:10-1-27. [AMENDED]	1381
585:2-7-3. [AMENDED]	1364	595:10-1-28. [AMENDED]	1381
585:2-7-12. [AMENDED]	1364	595:10-1-35. [AMENDED]	1381
585:30-1-1. [AMENDED]	1365	595:10-1-50. [AMENDED]	1382
585:30-1-2. [AMENDED]	1365	595:10-1-51. [AMENDED]	1383
585:30-1-3. [AMENDED]	1365	595:10-1-56. [AMENDED]	1384
585:30-1-4. [AMENDED]	1365	595:10-1-91. [AMENDED]	1385
585:30-1-5. [AMENDED]	1365	595:10-1-92. [AMENDED] (E)	53
585:30-1-6. [AMENDED]	1366	595:10-1-92. [AMENDED]	1386
585:30-1-7. [AMENDED]	1366	595:10-1-93. [AMENDED]	1386
585:30-1-8. [AMENDED]	1366	595:10-3-1. [AMENDED]	1386
585:35-1-1. [AMENDED]	1366	595:10-3-4. [AMENDED]	1386
585:35-1-2. [AMENDED]	1366	595:10-3-9. [AMENDED]	1387
585:35-1-3. [AMENDED]	1367	595:10-5-5. [AMENDED]	1389
585:35-1-4. [AMENDED]	1367	595:10-13-5. [AMENDED]	1389
585:35-1-5. [AMENDED]	1367	595:11-1-14. [AMENDED]	510
585:35-5-1. [REVOKED]	1367	595:11-1-15. [AMENDED]	511
585:35-5-2. [REVOKED]	1367	595:11-1-21. [AMENDED]	511
585:35-5-3. [REVOKED]	1368	595:11-1-61. [AMENDED]	512
585:35-5-4. [REVOKED]	1368	595:11-1-62. [AMENDED]	512
585:35-5-5. [REVOKED]	1368	595:11-3-2. [AMENDED]	512
585:35-5-6. [REVOKED]	1368	595:11-3-6. [AMENDED]	512
585:35-5-7. [REVOKED]	1368	595:11-3-7. [AMENDED]	513
585:35-5-8. [REVOKED]	1368	595:11-3-8. [AMENDED]	514
585:35-7-1. [AMENDED]	1369	595:11-9-5. [AMENDED]	515
585:35-7-2. [AMENDED]	1369	595:11-9-6. [AMENDED]	515
590:1-1-5. [AMENDED]	497	595:11-9-9. [AMENDED]	516
590:1-3-8. [AMENDED]	497	595:25-1-2. [AMENDED] (E)	65
590:10-1-7. [AMENDED] (E)	50	595:25-1-2. [AMENDED]	1391
590:10-1-7. [AMENDED]	499	595:25-1-3. [AMENDED] (E)	66
590:10-3-8. [AMENDED]	499	595:25-1-3. [AMENDED]	1392
590:10-3-10. [AMENDED] (E)	50	595:25-5-6. [AMENDED] (E)	67
590:10-3-10. [AMENDED]	500	595:25-5-6. [AMENDED]	1392
590:10-3-11. [AMENDED] (E)	50	595:25-9-1. [AMENDED] (E)	67
590:10-3-11. [AMENDED]	500	595:25-9-1. [AMENDED]	1393
590:10-3-14. [AMENDED] (E)	51	595:35-1-6. [AMENDED]	1395
590:10-3-14. [AMENDED]	501	595:35-1-9. [AMENDED]	1396
590:10-7-4. [AMENDED] (E)	51	595:35-1-10. [AMENDED]	1398
590:10-7-4. [AMENDED]	501	595:50-3-2. [AMENDED]	1401
590:10-7-9. [AMENDED] (E)	51	595:50-3-6. [AMENDED]	1401
590:10-7-9. [AMENDED]	501	595:60-1-1. [AMENDED]	1402
590:10-7-16. [AMENDED]	502	595:60-1-4. [AMENDED]	1402
590:10-7-22. [AMENDED]	503	605:10-1-2. [AMENDED]	1404
590:10-8-5. [AMENDED] (E)	52	605:10-1-3. [AMENDED]	1404
590:10-8-5. [AMENDED]	503	605:10-3-5. [AMENDED]	1405

605:10-3-7. [AMENDED]	1405	612:25-4-54. [AMENDED]	1456
605:10-5-1. [AMENDED]	1407	612:25-4-55. [AMENDED]	1456
605:10-5-1.1. [AMENDED]	1408	612:25-4-56. [AMENDED]	1457
605:10-5-2. [AMENDED]	1410	612:25-4-57. [AMENDED]	1457
605:10-7-2. [AMENDED]	1412	612:25-4-58. [AMENDED]	1457
605:10-7-3. [AMENDED]	1414	612:25-4-59. [AMENDED]	1457
605:10-7-4. [AMENDED]	1414	612:25-4-60. [AMENDED]	1458
605:10-7-7. [AMENDED]	1414	612:25-4-61. [AMENDED]	1458
605:10-7-8. [AMENDED]	1415	612:25-4-62. [AMENDED]	1459
605:10-7-8.1. [AMENDED]	1415	612:25-4-73. [AMENDED]	1459
605:10-7-8.2. [AMENDED]	1416	612:25-4-74. [REVOKED]	1460
605:10-7-8.3. [AMENDED]	1416	612:25-6-1. [AMENDED]	1460
605:10-7-8.4. [NEW]	1417	612:25-6-2. [AMENDED]	1461
605:10-9-1. [AMENDED]	1417	612:25-6-2.1. [NEW]	1461
605:10-9-4. [AMENDED]	1417	612:25-6-3. [AMENDED]	1462
605:10-11-2. [AMENDED]	1418	612:25-6-5. [AMENDED]	1462
605:10-11-3. [AMENDED]	1419	612:25-6-15. [AMENDED]	1463
605:10-13-1. [AMENDED]	1419	612:25-6-16. [AMENDED]	1463
605:10-15-3. [AMENDED]	1421	612:25-6-18. [AMENDED]	1463
605:10-17-4. [AMENDED]	1422	612:25-6-19. [AMENDED]	1465
605:10-17-6. [AMENDED]	1423	612:25-6-20. [AMENDED]	1465
605:10, App. A. [REVOKED]	1424	612:25-6-21. [AMENDED]	1465
605:10, App. A. [NEW]	1424	612:25-6-22. [AMENDED]	1466
610:1-13-1. [REVOKED]	676	612:25-6-32. [AMENDED]	1466
610:1-13-2. [REVOKED]	677	612:25-6-33. [AMENDED]	1467
610:1-13-3. [REVOKED]	677	675:1-1-1.1. [AMENDED] (E)	35
610:25-23-2. [AMENDED]	678	675:1-1-4. [AMENDED] (E)	35
610:25-23-3. [AMENDED]	679	675:1-1-9. [AMENDED] (E)	35
610:25-23-4. [AMENDED]	679	675:10-1-4. [AMENDED] (E)	36
610:25-23-5. [AMENDED]	681	675:10-1-5. [AMENDED] (E)	36
610:25-23-6. [AMENDED]	682	675:10-1-9. [AMENDED] (E)	37
610:25-23-8. [AMENDED]	682	675:10-1-10. [AMENDED] (E)	38
610:25-23-9. [AMENDED]	683	675:12-1-4. [AMENDED] (E)	38
612:1-3-2.1. [AMENDED]	1427	710:1-1-2. [AMENDED]	685
612:1-11-4. [AMENDED]	1428	710:10-2-5. [AMENDED]	516
612:1-11-15. [AMENDED]	1428	710:10-7-2.2. [AMENDED]	517
612:1-11-55. [AMENDED]	1429	710:10-7-4. [AMENDED]	518
612:1-13-7. [AMENDED]	1429	710:10-7-5. [AMENDED]	518
612:1-13-9. [AMENDED]	1429	710:10-7-11. [AMENDED]	519
612:10-1-2. [AMENDED]	1430	710:10-7-13. [AMENDED]	519
612:10-1-7. [AMENDED]	1434	710:10-14-1. [AMENDED]	519
612:10-7-24.1. [AMENDED]	1436	710:20-2-5. [AMENDED]	520
612:10-7-25.1. [AMENDED]	1438	710:20-2-6. [AMENDED]	520
612:10-7-87. [AMENDED]	1439	710:20-3-3. [AMENDED]	522
612:10-7-98. [AMENDED]	1440	710:20-5-6. [AMENDED]	522
612:10-7-230.4. [AMENDED]	1442	710:22-5-11. [AMENDED]	522
612:10-13-4. [REVOKED]	1443	710:25-1-5. [AMENDED]	523
612:20-2-5. [AMENDED]	1444	710:45-9-21. [AMENDED]	524
612:20-2-13. [AMENDED]	1445	710:45-9-23. [AMENDED]	525
612:20-2-17. [AMENDED]	1445	710:45-9-24. [AMENDED]	525
612:20-9-1. [NEW]	1446	710:45-9-27. [AMENDED]	525
612:25-2-5. [AMENDED]	1448	710:45-9-28. [AMENDED]	525
612:25-2-6. [REVOKED]	1450	710:45-9-31. [AMENDED]	526
612:25-2-9. [NEW]	1451	710:45-9-32.1. [AMENDED]	526
612:25-4-1. [AMENDED]	1451	710:45-9-34. [AMENDED]	527
612:25-4-3. [REVOKED]	1451	710:45-9-35. [AMENDED]	527
612:25-4-4. [AMENDED]	1451	710:45-9-40. [AMENDED]	527
612:25-4-14. [AMENDED]	1452	710:45-9-41. [AMENDED]	527
612:25-4-15. [AMENDED]	1454	710:45-9-51. [AMENDED]	528
612:25-4-16. [NEW]	1454	710:45-9-60. [AMENDED]	528
612:25-4-25. [AMENDED]	1454	710:45-9-62. [AMENDED]	529
612:25-4-26. [AMENDED]	1454	710:45-9-62.1. [AMENDED]	529
612:25-4-27. [AMENDED]	1454	710:45-9-64. [AMENDED]	530
612:25-4-28. [REVOKED]	1455	710:45-9-70. [AMENDED]	530
612:25-4-29. [REVOKED]	1455	710:45-9-71. [AMENDED]	530
612:25-4-30. [REVOKED]	1456	710:45-9-73. [AMENDED]	531
612:25-4-53. [AMENDED]	1456	710:45-9-82. [AMENDED]	531

Rules Affected Index – *continued*

710:45-9-90. [AMENDED]	531	710:95-5-12. [AMENDED]	1481
710:45-9-92. [AMENDED]	531	710:95-5-19. [AMENDED]	1481
710:45-9-93. [AMENDED]	532	710:95-12-11. [NEW]	1485
710:50-3-54. [AMENDED]	1468	710:95-17-3. [AMENDED]	1481
710:50-3-55. [NEW]	1470	710:95-17-7. [AMENDED]	1481
710:50-15-53. [AMENDED]	1475	710:95-19-6. [AMENDED]	1482
710:50-15-109. [AMENDED]	1471	710:95-19-7. [AMENDED]	1482
710:50-15-110. [AMENDED]	1472	710:95-21-1. [NEW]	1482
710:50-15-114. [NEW]	1473	710:95-21-2. [NEW]	1482
710:50-15-115. [NEW]	1474	710:95-21-3. [NEW]	1483
710:50-17-51. [AMENDED]	1476	710:95-21-4. [NEW]	1484
710:60-3-12. [AMENDED]	533	710:95-21-5. [NEW]	1484
710:60-3-24. [AMENDED]	533	710:95-21-6. [NEW]	1484
710:60-3-140. [AMENDED]	534	710:95-21-7. [NEW]	1484
710:60-3-141. [AMENDED]	534	710:95-21-8. [NEW]	1484
710:60-3-201. [AMENDED]	535	710:95-21-9. [NEW]	1485
710:60-5-2. [AMENDED]	535	710:95-21-10. [NEW]	1485
710:60-5-8. [NEW]	535	712:10-5-1. [AMENDED]	840
710:60-5-51. [AMENDED]	535	712:10-5-2. [AMENDED]	847
710:60-5-61. [AMENDED]	536	712:10-5-3. [AMENDED]	848
710:60-5-64. [NEW]	536	712:10-5-4. [AMENDED]	851
710:60-5-77. [AMENDED]	537	715:1-1-2. [AMENDED]	853
710:60-5-91. [AMENDED]	538	715:1-1-3. [AMENDED]	853
710:60-7-3. [AMENDED]	539	715:1-1-4. [AMENDED]	853
710:60-9-54. [AMENDED]	540	715:1-1-6. [REVOKED]	853
710:60-9-132. [AMENDED]	541	715:1-1-9. [REVOKED]	854
710:65-1-7. [AMENDED]	543	715:10-1-2. [AMENDED]	855
710:65-3-1. [AMENDED]	544	715:10-1-3. [AMENDED]	855
710:65-3-3. [AMENDED]	545	715:10-1-4. [AMENDED]	855
710:65-7-6. [AMENDED]	545	715:10-1-5. [AMENDED]	856
710:65-7-9. [AMENDED]	546	715:10-1-6. [AMENDED]	856
710:65-7-13. [AMENDED]	546	715:10-1-7. [AMENDED]	856
710:65-9-10. [AMENDED]	547	715:10-3-1. [AMENDED]	857
710:65-13-15. [AMENDED]	549	715:10-3-2. [AMENDED]	857
710:65-13-16. [REVOKED]	551	715:10-3-3. [AMENDED]	857
710:65-13-130. [AMENDED]	551	715:10-3-4. [AMENDED]	858
710:65-13-152.1. [AMENDED]	553	715:10-3-5. [AMENDED]	858
710:65-13-210. [AMENDED]	553	715:10-5-4. [REVOKED]	858
710:65-13-337. [AMENDED]	554	715:10-5-7.3. [AMENDED]	859
710:65-13-338. [AMENDED]	555	715:10-5-9. [AMENDED]	860
710:65-13-511. [AMENDED]	555	715:10-5-11. [REVOKED]	860
710:65-18-4. [AMENDED]	558	715:10-5-28. [AMENDED]	860
710:65-18-6. [AMENDED]	563	715:10-5-33. [REVOKED]	861
710:65-19-45. [AMENDED]	558	715:10-7-6. [AMENDED]	861
710:65-19-49. [AMENDED]	558	715:10-9-2. [REVOKED]	861
710:65-19-52. [AMENDED]	559	715:10-9-3. [AMENDED]	861
710:65-19-55. [AMENDED]	559	715:10-9-4. [REVOKED]	861
710:65-19-56. [AMENDED]	560	715:10-9-5. [AMENDED]	862
710:65-19-76. [REVOKED]	561	715:10-9-6. [REVOKED]	862
710:65-19-109. [AMENDED]	561	715:10-11-1. [AMENDED]	862
710:65-19-116. [NEW]	561	715:10-11-2. [AMENDED]	863
710:65-19-193. [AMENDED]	561	715:10-13-1. [REVOKED]	863
710:65-19-210. [AMENDED]	561	715:10-13-4.1. [REVOKED]	864
710:65-19-329. [AMENDED]	562	715:10-13-9. [REVOKED]	864
710:65-19-350. [AMENDED]	562	715:10-13-13. [AMENDED]	865
710:70-2-15. [NEW]	564	715:10-15-1. [AMENDED]	865
710:70-5-3. [AMENDED]	565	715:10-15-2. [AMENDED]	865
710:70-5-5. [AMENDED]	686	715:10-15-7. [AMENDED]	866
710:70-5-14. [AMENDED]	565	715:10-15-7.1. [REVOKED]	866
710:90-3-11. [AMENDED]	566	715:10-15-10.2. [AMENDED]	866
710:95-5-1. [AMENDED]	1479	715:10-15-10.3. [AMENDED]	867
710:95-5-2. [AMENDED]	1479	715:10-15-13. [REVOKED]	868
710:95-5-3. [AMENDED]	1479	715:10-17-2. [AMENDED]	868
710:95-5-8. [AMENDED]	1480	715:10-17-6. [AMENDED]	868
710:95-5-9. [AMENDED]	1480	715:10-25-1. [REVOKED]	869
710:95-5-10. [AMENDED]	1480	715:10-25-2. [REVOKED]	869
710:95-5-11. [AMENDED]	1481	715:10-25-3. [REVOKED]	869

715:10-25-4. [REVOKED]	869	748:20-7-4. [NEW]	1657
715:10-25-5. [REVOKED]	869	748:20-7-5. [NEW]	1657
715:10-25-6. [REVOKED]	870	748:20-7-6. [NEW]	1658
720:10-3-3. [AMENDED]	1486	748:20-7-7. [NEW]	1658
720:10-3-5. [AMENDED]	1486	748:20-7-8. [NEW]	1658
720:10-3-9. [AMENDED]	1487	748:20-7-9. [NEW]	1658
730:1-3-4. [AMENDED]	1487	748:20-9-1. [NEW]	1660
730:10-1-1. [AMENDED]	1488	748:20-9-2. [NEW]	1660
730:10-1-2. [AMENDED]	1488	748:20-9-3. [NEW]	1660
730:10-1-3. [AMENDED]	1489	748:20-9-4. [NEW]	1660
730:10-1-4. [AMENDED]	1489	748:20-9-5. [NEW]	1660
730:10-1-5. [REVOKED]	1490	748:20-9-6. [NEW]	1661
730:10-1-6. [REVOKED]	1490	748:20-11-1. [NEW]	1661
730:10-1-7. [AMENDED]	1490	748:20-11-2. [NEW]	1661
730:10-1-8. [REVOKED]	1490	748:20-11-3. [NEW]	1661
730:10-1-9. [AMENDED]	1490	748:20-11-4. [NEW]	1661
730:10-1-11. [AMENDED]	1491	748:20-11-5. [NEW]	1661
730:10-15-1. [AMENDED]	1491	748:20-11-6. [NEW]	1662
730:10-15-2. [AMENDED]	1491	748:20-11-7. [NEW]	1662
730:10, App. A. [REVOKED]	1492	748:20-11-8. [NEW]	1662
730:10, App. B. [NEW]	1493	748:20-11-9. [NEW]	1664
730:15-1-9. [REVOKED]	1494	748:20-13-1. [NEW]	1664
730:15-3-1. [NEW]	1494	748:20-13-2. [NEW]	1664
730:15-3-2. [NEW]	1494	748:20-13-3. [NEW]	1664
730:20-3-1. [NEW]	568	748:20-13-4. [NEW]	1664
730:20-3-2. [NEW]	568	748:20-13-5. [NEW]	1664
730:30-5-2. [AMENDED]	1495	748:20-13-6. [NEW]	1665
730:35-5-3. [AMENDED]	1496	748:20-13-7. [NEW]	1665
730:35-5-18. [NEW]	1499	748:20-13-8. [NEW]	1665
748:1-1-2. [AMENDED]	1645	748:20-13-9. [NEW]	1666
748:1-1-4. [AMENDED]	1645	748:20-13-10. [NEW]	1666
748:3-1-2. [AMENDED]	1645	748:20-15-1. [NEW]	1666
748:20-1-1. [NEW]	1647	748:20-15-2. [NEW]	1666
748:20-1-2. [NEW]	1647	748:20-15-3. [NEW]	1666
748:20-1-3. [NEW]	1647	748:20-15-4. [NEW]	1667
748:20-1-4. [NEW]	1647	748:20-15-5. [NEW]	1667
748:20-1-5. [NEW]	1647	748:20-15-6. [NEW]	1667
748:20-1-6. [NEW]	1648	748:20-15-7. [NEW]	1667
748:20-1-7. [NEW]	1648	748:20-15-8. [NEW]	1668
748:20-1-8. [NEW]	1648	748:20-15-9. [NEW]	1669
748:20-1-9. [NEW]	1649	748:20-15-10. [NEW]	1669
748:20-1-10. [NEW]	1649	748:20-15-11. [NEW]	1670
748:20-1-11. [NEW]	1649	748:20-15-12. [NEW]	1670
748:20-1-12. [NEW]	1649	748:20-15-13. [NEW]	1671
748:20-1-13. [NEW]	1650	748:20-15-14. [NEW]	1671
748:20-1-14. [NEW]	1650	748:20-15-15. [NEW]	1671
748:20-1-15. [NEW]	1651	748:20-15-16. [NEW]	1671
748:20-1-16. [NEW]	1651	780:15-3-1. [AMENDED]	1500
748:20-1-17. [NEW]	1651	780:20-3-2. [AMENDED]	1501
748:20-1-18. [NEW]	1651	780:20-3-4. [AMENDED]	1507
748:20-3-1. [NEW]	1652	800:1-11-1. [AMENDED]	1508
748:20-3-2. [NEW]	1652	800:10-1-4. [AMENDED]	1509
748:20-3-3. [NEW]	1652	800:10-1-5. [AMENDED]	1510
748:20-3-4. [NEW]	1652	800:10-5-3. [AMENDED]	1512
748:20-3-5. [NEW]	1652	800:25-3-2. [AMENDED]	1513
748:20-3-6. [NEW]	1653	800:25-3-3. [AMENDED]	1515
748:20-3-7. [NEW]	1653	800:25-7-3. [AMENDED]	1515
748:20-3-8. [NEW]	1653	800:25-7-7. [AMENDED]	1516
748:20-3-9. [NEW]	1654	800:25-7-48. [AMENDED]	1517
748:20-3-10. [NEW]	1654	800:25-7-55. [AMENDED]	1517
748:20-3-11. [NEW]	1654	800:25-7-57. [AMENDED]	1517
748:20-3-12. [NEW]	1655	800:25-7-67. [AMENDED]	1518
748:20-3-13. [NEW]	1656	800:25-7-83.1. [NEW]	1518
748:20-3-14. [NEW]	1656	800:25-7-90. [AMENDED]	1519
748:20-7-1. [NEW]	1657	800:25-7-91. [AMENDED]	1519
748:20-7-2. [NEW]	1657	800:25-7-94. [AMENDED]	1520
748:20-7-3. [NEW]	1657	800:25-7-94.1.1. [NEW]	1520

Rules Affected Index – *continued*

800:25-7-111. [AMENDED]	1521	800:25-29-4. [AMENDED]	1523
800:25-7-126. [AMENDED]	1521	800:30-1-2. [AMENDED]	1524
800:25-7-131.1. [AMENDED]	1521	800:30-1-4. [AMENDED]	1525
800:25-7-131.2. [AMENDED]	1522	800:30-1-5. [AMENDED]	1526
800:25-7-149.1. [AMENDED]	1522	800:30-1-20. [AMENDED]	1527
800:25-9-11. [AMENDED]	1522	800:30-1-21. [NEW]	1527
800:25-29-3. [AMENDED]	1523	450 27-5-43. [NEW]	670

Agency/Title Index

[Assigned as of 7-2-12]

Agency	Title	Agency	Title
Oklahoma ABSTRACTORS Board	5	EDGE Fund Policy Board	208
Oklahoma ACCOUNTANCY Board	10	State Department of EDUCATION	210
State ACCREDITING Agency	15	EDUCATION Oversight Board	215
AD Valorem Task Force (<i>abolished 7-1-93</i>)	20	Oklahoma EDUCATIONAL Television Authority	220
Oklahoma AERONAUTICS Commission	25	[RESERVED]	225
Board of Regents for the Oklahoma AGRICULTURAL and Mechanical Colleges (<i>exempted 11-1-98</i>)	30	State ELECTION Board	230
Oklahoma Department of AGRICULTURE , Food, and Forestry	35	Oklahoma FUNERAL Board (<i>Formerly</i> : Oklahoma State Board of EMBALMERS and Funeral Directors)	235
Oklahoma Board of Licensed ALCOHOL and Drug Counselors	38	Oklahoma Department of EMERGENCY Management (<i>Formerly</i> : Department of CIVIL Emergency Management) - <i>See</i> Title 145	
Board of Tests for ALCOHOL and Drug Influence	40	Oklahoma EMPLOYMENT Security Commission	240
ALCOHOLIC Beverage Laws Enforcement Commission	45	Oklahoma ENERGY Resources Board	243
ANATOMICAL Board of the State of Oklahoma	50	State Board of Licensure for Professional ENGINEERS and Land Surveyors (<i>Formerly</i> : State Board of Registration for Professional ENGINEERS and Land Surveyors)	245
Board of Governors of the Licensed ARCHITECTS , Landscape Architects and Registered Interior Designers of Oklahoma (<i>Formerly</i> : Board of Governors of the Licensed ARCHITECTS and Landscape Architects of Oklahoma; and Board of Governors of the Licensed ARCHITECTS , Landscape Architects and Interior Designers of Oklahoma)	55	Board of Trustees for the ENID Higher Education Program (<i>exempted 11-1-98</i>)	250
ARCHIVES and Records Commission	60	Department of ENVIRONMENTAL Quality	252
Board of Trustees for the ARDMORE Higher Education Program (<i>exempted 11-1-98</i>)	65	State Board of EQUALIZATION	255
Oklahoma ARTS Council	70	ETHICS Commission (<i>Title revoked</i>)	257
Oklahoma State ATHLETIC Commission (<i>Formerly</i> : Oklahoma Professional BOXING Commission) - <i>See</i> Title 92		ETHICS Commission	258
ATTORNEY General	75	Office of State FINANCE	260
State AUDITOR and Inspector	80	State FIRE Marshal Commission	265
State BANKING Department	85	Oklahoma Council on FIREFIGHTER Training	268
Oklahoma State Employees BENEFITS Council	87	Oklahoma FIREFIGHTERS Pension and Retirement System	270
Council of BOND Oversight	90	[RESERVED]	275
Oklahoma State ATHLETIC Commission (<i>Formerly</i> : Oklahoma Professional BOXING Commission)	92	FORENSIC Review Board	277
State BURIAL Board (<i>abolished 7-1-92</i>)	95	State Board of Registration for FORESTERS	280
[RESERVED]	100	FOSTER Care Review Advisory Board	285
Oklahoma CAPITAL Investment Board	105	Oklahoma FUNERAL Board (<i>Formerly</i> : Oklahoma State Board of Embalmers and Funeral Directors) - <i>See</i> Title 235	
Oklahoma CAPITOL Improvement Authority	110	Oklahoma FUTURES	290
State CAPITOL Preservation Commission	115	GOVERNOR (<i>See also</i> Title 1, Executive Orders)	295
CAPITOL-MEDICAL Center Improvement and Zoning Commission	120	GRAND River Dam Authority	300
Oklahoma Department of CAREER and Technology Education (<i>Formerly</i> : Oklahoma Department of VOCATIONAL and Technical Education) - <i>See</i> Title 780		Group Self-Insurance Association GUARANTY Fund Board	302
Board of Regents of CARL Albert State College (<i>exempted</i> <i>11-1-98</i>)	125	Individual Self-Insured GUARANTY Fund Board	303
Department of CENTRAL Services (<i>Formerly</i> : Office of PUBLIC Affairs) - <i>See</i> Title 580		STATE Use Committee (<i>Formerly</i> : Committee on Purchases of Products and Services of the Severely HANDICAPPED)	304
CEREBRAL Palsy Commission	130	Office of DISABILITY Concerns (<i>Formerly</i> : Office of HANDICAPPED Concerns)	305
Commission on CHILDREN and Youth	135	Oklahoma State Department of HEALTH	310
Board of CHIROPRACTIC Examiners	140	Oklahoma Basic HEALTH Benefits Board (<i>abolished 11-1-97</i>)	315
Oklahoma Department of EMERGENCY Management (<i>Formerly</i> : Department of CIVIL Emergency Management)	145	Oklahoma HEALTH Care Authority	317
Oklahoma Department of COMMERCE	150	HIGHWAY Construction Materials Technician Certification Board	318
COMMUNITY Hospitals Authority	152	Oklahoma HISTORICAL Society	320
COMPSOURCE Oklahoma (<i>Formerly</i> : State INSURANCE Fund) - <i>See</i> Title 370		Oklahoma HORSE Racing Commission	325
Oklahoma CONSERVATION Commission	155	Oklahoma HOUSING Finance Agency	330
CONSTRUCTION Industries Board	158	Oklahoma HUMAN Rights Commission	335
Department of CONSUMER Credit	160	Department of HUMAN Services	340
CORPORATION Commission	165	Committee for INCENTIVE Awards for State Employees	345
Department of CORRECTIONS	170	Oklahoma INDIAN Affairs Commission	350
State Board of COSMETOLOGY	175	Oklahoma INDIGENT Defense System	352
Oklahoma State CREDIT Union Board	180	Oklahoma INDUSTRIAL Finance Authority	355
CRIME Victims Compensation Board	185	INJURY Review Board	357
Joint CRIMINAL Justice System Task Force Committee	190	Oklahoma State and Education Employees Group INSURANCE Board	360
Board of DENTISTRY	195	INSURANCE Department	365
Oklahoma DEVELOPMENT Finance Authority	200	COMPSOURCE Oklahoma (<i>Formerly</i> : State INSURANCE Fund)	370
Office of DISABILITY Concerns (<i>Formerly</i> : Office of HANDICAPPED Concerns) - <i>See</i> Title 305		Oklahoma State Bureau of INVESTIGATION	375
Board of Regents of EASTERN Oklahoma State College (<i>exempted</i> <i>11-1-98</i>)	205	Council on JUDICIAL Complaints	376
		Office of JUVENILE Affairs	377
		Department of LABOR	380
		Department of the Commissioners of the LAND Office	385
		Council on LAW Enforcement Education and Training	390
		Oklahoma LAW Enforcement Retirement System	395
		Board on LEGISLATIVE Compensation	400

Agency/Title Index – continued

Agency	Title	Agency	Title
Oklahoma Department of LIBRARIES	405	Oklahoma SAVINGS and Loan Board (<i>abolished 7-1-93</i>)	625
LIEUTENANT Governor	410	SCENIC Rivers Commission	630
Oklahoma LINKED Deposit Review Board	415	Oklahoma Commission on SCHOOL and County Funds	
Oklahoma LIQUEFIED Petroleum Gas Board	420	Management	635
Oklahoma LIQUEFIED Petroleum Gas Research, Marketing and Safety		Advisory Task Force on the Sale of SCHOOL Lands (<i>functions</i>	
Commission	422	<i>concluded 2-92</i>)	640
LITERACY Initiatives Commission	425	The Oklahoma School of SCIENCE and Mathematics	645
LONG-RANGE Capital Planning Commission	428	Oklahoma Center for the Advancement of SCIENCE and	
Oklahoma State Board of Examiners for LONG-TERM Care		Technology	650
Administrators (<i>Formerly: Oklahoma State Board of Examiners</i>		SECRETARY of State	655
for NURSING Home Administrators) - <i>See</i> Title 490		Department of SECURITIES	660
LOTTERY Commission, Oklahoma	429	Board of Regents of SEMINOLE State College (<i>exempted</i>	
Board of Trustees for the MCCURTAIN County Higher Education		<i>11-1-98</i>)	665
Program (<i>exempted 11-1-98</i>)	430	SHEEP and Wool Commission	670
Commission on MARGINALLY Producing Oil and Gas Wells	432	State Board of Licensed SOCIAL Workers	675
State Board of MEDICAL Licensure and Supervision	435	SOUTHERN Growth Policies Board	680
MEDICAL Technology and Research Authority of Oklahoma	440	Oklahoma SOYBEAN Commission (<i>abolished 7-1-97</i>)	685
Board of MEDICOLEGAL Investigations	445	Board of Examiners for SPEECH-LANGUAGE Pathology and	
Department of MENTAL Health and Substance Abuse Services	450	Audiology (<i>Formerly: Board of Examiners for SPEECH</i>	
MERIT Protection Commission	455	Pathology and Audiology)	690
MILITARY Planning Commission, Oklahoma Strategic	457	STATE Employee Charitable Contributions, Oversight	
Department of MINES	460	Committee for (<i>Formerly: STATE Agency</i>	
Oklahoma MOTOR Vehicle Commission	465	Review Committee)	695
Board of Regents of MURRAY State College (<i>exempted 11-1-98</i>)	470	STATE Use Committee (<i>Formerly: Committee on Purchases of Products</i>	
Oklahoma State Bureau of NARCOTICS and Dangerous Drugs		and Services of the Severely HANDICAPPED) - <i>See</i> Title 304	
Control	475	Oklahoma STUDENT Loan Authority	700
Board of Regents of NORTHERN Oklahoma College (<i>exempted</i>		TASK Force 2000	705
<i>11-1-98</i>)	480	Oklahoma TAX Commission	710
Oklahoma Board of NURSING	485	Oklahoma Commission for TEACHER Preparation	712
Oklahoma State Board of Examiners for LONG-TERM Care		TEACHERS' Retirement System	715
Administrators (<i>Formerly: Oklahoma State Board of Examiners</i>		State TEXTBOOK Committee	720
for NURSING Home Administrators)	490	TOBACCO Settlement Endowment Trust Fund	723
Board of Regents of OKLAHOMA City Community College (<i>exempted</i>		Oklahoma TOURISM and Recreation Department	725
<i>11-1-98</i>)	495	Department of TRANSPORTATION	730
Board of Regents of OKLAHOMA Colleges (<i>exempted 11-1-98</i>)	500	Oklahoma TRANSPORTATION Authority (<i>Name changed to</i>	
Board of Examiners in OPTOMETRY	505	Oklahoma TURNPIKE Authority <i>11-1-05</i>) - <i>See</i> Title 731	
State Board of OSTEOPATHIC Examiners	510	Oklahoma TURNPIKE Authority (<i>Formerly: Oklahoma</i>	
PARDON and Parole Board	515	TRANSPORTATION Authority AND Oklahoma TURNPIKE	
Oklahoma PEANUT Commission	520	Authority) - <i>See</i> also Title 745	731
Oklahoma State PENSION Commission	525	State TREASURER	735
State Board of Examiners of PERFUSIONISTS	527	Board of Regents of TULSA Community College (<i>exempted</i>	
Office of PERSONNEL Management	530	<i>11-1-98</i>)	740
Board of Commercial PET Breeders	532	Oklahoma TURNPIKE Authority (<i>Name changed to Oklahoma</i>	
Oklahoma State Board of PHARMACY	535	TRANSPORATION Authority <i>11-1-99 - no rules enacted in this</i>	
PHYSICIAN Manpower Training Commission	540	<i>Title - See</i> Title 731)	745
Board of PODIATRIC Medical Examiners	545	Oklahoma UNIFORM Building Code Commission	748
Oklahoma POLICE Pension and Retirement System	550	Board of Trustees for the UNIVERSITY Center at Tulsa (<i>exempted</i>	
State Department of POLLUTION Control (<i>abolished 1-1-93</i>)	555	<i>11-1-98</i>)	750
POLYGRAPH Examiners Board	560	UNIVERSITY Hospitals Authority	752
Oklahoma Board of PRIVATE Vocational Schools	565	UNIVERSITY Hospitals Trust	753
State Board for PROPERTY and Casualty Rates		Board of Regents of the UNIVERSITY of Oklahoma (<i>exempted</i>	
(<i>abolished 7-1-06; see also Title 365</i>)	570	<i>11-1-98</i>)	755
State Board of Examiners of PSYCHOLOGISTS	575	Board of Regents of the UNIVERSITY of Science and Arts	
Department of CENTRAL Services (<i>Formerly: Office of PUBLIC</i>		of Oklahoma (<i>exempted 11-1-98</i>)	760
Affairs)	580	Oklahoma USED Motor Vehicle and Parts Commission	765
PUBLIC Employees Relations Board	585	Oklahoma Department of VETERANS Affairs	770
Oklahoma PUBLIC Employees Retirement System	590	Board of VETERINARY Medical Examiners	775
Department of PUBLIC Safety	595	Oklahoma Department of CAREER and Technology Education	
REAL Estate Appraiser Board	600	(<i>Formerly: Oklahoma Department of VOCATIONAL and</i>	
Oklahoma REAL Estate Commission	605	Technical Education)	780
Board of Regents of REDLANDS Community College (<i>exempted</i>		Oklahoma WATER Resources Board	785
<i>11-1-98</i>)	607	Board of Regents of WESTERN Oklahoma State College (<i>exempted</i>	
State REGENTS for Higher Education	610	<i>11-1-98</i>)	790
State Department of REHABILITATION Services	612	Oklahoma WHEAT Commission	795
Board of Regents of ROGERS State College (<i>exempted 11-1-98</i>)	615	Department of WILDLIFE Conservation	800
Board of Regents of ROSE State College (<i>exempted 11-1-98</i>)	620	WILL Rogers and J.M. Davis Memorials Commission	805

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 485. OKLAHOMA BOARD OF NURSING CHAPTER 1. ADMINISTRATION

[OAR Docket #12-776]

RULEMAKING ACTION:

Gubernatorial Approval of Permanent Rules

RULES:

485:1-1-1. [AMENDED]

GUBERNATORIAL APPROVAL:

March 7, 2012

[OAR Docket #12-776; filed 6-4-12]

TITLE 485. OKLAHOMA BOARD OF NURSING CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES

[OAR Docket #12-777]

RULEMAKING ACTION:

Gubernatorial Approval of Permanent Rules

RULES:

Subchapter 1. General Provisions

485:10-1-1. [AMENDED]

485:10-1-2. [AMENDED]

485:10-1-3. [AMENDED]

Subchapter 5. Minimum Standards for Approved Nursing Education Programs

485:10-5-12. [AMENDED]

Subchapter 7. Requirements for Registration and Licensure as a Registered Nurse

485:10-7-1. [AMENDED]

485:10-7-2. [AMENDED]

485:10-7-4. [AMENDED]

485:10-7-5. [AMENDED]

Subchapter 8. Criminal Background Checks for Applicants for Licensure/Certification

485:10-8-1. [NEW]

Subchapter 9. Requirements for Registration and Licensure as a Licensed Practical Nurse

485:10-9-1. [AMENDED]

485:10-9-2. [AMENDED]

485:10-9-4. [AMENDED]

485:10-9-5. [AMENDED]

Subchapter 10. Advanced Unlicensed ~~Assistive~~ Personnel Assistant

485:10-10-2. [AMENDED]

485:10-10-3. [AMENDED]

485:10-10-5. [AMENDED]

485:10-10-6. [AMENDED]

485:10-10-7. [AMENDED]

485:10-10-8. [AMENDED]

485:10-10-8.1. [AMENDED]

485:10-10-10. [AMENDED]

Subchapter 11. Disciplinary Action

485:10-11-1. [AMENDED]

485:10-11-2. [AMENDED]

485:10-11-3. [AMENDED]

Subchapter 13. Requirements for Employment

485:10-13-1. [AMENDED]

485:10-13-2. [AMENDED]

485:10-13-3. [AMENDED]

Subchapter 15. Requirements for Practice as an Advanced Practice Registered Nurse

485:10-15-4. [AMENDED]

485:10-15-4.1. [REVOKED]

485:10-15-5. [AMENDED]

485:10-15-6. [AMENDED]

485:10-15-7. [AMENDED]

485:10-15-8. [AMENDED]

485:10-15-9. [AMENDED]

485:10-15-9.1. [NEW]

Subchapter 16. Requirements for Prescriptive Authority for Advanced Practice Registered Nurses

485:10-16-1. [AMENDED]

485:10-16-2. [AMENDED]

485:10-16-3. [AMENDED]

485:10-16-4. [AMENDED]

485:10-16-5. [AMENDED]

485:10-16-6. [AMENDED]

485:10-16-7. [AMENDED]

485:10-16-8. [AMENDED]

Subchapter 18. Prescriptive Authority for ~~C.R.N.A.~~ CRNA

485:10-18-2. [AMENDED]

485:10-18-3. [AMENDED]

485:10-18-4. [AMENDED]

485:10-18-5. [AMENDED]

GUBERNATORIAL APPROVAL:

March 7, 2012

[OAR Docket #12-777; filed 6-4-12]

Gubernatorial Approvals

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #12-759]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

PROPOSED RULES:

Subchapter 11. Fees

535:1-11-1. Annual licenses, permits and renewals
[AMENDED]

GUBERNATORIAL APPROVAL:

December 21, 2011

[OAR Docket #12-759; filed 5-29-12]

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

[OAR Docket #12-760]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

PROPOSED RULES:

Subchapter 3. Pharmacies

535:15-3-4.1. Pharmacy licensing requirement
[AMENDED]

535:15-3-17. Pharmacy prescription records [AMENDED]

Subchapter 6. Hospital Drug Room

535:15-6-9. Emergency room pre-packaged medications
formulary [AMENDED]

Subchapter 16. Pharmacy Emergency Medication Kits for
Use in a Facility [NEW]

535:15-16-1. Purpose [NEW]

535:15-16-2. Definitions [NEW]

535:15-16-3. Licensing requirements [NEW]

535:15-16-4. Policies and procedures for use of emergency
medication kit drugs [NEW]

535:15-16-5. Security [NEW]

535:15-16-6. Drug categories allowed in emergency
medication kits [NEW]

535:15-16-7. Violations [NEW]

GUBERNATORIAL APPROVAL:

December 21, 2011

[OAR Docket #12-760; filed 5-29-12]

TITLE 748. UNIFORM BUILDING CODE COMMISSION CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #12-765]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

748:1-1-2. Address [AMENDED]

748:1-1-4. Meetings [AMENDED]

GUBERNATORIAL APPROVAL:

May 2, 2012

[OAR Docket #12-765; filed 5-29-12]

TITLE 748. UNIFORM BUILDING CODE COMMISSION CHAPTER 3. GENERAL PROVISIONS

[OAR Docket #12-766]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

748:3-1-2. Definitions [AMENDED]

GUBERNATORIAL APPROVAL:

May 2, 2012

[OAR Docket #12-766; filed 5-29-12]

TITLE 748. UNIFORM BUILDING CODE COMMISSION CHAPTER 20. ADOPTED CODES

[OAR Docket #12-767]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 9. NEC® 2011 Edition [NEW]

748:20-9-1. Adoption of National Electric Code® 2011
[NEW]

748:20-9-2. Effect of Adoption [NEW]

748:20-9-3. NEC® 2011 Informative Annexes [NEW]

748:20-9-4. NEC® 2011 Provisions Adopted and Modified
[NEW]

748:20-9-5. NEC® 2011 Participation in Federal Programs
and/or Federally Funded or Financed Projects [NEW]

748:20-9-6. NEC® 2011 Article 90 Introduction [NEW]

748:20-9-7. NEC® 2011 Chapter 5 Special Occupancies
[NEW]

Subchapter 11. IFGC® 2009 [NEW]

748:20-11-1. Adoption of International Fuel Gas Code® 2009 Edition [NEW]
748:20-11-2. Effect of Adoption [NEW]
748:20-11-3. IFGC® 2009 Appendices [NEW]
748:20-11-4. IFGC® 2009 Provisions Adopted and Modified [NEW]
748:20-11-5. IFGC® 2009 Participation in Federal Programs and/or Federally Funded or Financed Projects [NEW]
748:20-11-6. IFGC® 2009 Chapter 1 Scope and Administration [NEW]
748:20-11-7. IFGC® 2009 Chapter 3 General Regulations [NEW]
748:20-11-8. IFGC® 2009 Chapter 4 Gas Piping Installations [NEW]
748:20-11-9. IFGC® 2009 Chapter 6 Specific Appliances [NEW]
748:20-11-10. IFGC® 2009 Chapter 8 Referenced Standards [NEW]
Subchapter 13. IMC® 2009 [NEW]
748:20-13-1. Adoption of International Mechanical Code® 2009 Edition [NEW]
748:20-13-2. Effect of Adoption [NEW]
748:20-13-3. IMC® 2009 Appendices [NEW]
748:20-13-4. IMC® 2009 Provisions Adopted and Modified [NEW]
748:20-13-5. IMC® 2009 Participation in Federal Programs and/or Federally Funded or Financed Projects [NEW]
748:20-13-6. IMC® 2009 Chapter 1 Scope and Administration [NEW]
748:20-13-7. IMC® 2009 Chapter 2 Definitions [NEW]
748:20-13-8. IMC® 2009 Chapter 3 General Regulations [NEW]
748:20-13-9. IMC® 2009 Chapter 5 Exhaust Systems [NEW]
748:20-13-10. IMC® 2009 Chapter 6 Duct Systems [NEW]
748:20-13-11. IMC® 2009 Chapter 15 Referenced Standards [NEW]

Subchapter 15. IPC® 2009 [NEW]
748:20-15-1. Adoption of International Plumbing Code® 2009 Edition [NEW]
748:20-15-2. Effect of Adoption [NEW]
748:20-15-3. IPC® 2009 Appendices [NEW]
748:20-15-4. IPC® 2009 Provisions Adopted and Modified [NEW]
748:20-15-5. IPC® 2009 Participation in Federal Programs and/or Federally Funded or Financed Projects [NEW]
748:20-15-6. IPC® 2009 Chapter 1 Scope and Administration [NEW]
748:20-15-7. IPC® 2009 Chapter 2 Definitions [NEW]
748:20-15-8. IPC® 2009 Chapter 3 General Provisions [NEW]
748:20-15-9. IPC® 2009 Chapter 4 Fixtures, Faucets and Fixture Fittings [NEW]
748:20-15-10. IPC® 2009 Chapter 5 Water Heaters [NEW]
748:20-15-11. IPC® 2009 Chapter 6 Water Supply and Distribution [NEW]
748:20-15-12. IPC® 2009 Chapter 7 Sanitary Drainage [NEW]
748:20-15-13. IPC® 2009 Chapter 8 Indirect/Special Waste [NEW]
748:20-15-14. IPC® 2009 Chapter 9 Vents [NEW]
748:20-15-15. IPC® 2009 Chapter 10 Traps, Interceptors, and Separators [NEW]
748:20-15-16. IPC® 2009 Chapter 11 Storm Drainage [NEW]
748:20-15-17. IPC® 2009 Chapter 13 Referenced Standards [NEW]

GUBERNATORIAL APPROVAL:

May, 2, 2012

[OAR Docket #12-767; filed 5-29-12]

Gubernatorial Disapprovals

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

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

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

[OAR Docket #12-795]

INTENDED RULEMAKING ACTION:

Gubernatorial disapproval of PERMANENT rules.

PROPOSED RULES:

Subchapter 1. General Provisions

235:10-1-2 [AMENDED]

235:10-1-4 [AMENDED]

Subchapter 3. Qualifications and Requirements for License

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]

GUBERNATORIAL DISAPPROVAL:

Written disapproval received June 7, 2012

[OAR Docket #12-795; filed 6-8-12]

Legislative Disapprovals

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

For additional information on legislative disapprovals, see 75 O.S., Section 308.

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

[OAR Docket #12-794]

RULEMAKING ACTION:

Notice of legislative disapproval

RULES:

- Subchapter 1. General Provisions
- 435:10-1-4. Definitions [AMENDED]
- Subchapter 7. Regulation of Physician and Surgeon Practice
- 435:10-7-4. Unprofessional conduct [AMENDED]
- 435:10-7-11. Use of controlled substances for the management of chronic pain [AMENDED]

LEGISLATIVE DISAPPROVAL:

May 25, 2012

EMERGENCY RULES TERMINATED:

The following emergency rules are also terminated by the disapproval:

RULES:

- Subchapter 1. General Provisions
- 435:10-1-4. Definitions [AMENDED]

GUBERNATORIAL APPROVAL:

February 13, 2012

REGISTER PUBLICATION:

- 12-146
- 29 Ok Reg 353

[OAR Docket #12-794; filed 6-8-12]

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 165. CORPORATION COMMISSION CHAPTER 35. ELECTRIC UTILITY RULES

[OAR Docket #12-788]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 34. Competitive Procurement

165:35-34-1. Purpose of this Subchapter [AMENDED]

165:35-34-3. RFP Competitive Bidding Procurement Process for Long Term Fuel Transportation, Long Term Fuel Storage, Long Term Electric Generation and Long Term Purchase Power Agreements [AMENDED]

165:35-34-4. Commodity Fuel Supply Competitive Bidding Procurement Process for a Term Greater than Five Years [NEW]

Subchapter 37. Integrated Resource Plan

165:35-37-1. Purpose of this Subchapter [AMENDED]

165:35-37-4. Integrated Resource Plan Reviews [AMENDED]

Subchapter 43. Transmission Only Utility [NEW]

165:35-43-1. Purpose of this Subchapter [NEW]

165:35-43-2. Definitions [NEW]

165:35-43-3. Recognition by the Commission [NEW]

165:35-43-4. Reporting [NEW]

165:35-43-5. Commission Consideration [NEW]

165:35-43-6. Determining Assessment Fees [NEW]

165:35-43-7. Decommissioning of Transmission Lines [NEW]

AUTHORITY:

Article IX, § 18 Okla. Const., 17 Okla. Stat. §§ 152,153; Corporation Commission

DATES:

Comment period:

January 30, 2012, through March 26, 2012

Public hearing:

March 26, 2012

Adoption:

March 26, 2012

Submitted to Governor:

March 29, 2012

Submitted to House:

March 29, 2012

Submitted to Senate:

March 29, 2012

Gubernatorial approval:

May 1, 2012

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 24, 2012.

Final adoption:

May 24, 2012

Effective:

July 12, 2012

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Amendments and additions to existing agency rules in Chapter 35 were needed to clarify the competitive bidding process, delineate a process for

predetermination of prudence for long term commodity fuel purchases for an electric utility's self-generation of electricity and add the requirement for an electric utility to consider physical and financial hedging mechanisms to address price volatility issues. An additional subchapter was added to allow for the agency collection of information from transmission only utility companies.

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 12, 2012:

SUBCHAPTER 34. COMPETITIVE PROCUREMENT

165:35-34-1. Purpose of this Subchapter

(a) This Subchapter establishes a fair, just, and reasonable process that best serves the public interest of all electricity consumers and that will complement and improve the state's economic growth by, among other things, making the most efficient use of Oklahoma's coal, natural gas, and power generation and transmission assets and furthers the policy of the Commission that a competitive procurement process is among the most effective means to achieve these objectives. All utilities in order to obtain a presumption of prudence, a utility shall employ ~~the competitive bidding process~~ procedures set forth in this subchapter, when purchasing or self-building of new long-term electric generation, long term purchase power agreements, or long-term fuel supply for self-generation of electricity as set forth in this subchapter. A utility may exercise managerial discretion and enter into contracts, fixed-priced or index-based, without seeking a presumption of prudence. However, if a utility does not employ the competitive bidding process set forth in this subchapter, there shall be no presumption of prudence and the determination of prudence will be decided during a subsequent Commission review. The competitive bidding process shall be open to Commission scrutiny, as are other regulated utility practices. The provisions of this Subchapter must be followed unless the utility obtains a waiver pursuant to 165:35-34-3(c).

(b) It is the intent of the Commission to create an open, transparent, fair and nondiscriminatory competitive bidding

Permanent Final Adoptions

process for the utility to meet its needs. It should not be construed that this Subchapter absolves or relieves any utility or competitive bidder from any duty prescribed by the laws of the State of Oklahoma or the United States including, but not limited to, the federal Public Utility Regulatory Policies Act (Public Law 95-617, as amended) and any other state or federal law regarding contractual rights and obligations, antitrust enforcement or liability, or laws against improper restraint of trade or "takings" of property.

(c) This Subchapter also establishes reasonable standards of conduct for transactions between utilities and their affiliates and standards for transactions between utilities and competitive bidders conducting business within the State of Oklahoma.

(d) This Subchapter shall not be applicable to a utility with no generation plant within the boundaries of Oklahoma and less than ten percent of its customers within the state.

(e) Wherever Independent Evaluator is referred to in this subchapter, it is understood that particular reference is only applicable if an Independent Evaluator has been retained by the Commission.

165:35-34-3. RFP Competitive Bidding Procurement Process for Long Term Fuel Transportation, Long Term Fuel Storage, Long Term Electric Generation and Long Term Purchase Power Agreements

(a) Competitive Bidding Structure and Process Guidelines for Long Term Fuel Transportation, Long Term Fuel Storage, Long Term Electric Generation and Long Term Purchase Power Agreements.

(1) The soliciting utility shall notify the Commission of its intent to engage in a competitive bidding process at least 30 days before issuing a request for proposal ("RFP"), as required by subsection (4) below.

(2) The soliciting utility shall prepare the initial draft of the RFP documents, including but not limited to RFP procedures, and a pro forma power purchase agreement that, to the maximum extent practicable, utilizes industry standard contractual terms and contains all expected material terms and conditions and a solicitation schedule (collectively, the "RFP Document").

(3) In addition to the information required by (1) of this Section, the RFP and RFP Document, at a minimum, shall identify clearly:

(A) Term;

(B) Amount of megawatts, if applicable, and types of products being solicited;

(C) All price and non-price evaluation factors to be considered;

(D) Respective weight for each price and non-price evaluation factor; and

(E) Utility's preliminary analysis of transmission availability and the utility's plan for evaluation of transmission availability for each proposal received, including, but not limited to:

(i) Description of the role of transmission analysis to be conducted by the utility in the bid

evaluation process. This analysis should use publicly available tools provided by the controlling entity, such as the Southwest Power Pool Scenario Analyzer; and

(ii) Any role of the transmission analysis to be conducted by the controlling entity, currently the Southwest Power Pool, in the bid evaluation process.

(4) The draft of the RFP Document, supporting documentation, and bid evaluation procedures shall be provided to the Commission, Attorney General, ~~and non-competitive representatives and~~ Independent Evaluator and posted on the utility's website at least 15 days prior to the technical conference referenced below. After the draft RFP is issued, a technical conference shall be scheduled by the utility to discuss the draft RFP and the bidding process. After receiving input from interested persons, and holding the technical conference the soliciting utility shall post the draft RFP Document and any comments received, on the soliciting utility's website or electronic bulletin board, or by some other publicly accessible method. After due consideration of all comments, the soliciting utility will submit the final RFP Document to the Commission and post the final RFP Document on its website or electronic bulletin board, or by other publicly accessible method. RFPs shall include the Southwest Power Pool's time requirements to conduct transmission analyses, i.e. the aggregate study.

(b) **Independent Evaluator**

(1) The Commission may, at its discretion, retain and arrange compensation for an Independent Evaluator to monitor the RFP and competitive bidding process. Notwithstanding the foregoing, the Commission shall retain an Independent Evaluator to monitor the RFP and competitive bidding process in the following instances: (i) when an affiliate of the utility is anticipated to participate in the competitive bidding process; (ii) when the RFP and bid resulting there from is expected to have a material impact on the utilities' cost of providing electricity to its customers, or (iii) when it is anticipated that the utility may participate as a bidder in the competitive bidding process. The Commission shall establish the minimum qualifications and requirements for an Independent Evaluator and ensure the Independent Evaluator is financially and substantively independent from any soliciting electric utility or affiliate thereof, complaining entity, and any potential bidder.

(2) The Independent Evaluator will report to the Commission and the Attorney General.

(3) If the Independent Evaluator's conclusion is different from the conclusion of the soliciting utility about the winning bidder(s), the Independent Evaluator and utility may attempt to resolve such differences. In the event the Independent Evaluator and utility cannot resolve their differences, the soliciting utility will determine which bid(s) is successful. The Independent Evaluator shall submit its independent evaluation to the Commission.

(4) As part of its contract with the Independent Evaluator, the Commission shall require the Independent Evaluator, to enter into an agreement to keep all information confidential that pertains to the disclosure and use of any models, analytical tools, data, or other materials of a confidential or proprietary nature provided or made available by the soliciting utility in conjunction with the competitive bidding process.

(c) **Affiliate Bidders' Requirements**

(1) Each soliciting utility affiliate that intends to bid shall disclose publicly, in writing, the names and titles of the members of the affiliate's "Bid Team." Each soliciting utility shall disclose publicly, in writing, the names and titles of the members of its "Evaluation Team." A Bid Team develops the affiliate's bid and, to assure fairness, is not involved, directly or indirectly, in the evaluation or selection of bids. An Evaluation Team evaluates bids, selects the successful bidder and, to assure fairness, is not involved, directly or indirectly, in the development of the affiliate's bid.

(2) Each soliciting utility and bidding affiliate shall assure that the Bid Team and the Evaluation Team and any member of either do not engage in any communications, either directly or indirectly, regarding the RFP or the competitive bidding process. For bidder and Commission assurance, the soliciting utility and bidding affiliate shall execute an acknowledgement that the utility and affiliate have not and will not in the future so communicate, other than to submit and receive the bid at the appropriate time. The Bid Team and Evaluation Team may communicate as part of a bidding technical conference of which potential bidders or all actual bidders, if bids have already been submitted, are given adequate notice and opportunity to attend.

(3) The Evaluation Team shall report to the Independent Evaluator, any contact or communications by any bidder, including the Bid Team, and advise the bidder any future contact must be directed to the Independent Evaluator. Bidders and the Evaluation Team may communicate as part of a bidding technical conference of which potential bidders or all actual bidders, if bids have already been submitted, are given adequate notice and opportunity to attend.

(d) **Evaluation of Responses to the RFP**

(1) The evaluation of the responses to the RFP will proceed as follows:

(A) The soliciting utility will evaluate all timely submitted bids to determine the lowest reasonable cost for long-term reliable power or reliable long-term fuel sought that minimizes ratepayer cost, including but not limited to charges for or costs relating to long-term fuel supply, long-term fuel transport, long-term fuel storage, long-term fuel processing, or increased cost of capital, consistent with the principles and procedures contained in this Subchapter and in the utility's resource plan and associated procurement plans.

(B) The Commission, Attorney General, ~~and non-competitive representatives~~ and Independent Evaluator will be included in the evaluation of all bids submitted to the soliciting utility. The soliciting utility shall include within the RFP the time and place for the opening of the bids so that the Commission, Attorney General, non-competitive representatives and the Independent Evaluator may attend and monitor the opening of bids. Bids shall be opened by the soliciting utility at the time and place so indicated in the RFP whether or not any or all of those parties are in attendance.

(2) All bids shall be evaluated on the basis of the bidder's final best offer. No bidder shall be permitted to unilaterally submit a refreshed bid unless all bidders are given a meaningful opportunity to submit a refreshed bid as a result of some material, documented change. The Independent Evaluator shall be charged with evaluating any such changes and ensuring that the changes are substantive and not an attempt to influence the final selection process in favor of a particular bidder.

(3) Should any bid be unclear to such extent that the lack of clarity could impact the outcome of the bidding, the soliciting utility, Commission, Attorney General, non-competitive representatives or Independent Evaluator may request further information from any bidder regarding its bid, provided, any such communication between or among the soliciting utility, Commission, Attorney General, non-competitive representatives or Independent Evaluator and bidder should be conducted through an open process in which the utility, Independent Evaluator, Commission, non-competitive representatives and Attorney General are given adequate notice and an opportunity to attend.

(4) The Commission, Attorney General, non-competitive representatives and Independent Evaluator, as well as the soliciting utility, may rely on the Southwest Power Pool to conduct all necessary transmission analyses concerning bids received. Southwest Power Pool analyses provided to the Commission, Attorney General, non-competitive representatives or Independent Evaluator shall be equivalent in quality and content to that provided to the soliciting utility. No bidder, including any bidder that is an affiliate (including the Bid Team) of the soliciting utility, shall communicate with the Southwest Power Pool Transmission group during the course of the competitive bidding process regarding any aspect of the RFP or process.

(5) In conducting the evaluation of the responses, the soliciting utility shall not:

(A) Waive or otherwise modify any evaluation factor or evaluation weight for any bidder;

(B) Add any adjustments on the basis of expected effects on the utility's cost of capital if not already contained in the RFP;

(C) Impose any penalty on the price of purchased power; or

Permanent Final Adoptions

- (D) Include any discount for utility self-generation on the basis of reliability as part of the utility's resource mix.
- (e) Prior to a utility taking long-term procurement action other than the competitive procurement process set forth in this Subchapter, such utility shall seek a waiver of all or any part of these competitive bidding rules by filing a cause with the Commission.
- (f) The utility shall promptly submit its decision concerning the successful bid with the Commission and mail copies of such submission to all bidders, non-competitive representatives, the Independent Evaluator, and the Attorney General. Included within that mailing, the utility shall provide the non-winning bidders the rationale and analysis used for the selection of the winning bid.
- (1) Any unsuccessful bidder, non-competitive representatives, the Independent Evaluator, or the Attorney General shall have fifteen (15) days following submission of the successful bid decision with the Commission to file with the Commission a complaint challenging the decision as not meeting the criteria for decision specified in this subchapter or waiver previously obtained pursuant to 165:35-34-3(e) and the RFP document and bid evaluation procedures developed pursuant to 165:35-34-3(a).
- (2) In the event of the filing of such a complaint, after notice to all bidders and hearing, the Commission shall determine whether the utility's decision reveals either a clear departure from the criteria stated in these rules or previously obtained waiver, the RFP Document and bid evaluation procedures for decision or is erroneous, in which event the utility shall be required immediately to rebid, in accordance with this Subchapter, the items which were the subject of such determination.
- (g) Upon determination of the successful bidder, the utility and successful bidder shall promptly proceed to finalize contracts necessary to implement the bid.
- (1) The contract shall contain appropriate guarantees, as set by the Commission, regarding the reliability of services.
- (2) At the request of either party and upon notice and hearing, the Commission shall have authority to determine any disputes between the parties as to terms incidental to the bid. All matters to be determined by the Commission under this provision shall be heard on an expedited basis and a decision rendered thereon within thirty (30) days from filing.

165:35-34-4. Commodity fuel supply competitive bidding procurement process for a term greater than five years

- (a) **Pre-approval filing.** When a Utility contracts for commodity fuel supply for self-generation of electricity for a term greater than five years, and seeks a pre-determination of prudence, the Utility shall file an application and receive the Commission's approval of the Utility's proposed Request for Proposal (RFP) Competitive Bidding Procurement Process prior to the Utility issuing the RFP. The evaluation and approval of

the RFP shall contain, but not be limited to, the proposed bidding process, the evaluation process, consistency with the Integrated Resource Plan (IRP), and a determination of need for the proposed fuel supply. The evaluation and approval of the RFP may contain a consideration of opt-out provisions. The process shall focus on and result in the lowest reasonable cost for ratepayers. The request shall be processed as follows:

- (1) An Independent Evaluator may be utilized pursuant to 165:35-34-4(b);
- (2) The soliciting Utility shall file a cause for pre-approval of the RFP and will provide notice to the Commission and Attorney General to engage in the RFP approval process at least 30 days before issuing a request for pre-approval of the proposed RFP;
- (3) The soliciting Utility shall prepare the initial draft of the RFP documents that, to the extent practicable, utilizes industry standard contractual terms and contains all expected material terms and conditions and a solicitation schedule;
- (4) In addition to the information required by (3) of this Section, the RFP, at a minimum, shall identify clearly:
- (A) Term and Renewals;
- (B) Types and quantity of fuel being solicited;
- (C) All price and non-price evaluation factors to be considered;
- (D) Respective weight for each price and non-price evaluation factor;
- (E) The Utility's preliminary analysis of desired delivery points or options as appropriate; and
- (F) The extent to which a consideration of hedging and price volatility mitigation has been included in the RFP; and
- (5) A Commission order approving or disapproving the RFP shall be issued in no more than 180 days following the filing of the Utility's application.
- (b) **Independent evaluator**
- (1) The Commission Staff or Office of the Attorney General may, at their discretion, file a request with the Commission for the assessment of specific costs, which shall be deemed recoverable costs associated with conducting the prudence review analysis, related to the retention of an Independent Evaluator to monitor the RFP and competitive bidding process. Notwithstanding the foregoing, the Commission, or the Attorney General shall retain an Independent Evaluator to monitor the RFP and competitive bidding process in the following instances: (i) when an affiliate of the Utility is anticipated to participate in the competitive bidding process; (ii) when the RFP and bid resulting there from is expected to have a material impact on the Utility's cost of providing electricity to its customers, or (iii) when it is anticipated that the Utility may participate as a bidder in the competitive bidding process. The Commission shall establish the minimum qualifications and requirements for an Independent Evaluator and ensure the Independent Evaluator is financially and substantively independent from any soliciting electric Utility or affiliate thereof, complaining entity, and any potential bidder.

(2) The Independent Evaluator will report to the Commission or the Office of the Attorney General.

(3) If the Independent Evaluator's conclusion is different from the conclusion of the soliciting Utility about the winning bidder(s), the Independent Evaluator and Utility may attempt to resolve such differences. In the event the Independent Evaluator and Utility cannot resolve their differences, the soliciting Utility will determine which bid(s) is successful. The Independent Evaluator shall submit its independent evaluation to the Commission.

(4) As part of its contract with the Independent Evaluator, the Commission shall require the Independent Evaluator, to enter into an agreement to keep all information confidential that pertains to the disclosure and use of any models, analytical tools, data, or other materials of a confidential or proprietary nature provided or made available by the soliciting Utility in conjunction with the competitive bidding process.

(c) **Affiliate bidders' requirements**

(1) Each soliciting Utility affiliate that intends to bid shall disclose publicly, in writing, the names and titles of the members of the affiliate's "Bid Team." Each soliciting Utility shall disclose publicly, in writing, the names and titles of the members of its "Evaluation Team." A Bid Team develops the affiliate's bid and, to assure fairness, is not involved, directly or indirectly, in the evaluation or selection of bids. An Evaluation Team evaluates bids, selects the successful bidder and, to assure fairness, is not involved, directly or indirectly, in the development of the affiliate's bid.

(2) Each soliciting Utility and bidding affiliate shall assure that the Bid Team and the Evaluation Team and any member of either do not engage in any communications, either directly or indirectly, regarding the RFP or the competitive bidding process. For bidder and Commission assurance, the soliciting Utility and bidding affiliate shall execute an acknowledgement that the Utility and affiliate have not and will not in the future so communicate, other than to submit and receive the bid at the appropriate time. The Bid Team and Evaluation Team may communicate as part of a bidding technical conference of which potential bidders or all actual bidders, if bids have already been submitted, are given adequate notice and opportunity to attend.

(3) The Evaluation Team shall report to the Independent Evaluator, any contact or communications by any bidder, including the Bid Team, and advise the bidder any future contact must be directed to the Independent Evaluator. Bidders and the Evaluation Team may communicate as part of a bidding technical conference which potential bidders or all actual bidders, if bids have already been submitted, are given adequate notice and opportunity to attend.

(d) **Evaluation of responses to the RFP**

(1) The evaluation of the responses to the RFP will proceed as follows:

(A) The soliciting Utility will evaluate all timely submitted bids to determine the lowest reasonable

cost for fuel supply that results in the lowest reasonable cost with consideration given to all other bid terms outlined in the RFP; and

(B) The Commission, Attorney General, Independent Evaluator, and non-competitive representatives will be included in the evaluation of all bids submitted to the soliciting Utility pursuant to the provisions of the Protective Order. The soliciting Utility shall include within the RFP the time and place for the opening of the bids so that the Commission, Attorney General, the Independent Evaluator and non-competitive representatives may attend and monitor the opening of bids. Bids shall be opened by the soliciting Utility at the time and place so indicated in the RFP whether or not any or all of those parties are in attendance.

(2) All bids shall be evaluated on the basis of the bidder's final best offer. Bids will be evaluated on all relevant economic and non-economic factors. No bidder shall be permitted to unilaterally submit a refreshed bid prior to award unless all bidders are given a meaningful opportunity to submit a refreshed bid as a result of some material, documented change. The Independent Evaluator shall be charged with evaluating any such changes and ensuring that the changes are substantive and not an attempt to influence the final selection process in favor of a particular bidder.

(3) Should any bid be unclear to such extent that the lack of clarity could impact the outcome of the bidding, the soliciting Utility, Commission, Attorney General, Independent Evaluator and non-competitive representatives may request further information from any bidder regarding its bid, provided, any such communication between or among the soliciting Utility, Commission, Attorney General, Independent Evaluator and non-competitive representatives and bidder should be conducted through an open process in which the Utility, Independent Evaluator, Commission, Attorney General and non competitive representatives are given adequate notice and an opportunity to attend.

(4) In conducting the evaluation of the responses, the soliciting Utility shall not: waive or otherwise modify any evaluation factor or evaluation weight for any bidder.

(e) **Bid award**

(1) The Utility shall submit its decision, rationale and analysis concerning the successful bid with the Commission, non-competitive representatives, the Independent Evaluator, and the Attorney General within 24 hours of the selection. The utility shall provide the non-winning bidders notice that they were not selected as the winning bid.

(2) The Director of the Public Utility Division, any unsuccessful bidder, the Independent Evaluator, Intervenor, or the Attorney General shall have two (2) business days following submission of the successful bid decision to file with the Commission a complaint challenging the Utility's adherence to the approved RFP and the resulting bid award.

Permanent Final Adoptions

- (3) In the event of the filing of such a complaint, after notice to all parties and hearing, the Commission shall determine whether the Utility's decision reveals a clear departure from the criteria stated in the previously obtained waiver or the RFP Document in which event the bid award may not be pre-approved by the Commission.
- (4) The Commission shall endeavor to hear the complaint in camera within three (3) business days of the filing of the complaint.
- (5) The Commission shall endeavor to enter a final order within 15 days of the initial bid award letter. If the Commission has not entered a final order within 15 days, the winning bidder may be allowed to refresh their bid pursuant to the provisions of the RFP.
- (6) The Commission shall endeavor to enter a final order no later than 30 days after the initial bid award.
- (7) Upon determination of the successful bidder, the Utility and successful bidder shall promptly proceed to finalize contracts necessary to implement the bid.
- (8) The final order, if awarding a pre-determination of prudence, will provide as follows:
- (A) Purchases made according to the terms of the contract shall be deemed prudent;
- (B) Variations from the terms of the contract shall be subject to additional prudence review and determination.
- (f) Waiver. Prior to a utility taking competitive procurement action other than the competitive procurement processes set forth in this Subchapter, such Utility shall seek a waiver of all or any part of these competitive bidding rules by filing a cause with the Commission if the Utility will seek pre-approval.

SUBCHAPTER 37. INTEGRATED RESOURCE PLANNING

165:35-37-1. Purpose of this Subchapter

(a) The purpose of this Subchapter is to establish fair, just, and reasonable rules and procedures for Commission review of the resource plans of utilities. The utility resource plans establish additional bases for substantial investment and expenses incurred by utilities to provide electric supply to retail consumers. The practices and policies embodied in a utility's resource plan have direct, substantial effects on the costs and reliability of the electric supply to be provided to retail consumers in Oklahoma. Resource planning is a complex process affecting decisions that account for a substantial portion of the total cost of electricity over the long term, including investments in generation and transmission facilities, purchases of power and fuel supply, price volatility mitigation, and investments in energy efficiency. Recognizing the significance of the costs incurred based on resource plans, the Commission believes it is in the best interest of retail ratepayers and the utilities providing regulated retail electric supply to establish regular review of the utilities resource plans to ensure that the utilities' resource planning and resulting investment are

reasonably and prudently conducted and that the overall cost of power supply to retail ratepayers is fair, just, and reasonable.

(b) This Subchapter establishes fair, just, and reasonable procedures for:

- (1) Setting standards for prudent resource planning;
- (2) Conducting periodic reviews of utility resource plans;
- (3) Participation of stakeholders, particularly those representing ratepayer interests, to review and have input into the utility's resource plans and the Commission's resource planning policies;
- (4) Establishing the need for additional resources serving as the basis for long-term competitive procurement of resources, including, but not limited to, utility construction of new electric generation facilities, the utility purchase of existing electric generation facilities, and the purchase of long-term power supplies;
- (5) Establishing objectives and action plans consistent with Commission resource planning policies;
- (6) Establishing a clear standard of prudent financial management including but not limited to a utility's demonstration of consideration of physical and financial hedging, cost effectiveness, and other tools of prudent financial management;
- (7) Establishing appropriate plans for capital expenditures for equipment or facilities at utility generation facilities necessary to comply with the Federal Clean Air Act, as amended, and other federal, state, local, or tribal environmental requirements;
- (8) Establishing a clear, before-the-fact foundation for the recovery of prudently incurred investment and expenses in subsequent rate and fuel and purchased-power cost recovery proceedings; and
- (9) Establishing the appropriate portfolio of products to be obtained through competitive procurement.

165:35-37-4. Integrated Resource Plan Reviews

(a) Each utility shall submit to the Commission a proposed integrated resource plan, ~~with the~~ The utility's first integrated resource plan was due on before October 1, 2006, and subsequent plans shall be due every three (3) years thereafter, unless otherwise ordered by the Commission. Subsequent plans shall be developed and submitted as provided by the procedure set forth in 165:35-37-5. The proposed resource plan shall include, among other things, a fuel procurement plan, purchased-power procurement plans, a risk management plan, an environmental compliance plan, and other elements as described further in this Subchapter. This plan will be made available upon request by any person or entity to the soliciting utility, except any portions subject to a Commission protective order.

(b) Each utility shall have an ongoing obligation to monitor markets and inputs and to notify the Commission when material changes in planning assumptions occur. As the integrated resource plan changes from year to year, the utility shall submit updates to the Commission. The Commission may require the utility to submit an interim, updated integrated resource plan to reflect material change(s) in planning assumptions.

(c) The integrated resource plan shall include, at a minimum, a tabular summary of each of the following Sections:

- (1) Schedule A: An electric demand and energy forecast;
- (2) Schedule B: A forecast of capacity and energy contributions from existing and committed supply- and demand-side resources;
- (3) Schedule C: A description of transmission capabilities and needs covering the forecast period;
- (4) Schedule D: An assessment of need for additional resources;
- (5) Schedule E: A description of the supply, demand-side and transmission options available to the utility to address the identified needs;
- (6) Schedule F: A fuel procurement plan, purchased-power procurement plan, and risk management plan;
- (7) Schedule G: An action plan identifying the near-term (i.e., across the first five [5] years) actions that the utility proposes to take to implement its proposed resource plan;
- (8) Schedule H: Any proposed RFP(s), supporting documentation, and bid evaluation procedures by which the utility intends to solicit and evaluate new resources; and
- (9) Schedule I: A technical appendix for the data, assumptions and descriptions of models needed to understand the derivation of the resource plan.
- (10) Schedule J: A description and analysis of the adequacy of its existing transmission system to determine its capability to serve load over the next ten (10) years, including any planned proposed changes to existing transmission facilities.
- (11) Schedule K: An assessment of the need for additional resources to meet reliability, cost and price, environmental or other criteria established by the Commission, the State of Oklahoma, the Southwest Power Pool, North American Electric Reliability Council, or the Federal Energy Regulatory Commission. This assessment should address both base line forecast condition and important uncertainties, including but not limited to load growth, fuel prices, and availability of planned supplies.
- (12) Schedule L: An analysis of the utility's proposed resource plan and any alternative scenarios necessary to demonstrate how the preferred plan best meets the planning criteria. Technical appendices should be included to document the planning analysis and assumptions used in preparing this analysis.
- (13) Schedule M: A description and analysis of the Utility's consideration of physical and financial hedging to determine the Utility's ability to mitigate price volatility for the term covered by the IRP.

**SUBCHAPTER 43. TRANSMISSION ONLY
UTILITY**

165:35-43-1. Purpose of this Subchapter

The purpose of this Subchapter is to establish fair, just and reasonable rules and procedures for a Utility that builds, constructs, owns, operates, controls, manages or maintains Transmission Line(s) or services within the State of Oklahoma. This Subchapter applies to Transmission Only Utilities that build, construct, own, operate, control, manage or maintain Transmission Line(s) within the State of Oklahoma. This Subchapter does not address a Utility's authority to exercise eminent domain, condemnation, siting, or project-specific approval.

165:35-43-2. Definitions

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

"Interconnection" means two or more electric systems having a common transmission tie that permits a flow of energy between them. An Interconnection includes a common transmission tie between a Transmission Line and generation facilities, between a Transmission Line and load facilities, or between a Transmission Line and one or more other Transmission Line(s).

"NERC" means the North American Electric Reliability Corporation.

"SPP" means the Southwest Power Pool, Inc.

"Transmission Line" means a set of conductors, insulators, supporting structures, and associated equipment used to move power at 60 kilovolts (kV) or above

"Transmission Only Utility" means an entity that builds, constructs, owns, operates, controls, manages, or maintains Transmission Line(s) within the State of Oklahoma and provides no retail service subject to the rate jurisdiction under 17 O.S. Section 151 et seq. by this Commission. This shall not include Utilities operated by municipalities, governmental bodies, or unregulated cooperatives.

165:35-43-3. Recognition by the Commission

(a) If an entity wishes to seek recognition by the Commission that such entity is a Public Utility, as is defined by Title 17 O.S. Section 151, such entity shall file an application before the Commission seeking such recognition as a Public Utility.

(b) Appropriate assessment fees may be applied to such entity during the application for recognition process as provided by Commission rules.

165:35-43-4. Reporting

(a) For a Transmission Only Utility providing electric transmission services, other than those facilities operating for the sole purpose of directly connecting generation resources to the existing grid, regular review of operations is reasonable to preserve the reliability of electric transmission service, to ensure public safety, and the enhancement of economic efficiency in the production and consumption of electricity for the electric consumer. This Subchapter establishes annual reporting requirement(s) to each Transmission Only Utility under Commission jurisdiction.

Permanent Final Adoptions

(b) On or before May 15 of each year, each Transmission Only Utility shall file a cause on the Public Utility Docket or shall file such required information in a filing otherwise required by the Commission. This filing shall provide to the Commission information about Transmission Line(s) the Transmission Only Utility has or planned to build, construct, own, operate, manage and or maintain based on the preceding calendar year. Within such cause, the Transmission Only Utility shall provide information required by the Public Utility Division of the Commission, which includes but is not limited to the following:

(1) A description of any new transmission route(s) that the Transmission Only Utility has submitted to the SPP's regional planning process or other applicable regional planning process, or that has been approved by a Federal authority;

(2) A status report of any Interconnection proposal that the Transmission Only Utility has submitted to a regional planning process or that has been approved by a Federal authority;

(3) Identification of the allocation of transmission costs to Oklahoma Utilities from SPP;

(4) An analysis of the costs and benefits to Oklahoma rate payers of any transmission project or portfolio of transmission projects, if the Transmission Only Utility or regional planner has prepared such a study, and excluding projects done primarily to comply with NERC standards;

(5) The expected number of Oklahoma residents that will be employed during construction of any project and the specific type of job(s) utilizing Oklahoma residents;

(6) The expected number of Oklahoma residents that will continue to be employed after construction of any project and the specific type of job(s) utilizing Oklahoma residents;

(7) A statement reflecting any known annual property or ad valorem tax assessed to the Transmission Only Utility for Transmission Lines and related operations;

(8) Aggregate total payments made to private landowners for transmission right-of-way, reported after all right-of-way for a particular project has been acquired;

(9) Aggregate total payments made to public landowners for transmission right-of-way, reported after all right-of-way for a particular project has been acquired;

(10) Identification of any new energy resource(s) to which the transmission project is directly connected or, to the extent known, resources to which the transmission project could be connected to integrate existing natural gas or other resource generation;

(11) Copies of any impact studies previously provided to state or federal agencies concerning the environment and the wildlife in the area of any new Transmission Line(s) built by the Transmission Only Utility will be made available for onsite review as requested;

(12) An attestation that the Transmission Only Utility's insurance coverage will be made available for onsite review as requested.

(c) Any additional information required by the Commission shall be requested from all Transmission Only Utilities at such

time as the Commission determines the need for such information.

(d) Information submitted in the reports required by this section shall be deemed confidential records or trade secrets of the reporting Transmission Only Utility under the Open Records Act as provided for by 51 O.S. Section 24A.22 and shall be made available for Commission onsite review, unless such records are successfully challenged or become the subject matter of an enforcement action at the Commission. Utilities will clearly mark all confidential documents as confidential.

165:35-43-5. Commission consideration

(a) The Commission shall review and may investigate all filed transmission information for compliance with reporting requirements

(b) After receiving an informational filing from a Transmission Only Utility pursuant to the preceding Section, the Commission:

(1) Will determine whether the filing is compliant with the requirements of the Commission rules; and

(2) Will issue an appropriate order determining compliance with these rules. In the event the Commission determines the Transmission Only Utility's filing is not in compliance with the rules, the Commission will issue an order rejecting the report or opening an investigation to inquire further into the report.

165:35-43-6. Determining assessment fees

(a) In causes initiated on the Public Utility Docket to meet requirements of this subsection, fees shall be assessed upon a motion of the Staff of the Public Utility Division or upon motion of the Attorney General.

(b) The Commission shall make a determination of the estimated costs of the Public Utility Division and the Attorney General required to process, analyze and review filed information as required by this subsection. These estimated costs shall be the basis of the fee assessed on a Transmission Only Utility subject to this Subchapter.

(c) After notice to the Transmission Only Utility to be assessed and hearing, the Commission shall issue an order which shall include the following:

(1) Whether or not the Transmission Only Utility will be assessed fee(s);

(2) The amount of the fee(s) to be assessed; and

(3) The date payment(s) shall be paid.

165:35-43-7. Decommissioning of transmission lines

(a) A Transmission Only Utility shall be responsible, at its expense, for the decommissioning of any and all of its equipment upon abandonment or the end of the useful life of a Transmission Line or other electric transmission facility. After the decommissioning of any Transmission Line, a Transmission Only Utility shall restore the land upon which a decommissioned Transmission Line or other electric transmission facility was located consistent with the Transmission Only Utility's decommissioning plan.

(b) A Transmission Only Utility shall submit a decommissioning plan to identify the methodology used to mitigate potential impacts resulting from the cessation of operation at the end of the project's useful life. The plan shall consist of but not limited to the following:

- (1) Identification of the specific project components that will be removed;
- (2) A description of the decommissioning process in the event of abandonment during construction and abandonment during operation;
- (3) A description of the process used for soil and road restoration; and
- (4) An attestation that a statement of financial capability or insurance coverage sufficient to decommission the project outlined in the plan will be made available to the Commission upon request.

[OAR Docket #12-788; filed 6-7-12]

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

[OAR Docket #12-789]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
 - 165:55-1-1. Purpose; short title [AMENDED]
 - 165:55-1-4. Definitions [AMENDED]
 - 165:55-1-13. Conflict with filed tariffs [AMENDED]
- Subchapter 3. Certificates, Reports, and Records
 - Part 1. Certificates of Convenience and Necessity
 - 165:55-3-1. Certificate of Convenience and Necessity [AMENDED]
 - Part 5. Record Requirements
 - 165:55-3-20. Location of records [AMENDED]
 - 165:55-3-22. Records to be provided to the Commission [AMENDED]
 - 165:55-3-23. Complaints report [AMENDED]
 - Part 7. Reporting Requirements
 - 165:55-3-31. Due dates of reports [REVOKED]
- Subchapter 5. Rates and Tariffs
 - Part 1. Tariff Filing
 - 165:55-5-1. Tariffs and/or Terms of Service required [AMENDED]
 - 165:55-5-2. Contents of tariffs [AMENDED]
 - 165:55-5-3. Terms and conditions of service [REVOKED]
 - Part 3. Approval and Notice Requirements
 - 165:55-5-10. Tariff approval and revisions to tariffs [AMENDED]
 - 165:55-5-10.1. Competitive services [REVOKED]
 - 165:55-5-10.2. Promotional offerings [AMENDED]
 - 165:55-5-10.3. Customer-specific contracts under ICB pricing [AMENDED]
 - 165:55-5-11. Type of notices [AMENDED]
 - 165:55-5-13. Suspension of tariff ~~filings~~ and/or Terms of Service [AMENDED]
 - 165:55-5-14. Objections [AMENDED]
 - Part 5. Tariff Structure and Composition
 - 165:55-5-20. Requirements as to size, form and identification of tariffs [AMENDED]
 - 165:55-5-21. Composition of filed or submitted tariffs [AMENDED]
 - 165:55-5-22. Tariff filings in response to Commission orders [AMENDED]
 - 165:55-5-23. Symbols for changes [AMENDED]
 - Part 7. Miscellaneous Tariff and/or Terms of Service Requirements
 - 165:55-5-30. Accessibility of tariffs and/or Terms of Service [AMENDED]
 - 165:55-5-32. Change by other regulatory authorities [AMENDED]

- 165:55-5-34. Data and information on proposed tariff revisions [AMENDED]
- 165:55-5-36. Returned Check Charge [AMENDED]
- Part 9. Relief from Rate Base/Rate of Return Regulation [REVOKED]
- 165:55-5-50. Relief from rate base/rate of return regulation [REVOKED]
- Part 11. Oklahoma Plan [REVOKED]
- 165:55-5-64. Implementation of Oklahoma Plan [REVOKED]
- 165:55-5-65. [REVOKED]
- 165:55-5-66. Pricing [REVOKED]
- 165:55-5-67. [REVOKED]
- 165:55-5-68. Notice requirements [REVOKED]
- 165:55-5-69. [REVOKED]
- 165:55-5-70. Packaging [REVOKED]
- 165:55-5-71. [REVOKED]
- 165:55-5-72. Reporting [REVOKED]
- 165:55-5-73. [REVOKED]
- 165:55-5-74. Service standards [REVOKED]
- 165:55-5-75. REVOKED]
- 165:55-5-76. Enforcement of the Oklahoma Plan [REVOKED]
- Subchapter 9. Customer Billing and Deposits
 - Part 1. Billing and Payment Requirements
 - 165:55-9-1. Billing period [AMENDED]
 - 165:55-9-2. Content of bills [AMENDED]
 - 165:55-9-4. Request for payments other than normal billings [AMENDED]
 - 165:55-9-8. Customer Preferences [AMENDED]
 - Part 3. Credit Requirements
 - 165:55-9-14. Deposits and interest [AMENDED]
- Subchapter 11. Service Denial, Suspension and Disconnection
 - Part 1. Notice Requirements
 - 165:55-11-4. Insufficient reasons for denial or suspension or disconnection of service [AMENDED]
 - 165:55-11-7. Written correspondence [AMENDED]
 - Part 3. Suspension and Disconnection Procedures
 - 165:55-11-12. Notice of Disconnection and Notice of Suspension [AMENDED]
 - 165:55-11-13. Reconnection [AMENDED]
 - 165:55-11-14. Multi-State customers [AMENDED]
 - Subchapter 13. Operating and Maintenance Requirements
 - Part 1. New and Unfilled Applications for Service
 - 165:55-13-1. Service objectives; service period [AMENDED]
 - 165:55-13-2. Unfilled applications [AMENDED]
 - Part 3. Service Standards
 - 165:55-13-10. Minimum service standards [AMENDED]
 - 165:55-13-12. Extension of facilities [AMENDED]
 - 165:55-13-12.1. New Developments [NEW]
 - Part 5. Service Quality Standards
 - 165:55-13-20. Responsibility for adequate and safe service [AMENDED]
 - 165:55-13-22. Emergencies [AMENDED]
 - 165:55-13-23. Adequacy of service [AMENDED]
 - 165:55-13-24. Adequacy of equipment [AMENDED]
 - Part 7. Transmission Objectives
 - 165:55-13-30. Accepted transmission design factors [AMENDED]
 - 165:55-13-31. Access lines [REVOKED]
 - Part 11. Interruptions of Service
 - 165:55-13-50. Service standards; sufficient operating and maintenance force [AMENDED]
 - 165:55-13-51. Records of trouble reports [AMENDED]
 - 165:55-13-52. Notice of service interruptions [AMENDED]
 - 165:55-13-53. Restoration of service plan [AMENDED]
- Subchapter 15. Notification of Transactions Affecting Customers or Business Operations
 - 165:55-15-1. Notification of certain transactions affecting the customers or operations of a telecommunications service provider or IXC [AMENDED]
 - 165:55-15-3. Sale of equipment [REVOKED]
 - 165:55-15-5. Cessation of business in Oklahoma [AMENDED]
- Subchapter 17. Facilitation of Local Exchange Competition
 - 165:55-17-29. ~~Carrier of Last Resort~~ Eligible ~~Eligible~~ Telecommunications Carrier [AMENDED]
- Subchapter 22. Resolution Disputes
 - 165:55-22-5. Formal non-expedited dispute resolution [AMENDED]
 - 165:55-22-9. Interim relief [AMENDED]
- Subchapter 23. Wireless Eligible Telecommunications Carrier

Permanent Final Adoptions

Part 1. General Provisions
165:55-23-1. Requirements [AMENDED]
Subchapter 25. Homeland Security and Critical Infrastructure
165:55-25-1. Purpose and scope [AMENDED]
Appendix A. Telecommunications Complaint Report Form [REVOKED]

AUTHORITY:

Oklahoma Corporation Commission; Article IX, Section 18, Oklahoma Constitution; 17 Okla. Stat. § 139.101

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Amendments and additions to existing Commission rules in Chapter 59 were needed to clarify the responsibilities of eligible telecommunications service providers or recipients of Special Universal Services in regards to receiving OUSF funding.

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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 12, 2012:

SUBCHAPTER 1. GENERAL PROVISIONS

165:55-1-1. Purpose; short title

(a) This Chapter establishes the Oklahoma Corporation Commission Rules and Regulations Governing and Regulating the Operations of Telecommunications Service Providers and Telecommunications in Oklahoma which may be cited by the short title as the Oklahoma Telecommunications Rules.

(b) This Chapter is intended to define good business practices under normal conditions, assure adequate service and prevent unfair charges to the customers and/or end-users and protect the telecommunications service provider from unreasonable demands.

(c) This Chapter is further intended to allow Oklahoma consumers to receive timely benefits from lawful market-driven price and service competition among interexchange carriers

("IXCs") and telecommunications service providers in the long distance and local exchange markets by applying such regulatory requirements as are necessary to assure public access to long distance and local exchange services under tariff provisions and Terms of Service which are not unjustly discriminatory and to preclude unjust and unreasonable rates or charges in such markets. It is also intended that if an IXC provides local exchange service, the local exchange portion of its business shall be subject to the rules and regulations prescribed in this Chapter for telecommunications service providers.

(d) Notwithstanding the provisions of OAC 165:55-1-12, nothing in this Chapter is intended to supersede the Commission's extant orders regarding intraLATA toll competition or imputation. In the event future Commission orders modify the scope of such competition or imputation, such orders shall be controlling.

165:55-1-4. Definitions

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

"**Access line**" means the facility provided and maintained by a telecommunications service provider which permits access to and/or from the public switched network.

"**Access service**" means any tariffed wholesale service provided by one LEC to another LEC, CLEC, interexchange carrier certificated by the Commission or an end-user that allows for access to the local exchange telecommunications network, excluding local interconnection arrangements.

"**Applicant for telecommunications service**" means any person, partnership, cooperative corporation, corporation, or lawful entity requesting service(s) from a telecommunications service provider.

"**Authorized carrier**" means any telecommunications carrier that submits a change, on behalf of an end-user, in the end-user's selection of a provider of telecommunications service with the end-user's authorization verified in accordance with the procedures specified in this Chapter.

"**Base rate area**" means the developed area within each exchange service area designated in the tariffs of the telephone company or if not so designated, an area within one-half (1/2) mile radius of the serving central office.

"**Basic local service**" means all residential and business telecommunications voice and/or relay service which meets the standards set forth in 165:55-13-10, including lines beyond the first line into a residence or business.

"**Billing agent**" means an entity which provides bills to an end-user for services received from a telecommunications service provider.

"**Billing and collection service**" means the wholesale service provided by a TSP or IXC for the processing and delivery of customer bills, on behalf of a third party.

"**Bona Fide Request**" means a written request delivered to a telecommunications service provider requesting services and interconnection provided for in this Chapter.

"**CIC**" means carrier identification code which identifies a provider of toll services by a three- or four-digit number.

"Campus" means multiple buildings located on a single tract or area of land or on adjacent and abutting tracts of land where all the buildings and land are subject to majority ownership by the same person. A campus may be intersected or traversed by public thoroughfares provided that the segments created would be continuous in the absence of the thoroughfare. A tract or tracts of land used for farming and/or ranching shall not be considered a "campus."

"Carrier of last resort" means a telecommunications service provider as designated by the Commission pursuant to OAC 165:55-17-29.

"Central office" means an operating unit of a telecommunications service provider by which connections are established between end-users' lines and between end-users' lines and trunks or toll lines.

"Circuit" or **"Channel"** means one communication path between two (2) or more points suitable for transmitting information.

"Class of service" or **"Customer class"** means a description of service furnished to an end-user in terms of type of rate, location, and use.

"CLEC" means a Competitive Local Exchange Carrier.

"Clear and conspicuous" means notice that would be apparent to the reasonable consumer.

"Commission" means the Oklahoma Corporation Commission.

"Competitive Local Exchange Carrier" ("competitive LEC") means, with respect to an area or exchange(s), a telecommunications service provider that is certificated by the Commission to provide local exchange services in such area or exchange(s) within the State of Oklahoma after July 1, 1995.

"Competitive Provider" means an entity providing the same or equivalent services through the use of its own or leased facilities including resellers. The service must satisfy the Commission's rules of minimum service standards regardless of whether the provider is regulated by the Commission.

"Competitive service" means a telecommunications service determined by the Commission to be subject to effective competition for a relative geographic and service(s) market, after notice and hearing.

"Competitive Test" means an evaluation by the Commission to determine after notice and hearing, for a particular service on an exchange by exchange basis, the existence of competition among an ILEC, a non-affiliated facilities based Competitive Provider, and one (1) other non-affiliated Competitive Provider. Such exchanges shall be the same as those on file with the Commission on the date of approval of the Transition Plan.

"Competitively neutral" means not advantaging or favoring one person over another.

"Cramming" means the placement of unauthorized, misleading, or deceptive charges on a customer's telephone bill for products or services that were never ordered by the customer.

"Customer" means any person, firm, partnership, cooperative corporation, corporation, or lawful entity that receives regulated telecommunications services supplied by any telecommunications service provider or IXC.

"Customer trouble report" means any oral or written report given to a telecommunications service provider's repair service by an end-user of telephone services relating to a physical defect or difficulty or dissatisfaction with the provision of the telecommunications service provider's regulated services. Each trouble report shall count as a separate report regardless of whether subsequent reports relate to the same physical defect, difficulty, or dissatisfaction with the provision of the telecommunications service provider's regulated services.

"Demarcation point" means the physical location at which responsibility for operating and maintaining facilities passes from one person to another.

"Deniable charge" means a charge for those regulated services for which nonpayment may result in a disconnection of basic local service.

"Dialing parity" means that a person that is not an affiliate of a telecommunications service provider is able to provide telecommunications services in such a manner that end-users have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications service provider of the end-user's designation from among two (2) or more telecommunications service providers.

"Directory" means the published listing of all telephone numbers, other than those requested by the end-user not to be published, for all end-users in a service area regardless of the local exchange telecommunications service provider selected by the end-user.

"Disconnection of service" means an arrangement made by the end-user or TSP for permanently discontinuing service by terminating the contract and/or removing the telephone service from the end-user's premises.

"Eligible telecommunications carrier" ("ETC") means a telecommunications service provider as designated by the Commission pursuant to OAC 165:55-17-29 and 47 U.S.C. §§ 254 and 214(e).

"End-user" means the customer to whom a telephone number is assigned.

"Enhanced service" means a service that is delivered over communications transmission facilities that: (1) change the content, format, code or protocol of transmitted information; (2) provide the customer new or restructured information; or (3) involve end-user interaction with information stored in a computer.

"Exchange" means a geographic area established by an incumbent LEC as filed with and/or approved by the Commission for the administration of local telecommunications service in a specified area which usually embraces a city, town, or village and its environs. It may consist of one or more central offices together with associated plant used in furnishing telecommunications service in that area.

"Executing carrier" means any telecommunications carrier that effects a request that an end-user's telecommunications carrier be changed. A carrier may be treated as an executing carrier, however, if it is responsible for any unreasonable delays in the execution of carrier changes or for the execution of unauthorized carrier changes, including fraudulent authorizations.

"Facilities" means all the plant and equipment of a telecommunications service provider including all tangible

Permanent Final Adoptions

and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with the regulated business of any telecommunications service provider.

"Facilities-based provider" means an entity providing telecommunications services predominately through the use of its own facilities, including UNEs, and other technologies capable of meeting all local telecommunications service requirements while complying with the Commission's quality of service rules.

"FCC" means the Federal Communication Commission.

"Filed" means to present a document to and have it accepted by the Office of the Court Clerk of the Oklahoma Corporation Commission.

"Five Year Period" means the initial five (5) year period, commencing the date of an ILEC's notification of its election into the Oklahoma Plan.

"Incumbent Local Exchange Company" ("incumbent LEC") means, with respect to an area or exchange(s), any telecommunications service provider furnishing local exchange service in such area or exchange(s) within the State of Oklahoma on July 1, 1995, pursuant to a Certificate of Convenience and Necessity or grandfathered authority.

"ILEC" means an Incumbent Local Exchange Company.

"Individual Case Basis" ("ICB") means a condition, pursuant to the provisions of the tariff, in which the rates and charges for an offering are developed based on the circumstances of each customer.

"Initial Tariffs" means the first tariffs approved after, or in conjunction with, the granting of a Certificate of Convenience and Necessity.

"Interexchange telecommunications carrier" ("IXC") means any person, firm, partnership, corporation, or other entity, except incumbent LECs, resellers, or OSPs engaged in furnishing regulated interexchange telecommunications services under the jurisdiction of the Commission.

"Interexchange telecommunications service" means telecommunications service provided between locations within different certified telephone exchange service areas.

"InterLATA call" means any call which is originated in one LATA and terminated in another LATA.

"Interstate call" means any call which is originated in one state and terminated within the boundaries of another state.

"IntraLATA call" means any call which is originated and terminated within the boundaries of the same LATA, regardless of whether such call crosses LATA boundaries prior to reaching its termination point.

"Intrastate call" means any call which is originated and terminated within the boundaries of the State of Oklahoma, regardless of whether such call crosses state boundaries prior to reaching its termination point.

"LATA" means Local Access and Transport Area as defined in the Code of Federal Regulations, Title 47 Part 53.3.

"Less than Minimum Service Provider" means a CLEC which offers local exchange service that does not meet all minimum service standards, as set forth in OAC 165:55-13-10.

"Letter of Agency" ("LOA") means the written authorization that gives permission to change the customer's telecommunications services and/or the customer's provider or to share that customer's network information with representatives or associates of the telecommunication company.

"Local Exchange Service" means a switched and/or dedicated telecommunications service which originates and terminates within an exchange or an exchange service territory. Local exchange service may be terminated by a telecommunications service provider other than the telecommunications service provider on whose network the call originated. The local exchange service territory defined in the originating provider's tariff shall determine whether the call is local exchange service.

"Local interconnection arrangements" means a contract for interconnection, including resale, as governed by section 251 of the Communications Act of 1934 (47 U.S.C. § 251), as amended, the Federal Communication Commission rules and the rules of the Commission.

"Local operator services" means the automatic or live assistance provided to a customer, which enables the customer to arrange for billing or completion of a local call. Local operator services may include, but are not limited to, line status verification, busy line verification, emergency interrupt, and calls to emergency numbers (e.g., 911).

"Long run incremental cost" ("LRIC") means the long run forward-looking additional cost caused by providing all volume-sensitive and volume-insensitive inputs required to provide the total demand associated with a service or network element offered as a service, using economically efficient current technology efficiently deployed. LRIC also equals the cost avoided, in the long run, when a service or network element offered as a service is no longer produced. LRIC excludes costs directly and solely attributable to the production of other services or network elements offered as services, and unattributable costs which are incurred in common for all the services supplied by the firm. The long run means a period long enough so that the cost estimates are based on the assumption that all inputs are variable.

"Near reservation" means those areas or communities adjacent or contiguous to reservations which are designated by the Commissioner of Indian Affairs upon recommendation of the local Indian Bureau Superintendent, which recommendation shall be based upon consultation with the tribal governing body of those reservations, as locales appropriate for the extension of financial assistance and/or social services, on the basis of such general criteria as: (1) number of Indian people native to the reservation residing in the area, (2) a written designation by the tribal governing body that members of their tribe and family members who are Indian residing in the area, are socially, culturally and economically affiliated with their tribe and reservation, (3) geographical proximity of the area to the reservation, and (4) administrative feasibility of providing an adequate level of services to the area. The Commissioner of Indian Affairs shall designate each area and publish the designations in the Federal Register.

"Network element" means a facility or equipment used in the provision of a telecommunications service. Such term also

includes features, functions and capabilities that are provided by means of such facility or equipment, including end-user numbers, databases, signaling systems and information sufficient for billing and collection or used in the transmission, routing or other provision of a telecommunications service.

"Network interface" means the normal demarcation point separating the telecommunications service provider's regulated facilities and equipment from the unregulated facilities, equipment, or systems provided by the end-user. The provision of the network interface is the responsibility of the telecommunications service provider.

"New service provider" means a service provider that did not bill the end-user for service during the service provider's last billing cycle. This definition excludes service providers which bill the customer solely on a per transaction basis.

"New services" means any service(s), except access services or interconnection services, for which a rate element does not presently exist, which does not replace an existing tariff service, and that enlarges the range of service options available to end-users.

"Nonbasic service" means any telecommunication service not included in basic local service, local interconnection arrangements and/or access service.

"Non-deniable charge" means a charge for those not-regulated services for which nonpayment shall not result in a disconnection of basic, local service.

"Not-regulated service" means the offering of service(s) where the rates and/or terms and conditions for such service(s) are not-regulated by the Commission. These would include any interstate services offered from pursuant to FCC tariffs such as interstate service offerings or rules, and any taxes, fees and surcharges applicable to those services, as well as any intrastate services not contained in tariffs approved by that are not regulated by the Commission.

"Number Portability" means the ability of end-users of telecommunications services to retain, within the same wire center, their existing telecommunications number without impairment of quality, reliability or convenience when switching from one telecommunications service provider to another.

"Oklahoma Plan" means an alternative regulation plan which conforms to Part 11 of Subchapter 5 of this Chapter.

"Packaging" means the sale of two or more services offered by or in conjunction with the services of a TSP to a customer of a TSP for a single price.

"Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character.

"Rates" means all ~~tariffed~~ charges assessed by a TSP or IXC.

"Regulated telecommunications service" means the offering of telecommunications service(s) directly to the public where the rates and/or terms and conditions for such service(s) are regulated by the Commission. These would include services offered from intrastate tariffs approved by the Commission including any taxes, fees and surcharges applicable to those services, and interstate services when the Commission is enforcing the FCC slamming rules.

"Reservation" means any federally recognized Indian tribe's reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments.

"Rural telephone company" means a LEC to the extent that such entity:

(A) Provides telecommunications service to any local exchange study area that does not include either:

(i) Any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the U.S. Bureau of Census; or,

(ii) Any territory, incorporated or unincorporated, included in an urbanized area, as defined by the U.S. Bureau of Census as of August 10, 1993.

(B) Provides local exchange service, including exchange access, to fewer than 50,000 access lines;

(C) Provides local exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or,

(D) Has less than fifteen percent (15%) of its access lines in communities of more than 50,000 on the date of enactment of the Federal Telecommunications Act of 1996.

"RUS" means the Rural Utility Services.

"Service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. Service shall not include the provision of nontelecommunications services, including but not limited to the printing, distribution, or sale of advertising in telephone directories, maintenance of inside wire, customer premises equipment and billing and collection, nor does it include the provision of mobile telephone service, enhanced services and other not-regulated services.

"Service interruption" means service outage, total failure, or complete loss of service due to a trouble condition in the facilities of a telecommunications service provider.

"Service provider" means any entity that offers a product or service to a customer, the charge for which appears on the bill of the billing agent. This definition shall include only providers that have continuing relationships with the end-user that will result in periodic charges on the end-user's bill, unless the service is subsequently canceled.

"Service territory" means a geographic area served by a telecommunications service provider.

"Slamming" means the unauthorized switching of an end-user's telecommunications service provider or presubscribed IXC.

"Submit" means to present a document to the Director of the Public Utility Division.

"Submitting carrier" means any telecommunications carrier that requests on the behalf of an end-user that the end-user's telecommunications carrier be changed and seeks to provide retail services to the end-user. A carrier may be treated as a submitting carrier, however, if it is responsible for any unreasonable delays in the submission of carrier change

Permanent Final Adoptions

requests or for the submission of unauthorized carrier change requests, including fraudulent authorizations.

"Supported Services" means services identified in 47 CFR part 54, OAC 165:55-13-10 or OAC 165:59, as amended from time to time, for which a wireless ETC receives support from the federal USF, OUSF or OLF, or as otherwise may be ordered by the Commission.

"Suspension of service" means an arrangement made at the initiative of the TSP for temporarily discontinuing service without terminating the contract or removing the telephone service from the customer's premises.

"SWBT" means Southwestern Bell Telephone Company, L.P. d/b/a SBC Oklahoma.

"Tariff" means all or any part of the body of rates, tolls, charges, classifications, and terms and conditions of service relating to regulated services offered, the conditions under which offered and the charges therefore, which have been filed with and approved by the Commission.

"Telecommunications" means the transmission, between or among points specified by the user of voice or data information of the user's choosing, without change in the form or content of the information as sent and received.

"Telecommunications carrier or Company" means a telecommunications service provider ("TSP") or an interexchange telecommunications carrier ("IXC").

"Telecommunications service provider" ("TSP") means all authorized providers of local exchange service, whether an incumbent LEC or a competitive LEC.

"Telephone bill" means a billing agent's invoice, issued in compliance with this Chapter, for products or services rendered by itself and by a service provider(s), if any.

"Telephone company" or **"Company"** means any person, firm, partnership, corporation, or other entity engaged in furnishing regulated local exchange telephone services under the jurisdiction of the Commission on July 1, 1995, pursuant to a Certificate of Convenience and Necessity or grandfathered authority.

"Terms of Service" means rates, charges and terms and conditions for regulated services that a TSP or IXC elects to post, in a searchable format, on a publicly available website.

"Transitional commitments" means the commitments made by an ILEC in the State of Oklahoma pursuant to Part 9 or Part 11 of Subchapter 5 of this Chapter.

"Unauthorized carrier" means any telecommunications carrier that submits a change, on behalf of an end-user, in the end-user's selection of a provider of telecommunications service but fails to obtain the end-user's authorization verified in accordance with the procedures specified in this Chapter.

"Unauthorized change" means a change in an end-user's selection of a provider of telecommunications service that was made without authorization verified in accordance with the verification procedures specified in this Chapter.

"Unbundled network element" ("UNE") means a component of the ILEC's telecommunications network utilized to provide telecommunications services.

"Unbundling" means to provide to any telecommunications service provider nondiscriminatory access to network elements on an unbundled basis at any technically feasible

point on rates, terms and conditions that are just, reasonable and nondiscriminatory.

"Unfiled application" means a firm application by an end-user for new service or a different class of service which has not yet been accomplished.

"Wire Center" means a geographic area normally served by a central office.

"Wireless Telecommunications Carrier" means a Commercial Mobile Radio Service provider as defined by the FCC, including 47 CFR § 20.3, as may be amended from time to time.

"Zone" means a service territory described as such by an incumbent LEC.

165:55-1-13. Conflict with filed tariffs

All tariffs and terms and conditions of service heretofore filed or submitted by a telecommunications service provider and approved or deemed approved by the Commission are not revoked, altered or amended by this Chapter, except to the extent they are in direct conflict with any provision of this Chapter, in which event such tariffs and terms and conditions of service are superseded by this Chapter to the extent of conflict only.

SUBCHAPTER 3. CERTIFICATES, REPORTS, AND RECORDS

PART 1. CERTIFICATES OF CONVENIENCE AND NECESSITY

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

(a) **Requirement for Certificate of Convenience and Necessity.** No telecommunications service provider or IXC shall furnish telecommunications service to any end-user in the State of Oklahoma without first having secured a Certificate of Convenience and Necessity from the Commission.

(b) **Application for Certificate of Convenience and Necessity.** An application for a certificate to provide service in the State of Oklahoma shall be made pursuant to and in conformance with the requirements of Oklahoma law and any additional requirements set forth in this Chapter. An original and eight (8) copies of the application for Certificates of Convenience and Necessity shall be filed at the Commission's Office of the Court Clerk. A filing fee pursuant to the Commission's Rules of Practice, OAC 165:5, shall be required.

(c) **Application requirements for Certificate of Convenience and Necessity.** Every telecommunications service provider or IXC making application to the Commission for a Certificate of Convenience and Necessity to provide telecommunications services in the State of Oklahoma shall be required to demonstrate its financial, managerial and technical ability to provide the requested telecommunications services in the State of Oklahoma. An application for a Certificate of Convenience and Necessity shall include information and attachments which are certified as true and correct by an officer of any corporate applicant, or an authorized representative of an unincorporated applicant.

(1) The application shall contain the following information:

(A) The complete name, including any and all trade name(s) under which business will be conducted pursuant to 18 O.S. (1991) § 1140, corporate or other headquarters street address and names/addresses of principal or corporate officers of the entity proposing to sell telecommunications service to the public in the State of Oklahoma. The telephone number and, if applicable, the toll-free number will also be included.

(B) If different from those provided pursuant to subparagraph (1)(A) of this Section, the names and address(es) of all officers and corporate or primary offices of the applicant for a Certificate of Convenience and Necessity located in the State of Oklahoma and the name(s) and address(es) of senior management personnel responsible for Oklahoma operations.

(C) A written affirmation, signed before a Notary Public by someone with authority to bind the corporation or entity, containing the following statements:

(i) That the information contained in the application is true and correct;

(ii) That the applicant is familiar with and will comply with all federal and state laws, and the rules and orders of this Commission;

(iii) That for each area or exchange(s) an applicant proposes to serve, the applicant agrees to offer the provisioning of service to all end-users within that area or exchange(s) on a nondiscriminatory basis;

(iv) That the applicant understands the Commission's contempt authority;

(v) That the applicant will contribute to the Oklahoma Universal Service Fund pursuant to OAC 165:59;

(vi) That the applicant will comply with the provisions of 165:55-13-10.1 and will include a statement to this effect in its tariffs;

(vii) That the applicant either provides only data service, or that prior to commencing to provide local exchange service the applicant will notify each Public Safety Answering Point ("PSAP") within their service area that they will be providing service within the area served by the PSAP, and provide each PSAP with contact information in case there are issues with the completion of calls by the customers of the Applicant. The attachment shall also state that the Applicant will comply with the requirements of 17 O.S. § 131 and will collect and disburse the 944E911/911 fee as required by 63 O.S. § 2814. Such affirmation should also include a statement that applicant will provide proof to the Commission of such compliance within 30 days following Applicant's initial provisioning of local service;

(viii) That the applicant understands that before it ceases, discontinues, or curtails operations and/or service, it must file with the Commission

and provide each affected customer, in the manner required by the Commission, notice of the intended action, and must also provide notice to any 944E911/911 Database Management Service Provider, pursuant to OAC 165:55-15-5;

(ix) A statement that the applicant is not currently under investigation, either in this state or in another state or jurisdiction, for violation of any deceptive trade or consumer protection law or regulation, if that is the case;

(x) A statement that the applicant has not been fined, sanctioned or otherwise penalized either in this state or in another state or jurisdiction for violation of any consumer protection law or regulation, if that is the case; and

(xi) If either of the statements required in (ix) and (x) above is untrue, a detailed explanation of the circumstances of the investigation or fine, sanction, or penalization including a detailed description of the cause(s), the number of customers involved, and current status of the proceeding.

(2) The attachments to the application shall include the following:

(A) Copies of the applicable Articles of Incorporation, and/or partnership agreement, and/or Joint Venture agreement and, where they exist, by-laws of the applicant for a Certificate of Convenience and Necessity and any entity owning a whole or controlling interest in the applicant for a Certificate of Convenience and Necessity.

(B) A copy of the applicable certificate, issued by Oklahoma's Secretary of State, to transact business in the State of Oklahoma.

(C) A copy of the Corporate Trade Name Report, issued by Oklahoma's Secretary of State, shall be provided for each and every trade name utilized by the telecommunications service provider or IXC, i.e. a "d/b/a".

(D) Proof that the third-party surety bond, surety bond or letter of credit required in subsection (f) of this Section has been obtained, if applicable.

(E) Documentation indicating the applicant's organizational structure and ownership such as:

(i) For corporations, partnerships and/or joint ventures, the applicant's stockholders annual reports and SEC 10Ks for the last three (3) years, if applicable, or, if the company is not publicly traded, its financial statements for the last three (3) years, if available, or other documentation as may be requested by the Commission.

(ii) A sole proprietor shall provide financial statements for the last three (3) years, if available, or other documentation as may be requested by the Commission.

(F) A brief description of its history of providing the requested telecommunications service, or other telecommunications services, in order to demonstrate its managerial experience. The history shall include

Permanent Final Adoptions

a list of the geographic areas in which it previously provided service and/or is currently providing service and such other documentation as may be requested by the Commission. Applicants for a Certificate of Convenience and Necessity without prior experience shall list the experience of each principal officer, partner, or the sole proprietor in order to demonstrate its managerial ability, and/or provide other documentation as may be requested by the Commission.

(G) A description of the applicant's experience in providing telecommunications services in order to demonstrate its technical abilities. In the case of applicants for a Certificate of Convenience and Necessity without prior experience, the applicant shall provide documentation which supports its technical abilities or other documentation as may be requested by the Commission.

(H) The name, address and toll-free telephone number that an end-user may contact concerning repairs and maintenance, complaints, billing questions, refunds and any other customer service-related inquiries.

(I) The contact name, address and telephone number of the individual with overall responsibility for repairs and maintenance, complaints, billing questions, refunds, and any other customer service-related inquiries. This will be the principal contact for the Commission's Consumer Services Division regarding complaints involving the telecommunications service provider.

(J) The contact name, address and telephone number of the principal contact to be utilized by the Commission's Public Utility Division regarding any questions which are not related to customer service.

(K) A list of all other states, if any, where:

- (i) The applicant is authorized to operate;
- (ii) Authorization to operate is pending;
- (iii) A request for authorization has been denied, including the reason stated for denial, with a certified copy of the denial document attached; and/or,
- (iv) Authorization has been revoked, with a certified copy of the revocation document attached.

(L) A complete set of proposed initial tariffs which include the terms and conditions of service and all rates and charges for each service classification in a format consistent with Subchapter 5 of this Chapter or a statement that the applicant will file tariffs pursuant to OAC 165:55-3-3. A company may elect to post Terms of Service on a publicly available website, subsequent to the approval of their initial tariffs.

(M) A description of the applicant's proposed service territory.

(N) A description of the deposit, if the applicant intends to collect deposits, and disconnection rules to be applied to end-users by the applicant, all of which shall conform to Subchapters 9 and 11 of this Chapter.

(O) A statement setting forth the accounting system to be utilized by the applicant (the FCC-approved Uniform System of Accounts or another accounting system) and a Chart of Accounts.

(P) A listing of the complete name(s), including any trade name(s), corporate or primary headquarters street address(es) and names/addresses of principal officers of any affiliates and/or subsidiaries providing telecommunications and/or other services to the entity making the application proposing to sell the requested telecommunications service to the public in the State of Oklahoma, unless otherwise ordered by the Commission.

~~(Q) A copy of the applicant's proposed complaints report form which is consistent with OAC 165:55-3-23. The complaint report form and complaint codes suggested by the Director of the Consumer Services Division are included as Appendix A and Appendix B, respectively, to this Chapter. An affirmation that the Applicant will maintain a record of complaints in a manner consistent with OAC 165:55-3-23.~~

(R) A copy of the applicant's proposed letter of authorization to be used by the telecommunications service provider to obtain written authorization from an end-user to switch telecommunications service providers or a copy of the text of the proposed script of the verification, which must be approved by the Director of the Public Utility Division, consistent with OAC 165:55-19-1.

(S) A statement regarding whether the applicant intends to utilize the services of a billing agent to issue bills to end-users.

(3) The Public Utility Division Staff may issue data requests for additional information during its initial review of an application.

(4) The final contract(s), if any, between telecommunications service providers shall be provided to the Public Utility Division as soon as such contract(s) become available. Protective relief may be sought pursuant to 51 O.S. § 24A.22.

(d) **Requirements for expanding authority under an existing CCN.** An Applicant wishing to expand its service authority under an existing Certificate of Convenience and Necessity granted pursuant to Chapters 55, 56, 57 and/or 58, must make application to the OCC and provide all information and notice as required in Sections 165:55-3-1(c) and 165:55-3-2. However, information submitted in support of a previous Application for certification, if such Application was approved by the OCC, may be used in support of the current Application by providing a written affirmation, signed before a Notary Public, and by someone with authority to bind the Applicant, stating that the previously submitted information is still true and correct, and circumstances have not changed. If the previously submitted information is no longer true and correct, or if circumstances have changed, Applicant shall submit updated information along with a written affirmation fully explaining all changed circumstances. This section shall

not apply to an Applicant wishing to expand its existing service territory granted under an existing CCN. Such an application shall be filed pursuant to OAC 165:55-17-3.

(e) **Notice requirements of CCN applications.** Applicants for a Certificate of Convenience and Necessity shall provide Notice of the Application to be given by mail or personal service to the Attorney General of the State of Oklahoma. In addition, at the time the Application is filed, the Applicant shall provide an electronic copy of Notice of the Application, to the Director of the Public Utility Division for posting on the OCC website. The Director of the Public Utility Division will then place the Notice on the OCC website within five (5) business days. The address of the Commission's website is <http://www.occ.state.ok.us>~~http://www.occweb.com~~.

(f) **Approval requirement.** ~~The Commission shall approve or deny such application within one hundred twenty (120) days of the date the application is filed.~~ No Certificate of Convenience and Necessity shall be granted except by order of the Commission, after notice and hearing, if any, as directed by the Commission or unless otherwise provided in this Chapter, or by the laws of the State of Oklahoma. An application for Certificate of Convenience and Necessity filed pursuant to this Section will be deemed granted thirty days after the posting of the notice on the OCC website required by OAC 165:55-3-1(e), unless an objection is filed in advance of the thirtieth day alleging that a hearing is required. In the event that the application for Certificate of Convenience and Necessity is deemed approved, the Commission shall issue an Order granting the Certificate of Convenience and Necessity within a reasonable time.

(g) **Surety requirements for an applicant for Certificate of Convenience and Necessity.** To insure the protection of the applicant's end-users, the applicant, that intends to collect deposits from end-users, for a Certificate of Convenience and Necessity shall maintain a third-party surety bond, surety bond or irrevocable letter of credit, as may be determined by the Commission during the certification process, as set forth in this subsection.

(1) An applicant that does not have at least one million dollars (\$1,000,000) net book value invested in telephone plant and/or telephone facilities located in Oklahoma shall be required to post and maintain a third-party surety bond, surety bond or irrevocable letter of credit in, at a minimum, an amount sufficient for the indemnification of one hundred ten percent (110%) of its projected customer deposits.

(2) The third-party surety bond, surety bond or irrevocable letter of credit shall be maintained as long as the telecommunications service provider is furnishing telecommunications services in the State of Oklahoma pursuant to this Chapter, unless modified or released pursuant to Commission order.

(3) The Commission may modify the requirements of this subsection for good cause shown, after such notice and hearing, if any, as the Commission may require.

(h) **Transferability of certificates.** Any certificate granted under this section shall not be transferable without prior approval of the Commission and shall continue in effect until further order of the Commission.

PART 5. RECORD REQUIREMENTS

165:55-3-20. Location of records

All records, including tariffs, required by this Chapter shall, at the option of the telecommunications service provider, be kept at the general office of each telecommunications service provider or on a publicly available website and shall be made available to the Commission or its authorized representative at any reasonable time upon request. ~~Each telecommunications service provider governed by this Chapter shall keep all of its books and records in accordance with good business practices and as required by this Chapter and at such place as they are normally kept in the usual course of business. The telecommunications service provider shall keep the Commission advised as to the location of these records and shall make them available to the Commission at reasonable times for examination and inspection at a location designated by the Commission.~~

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

(a) **Annual report of operations.** Each telecommunications service provider and IXC shall provide to the Director of the Public Utility Division an annual report, in a format developed by the Director of the Public Utility Division, no later than May 1 of the year following the reporting year. Proposed revisions to the Annual Report format will be posted to the OCC website at least 90 days prior to their effective date. All carriers will be notified of the posting via e-mail, based on addresses supplied by carriers. Any carrier that objects to the proposed revisions to the Annual Report format may file an Application with the Commission requesting relief from the applicability of the format changes. The filing of an Application will suspend the applicability of the proposed format revisions until an Order is issued by the Commission. Unless an Order revising the Annual Report format is entered at least 90 days prior to the May 1 filing deadline, carriers will not be required to file an Annual Report in the revised format until the following year.

(b) **Confidentiality of annual report.** All non-publicly available information included in the annual report will be considered confidential by the OCC.

~~(b)c~~ **Proof of third-party surety bond, surety bond or irrevocable letter of credit.** Where applicable, not later than May 1 of each year, each telecommunications service provider and IXC which does not have at least one million dollars (\$1,000,000) net book value invested in telecommunications plant and/or telecommunications facilities located in the State of Oklahoma, shall provide annually, to the Director of the Public Utility Division, proof of the continuing existence and sufficiency of the required third-party surety bond, surety bond or irrevocable letter of credit providing coverage at a level of

Permanent Final Adoptions

at least 110% of customer deposits. Such proof shall be in a format developed by the Director of the Public Utility Division and approved by the Commission.

(ed) **Exchange maps.** Each telecommunications service provider shall provide the Director of the Public Utility Division two (2) copies of updated exchange maps when the boundaries of an exchange(s) are changed. The maps and descriptions shall be in sufficient detail to permit the location of exchange boundaries on the ground, and be consistent with the format set forth in this subsection.

(1) Each exchange map provided after the effective date of this Chapter shall conform to the following:

- (A) One exchange service area per sheet.
- (B) Each map shall be on eight and one-half by eleven inches (8.5" x 11") (or larger sheet which folds down to eight and one-half by eleven inches (8.5" x 11"), twenty pounds (20 lbs.) or heavier, white paper.
- (C) Each township and range will be specified along the side of the map and as a minimum each corner section will be numbered.
- (D) The outline of the exchange service area will be a heavy black line with an "E" every one inch (1") or two inches (2") along the boundary.
- (E) The name of adjacent incumbent LEC exchanges will be indicated on the exchange map to identify their relative location.

(2) When said boundary map changes involve more than one telephone exchange and more than one incumbent LEC, the changes involved shall be coordinated between the incumbent LECs concerned and a "Joint Application" submitted. After an order is issued by the Commission the incumbent LECs shall submit revised exchange maps containing the revised territory, the new certificate number, the cause number, the order number, and the date of the order approving the change. A copy of each current exchange map shall be made available for review to any interested person upon reasonable notice containing:

- (A) Application number.
- (B) Maps showing the changes in contrasting colors.
- (C) Metes and bounds of changes.
- (D) Proposed orders (one for each exchange) with complete metes and bounds of the revised exchange(s).

(de) **Competitive LEC service territories maps.** Each competitive LEC shall maintain up-to-date maps showing its service territory. The maps and descriptions shall be in sufficient detail to establish the location of incumbent LEC exchange boundaries on the ground. Each map provided shall conform to the format set out in OAC 165:55-3-22(c)(1). Two (2) copies of each map shall be provided to the Director of the Public Utility Division.

(ef) **Contracts and agreements.** ~~A copy of each contract between telecommunications service providers, or between a telecommunications service provider and an IXC affecting regulated services or rates, (including, but not limited to, toll settlement agreements, agreements for extended area service,~~

~~and similar contracts), shall be provided to the Director of the Public Utility Division prior to its effective date. Such a contract will be deemed approved unless the Commission, within ten (10) days after submission, shall by order suspend effectiveness of the agreement, pending notice and hearing. The requirements of this subsection shall be applicable to all contracts and agreements except those entered into pursuant to the requirements of Subchapter 17 of this Chapter. Upon request by the Director of the Public Utility Division, a TSP or IXC shall provide a copy of a contract entered into by the TSP or IXC for regulated services.~~

(fg) **Contact names.** Each telecommunications service provider and IXC shall notify, in writing, the Director of the Public Utility Division and the Director of the Consumer Services Division within thirty (30) days of a change in the company-designated contacts for Public Utility Division and Consumer Services Division issues.

- (1) The update shall include the name(s), address(es) and/or telephone number(s) of the designated individual(s).
- (2) The contact name(s) provided pursuant to this subsection shall be the individual(s) primarily responsible for:
 - (A) Providing customer service;
 - (B) Repair and maintenance;
 - (C) Answering complaints;
 - (D) Authorizing and/or furnishing refunds to customers; and,
 - (E) Tariff issues.

(gh) **Other information.** Each telecommunications service provider and IXC shall promptly furnish such other information as the Commission Staff may request, unless otherwise ordered by the Commission.

~~(h) **Annual affirmation and proof of compliance with 911 Emergency Number Act.** Each telecommunications service provider shall provide to both the Director of the Public Utility Division and the Attorney General an annual written affirmation, signed before a Notary Public by an individual granted with the authority to bind the corporation or entity, affirming compliance with its obligations set forth in 63 O.S. § 2814. Upon request by either the Director of the Public Utility Division or the Attorney General of the State of Oklahoma, the telecommunications service provider shall provide supporting documentation of compliance. This subsection shall not apply to telecommunications service providers providing data service only.~~

165:55-3-23. Complaints report

(a) Each telecommunications service provider and IXC shall maintain customer complaints that have been received by the company, ~~in a manner that includes, at a minimum:~~

- (1) ~~The end user name;~~
- (2) ~~The account number;~~
- (3) ~~The applicable complaint code;~~
- (4) ~~The date the complaint was filed; and,~~
- (5) ~~The amount of refund, if any, given.~~

(b) ~~If the account number only is utilized, a cross reference with the end user's name must also be readily available.~~

(e) The categories of complaints to be used shall be negotiated between the telecommunications service provider or IXC and the Director of the Consumer Services Division, subject to the approval of the Commission. A list of the suggested customer complaint codes is attached as Appendix B to this Chapter.

(d) Each complaint shall count as a separate report regardless of whether subsequent reports relate to the same physical defect, difficulty, or dissatisfaction with the provision of the telecommunications service provider's or IXC's regulated services. These should be maintained for a period of no less than two years.

PART 7. REPORTING REQUIREMENTS

165:55-3-31. Due dates of reports [REVOKED]

All periodic reports required by this Commission must be received on or before the following due dates unless otherwise specified in this Chapter or unless otherwise agreed to by the Director of the Public Utility Division:

- (1) Annual reports—One hundred twenty (120) days after the end of the reported period.
- (2) Special and additional reports—As may be prescribed by the Commission.
- (3) Annual affirmation and proof of compliance with 911 Emergency Number Act—One hundred twenty (120) days after the end of the reported period of the company/entity, as referenced in (1) above. The affirmation shall include a verification that the information contained in the E911 emergency data base has been reconciled with the information maintained by the company. This paragraph shall not apply to telecommunications service providers providing data service only.

SUBCHAPTER 5. RATES AND TARIFFS

PART 1. TARIFF FILING

165:55-5-1. Tariffs and/or Terms of Service required

(a) Except as provided in this Subchapter, a telecommunications service provider or IXC shall charge for the provisioning of regulated telecommunications services to its end-users only the rates and charges contained in its tariffs on file with and approved by the Commission or Terms of Service. No deviation from the filed tariff or Terms of Service shall be permitted without order of the Commission except as permitted by OAC 165:55-5-10.3 or unless otherwise authorized by the Commission. The provisions of each telecommunications service provider's or IXC's filed tariff and/or Terms of Service are binding upon the telecommunications service provider, IXC and the end-user as to the rates and charges for service and the terms and conditions of service. Notwithstanding the foregoing, neither a telecommunications service provider nor an IXC shall be required to file a written tariff with the Commission for any service except

payphone access services, E911/911 services, or switched access services.

(b) A telecommunications service provider or an IXC which has a written tariff on file with the Commission may withdraw the tariff, except for payphone access services, E911/911 services, or switched access services if the telecommunications service provider or IXC:

- (1) provides written notice to the Director of Public Utility Division and the Attorney General, that it is withdrawing the tariff,
- (2) posts the Terms of Service, and
- (3) provides the Commission with the web page information where the language is posted.

(c) The Commission maintains the same authority to review the Terms of Service, of a telecommunications service provider or IXC, as permitted by OAC 165:55-5-10.

(d) All tariff revisions shall be deemed approved by the Commission on the day following the day the tariff revision is submitted to the Commission. Revisions to the Terms of Service on a telecommunications service provider's or IXC's website will become effective on the day following the day the revision is posted on the website, or as otherwise indicated on the website.

165:55-5-2. Contents of tariffs

Every Except as provided in OAC 165:55-5-1, every telecommunications service provider shall file with the Commission its tariffs containing detailed schedules of its rates and charges for all intrastate regulated telecommunications services. The tariffs shall be in sufficient detail and shall be accompanied by such explanatory material, so as to permit determination of the applicability of the tariff. For standard services, the tariff should be structured to permit determination of the exact charges from the tariffs alone. Services, whose rates and charges are determined on an individual case basis, need not indicate the exact charges in the tariff. Related provisions, such as the circumstances under which service is available, classes of service offered, and line extension policy, will be set out in the tariff or by reference to other filed tariffs. Unless provided otherwise in this Chapter, no tariff shall be effective except by order of the Commission or otherwise pursuant to the laws of the State of Oklahoma.

165:55-5-3. Terms and conditions of service [REVOKED]

Tariffs establishing terms and conditions of service shall be filed as part of a tariff or as a separate tariff. Except with respect to the tariffs filed pursuant to OAC 165:55-5-10, where a tariff or amendment relates only to nonprice terms and conditions of service, the Commission may approve it by order upon such notice, or without notice, and with or without hearing as the Commission shall direct.

PART 3. APPROVAL AND NOTICE REQUIREMENTS

Permanent Final Adoptions

165:55-5-10. Tariff approval and revisions to tariffs

(a) ~~No~~ Except as provided in OAC 165:55-5-1 no new or revised tariff shall be effective without Commission order after notice and hearing, if any, as directed by the Commission unless otherwise provided in this Chapter, or by the laws of the State of Oklahoma. Tariffs filed under this section will be deemed lawful and effective thirty (30) days after filing unless an objection is filed in advance of the thirtieth day that a hearing is required.

(b) Notwithstanding the provisions of subsection (a) of this Section:

(1) New or revised tariffs describing a regulated service may be submitted in accordance with subsection (c) of this section unless otherwise prohibited by this Chapter, including but not limited to, subsection (b)(2) of this section and OAC 165:55-5-10.1(e), or by the laws of the State of Oklahoma.

(2) No new or revised tariff describing a switched access service, ~~E911~~E911/911 service, or payphone access service, shall become effective without Commission order after notice and hearing, if any, as directed by the Commission.

(3) A packaged service may include any combination of basic local services, regulated services and non-regulated services. A packaged service shall be treated as a single optional service by the Commission. A packaged service may be submitted in accordance with subsection (c) of this section unless otherwise prohibited by this Chapter or by the laws of the State of Oklahoma.

(4) Any tariffed service utilizing ICB pricing, or amendment thereto, shall become effective without Commission order according to the terms of the agreement with the customer and/or the provider's tariffs.

(c) To the extent that this Chapter allows the submission of new or revised tariffs, new or revised tariffs shall have an effective date on or after the day following the day the submission is delivered to the Director of the Public Utility Division, subject to the following conditions:

(1) The submission delivered to the Public Utility Division shall include a cover letter, three mark-up copies of the new or revised tariff pages in legislative format, and three final copies of the new or revised tariff pages.

(2) The effective date of the new or revised tariff submitted to the Commission shall be stated on the face of the new or revised tariff pages.

(3) A new or revised tariff submitted to the Commission shall comply with the notice requirements of OAC 165:55-5-11. A copy of the notice shall accompany the submission. The submission shall clearly identify the date of notice and the method used to provide notice.

(4) The Commission may permit electronic submission of new or revised tariffs when technically feasible.

~~(d) Every TSP that offers Basic Local Service to residential end users in a package or otherwise, shall maintain a tariff offering Basic Local Service to residential end users as a stand-alone service.~~

~~(e) Every TSP that offers Basic Local Service to business end users in a package or otherwise, shall maintain a tariff offering Basic Local Service to those business end users as a stand-alone service.~~

~~(f)~~ The Public Utility Division may, after an informal investigation, file an application with the Commission seeking to revoke or modify any tariff. After notice and hearing, the Commission may issue an order prospectively revoking or modifying any tariff for good cause.

~~(g)~~ The burden of proof to show that a proposed or revised tariff is just and reasonable shall be upon the company proposing the new or revised tariff.

~~(h)~~ The Commission shall protect against anti-competitive behavior and the abuse of monopoly power by rejecting, revoking or modifying tariffs that are predatory, anti-competitive or discriminatory. In its review, the Commission may consider ~~the~~ the incremental cost of the service, the potential impact on competition, the potential impact on end-users generally, and such other factors as the Commission may deem necessary. The Commission maintains the same authority to review the Terms of Service that are posted on the publicly available website, of a telecommunications service provider or IXC, as permitted by OAC 165:55-5-10. This retention of authority shall not be interpreted to mean that the Commission has approved the Terms of Service.

~~(i)~~ Unless otherwise ordered by the Commission, all proposed rates must cover the long run incremental cost of the service, including imputation where ordered by the Commission.

~~(k)~~ For purposes of this Section, the Commission shall allow an ILEC or CLEC that serves less than seventy-five thousand (75,000) access lines as of July 1, 1997, at the option of the company, to adopt the cost studies approved by the Commission for an ILEC or CLEC that serves seventy-five thousand (75,000) or more access lines or to adopt the surrogate cost studies approved by the FCC.

~~(k)~~ Nothing in these rules is intended to modify, affect or nullify the responsibilities of the Commission or providers of telecommunications services as required by state or federal antitrust laws or the Communications Act of 1934, as amended by the Telecommunications Act of 1996.

165:55-5-10.1. Competitive services [REVOKED]

~~(a) A telecommunications service provider may file an application to have the Commission determine that a regulated telecommunications service is subject to effective competition and is therefore competitive for the applicant and/or the applicant class.~~

~~(b) In determining whether a service is competitive, the Commission will consider:~~

~~(1) The number and size of alternative providers of comparable services;~~

~~(2) The extent to which comparable services are available from alternative providers in the relevant market;~~

~~(3) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates and terms and conditions;~~

~~(4) Public interest considerations; and,~~

(5) Other indicators of market power with respect to a service, which may include market share, growth in market share and whether the alternative provider(s) of comparable services are affiliated with the telecommunications service provider.

(e) In considering these and other factors, the Commission is not required to give equal weight to each factor in subsection (b) of this Section, but has discretion to give more weight to a particular factor or factors, based on the evidence.

(d) Tariffs describing competitive services may be submitted to the Public Utility Division in accordance with OAC 165:55-5-10.

(e) Notwithstanding the provisions of this Section, the Commission may, at any time, revoke the competitive designation of a service, after notice and hearing, if the Commission determines that the service is no longer a competitive service. If the competitive designation of a service is revoked by the Commission, changes in the rates of the service or services affected shall be regulated pursuant to the provisions of OAC 165:55-5-10.

(f) Subject to Commission's authority to grant or revoke the competitive designation of a service in accordance with this section; once the Commission determines that a service is competitive or non-competitive in an exchange of an ILEC, similar services provided by TSPs in the same geographic area as the ILEC's exchange shall be deemed competitive or non-competitive, respectively.

165:55-5-10.2. Promotional offerings

(a) Promotional offerings are intended to be limited duration programs may be offered that are beneficial to the targeted and/or qualified customers. Promotional offerings are not intended to replace the TSPs or IXC's obligation to seek approval of permanent rates and charges. Promotions may be repeated, provided the initial promotion and extension do not exceed three hundred sixty five (365) consecutive days and may not be reintroduced for ninety (90) days.

(b) TSPs and IXCs may, during promotional periods, offer customers special rate incentives. The TSP or IXC shall notify the Director of the Public Utility Division, by submitting a completed Promotion Form, which is located on the Public Utility Division portion of the Oklahoma Corporation Commission website at: <http://www.oceeweb.com>.

(c) Promotional offerings of TSPs and IXCs shall become effective on or after the day following the Promotion Form is provided to the Director of the Public Utility Division any obligation of a TSP or IXC to submit tariffs or to post the Terms of Service.

(b) TSPs and IXCs must maintain a log of all current promotional offerings and shall provide the log to the Commission upon request.

165:55-5-10.3. Customer-specific contracts under ICB pricing

(a) A TSP or IXC ~~shall have the authority to~~ may enter into customer-specific contracts for business services provided that the pricing is not predatory.

(b) A list of customer specific contracts for Oklahoma services shall be submitted to the Director of the Public Utility Division, semi-annually; no later than sixty (60) days after the close of the reporting period. Reports shall contain the following information for each ICB:

- (1) Tracking No. of the ICB;
- (2) Customer Name;
- (3) Description of the service(s);
- (4) Aggregate monthly rate(s);
- (5) Aggregate nonrecurring charge(s);
- (6) Effective date and term of contract; and
- (7) Early termination liability, if applicable, and formula used to determine the liability;

(e) At the direction of the Commission, the Director of the Public Utility Division shall periodically select a sample of ICBs for review. If a review of any ICB reveals that said ICB is not fair, just, reasonable, not priced at or above LRIC, or not in the public interest, the Commission may issue an order to revoke the TSP's ability to enter into ICB's ICBs until further order of the Commission.

165:55-5-11. Type of notices

(a) **Notice.** Except with respect to tariffs filed pursuant to OAC 165:55-5-10(b) or where the Commission, by order, directs otherwise, any notice of hearing on an application for approval or amendment of rates or charges for service shall be published once a week for two consecutive weeks in a newspaper(s) of general circulation within the territory served by the telecommunications service provider.

(b) **Notice in special cases.** ~~The Commission may approve, by order, a tariff for an experimental or new service offering upon such notice, or without notice, and with or without hearing as the Commission may direct. However, no notice of hearing shall be required for tariff revisions that become effective without suspension pursuant to OAC 165:55-5-10(b).~~

(e) **Notice of tariff revisions and new service offerings by IXCs and telecommunications service providers.** IXCs and telecommunications service providers shall serve proposed tariff revisions for switched access, payphone access, or E911/911 services on the Office of the Attorney General ~~and other providers as follows:~~

- (1) IXCs, at the time of their filing with the Commission, shall provide a copy of their proposed tariffs and tariff revisions to each telecommunications service provider that has previously requested in writing to receive such filings.
- (2) Telecommunications service providers, at the time of their filing with the Commission, and shall provide a copy of their proposed tariff revisions pursuant to OAC 165:55-5-10 to each IXC and telecommunications service provider that has previously requested in writing to receive such filings.
- (3) Any written request required by this Section shall be made directly to the IXC or telecommunications service provider.
- (4) ~~An applicant may require reimbursement of the postage and nonlabor related cost of copying from the party(ies) requesting information pursuant to this~~

Permanent Final Adoptions

~~subsection. However, under no circumstances shall reimbursement be required from the Attorney General.~~

~~(d) **End-user notice prior to rate increase for noncompetitive services.** At least twenty (20) days prior to implementing any increased rate of a noncompetitive service to an end-user, each IXC and telecommunications service provider must provide notice to affected end-users of the increase. Said notice shall be provided by any of the following:~~

- ~~(1) Prominent display on the end-user's bill;~~
- ~~(2) Direct mailing;~~
- ~~(3) Prominent display on an insert in the end-user's bill;~~
- ~~or;~~
- ~~(4) Any other method of notice approved by the Director of the Public Utility Division.~~

~~(ec) **End-user notice of rate increase for competitive services.** Prior to or concurrent with the effective date of any increased rate to an end-user, for a service determined to be competitive, each telecommunications service provider or IXC, shall provide notice to the Director of the Public Utility Division, the Office of the Attorney General and the affected end-users of the rate increase. The notice shall be provided by any of the following:~~

- ~~(1) Prominent display on the end-user's bill;~~
- ~~(2) Direct mailing;~~
- ~~(3) Prominent display on an insert in the end-user's bill;~~
- ~~or~~
- ~~(4) Any other method approved by the Director of the Public Utility Division.~~

~~(d) **Notice of rate increase to the OCC and Attorney General.** The notice required by Subsection (c) above to be given to the Director of the Public Utility Division and the Office of the Attorney General shall be given by any of the following:~~

- ~~(1) Direct mailing or email;~~
- ~~(2) Through a website posting of all customer notifications and Terms of Service changes; or~~
- ~~(3) Identification on the website posting of the effective date of the Terms of Service.~~

~~(fe) **End-user notice of service offering restrictions/limitations.** Any restrictions/limitations imposed for "non-voice" minutes of ~~use~~ beyond a maximum identified in the provider's tariff and approved by the OCC, shall be noticed under the following conditions:~~

- ~~(1) Written notice of the restriction/limitation and clear and concise explanation of when the penalty is imposed will be given to the end-user(s) prior to or concurrent with the initial bill for the service offering which contains the restriction/limitation. The notice will advise the end-users of the exact restriction/limitation and the penalty assessed.~~
- ~~(2) The notice shall be provided by any of the following:~~
 - ~~(A) Prominent display on the end-user's bill;~~
 - ~~(B) Direct mailing;~~
 - ~~(C) Fulfillment and/or welcome packages;~~
 - ~~(D) Prominent display on an insert in the end-user's bill; or~~
 - ~~(E) Any other method approved by the Director of the Public Utility Division.~~

~~(gf) Failure to provide the information required by this Section at the time of filing may result in the proposed tariff revision(s) and/or new service offering(s) being suspended pursuant to OAC 165:55-5-13 and, if suspended, the tariff revision(s) and/or new service offering(s) shall not be placed into effect under any circumstances, until further order of the Commission.~~

165:55-5-13. Suspension of tariff filing(s) or Terms of Service

~~Any tariff filed with the Commission pursuant to OAC 165:55-5-10(b), OAC 165:55-5-10.1(d), OAC 165:55-5-66, or OAC 165:55-5-70, may be suspended prior to its effective date by Commission order, with or without notice or hearing, upon recommendation by the Public Utility Division Staff. The Attorney General may be granted intervention in such proceeding. The Commission Staff, the Office of the Attorney General, or any aggrieved party may file an application to suspend or set aside prospectively any tariff provision or Terms of Service that violates any Commission rule or law or that is not in the public interest. The Commission may also order suspension of proposed tariffs or tariff revisions of noncompetitive services of IXCs and telecommunications service providers on motion by an aggrieved party after notice and hearing.~~

~~(1) If a proposed or revised tariff is suspended, the Commission shall, by order, either approve, reject or, with the consent of the company and upon the filing of an amended application, modify the proposed or revised tariff within ninety (90) days from the date of filing of the proposed or revised tariff;~~

~~(2) If an order resolving the matter has not been issued within one hundred twenty (120) days, the proposed or revised tariff may go into effect at the end of such period, at the option of the company, subject to refund, with interest, in the event of a proposed rate increase. Should the Commission determine, upon the completion of its review of the proposed rate increase, that a refund is appropriate and necessary, the Commission may order such refund, including interest at the then effective rate, as provided by OAC 165:55-9-14(e)(1), accruing on that portion of a rate increase to be refunded, for a period not to exceed nine (9) months from the date of implementing of the proposed rate increase which is being refunded. If the Commission has not issued an order within said nine month period, the proposed rate increase will be deemed lawful and approved.~~

165:55-5-14. Objections

~~(a) Any person wishing to object may file an objection to a proposed tariff or tariff revision for noncompetitive services, filed pursuant to OAC 165:55-5-10(b), OAC 165:55-5-10.1(d), OAC 165:55-5-66 or OAC 165:55-5-70, must file objections with the Commission's Office of the Court Clerk no later than fifteen (15) days after the proposed tariff is filed. The Attorney General may be granted intervention in such proceeding or Terms of Service within 45 days after the tariff is filed or Terms of Service revisions are posted on the telecommunications service provider's or IXC's publicly available web site.~~

(b) Any such objection shall comply with the requirements of OAC 165:5-9-2 and must contain a specific description of the basis for the objection and all information necessary to allow evaluation of the objection. The objecting person shall promptly serve its objections on the IXC or telecommunications service provider ~~which~~ that filed the proposed ~~tariff changes, or new service offering, or revised Terms of Service; and upon~~ the Director of the Public Utility Division and the Attorney General.

PART 5. TARIFF STRUCTURE AND COMPOSITION

165:55-5-20. Requirements as to size, form and identification of tariffs

(a) ~~When~~ Except as provided for in OAC 165:55-5-1, when applying for, or after receiving, a Certificate of Convenience and Necessity for authority to operate as a telecommunications service provider or IXC in the State of Oklahoma, the telecommunications service provider or IXC shall file with the Commission an original and eight (8) copies of its tariff containing schedules of all its rates, tolls, charges, rules, and regulations pertaining to all of its telecommunications services. It shall also file an original and eight (8) copies of each subsequent revision. Each revision shall be accompanied by a cover page which contains a list of the pages being revised, a statement describing each change, its effect, if any, and a statement as to the impact on rates of the change by customer class, if any. The telecommunications service provider shall also file a copy of the current tariff page with changes superimposed thereon. If a proposed tariff revision constitutes an increase in existing rates of a particular customer class or classes, the Commission shall require that notice be given to the affected customer class.

(b) All tariffs shall be in loose-leaf form of a size eight and one-half by eleven inches (8 1/2" x 11"), in 10 point or larger type and shall be plainly printed or reproduced on paper of good quality. The front page of the tariff shall contain the name of the telecommunications service provider, including all trade names under which the telecommunications service provider is providing telecommunications service in the State of Oklahoma, and the location of its principal office. Incumbent LEC local exchange tariff map sheets reflecting the physical bounds of the exchange may be on larger sheets, when required for the purposes of clarity and legibility.

(c) Each rate tariff must clearly state the territory, city, county, or exchange wherein said tariff is applicable.

(d) Tariff sheets are to be numbered consecutively per schedule. Each sheet shall show the Cause Number wherein the tariff was approved by the Commission and, where applicable, the Order Number for such approval. Each sheet shall show an effective date, a revision number, section number or title, sheet number, name of the telecommunications service provider, along with all trade names used in the State of Oklahoma, and the name of the tariff, each in a consistent manner. Sheets issued under new numbers are to be designated as original

sheets. Sheets being revised should show the number of the revision, and the sheet numbers shall be the same.

165:55-5-21. Composition of filed or submitted tariffs

The tariff shall contain sections setting forth:

- (1) ~~A table of contents.~~
- (2) A preliminary statement containing a brief description of the tariff's application.
- (3) A list of the exchanges or description of service territories in which service is provided.
- (4) The rate schedules.
- (5) The service rules and regulations.
- (6) Title sheet.

165:55-5-22. Tariff filings in response to Commission orders

Tariff filings for switched access, E911/911 services, or payphone access services made in response to an order issued by the Commission shall include a transmittal letter stating that the tariffs attached are in compliance with the order, giving the cause number, date of the order, a list of tariff sheets filed, and any other necessary information. Said tariff sheets shall comply with all other provisions of this Chapter and shall include only changes ordered. The effective date and/or wording of said tariffs shall comply with the provisions of the order. Each tariff sheet shall include the cause and order number(s) and the effective date(s).

165:55-5-23. Symbols for changes

(a) Each proposed filed or submitted tariff sheet shall contain notations indicating each change made on these sheets. Notations (referred to as tariff symbols) to be used are:

- (1) (AT) means added to text.
- (2) (C) means a correction.
- (3) (CP) means change in practice.
- (4) (CR) means change in rate.
- (5) (CT) means change in text.
- (6) (DR) means discontinued rate.
- (7) (FC) means a change in format lettering or numbering.
- (8) (MT) means moved text.
- (9) (NR) means new rate.
- (10) (RT) means removal of text.

(b) In addition to symbols for changes, each changed provision in the tariff shall contain a vertical line which clearly shows the exact number of lines being changed.

PART 7. MISCELLANEOUS TARIFF AND/OR TERMS OF SERVICE REQUIREMENTS

165:55-5-30. Accessibility of tariffs and/or Terms of Service

Each telecommunications service provider shall make available to the public, ~~at the company's offices(s) within~~

Permanent Final Adoptions

~~Oklahoma~~, all of its tariffs currently on file with the Commission and/or all Terms of Service. ~~The telecommunications service provider's employees shall lend assistance to seekers of information therefrom and afford inquirers an opportunity to examine any such tariffs upon request.~~ All telecommunications service providers shall also provide copies of any portion of the tariffs at a reasonable cost to reproduce such tariff for a requesting party.

165:55-5-32. Change by other regulatory authorities

~~Tariffs which are filed to~~ Tariffs and/or Terms of Service which reflect changes in rates or regulations set by other regulatory authorities shall include a copy of the order or ordinance authorizing therefrom the source of authorization for such change.

165:55-5-34. Data and information on proposed tariff revisions

(a) Except as otherwise provided for in OAC 165:55-5-35, when filing proposed tariff revisions for noncompetitive and new services, as provided in OAC 165:55-5-10(b) ~~and 165:55-5-10.1(d), with the exception of OAC 165:55-5-10(b)(9),~~ at least twenty (20) days prior to the effective date of the filing, each IXC and telecommunications service provider shall deliver to the Public Utility Division Staff and Office of the Attorney General:

- (1) A copy of the Notice required by OAC 165:55-5-11(d) that will be sent to the end-users affected by any increased rate or Notice required by OAC 165:55-5-11(f) that will be sent to the end-users affected by the restriction/limitation(s);
 - (2) A customer impact study which shows the number of Oklahoma customers affected, and the dollar and percentage impacts of the proposed change(s) on Oklahoma customers' rates;
 - (3) A telecommunications service provider offering packages of bundled services containing both regulated and non-regulated services, or both intrastate and interstate services shall, at the time of filing or submitting the bundled packages to the ~~PUD~~ Public Utility Division, provide the methodology used to separate revenues in order to identify jurisdictional revenues to be assessed for funding state regulatory fees and assessments.
 - (4) The total revenue impact in Oklahoma of the proposed change(s);
 - (5) If the Oklahoma-specific information required by paragraphs (2) and (3) of this subsection is unavailable, a statement that so states; and
 - (6) The rationale for the proposed tariffs.
- (b) Consistent with OAC 165:55-5-20(a), a copy of the existing tariff page(s) with the requested change(s) denoted shall be filed with the application, and shall be included in the copy sent to the Attorney General, but need not be included with copies of the tariff revision sent to the service list.
- (c) The information addressed in paragraphs (2), (4) and (5) in subsection (a) of this Section will be accepted, but not required to be provided, from IXCs.

(d) In addition to the foregoing information and concurrent with the filing of a proposed rate increase or proposed new service offering, unless provided on-line and available for public viewing, the telecommunications service provider shall deliver to the Public Utility Division Staff a comparison of the proposed tariff and the tariffs of the applicant in effect in Arkansas, Kansas, Missouri and Texas, to the extent the provider operates in such states. The telecommunications service provider shall provide the URL, section, and page number where the tariffs may be viewed, if available on the Internet website.

(e) The Public Utility Division may issue data requests for additional relevant information during its review of the requested revision(s). Each telecommunication service provider and IXC shall answer, within ten (10) business days from the date of receipt, all data requests issued, unless an objection is filed or the parties agree in writing to a different response time.

(f) Failure to provide the information required by this Section at the time of filing may result in the proposed tariff revision(s) and/or new service offering(s) being suspended pursuant to OAC 165:55-5-13 and, if suspended, the tariff revision(s) and/or new service offering(s) shall not be placed into effect under any circumstances, until further order of the Commission.

165:55-5-36. Returned Check Charge

Any provider of telecommunications services may impose a returned check charge of up to \$25, provided that customers are notified in advance of the charge via their monthly bills or inserts. Requests for returned check charges in excess of \$25 must be supported by cost justification submitted to the Director of the Public Utility Division and the Attorney General.

PART 9. RELIEF FROM RATE BASE/RATE OF RETURN REGULATION [REVOKED]

165:55-5-50. Relief from rate base/rate of return regulation [REVOKED]

~~Changes in technology and the structure of the telecommunications industry may produce conditions under which traditional rate base/rate of return regulation of telecommunications service providers may not, in all cases, provide the most efficient and effective means of achieving the public goals of the State of Oklahoma. Because of the great diversity in the scope and type of services provided by telecommunications service providers, alternative regulatory arrangements which meet the varying circumstances of different companies and their ratepayers may be desirable. Therefore, an ILEC may become regulated pursuant to an alternative regulatory plan by selecting one of the following two options:~~

~~(1) An ILEC subject to traditional rate base/rate of return regulation may file an application with the Commission to establish an alternative form of regulation, which includes a plan for an alternative form of regulation and transitional commitments.~~

~~(A) The Commission shall either approve, reject, or modify the proposed plan, after notice and hearing. A~~

proposed alternative regulation plan may be modified with the consent of the company.

(B) The Commission may approve the plan, or modified plan, and authorize its implementation, if it finds, after notice and hearing, that the plan or modified plan:

- (i) Complies with 17 O.S. Section 139.103; and
- (ii) Is consistent with the Telecommunications Act of 1996 and its successors; and, is in the public interest, which consideration may include, but not be limited to, that the plan, or modified plan:
 - (I) Is responsive to changes in technology and the structure of the intrastate telecommunications industry;
 - (II) Is better suited to achieving the public interest than the traditional rate base/rate of return regulation;
 - (III) Ensures that ratepayers will benefit from any efficiency gains and cost savings arising out of the regulatory change and will afford ratepayers the opportunity to benefit from improvements in productivity due to technological change;
 - (IV) Will not result in a degradation of the quality or availability of efficient telecommunications services;
 - (V) Will produce fair and reasonable rates for telecommunications services;
 - (VI) Will not unduly or unreasonably prejudice or disadvantage any particular customer class; and
 - (VII) Promotes effective competition among TSPs.

(C) Upon application by any person, or upon its own motion, the Commission may terminate its approval of an alternative form of regulation if, after notice and hearing, it finds that, as a result of the actions taken or not taken by the ILEC, the conditions set forth in paragraph (1)(B) of this Section can no longer be satisfied. Additionally, the Commission, an IXC, TSP, Reseller, or the Attorney General on behalf of the ratepayers may file a complaint alleging that the rates charged by a telecommunications service provider under an alternative form of regulation are unfair, unreasonable, or unduly discriminatory.

(2) An ILEC serving 75,000 or more access lines in the State of Oklahoma may implement the Oklahoma Plan set forth in Part 11 of this Subchapter, consistent with the requirements therein. The Commission shall either approve or reject the ILEC's application for approval of the Transition Plan to opt into the Oklahoma Plan. The proposed Transition Plan may be modified only with the consent of the ILEC. The Application for Approval of the Transition Plan may be heard by the Commission *en banc*.

PART 11. OKLAHOMA PLAN [REVOKED]

165:55-5-64. Implementation of Oklahoma Plan [REVOKED]

(a) In order to become subject to the Oklahoma Plan set forth in this Part, an ILEC serving 75,000 or more access lines in the State of Oklahoma shall file a proposed Transition Plan in the Commission's Court Clerk's Office.

(b) The Transition Plan may contain, but not be limited to proposals regarding the following:

- (1) Incentives for opening the local market to competition;
- (2) Commitment for the provision of non-discriminatory and functional Operations Support Systems, and;
- (3) Ratepayer benefits that would include infrastructure improvements.

(c) The Transition Plan shall contain identification of the Basket into which each of the ILEC's services may be classified pursuant to the Oklahoma Plan.

(d) Before an ILEC may elect to participate in the Oklahoma Plan, the Transition Plan shall be approved by Commission order after notice and hearing.

(e) After approval of the Transition Plan, the ILEC may file, in the same Cause, an election to participate in the Oklahoma Plan, which shall include a commitment to fulfill the requirements of the Transition Plan and a commitment to remain in compliance with all of the requirements of the Oklahoma Plan.

165:55-5-65. [REVOKED]

165:55-5-66. Pricing [REVOKED]

The prices for services provided by an ILEC once the ILEC has implemented the Oklahoma Plan shall be determined according to the level of competition for each service. At the time of election into the Plan, services will be priced according to the current existing tariff prices as approved by the Corporation Commission.

(1) ~~Basket 1—Non-competitive services.~~ Basic local residential, basic local business and local operator services will be placed in Basket 1 upon implementation of the Oklahoma Plan. Prices for Basket 1 shall have a price floor of the lower of either the prices charged by the company as of the date of the ILEC's election into the Plan, or LRIC plus twenty percent (20%). Prices for Basket 1 shall be capped at the prices charged by the company as of the date of the ILEC's election into the Plan and shall not be increased for a period of five (5) years, except as set forth in this Section:

(A) ~~Basic Local Residential Services and Local Operator Services.~~

(i) Upon the expiration of the five year period, basic local residential services and local operator services shall receive pricing flexibility pursuant to OAC 165:55-5-66(1)(C) in the absence of a Commission order issued pursuant to OAC 165:55-5-66(1)(A)(ii).

(ii) An ILEC may petition the Commission for a determination of competition following the expiration of the Five Year Period pursuant to OAC

Permanent Final Adoptions

- 165:55-5-10.1. Following the expiration of the Five Year Period, if the Competitive Test pursuant to OAC 165:55-1-4 is met, then basic local residential services and local operator services shall have pricing flexibility not to exceed twelve percent (12%) in any twelve (12) month period. Tariff revisions in this Section shall become effective, without Commission order, thirty (30) days after the date of filing of the tariff, unless suspended by Commission order pursuant to OAC 165:55-5-13.
- (B) ~~Basic Local Business Services.~~
- (i) ~~Basic local business services shall be capped for three (3) or five (5) years, as outlined in (iii) of this subparagraph.~~
- (ii) ~~If the Competitive Test has been met, basic local business service shall have pricing flexibility not to exceed twelve percent (12%) in any twelve (12) month period. Tariff revisions in this Section shall become effective, without Commission order, thirty (30) days after the date of filing of the tariff, unless suspended by Commission order pursuant to OAC 165:55-5-13.~~
- (iii) ~~Basic local business service shall be capped until the expiration of the Five Year Period, if the Competitive Test has not been met. Notwithstanding the foregoing, business access lines (i.e., multiline and PBX trunks), utilized in conjunction with telecommunications equipment or systems which are capable of terminating two or more such business lines, shall be capped for three years.~~
- (iv) ~~If at the end of the Three or Five Year Period, as applicable, the Competitive Test has not been met, basic local business service shall have pricing flexibility pursuant to OAC 165:55-5-66(1)(C).~~
- (v) ~~An ILEC may petition the Commission for a determination of competition pursuant to OAC 165:55-5-10.1.~~
- (C) ~~At the end of the initial Three or Five Year Period, as applicable, the ILEC shall have the following pricing flexibility:~~
- (i) ~~The ILEC may adjust rates on 30 days notice to the Commission, in an amount not to exceed the change in inflation less 1 percent. Inflation shall be measured by the changes in the Gross Domestic Product Fixed 1987 Weights Price Index, or successor fixed weight price index published in the Survey of Current Business or a publication by the United States Department of Commerce, or such other fixed weight price index as the FCC may designate by order for determining inflation. Rate adjustments pursuant to this subparagraph shall occur no more often than once within a 12 month period.~~
- (ii) ~~Notwithstanding any other provisions of this Section, if the ILEC can demonstrate that circumstances have changed such that a price increase exceeding the rate or ceiling established for the Basket 1 services is necessary, the ILEC may petition the Commission for a price adjustment. The Commission shall act upon such a petition within 90 days of filing and shall grant such a petition only after notice, hearing and a compelling showing of changed circumstances.~~
- (2) ~~Basket 2—Access services.~~
- (A) ~~Access services will be placed in Basket 2.~~
- (B) ~~The ILEC shall be required to continue reducing access charges to fulfill all obligations under all Federal and State laws, rules, regulation, and orders, including 17 O.S. Section 139.103. The access charges will then be capped at that level for the remainder of the Five Year Period following election into the Oklahoma Plan.~~
- (C) ~~Access services may be granted pricing flexibility pursuant to OAC 165:55-5-10.1, but in no event will access rates be granted pricing flexibility prior to 17 O.S. §139.103 being fulfilled.~~
- (D) ~~The Commission shall have continuing regulatory oversight of prices for intrastate network access services for purposes of determining the correctness of any rate change by a telecommunications company resulting from the application of this subsection.~~
- (E) ~~The ILEC may not seek recovery of any part of the revenue reduction associated with access reductions from the OUSF. In addition, the terms and conditions provisions of the intrastate access tariff of the company shall mirror the terms and conditions provisions of the interstate access tariffs of that company.~~
- (F) ~~After the ILEC fulfills all obligations under 17 O.S. §139.103, nothing in this Section shall prohibit the ability of a third party to pursue reductions in access services and other services which remain in Basket 2.~~
- (3) ~~Basket 3—Emerging Competitive and Optional Services.~~
- (A) ~~Services in Basket 3 will include services typically considered optional in nature, that are experiencing some degree of competition in that market but are not yet fully competitive and/or new services.~~
- (B) ~~Prices in this basket shall not be increased more than once in any twelve month period.~~
- (C) ~~A price increase for any Basket 3 service shall not exceed five percent (5%) unless the Commission finds that the service is subject to competition pursuant to the definition of Competitive Test as set forth in OAC 165:55-1-4, in which event the price for that service may be increased in an amount not to exceed fifteen percent (15%). Tariffs for changes in prices in this Section shall become effective, without Commission order, thirty (30) days after the date of filing of the tariff, unless suspended by Commission order pursuant to OAC 165:55-5-13.~~

(D) An ILEC subject to this Section shall maintain tariffs with the Commission containing the terms, conditions, and rates for each of its Basket 3 services.

(E) The price floor for all services in this Basket will be the Long Run Incremental Cost ("LRIC") of the service under consideration plus 20% of the LRIC of that service, to assure recovery of appropriate joint and common costs and avoid cross-subsidization between services within this basket, or by applying imputation where appropriate. The 20 percent add-on does not apply to non-recurring charges, toll, ICB or promotions.

(F) A new service may be placed in Basket 3 without Commission order, 30 days after filing of the tariff, unless suspended by Commission order pursuant to 165:55-5-13. A new service will not receive the pricing flexibility available pursuant to this subsection until 1 year after its initial placement in the basket.

(4) Basket 4—Competitive Services.

(A) Services which are competitive, pursuant to OAC 165:55-5-10.1, and for which functionally equivalent and substitute services are available will be placed in Basket 4.

(B) The price floor for all services in this Basket will be the greater of the LRIC of the service under consideration or a price which is arrived at by applying imputation where appropriate.

(C) New or revised tariffs for services in Basket 4 may be submitted to the Commission in accordance with OAC 165:55-5-10(c).

165:55-5-67. [REVOKED]

165:55-5-68. Notice requirements [REVOKED]

(a) Notice to customers on any rate increase shall be pursuant to OAC 165:55-5-11.

(b) Notice of tariff revisions and new service offerings by the ILEC shall be provided pursuant to OAC 165:55-5-11.

165:55-5-69. [REVOKED]

165:55-5-70. Packaging [REVOKED]

In addition to other flexibility identified in this Part, an ILEC which has implemented the Oklahoma Plan may offer packaged services in accordance with OAC 165:55-5-10(b)(3), promotional offerings in accordance with OAC 165:55-5-10.2, and customer specific contracts in accordance with OAC 165:55-5-10.3. Services shall be priced in accordance with OAC 165:55-5-10(h).

165:55-5-71. [REVOKED]

165:55-5-72. Reporting [REVOKED]

(a) At least once annually from the time of election, any company electing alternative regulation shall file with the Commission a report as required by OAC 165:55-3-22.

(b) At the time the ILEC submits such information to the FCC, the ILEC shall provide to the Commission copies of completed FCC Form 499A Telecommunications Reporting Worksheets (required by the Report and Order issued July 14, 1999, in CC Docket No. 98-171).

165:55-5-73. [REVOKED]

165:55-5-74. Service standards [REVOKED]

(a) An ILEC which has implemented the Oklahoma Plan shall continue to maintain, at a minimum, the service standards set forth in Subchapter 13 of this Chapter.

(b) An ILEC which has implemented the Oklahoma Plan shall continue to be subject to the Commission's jurisdiction over rates and charges even though it may be under alternative regulation. In addition, the ILEC shall continue to be subject to the Commission's enforcement authority regarding quality of service standards, customer service complaints, billing complaints, safety issues, and disconnection of service issues.

(c) The Commission shall make any necessary adjustments to Basket 1 and Basket 2 services as may be required to ensure that service quality standards are met and ensure a prompt resolution of service complaints.

(d) The Commission shall have continuing jurisdiction over Basket 3 services for purposes of ensuring resolution of service complaints, preventing cross-subsidization of non-basic services with revenues from basic services, and ensuring that all providers are treated fairly in the telecommunications market.

(e) The Commission or any person may file a complaint alleging that the rates charged by a telecommunications service provider under the Oklahoma Plan are unfair, unreasonable, or unduly discriminatory.

165:55-5-75. [REVOKED]

165:55-5-76. Enforcement of the Oklahoma Plan [REVOKED]

(a) An ILEC operating under the Oklahoma Plan will completely implement its Transition Plan and the Oklahoma Plan.

(b) Failure to completely implement an ILEC's approved Transition Plan and the requirements of the Oklahoma Plan may subject the ILEC to the penalties and/or fines provided by Oklahoma Statute and such other remedies as may be available pursuant to Oklahoma law.

SUBCHAPTER 9. CUSTOMER BILLING AND DEPOSITS

PART 1. BILLING AND PAYMENT REQUIREMENTS

165:55-9-1. Billing period

~~Bills to end users shall be issued monthly, unless the telecommunications service provider's and IXC's approved terms and conditions of service prescribe a different interval. Bills may be issued on a billing cycle. Local exchange service charges may be billed in advance. All end users shall receive their bills via the United States mail, unless the end user agrees with the telecommunications service provider or IXC to receive a bill through different means, such as electronically via the Internet. Whatever the method of delivery, bills shall comply with 165:55-9-2.~~

~~(a) All TSPs and IXCs shall comply with the Truth-in-Billing Rules 47 C.F.R. § 64.2401.~~

~~(b) All end-users who are customers as of July 1, 2012, shall receive their bills via the United States Mail, unless the end-user opts to receive a bill through different means, such as electronically via the internet. Customers who begin service with a provider after July 1, 2012, may be provided an electronic bill unless they opt to receive a bill through the United States Mail. In no event shall there be a charge for providing a bill through the United States Mail. Whatever the method of delivery, bills shall comply with OAC 165:55-9-2.~~

165:55-9-2. Content of bills

~~(a) **Clarity of bill.** Telecommunications service providers and IXCs are encouraged to develop a bill design that can be easily interpreted by their customers and which clearly sets forth separate charges for regulated services and not regulated services. Telecommunications service provider's and IXC's bills should comply with the Federal Truth-in-Billing standard. 47 C.F.R. 64.2401.~~

~~(b) **Bill organization.** Telephone bills shall be clearly organized, and must comply with the following requirements:~~

~~(1) The name of the telecommunications service provider or IXC associated with each charge must be clearly and conspicuously identified on the telephone bill.~~

~~(2) Where charges for two or more service providers appear on the same telephone bill, the charges must be separated by service provider.~~

~~(3) The telephone bill must clearly and conspicuously identify any change in the service provider, including identification of charges from any new service provider.~~

~~(4) The telephone bill shall clearly and conspicuously label all fees, surcharges, taxes, and usage rates, associated with the customer's use of the provider's service, including but not limited to, calling plans, universal service fees, access fees, and other separated charges.~~

Disclosure of inquiry contacts.

(1) Telecommunications service providers and IXCs shall prominently display on each bill, a toll-free number or numbers by which end-users may inquire or dispute any charges on the bill. Where the end-user does not receive a paper copy of his or her telephone bill, but instead accesses that bill only by e-mail or internet,

the telecommunications service provider and IXC may comply with this requirement by providing the disclosure information on the bill, an e-mail, or web site address. Each telecommunications service provider and IXC must make a business address available upon request from an end-user.

(2) A telecommunications service provider and IXC may list a toll-free number for itself, a clearinghouse, or other third party, provided such party possesses sufficient information to answer questions concerning the end-user's account and is fully authorized to resolve the end-user's complaints on the service provider's behalf.

(3) A telecommunications service provider and IXC shall also provide a phone number for the Consumer Services Division of the Oklahoma Corporation Commission.

~~(e) **Descriptions of billed charges.** Charges contained on telephone bills must be accompanied by a brief, clear, non-misleading, plain language description of the service or services rendered. The description must be sufficiently clear in presentation and specific enough in content so that end users can accurately assess that the services for which they are billed correspond to those that they have requested and received, and that the costs assessed for those services conform to their understanding of the price charged.~~

~~(d) **Quantification of billed charges.** All bills shall also contain the following:~~

~~(1) Balance in each billed account at the beginning of the current billing cycle, using a term such as "previous balance";~~

~~(2) Amount of the charges debited to each billed account during the current billing cycle, using a term such as "current service";~~

~~(3) Amount of payments made to each billed account from the previous billing cycle, using a term such as "payments";~~

~~(4) Amount of the charges debited to each billed account during the current billing cycle for untimely payment of past charges, using a term such as "late charge";~~

~~(5) A listing of the closing dates of the current billing cycle and the outstanding balance in each billed account on that date, using a term such as "current amount due" and "past due";~~

~~(6) A listing of the statement, or payment, due date.~~

~~(e) **Deniable and non-deniable charges.** Where a bill contains charges for basic local service, in addition to other charges, the bill must distinguish between charges for which nonpayment will result in disconnection of basic local service, and charges for which nonpayment will not result in such disconnection. The telecommunication service provider must explain this distinction to the end user, and must clearly and conspicuously identify on the bill those charges for which nonpayment will not result in disconnection of basic local service. Telecommunication service providers may also elect to devise other methods of informing end users on the bill that they may contest charges prior to payment.~~

~~(f) **Disclosure of inquiry contacts.**~~

~~(1) Telecommunications service providers and IXCs shall prominently display on each bill, a toll free number~~

~~or numbers by which end users may inquire or dispute any charges on the bill. Where the end user does not receive a paper copy of his or her telephone bill, but instead accesses that bill only by e-mail or internet, the telecommunications service provider and IXC may comply with this requirement by providing on the bill an e-mail or web site address. Each telecommunications service provider and IXC must make a business address available upon request from an end user.~~

~~(2) A telecommunications service provider and IXC may list a toll free number for itself, a clearinghouse, or other third party, provided such party possesses sufficient information to answer questions concerning the end user's account and is fully authorized to resolve the end user's complaints on the service provider's behalf.~~

165:55-9-4. Request for payments other than normal billings

The telecommunications service provider shall issue a bill for any additional charges other than those charges normally billed on the regular billing cycle. The telecommunications service provider shall not issue a notice of disconnection prior to five days after ~~the mailing~~providing notice/issuance of a bill for additional charges. Additional billings could include but are not limited to:

- (1) New or additional deposits.
- (2) High toll charges.
- (3) Other advance payments.

165:55-9-8. Customer preferences

The terms and conditions of Subchapter 9 may be changed, modified, revised, supplemented or deleted upon written agreement between a business end-user and the telecommunications service provider or IXC, ~~where the business end user has 10 or more access lines or is a multi-state or multi-national customer.~~ This Section shall not apply to residential end-users.

PART 3. CREDIT REQUIREMENTS

165:55-9-14. Deposits and interest

(a) Each telecommunications service provider shall prepare and submit a plan containing the criteria for deposits to the Commission for approval. The plan shall include criteria for residential and nonresidential consumers with residential being defined in each telecommunications service provider's tariffs.

- (1) The residential plan shall conform to all subsections of this Section.
- (2) The nonresidential plan shall conform to all subsections of this Section except for (b), (c), (d), and (1).

(b) No telecommunications service provider shall require a deposit of a residential end-user who has received the same or similar type of classification of service for twelve (12) consecutive months and to whom service was not terminated for nonpayment nor was payment late more than twice nor was a check for payment of a telecommunications service account dishonored. The twelve (12) months service period shall have

been within eighteen (18) months prior to the application for new service. The telecommunications service provider's plan may establish other relevant criteria which will qualify the end-user for nonpayment of a deposit.

(c) The amount of the deposit shall not exceed an amount equal to two (2) months local exchange charges and/or two (2) months toll charges determined by actual or anticipated usage. Where local exchange charges are billed in advance, the deposit shall include only one (1) month's such charges. The telecommunications service provider's plan may allow customers to pay deposits in installments. Upon request, the telecommunications service provider shall provide a written explanation of the deposit calculation. The explanation shall separately state the amount of the deposit which is related to local exchange service and the amount related to toll service.

(1) Upon written request by the customer, after a period of four (4) consecutive months during which time the average amount of toll charges is shown to have decreased by fifty percent (50%) or more, the telecommunications service provider shall re-evaluate the amount of the deposit in order to determine if the original deposit amount continues to be consistent with the guidelines set forth in this Section.

(2) The amount of the deposit shall be reduced to an amount which is consistent with the deposit guidelines set forth in this Section.

(3) Any excess amount of the deposit resulting from the reduction required in paragraph (2) of this subsection shall be refunded to the customer.

(d) A present end-user may be required to post a deposit as a condition of continued service if undisputed charges have become delinquent, with delinquent meaning a payment not received on or before the due date as posted on the bill, in two (2) out of the last twelve (12) billing periods or if the end-user has had service disconnected during the last twelve (12) months pursuant to OAC 165:55-11-2 or has presented a check to the telecommunications service provider that was subsequently dishonored.

(e) Interest on cash deposits shall be paid by each telecommunications service provider at no less than the rate calculated as follows:

~~(1) For all consumers deposits returned within one (1) year or less, more than thirty (30) days after receipt of the deposit, the interest rate shall be established the 1st day of January of each year to equal the average of the weekly percent annual yields of one (1) year U.S. Treasury Securities for September, October, and November of the preceding year. The interest rate shall be rounded to the nearest basis point.~~

~~(2) For all consumer deposits held by the telecommunications service provider for more than one (1) year, the interest rate shall be established the 1st day of January of each year to equal the average of the weekly percent annual yields of 10 year U.S. Treasury Securities for September, October, and November of the preceding year. The interest rate shall be rounded to the nearest basis point. The telecommunications service provider may pay the average of the one (1) year Treasury Security, as referenced~~

Permanent Final Adoptions

~~in paragraph (e)(1) of this Section, for the first year the deposit is held.~~

~~(3)~~ Provided, however, that after the interest rate is initially established pursuant to this subsection, the interest rate(s) shall not change unless the application of the formula in paragraphs (e)(1) ~~and/or (e)(2)~~ results in a change in interest rate(s) that is/are greater than two hundred (200) basis points.

~~(43)~~ The Director of the Public Utility Division shall calculate the interest rate(s) pursuant to paragraphs (e)(1) ~~and (e)(2)~~ of this Section, and shall ~~mail~~provide notice to the telecommunications service providers via mail, e-mail or posting on the OCC's website by December 15th of each year, only if a change in the rate(s) is/are necessary pursuant to subsection (e), otherwise the current interest rate(s) will remain in effect.

(f) If a refund of the deposit is made within thirty (30) days of receipt of the deposit, no interest payment is required. If the telecommunications service provider retains the deposit more than thirty (30) days, payment of interest shall be made retroactive to the date of deposit. No interest shall accrue on a deposit after discontinuance of service.

(g) The telecommunications service provider shall provide payment of accrued interest for all end-users annually by negotiable instrument or by credit against current billing.

(h) The deposit shall cease to draw interest on the date it is returned or credited to the end-user's account.

(i) In determining the amount of any deposit permitted by this Chapter, no charges for estimated telephone directory advertising may be used.

(j) The amount of the deposit, with accrued interest, shall be applied to any unpaid charges at the time of a discontinuance of services. The balance, if any, shall be returned to the end-user within thirty (30) days after settlement of the consumer's account, either in person or by mailing it to the end-user's last known address.

(k) If service is not connected, or after disconnection of service, the telecommunications service provider shall promptly and automatically refund the customer's deposit plus accrued interest on the balance, if any, in excess of the unpaid bills for service furnished. A transfer of service from one (1) premise to another within the area of the telecommunications service provider shall not be deemed a disconnection within the meaning of this Part, and no additional deposit may be required unless otherwise permitted by this Subchapter.

(l) The telecommunications service provider shall automatically refund the deposit for residential service, with accrued interest, after twelve (12) months' satisfactory payment of undisputed charges and where payment was not late more than twice; provided, however, that service has not been disconnected within the twelve (12) month period. Payment of a charge shall be deemed satisfactory if received on or prior to the date the bill is due. Payment of a charge shall be deemed not satisfactory if made by a check that is subsequently dishonored. If the end-user does not meet these refund criteria, the deposit and interest may be retained in accordance with subsection (d) of this Section.

(m) The telecommunications service provider may withhold refund or return of the deposit, pending the resolution of a dispute with respect to charges secured by the deposit.

(n) The telecommunications service provider shall keep records to show:

(1) The name, account number, and address of each depositor.

(2) The amount and date of the deposit.

(3) Each transaction concerning the deposit.

(o) The telecommunications service provider shall issue a receipt of deposit to each applicant from whom a deposit is received and shall provide means whereby a depositor may establish claim if the receipt is lost.

(p) Such records shall be retained for two (2) years after deposit and/or interest is refunded or applied.

(q) Upon the sale or transfer of any telecommunications service provider or operating units thereof, the seller shall file, with the application of transfer, a verified list of the information in subsection (n) of this Section, and the unpaid interest thereon. The information provided shall be treated as confidential and shall not be available for public inspection unless ordered by the Commission after notice and hearing.

(r) The deposit made by the end-user with the telecommunications service provider at the time of application for telephone service shall not constitute an advance payment to cover service bills, but for all purposes it is to be considered as security for the payment of monthly bills or other proper charges.

SUBCHAPTER 11. SERVICE DENIAL, SUSPENSION AND DISCONNECTION

PART 1. NOTICE REQUIREMENTS

165:55-11-4. Insufficient reasons for denial or suspension or disconnection of service

(a) A telecommunications service provider may not refuse service or suspend existing service or disconnect existing service by reason of nonpayment for telephone service by a previous occupant at the premises for which service is sought, or by reason of nonpayment of any amount back-billed due to misapplication of rates provided the applicant enters into a deferred payment plan. The telecommunications service provider shall not disconnect or suspend service without ~~mailing or delivering~~issuing a bill to the end-user for the amount due to the telecommunications service provider in accordance with OAC 165:55-9-4.

(b) Residential service cannot be suspended or disconnected for failure to pay a bill for a business service.

(c) Business service cannot be suspended or disconnected for failure to pay a bill for a residential service.

(d) Service may not be withheld from an end-user whose name was fraudulently used to obtain service at another location without the end-user's permission or knowledge.

(e) The telecommunications service provider shall not deny service to an end-user for nonpayment of an amount past due

for more than three (3) years, if the company cannot substantiate the charges with a copy of the end-user's bill.

(f) Service shall not be suspended or discontinued to a current end-user in good standing who accepts an additional household member owing a previous bill to the telecommunications service provider, unless that additional household member is listed on the lease arrangements or another utility service as a responsible party, or unless the household member shared service with the end-user at a different or same location.

(g) No telecommunications service provider shall provide billing and collection for any provider of intrastate telecommunications services who does not have proper authority to operate in the State of Oklahoma.

(h) Local exchange service shall not be denied or terminated for nonpayment of not-regulated services or disputed charges in accordance with OAC 165:55-9-5, OAC 165:55-11-6, or OAC 165:55-19-3.

165:55-11-7. Written correspondence

(a) Any written correspondence or notices to the end-user by the telecommunications service provider ~~or IXC~~ relating to billing disputes or complaints, which are not otherwise provided for in this Chapter, shall meet the following criteria:

(1) The correspondence shall be sent to the ~~end-user's choice of billing address~~ end-user via the method of delivery chosen by the end-user as provided for in OAC 165:55-9-1 or as otherwise agreed by the end-user and telecommunications service provider. This would include paper, electronic, or other delivery methods.

(2) The correspondence shall clearly state that it is from the telecommunications service provider ~~or IXC~~.

(3) The correspondence shall clearly state any applicable deadlines within which the end-user must take the appropriate action.

(4) The correspondence shall clearly state that if the end-user is unable to resolve any disputes with the telecommunications service provider ~~or IXC~~ regarding the subject of the correspondence, the end-user may contact the Commission's Consumer Services Division at the address and telephone numbers stated on the correspondence.

(b) Written correspondence shall be considered delivered three (3) business days after the correspondence has been mailed, or if written correspondence is provided electronically to end-user, delivery shall be deemed to occur the same date as sent, unless the electronic notice is returned as undeliverable.

PART 3. SUSPENSION AND DISCONNECTION PROCEDURES

165:55-11-12. Notice of Disconnection and Notice of Suspension

(a) A notice of disconnection or suspension shall contain the following information:

(1) The words "NOTICE OF DISCONNECTION" or "NOTICE OF SUSPENSION" or words with the same

meaning, in print type larger than the print type of the notice text.

(2) The name and address and the telephone number of the end-user.

(3) A statement of the reason for the proposed disconnection or suspension of service.

(4) The date on or after which service will be disconnected or suspended unless appropriate action is taken.

(5) The telephone number in bold print of the telecommunications service provider where the end-user may make an inquiry.

(6) The approved charges and procedure for reconnection or approved charges and procedure to avoid suspension.

(7) A statement that the end-user must contact the telecommunications service provider regarding the disconnection or suspension, prior to contacting the Commission's Consumer Services Division.

(8) The address and telephone number of the Commission's Consumer Services Division, in print size which is smaller than the print size used for the telecommunications service provider's telephone number.

(9) The services that are being disconnected or suspended, whether local and/or toll, and if the service to be disconnected or suspended is local service, a statement that the end-user must also contact their IXC if such end-user wishes to terminate such service in order to avoid incurring additional charges for such service.

(10) Notice of suspension of service relating to past-due amounts shall inform the end-user that the total amount due may include charges for non-deniable and/or not regulated services which would not cause interruption of local service. The notice must indicate a toll-free telephone number of a service center where questions can be referred and payment arrangements made.

(b) The following additional information shall be in the notice unless said information can be obtained in the telephone directory and the notice refers the end-user to the location in the directory where the information can be obtained:

(1) A statement of how an end-user may avoid the disconnection of service or suspension of service, including a statement that the end-user must notify the telecommunications service provider on the day of payment as to the place and method of such payment when the bill is paid at a place other than the office of the telecommunications service provider.

(2) A statement that informs the end-user where payments may be made or how to obtain a listing of authorized payment agencies.

~~(c) Notice of disconnection and/or notice of suspension shall be received via the United States mail unless the end user agrees with the telecommunications service provider or IXC to receive a bill through different means.~~

165:55-11-13. Reconnection

(a) Where service to any end-user has been refused or disconnected as authorized by 165:55-11-11, the telecommunications service provider shall not be required to connect or

Permanent Final Adoptions

reconnect service except by order of the Commission and, if so ordered, only upon the terms and conditions specified in the order.

(b) When service to any end-user has been suspended or disconnected pursuant to this Subchapter, upon reconnection, the telecommunications service provider shall be authorized to make a reconnection charge prescribed in its approved tariffs or Terms of Service.

(c) Except in those instances where an order of the Commission is required prior to reconnection, once the reason for suspension or disconnection has been remedied, the telecommunications service provider shall restore service as follows: soon as practical.

(1) For suspensions, ILECs shall restore service as soon as possible, but in no circumstances shall that time exceed two (2) business days;

(2) For disconnections, ILECs shall restore service in accordance with the provisions of OAC 165:55-13-1 applicable for installation of new service; and

(3) For suspensions and disconnections, CLECs shall restore service in accordance with the provisions of OAC 165:55-13-1 applicable for installation of new service.

165:55-11-14. Multi-State customers

The terms and conditions of Subchapter 11 may be changed, modified, revised, supplemented or deleted upon written agreement between a business end-user and the telecommunications service provider or IXC, ~~where the business end user has 10 or more access lines or is a multi state or multi national customer.~~ This Section shall not apply to residential end-users.

SUBCHAPTER 13. OPERATING AND MAINTENANCE REQUIREMENTS

PART 1. NEW AND UNFILLED APPLICATIONS FOR SERVICE

165:55-13-1. Service objectives; service period

(a) ~~Where facilities are available, a telecommunications service provider shall have as a service objective the installation of service to all end users making application in a least ninety five percent (95%) of all cases, within four (4) working days, or as otherwise agreed to by the end user; and for service requiring special equipment, within the time negotiated with the end user. Whenever the service objective cannot be met, the telecommunications service provider shall notify the end user thereof, stating the estimated delay and any interim service available.~~ A telecommunications service provider shall install service consistent with the service objectives within the TSP's tariff or Terms of Service. Service orders should be filled as quickly as practicable, but within no longer than thirty (30) days unless unavoidable delays are experienced.

~~(b) Whenever due to lack of adequate facilities or for any other reason, the telecommunications service provider is unable to install service within the service period set forth in subsection (a) of this Section, it shall obtain and keep on file a written application of service from each end user applying for service not yet furnished. A telecommunications service provider shall not, under any circumstances, refuse to accept an application for service or request the end user to withhold application for service. As a service objective, each telecommunications service provider shall keep at least ninety eight (98%) of its residence installation appointments, unless advance notice is given to the end user. The end user must provide the telecommunications service provider with a telephone number or other means of reaching said end user in the event the telecommunications service provider may be unable to meet the scheduled appointment.~~

165:55-13-2. Unfilled applications

(a) ~~Record of unfilled applications.~~ The telecommunications service provider shall keep a complete record of unfilled applications for each exchange, showing the name and address of the applicant, date of application, date service desired, estimated date service was promised, class of service applied for, and reason for failure to give service on a timely basis.

(b) ~~Priorities of unfilled applications.~~ Priority in filling unfilled applications will be given to furnishing service essential to public health and service, after which priority will be given to furnishing residential service to premises not otherwise served. The telecommunications service provider will prepare and submit plans for meeting unfilled orders for service and reports of progress thereon as required by the Commission shall submit the plan to the Commission upon request.

PART 3. SERVICE STANDARDS

165:55-13-10. Minimum service standards

(a) ~~The purpose of this Section is to create a uniform standard governing the minimum component telephone services for all telephone end users.~~

(1) ~~Each telecommunications service provider providing local exchange service shall make available to each local exchange end user within its service territory the following service features:~~

(A) ~~Individual line service on a local access line at uniform rates for end users of a given class within the exchange without mileage or zone charges;~~

(B) ~~Dual tone multi frequency signaling;~~

(C) ~~The telecommunications service provider shall install ninety percent (90%) of the following circuits within ninety (90) days of the date of the service order:~~

(i) ~~Circuits necessary to provide interoffice capability at minimum speeds of fifty six (56) kilobits per second;~~

(ii) ~~For RUS borrowers, for RUS loans executed after February 13, 1996, all new facilities~~

will be required, as built or with additional equipment, to provide transmission and reception data at a rate no lower than one (1) megabit per second. The deployment of new facilities shall be scheduled in a way to where advanced services will be implemented in a uniform manner with both rural and nonrural areas receiving services at the same time. New facilities which do not use system powering shall be required to use an alternative powering source for voice telephone service during electrical utility power outages;

- ~~(D) Availability of custom calling features (e.g., call waiting, call forwarding, etc.);~~
- ~~(E) Emergency telephone number services capable of automatic number identification, automatic location identification and call routing facilities to facilitate public safety response; e.g., Enhanced 911 Service, where the local government agency serving the end user has in place a Public Safety Answering Point;~~
- ~~(F) Lifeline and Link up Programs pursuant to OAC 165:55-13-14 and 165:55-13-14.1;~~
- ~~(G) Equal access to interexchange long distance service;~~
- ~~(H) Access to telecommunications relay services by dialing 711;~~
- ~~(I) Access to Directory assistance service;~~
- ~~(J) Access to operator services; and~~
- ~~(K) Access to 211 service, where available.~~

~~(2) Any telephone company incapable of providing the technologies and service features listed in (a)(1)(F) and (a)(1)(G) of this Section at the date of the amendment of this Section shall begin immediate efforts to attain compliance with this Section and shall file network development schedules with the Commission pursuant to this part.~~

~~(3) Upon replacement of facilities incapable of providing the technologies and service feature listed in this Chapter at the date of the effectiveness of this Section, the telecommunications service provider shall replace such facilities with those technologies capable of providing Custom Local Area Signaling Services (CLASS).~~

~~(4) Incumbent LECs that incur additional investment as a result of this Section may seek recovery through a general review of the company's rates for regulated telecommunications services.~~

~~(5) A Less than Minimum Service Provider that seeks authority to offer service which does not comply with all of the minimum service standards set forth in this Section shall specifically state in its application for a certificate of convenience and necessity the minimum service standards with which it will not comply.~~

~~(b) This Part is not intended to supersede the currently effective rates or prescribe prospective rates for telecommunications services affected by this Part. A telecommunications service provider shall meet service standards within the terms and conditions of service stated within the TSP's tariff or Terms of Service.~~

165:55-13-12. Extension of facilities

(a) Each incumbent LEC serving fewer than seventy-five thousand access lines is designated as a Carrier of Last Resort for the territory for which it was certified on the date of the adoption of the Federal Telecommunications Act of 1996.

(b) A Carrier of Last Resort will extend its distribution plant to furnish permanent service to any applicant located within one-quarter (1/4) mile of its existing facilities without requiring a construction charge, provided that the amount of plant to be constructed does not exceed that amount deemed necessary to serve the end-user's location. When an end-user requests services requiring an excessive quantity of facilities which will have extremely little potential for reuse, should that end-user move or otherwise discontinue service, a construction charge based on the cost of the facilities would apply.

~~(bc)~~ A Carrier of Last Resort shall extend its distribution plant to applicants in an area located more than one-quarter (1/4) mile from its existing facilities under the following conditions:

(1) New extensions or reinforcement of existing line facilities required for furnishing access lines associated with the service offered by a Carrier of Last Resort shall be constructed under the following conditions, when application is by an individual end-user or a developer for service of a permanent nature:

(A) An allowance of a one-quarter (1/4) mile, route measurement, per applicant will be made for such extensions without the application of a construction charge.

(B) Where construction is required in excess of the allowance stated in subparagraph (b)(1)(A) of this Section, applicants for service may be required to pay a construction charge for all reasonable costs in excess of the free allowance.

(C) A Carrier of Last Resort may make, at its option, an extension of its facilities above the free limit upon receipt of a lesser payment, or no payment, when the gross anticipated revenue from the extension will provide a Carrier of Last Resort with adequate return upon its investment pursuant to a formula approved by the Commission or contained in its approved terms and conditions of service.

(D) Additional charges may be applicable where natural or other barriers are encountered which require undue circuitous routing or abnormal costs to be incurred by a Carrier of Last Resort.

(E) When a Carrier of Last Resort requires a charge for the extension of facilities into an area more than one-quarter (1/4) mile from its existing facilities, the end-user(s) may apply to be provided telecommunications services by a Carrier of Last Resort providing service an adjacent certified area, if the Commission so orders. This subparagraph shall be limited to situations where a Carrier of Last Resort will not provide service to an area located within its service territory without the payment of construction charges.

(2) Nothing in this Chapter shall prohibit any RUS borrower from making extensions in compliance with

Permanent Final Adoptions

RUS rules or terms and conditions contained in any loan documents.

(c) ~~In lieu of extensions of telephone service pursuant to subsection (a) of this Section, the Carrier of Last Resort may require a developer desiring an extension to a prospective real estate subdivision to post a surety bond or make a cash deposit or bank letter of credit (at the option of the developer) equal to the estimated total costs of the extension before the construction of the extension is commenced. Total cost of construction shall not include drops to individual users off the telephone distribution facilities. In the event the developer chooses to post a surety bond or bank letter of credit, there shall be added to the principal amount of the surety bond or bank letter of credit, an amount equal to the most recent average embedded debt cost of the Carrier of Last Resort on file with the Commission. At least annually, for a period of five (5) years, the Carrier of Last Resort shall give the developer a credit equal to the percentage which the number of installations made in said twelve (12) months period bears to seventy five percent (75%) of the total number of installations contemplated by the developer and the Carrier of Last Resort for the completed subdivision. The credit referred to in this Chapter, in the case of deposit, shall be returned to the developer annually; with respect to a surety bond posted by the developer, the credit shall be in the form of an annual reduction of the face amount of the surety bond posted. Upon the developer receiving the applicable credit for each installation as set forth in this Chapter, the Carrier of Last Resort shall release or cause to be released the obligation of the developer and the surety, if a surety bond was posted; provided, however, if within five (5) years from the date of the surety bond or cash deposit, the proposed development area has not been developed in a sufficient amount for the developer to receive credit for the total cost of extension to the development as agreed upon, then the developer shall be obligated to pay the Carrier of Last Resort the total construction costs reduced by all credits previously allowed. In the event that said amount is not paid within sixty (60) days of the date due and a surety bond has been posted, the Carrier of Last Resort may declare a default and shall have the right to call upon the surety for payment of the remaining unpaid amount due. In the event of dispute over the circumstances requiring the posting of a surety bond or cash deposit, and/or the reasonableness of the face amount of such bond or cash deposit, a Carrier of Last Resort or the developer may apply to the Commission for an appropriate order resolving the dispute.~~

(d) ~~In the event the Carrier of Last Resort is denied access to a premises or property by the property or building owner, and is asked at a later date to fulfill the Carrier of Last Resort obligation with regard to that premises or property, the Carrier of Last Resort may request a Motion for Waiver of OAC 165:55-13-12 if the costs associated with fulfillment of the Carrier of Last Resort obligation are deemed excessive by the Carrier of Last Resort.~~

(d) In the event the Carrier of Last Resort is denied access to a premises or property by the property or building owner or lessee, and is asked at a later date to fulfill the Carrier of Last Resort obligation with regard to that premises or property, the Carrier of Last Resort may request a Motion for Waiver of

OAC 165:55-13-12 if the costs associated with fulfillment of the Carrier of Last Resort obligation are deemed excessive by the Carrier of Last Resort.

165:55-13-12.1. New developments

A TSP may require a developer desiring an extension to a prospective real estate subdivision to post a surety bond or make a cash deposit or bank letter of credit (at the option of the developer) equal to the estimated total costs of the extension before the construction of the extension is commenced. Total cost of construction shall not include drops to individual users off the telephone distribution facilities. In the event the developer chooses to post a surety bond or bank letter of credit, there shall be added to the principal amount of the surety bond or bank letter of credit, an amount equal to the most recent average embedded debt cost of the TSP on file with the Commission. At least annually, for a period of five (5) years, the TSP shall give the developer a credit equal to the percentage which the number of installations made in said twelve (12) months period bears to seventy-five percent (75%) of the total number of installations contemplated by the developer and the TSP for the completed subdivision. The credit referred to in this Chapter, in the case of deposit, shall be returned to the developer annually; with respect to a surety bond posted by the developer, the credit shall be in the form of an annual reduction of the face amount of the surety bond posted. Upon the developer receiving the applicable credit for each installation as set forth in this Chapter, the TSP shall release or cause to be released the obligation of the developer and the surety, if a surety bond was posted; provided, however, if within five (5) years from the date of the surety bond or cash deposit, the proposed development area has not been developed in a sufficient amount for the developer to receive credit for the total cost of extension to the development as agreed upon, then the developer shall be obligated to pay the TSP the total construction costs reduced by all credits previously allowed. In the event that said amount is not paid within sixty (60) days of the date due and a surety bond has been posted, the TSP may declare a default and shall have the right to call upon the surety for payment of the remaining unpaid amount due. In the event of dispute over the circumstances requiring the posting of a surety bond or cash deposit, and/or the reasonableness of the face amount of such bond or cash deposit, a TSP or the developer may apply to the Commission for an appropriate order resolving the dispute.

PART 5. SERVICE QUALITY STANDARDS

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

(a) A telecommunications service provider is responsible for providing adequate and efficient telephone service to every end-user served by it.

(b) A telecommunications service provider that uses its own local exchange facilities to provide service shall install and maintain its system so as to render safe, efficient, and continuous service, and shall keep all of its lines, equipment, and facilities in a good state of repair.

(c) The recommendations contained in the 2002 Edition of the National Electrical Code (NEC) and the 1997 Edition of the National Electrical Safety Code (NEC) are hereby adopted as the minimum standards governing the installation, construction, and maintenance of communication lines. The recommendations contained in the 2002 NEC will apply on a prospective basis effective July 1, 2002. Local and municipal electrical codes shall not apply to the installation of telecommunications facilities.

(d) ~~The telecommunications service provider using its own facilities to provide service shall meet or exceed the following minimum standards for the physical cable going to the customer:~~

- (1) ~~Loop current — 20 ma and above;~~
- (2) ~~Loop loss — Engineered for — 8 dBrn, but not to exceed 10 dBrn;~~
- (3) ~~Loop noise — 20 dBrnC or less;~~
- (4) ~~Power influence — 89 dBrnC or less.~~

~~(e) The dominant criteria for these standards is voice grade service quality. Even if the acceptable numeric criteria is met and an end user still experiences voice grade service problems, corrective action will be indicated.~~

~~(f) All telecommunications service providers, that install temporary drops and temporary cables as interim facilities to ensure service to customers pending permanent placement of those facilities, are required to:~~

~~(1) Permanently remove, bury, or install drops and temporary cables within thirty (30) days of the date the temporary drop or temporary cable was installed. Provided, however, when permanent placement is deemed not feasible by the telecommunications service provider, within such thirty (30) day period, due to construction projects, development projects, other circumstances beyond the control of the telecommunications service provider, or as otherwise agreed to by the customer, the telecommunications service provider shall permanently remove, bury, or install the temporary drop or temporary cable as quickly as practicable, as soon as practical, but in no circumstances shall that time exceed ninety (90) days without notification and justification being provided to the Director of the Consumer Services Division prior to expiration of the ninety (90) day period.~~

~~(2) Keep records of all temporary drops and temporary cables in each of its exchanges and provide the records to the Commission upon request. The records shall include, at a minimum: the date the temporary drop or temporary cable was installed; the location of the temporary drop or temporary cable, including sufficient information to reasonably allow the temporary drop or temporary cable to be located; the estimated date the temporary drop or temporary cable will be permanently removed, buried, or installed; and, the date the temporary drop or temporary cable was removed, buried, or installed.~~

165:55-13-22. Emergencies

(a) All telecommunications service providers shall make adequate provision for emergencies in order to prevent interruption of continuous telecommunications service throughout the area it serves.

(b) Central office(s) shall have an emergency power source, either on the premises or available on short notice.

~~(1) Central office(s) shall have available emergency standby AC generators to avoid interruption of normal service caused by failure of AC commercial power except when caused by acts of God.~~

~~(2) Each central office equipped to serve more than three hundred (300) access lines shall be equipped with a one thousand four (1,004) Hertz, one (1) milliwatt test signal generator and a nine hundred (900) ohm termination wired to telephone numbers. The numbers assigned for these test terminations shall be readily determinable.~~

165:55-13-23. Adequacy of service

The telecommunications service provider shall ensure that there is a sufficient operating force and, where appropriate, sufficient equipment to ~~meet the following service objectives and minimum standards~~ serve its end-users.

~~(1) Toll calls: Objective — ninety percent (90%) answered within ten (ten) seconds; minimum — eighty percent (80%) answered within ten (10) seconds.~~

~~(2) Directory assistance: Objective — eighty five percent (85%) answered within ten (10) seconds; minimum — seventy five percent (75%) answered within ten (10) seconds.~~

~~(3) Repair and trouble calls: Objective — eighty five percent (85%) answered within twenty (20) seconds; minimum — seventy five percent (75%) answered within twenty (20) seconds.~~

165:55-13-24. Adequacy of equipment

A telecommunications service provider shall, where appropriate, install sufficient equipment and ensure that there are sufficient personnel to handle the average busy hour, busy season traffic, ~~and to meet the following minimum standards at that period.~~

~~(1) Dial tone: Ninety five percent (95%) within three (3) seconds.~~

~~(2) Completion of calls: Ninety percent (90%) without encountering an all trunks, busy condition within the central office.~~

~~(3) Local interoffice trunks: Ninety five percent (95%) of calls offered to the group will not encounter an all trunks busy condition.~~

~~(4) Intrastate toll connecting trunks: Ninety seven percent (97%) will not encounter an all trunks busy condition.~~

PART 7. TRANSMISSION OBJECTIVES

Permanent Final Adoptions

165:55-13-30. Accepted transmission design factors

All voice grade interoffice trunk facilities shall conform to accepted transmission design factors and shall be maintained to meet the following objectives when measured from the line terminals of the originating central office to the line terminals of the terminating central office:

- (1) ~~Interoffice local calls.~~ Excluding calls between central offices in the same building, ninety percent (90%) of the measurements should be from two (2) to ten (10) decibels loss at 1000 +/- 20 Hertz and no more than thirty (30) decibels above reference noise level ("C" message weighting).
- (2) ~~Access facility.~~ Ninety percent (90%) of the transmission measurements should be from three (3) to twelve (12) decibels loss at 1000 +/- 20 Hertz and no more than thirty three (33) decibels above reference noise level ("C" message weighting).

165:55-13-31. Access lines [REVOKED]

~~All newly constructed and rebuilt access lines shall be designed for a transmission loss of no more than eight (8) decibels at 1004 Hertz from the central office to the network interface excluding central office loss. All access lines shall be maintained so that transmission loss does not exceed ten (10) decibels.~~

PART 11. INTERRUPTIONS OF SERVICE

165:55-13-50. Service standards; sufficient operating and maintenance force

A telecommunications service provider shall maintain an operating and maintenance force sufficient to meet service objectives and minimum standards for restoration of service after interruption as follows:

- (1) Provisions will be made to receive customer trouble reports at all times, twenty-four (24) hours per day.
- (2) Provision will be made to correct interruptions of service to persons and agencies required to respond to emergencies involving human life and safety at all times, consistent with the bona fide needs of the end-user and the availability and safety of telecommunications service provider personnel.
- (3) ~~It will be a service objective to correct ninety percent (90%) of the interruptions of service, except emergency service, on the next working day after the interruption was reported or discovered.~~
- (4) ~~It will be a service objective that the total number of customer trouble reports in each exchange does not exceed twelve (12) per one hundred (100) working network access lines per month in an exchange of three hundred (300) or fewer network access lines and nine (9) reports per one hundred (100) network access lines per month in an exchange of three hundred one (301) to two thousand (2,000) network access lines and seven (7) per one hundred (100) network access lines per month in an exchange with two thousand one (2001) or more network access lines. The service objective will be met unless there is~~

~~an excessive number of trouble reports in a particular exchange for three (3) consecutive months rolling average. Trouble caused by CPE or customer owned inside wiring shall not be included in these calculations.~~

165:55-13-51. Records of trouble reports

~~Each telecommunications service provider shall maintain a complete written record of all customer trouble reports of service affecting defects in telecommunications service provided by that telecommunications service provider. The records shall identify the end user or service affected, the time and date of the report, the nature of the defect reported, the action taken to correct the trouble, the date and time of trouble clearance or other disposition. Each telecommunications service provider and IXC shall make a full and prompt investigation of every trouble report made to it by its end-users, either directly or through the Commission. It shall keep a record of each trouble report received. Each record shall show the name and address of the reporting end user, the date and character of the trouble reported, and the adjustment or disposal made thereof, which record shall be retained for two (2) years. Records shall be kept of all trouble reports as defined by this Chapter.~~

165:55-13-52. Notice of service interruptions

- (a) The Commission shall be notified as soon as possible, through the Director of the Consumer Services Division, of interruptions in telecommunications services which affect the entire system; a major division thereof; or which, in the judgment of the telecommunications service provider, may cause a high degree of public interest or concern.
- (b) The Commission notification process required in subsection (a) of this Section, may be accomplished by facsimile or by electronic methods, twenty-four (24) hours a day, seven (7) days a week; or by phone, during the business hours of 8:00 a.m. through 4:30 p.m., Monday through Friday, and should consist of the following:

- (1) An initial contact to advise of the outage; the cause of such outage; the area affected; and, the estimated time for repair;
- (2) Intermediate contact to provide status reports, as deemed necessary by the telecommunications service provider, or as may be requested by the Commission Staff; and,
- (3) A conclusory contact detailing the results and completion of the restoration of service.

165:55-13-53. Restoration of service plan

~~Each telecommunications service provider shall have a written restoration of service plan (Plan) to be followed during interruptions in service of which the Commission is to be notified under OAC 165:55-13-52. Each telecommunications service provider shall submit its Plan by September 30 of each year to the Commission through the Director of the Consumer Services Division. In lieu of submitting a Plan, a telecommunications service provider may submit a letter confirming that a previously submitted Plan has not changed or detailing~~

~~changes to the Plan. The Plan shall contain the name and telephone numbers of company designated liaison(s) to be contacted during emergency periods by Commission staff during business and non business hours. The Plan should indicate that the telecommunications service provider is prepared to take the following types of action where necessary: and submit the Plan to the Commission upon request.~~

- ~~(1) To make an initial assessment of the extent of the service interruption in order to comply with the reporting requirements of OAC 165:55-13-52(b)(1).~~
- ~~(2) To make a determination if the service interruption can be restored by the use of in house personnel only, or if contractors (personnel obtained from outside resources) will be required.~~
- ~~(3) To provide priority consideration to restoration of service, where feasible, to emergency services (hospitals, law enforcement and fire fighting entities).~~
- ~~(4) To make intermediate assessments of the restoration of service in order to comply with the requirements of OAC 165:55-13-52(b)(2).~~
- ~~(5) To make a conclusory assessment of the restoration of service in order to comply with the requirements of OAC 165:55-13-52(b)(3).~~

SUBCHAPTER 15. NOTIFICATION OF TRANSACTIONS AFFECTING CUSTOMERS OR BUSINESS OPERATIONS

165:55-15-1. Notification of certain transactions affecting the customers or operations of a telecommunications service provider or IXC

- (a) The parties to an agreement, the performance of which will result in the movement of some or all of the regulated telecommunications services customers of one or more certificated telecommunications services providers or IXCs to a different legal entity, shall, at least forty-five (45) days before the effective date of such proposed transaction, file an original and eight (8) copies of a Notification of Transaction with the Commission's Office of the Court Clerk, accompanied by the applicable filing fee, in order to notify the Commission of the transaction.
- (b) The parties to an agreement, the performance of which will result in the transfer of a Certificate of Convenience and Necessity, with or without the transfer of a tariff, from one legal entity to another legal entity shall, at least forty-five (45) days before the effective date of such proposed transaction, file an original and eight (8) copies of a Notification of Transaction with the Commission's Office of the Court Clerk, accompanied by the applicable filing fee, in order to notify the Commission of the transaction.
- (c) The parties to an agreement, the performance of which will result in the merger of one or more legal entities with a surviving legal entity which is certificated to provide local and/or interexchange telecommunications services, shall, at least forty-five (45) days before the effective date of such proposed transaction, file an original and eight (8) copies of a

Notification of Transaction with the Commission's Office of the Court Clerk, accompanied by the applicable filing fee, in order to notify the Commission of the transaction.

(d) This Section shall not require notification to the Commission of transactions which involve only changes in the ownership of the stock of a telecommunication service provider or IXC. Such transactions are not subject to regulation by the Commission.

(e) The Notification of Transaction shall include a copy of the agreement, with all exhibits and schedules, and set forth the following information, if applicable:

- (1) The name of the acquiring entity and the acquired entity.
- (2) Identification of the acquired assets.
- (3) The anticipated completion date and the effective date (if different) of the transaction.
- (4) The name of the entity(ies) which will be providing telecommunications services in Oklahoma subsequent to the effective date of the transaction (the "surviving entity").
- (5) The name, address and telephone number of a contact person for purposes of the Notification of Transaction.
- (6) The names and qualifications of the individuals who will serve as officers and management of the surviving entity.
- (7) The name(s), address(es) and telephone number(s) of the representatives of the surviving entity who will be the contact(s) for the Public Utility Division and the Consumer Services Division and will be primarily responsible for:
 - (A) Providing customer service;
 - (B) Repair and maintenance;
 - (C) Answering complaints;
 - (D) Authorizing and/or furnishing refunds to customers
 - (E) Tariff issues; and,
 - (F) Receiving Notices related to causes docketed at the Commission.
- (8) An affidavit, including a financial statement, that states that the surviving entity possesses the financial ability to provide telecommunications services in the State of Oklahoma.
- (9) A copy of the notice which will be provided to affected customers informing them of the transaction and any change in the name of the entity which provides telecommunications services to them or in their rates, charges or terms and conditions of service as a result of the transaction.
- (10) Identification of any changes in services to be offered or tariffed rates to affected customers required by the transaction.
- (11) A narrative and/or schematic description of the relationship between or among the acquired and acquiring entities and the surviving entity.
- (12) An acknowledgment that any tariff revisions shall only be accomplished in a separate filing.
- (13) A statement of the approximate number of Oklahoma customers.

Permanent Final Adoptions

(14) In addition, this Section shall not apply to transactions between affiliates that have an Oklahoma Certificate of Convenience and Necessity. If the transaction is going to modify the company name on the customer's bill, 45 days advance notice must be provided to affected customers.

(f) At the time of filing the Notification of Transaction, the acquiring entity shall provide a copy of the Notification of Transaction, with all attachments thereto, to the Office of the Attorney General of the State of Oklahoma.

(g) The Commission Staff shall review the Notification of Transaction for the purpose of determining whether the proposed transaction should be approved and, in the case of mergers, whether the surviving entity should be allowed to provide telecommunications service in Oklahoma after the effective date of the transaction under the authority of any existing Certificate of Convenience and Necessity. The Commission shall act on a notification within thirty (30) business days of the date the notification is filed. No reportable transaction shall be consummated except by order of the Commission. Any person wishing to object to the proposed filing must file an objection with the Commission's Office of the Court Clerk no later than fifteen (15) days after the proposed filing. The Attorney General of the State of Oklahoma shall be granted intervention in such proceeding, if requested.

(h) Within thirty (30) business days of the filing of the Notification of Transaction, the Commission Staff may file a Continuance of Review in the Cause stating that the Commission Staff has not completed its review of the transaction and shall require an additional specified time, not to exceed an additional thirty (30) calendar days, in which to complete such review. The Commission Staff shall accompany such a Continuance of Review with a specification of the additional information, if any, needed to complete this review.

(i) The Commission Staff may, if it determines appropriate, file a Notice in the Cause requiring the acquiring entity and/or the surviving entity to show cause that the proposed transaction and/or merger is lawful, fair to the customers and in the public interest. The filing of such Notice by the Commission Staff will not alone suspend the authority of any entity to operate under an existing Certificate of Convenience and Necessity. Simultaneously with the filing of any such Notice, the Commission Staff shall propose a procedural schedule, including a date for hearing which shall be held within ninety (90) calendar days of the date of the filing of the Notification of Transaction, unless otherwise ordered by the Commission. If such a Notice is filed by the Commission Staff, the acquiring entity and/or surviving entity shall have the burden of establishing that the proposed transaction(s) is lawful, fair to the customers and in the public interest.

(j) After approval of notification of transaction(s), and not later than thirty (30) days after transaction consummation, an original and two (2) copies of the approved tariffs, if necessary, which conform to OAC 165:55-5-20, shall be provided to the Public Utility Division.

165:55-15-3. Sale of equipment [REVOKED]

~~This Subchapter shall not prohibit sale or exchange of individual items of equipment not affecting the service or area of service of a telecommunications service provider or IXC, provided that transactions within the scope of Article 9, Section 9 of the Oklahoma State Constitution, but not included in the reportable transactions specified in OAC 165:55-15-1, shall be reported and processed as provided for by that Section.~~

165:55-15-5. Cessation of business in Oklahoma

(a) At least thirty (30) days before the effective date of the cessation of the provisioning of telecommunications service(s) in the State of Oklahoma, a telecommunications service provider or IXC shall file an original and eight (8) copies of an application for withdrawal of its Certificate of Convenience and Necessity and cancellation of its tariffs and provide Notice of such filing to the Attorney General of the State of Oklahoma.

(b) An application for withdrawal shall include as attachments the following information, which must be certified as true and correct by an officer of any corporate applicant, or an authorized representative of an unincorporated applicant:

(1) The contact person who will be responsible for concluding all outstanding business with the Commission and customers;

(2) A statement regarding the amount of any outstanding customer deposits and the date refund checks will be sent to customers; and,

(3) The date of withdrawal.

(c) Notice of discontinuance shall be ~~sent~~provided at least thirty (30) days prior to the date that service will cease by regular mail to all of the customers of the telecommunications service provider or IXC. The form and method of notice shall be ~~in a form~~ approved by the Director of the Public Utility Division, and shall give the exact date that service will cease and contain information as to the procedure for any refunds due customers.

(d) Notice of discontinuance will be sent at least thirty (30) days prior to the date service will cease, by certified mail, to any ~~9-1-1~~E911/911 Database Management Service Provider within the exchanges served by the applicant. Notice shall include:

(1) The exact date the applicant will cease to do business in Oklahoma.

(2) A statement that until the date applicant ceases to do business in Oklahoma, the applicant will continue to submit transactions to the ~~9-1-1~~E911/911 Database Management Service Provider for transferring and keeping up-to-date customer's information.

(3) A statement that the applicant will unlock or release all ~~9-1-1~~E911/911 records effective with its termination date, thereby enabling the migration of existing ~~9-1-1~~E911/911 records with a telephone number ported by the customer to a different telecommunications service provider.

(e) Unless provided otherwise in this Chapter, no application for withdrawal and/or cancellation of an existing Certificate of Convenience and Necessity and tariff shall be granted except

by Order of the Commission, after such notice and hearing, if any, as directed by the Commission.

(f) The Commission Staff may file an application to cancel an existing Certificate of Convenience and Necessity and tariff, at the company's request and at the option of the Commission Staff. The request may be in the form of a letter to the Director of the Public Utility Division. The letter will conform with OAC 165:55-15-5 (b) and (c).

SUBCHAPTER 17. FACILITATION OF LOCAL EXCHANGE COMPETITION

165:55-17-29. ~~Carrier of Last Resort/Eligible~~ Eligible Telecommunications Carrier

Each incumbent LEC is designated as a ~~Carrier of Last Resort~~ an eligible telecommunications carrier for the territory for which it was certified on the date of the adoption of the Federal Telecommunications Act of 1996. For the purpose of eligibility to receive federal universal service support under 47 U.S.C. § 214(e), ~~each Carrier of Last Resort is designated as an eligible telecommunications service provider for its respective service territory.~~ An eligible telecommunications service provider shall, throughout its service territory:

- (1) Offer the telecommunications services that are supported by Federal universal service support mechanisms under 47 U.S.C. § 254(c), either using its own facilities or a combination of its own facilities and resale of another telecommunications service provider's services, including the services offered by another eligible telecommunications service provider; and,
- (2) Advertise the availability of such telecommunications services and the charges therefor using media of general distribution.

SUBCHAPTER 22. RESOLUTION DISPUTES

165:55-22-5. Formal non-expedited dispute resolution

(a) **Commencement.** This procedure is a formal proceeding for dispute resolution and will commence when a party (complainant) files a complaint with the Court Clerk of the Commission and, on the same day, delivers a copy of the complaint either by hand delivery, certified mail, electronic mail or facsimile to the Director of the Public Utility Division, to the other party (respondent) to the interconnection agreement from which the dispute arises, to the Office of General Counsel, and to the Office of the Attorney General. If facsimile is used, a certificate of service shall be provided.

(b) **Process.** Unless otherwise ordered by the arbitrator, parties shall file with the Commission Court Clerk's office 10 copies of pleadings. The complaint shall be in a consistent format approved by the Director of the Public Utility Division and shall include:

- (1) The name, address, telephone number, facsimile number of each party to the interconnection agreement, and the complainant's designated representative;

- (2) A description of the parties' efforts to resolve their differences by negotiation;
- (3) A detailed list of the precise issues in dispute, with a cross-reference to the area or areas of agreement applicable or pertaining to the issues in dispute; and
- (4) An identification of pertinent background facts and relevant law or rules applicable to each disputed issue.
- (5) The complainant's proposed solution to the dispute.

(c) **Arbitrator.** Upon receipt of a dispute resolution complaint filed under this Section, an arbitrator shall be selected to act for the Commission, unless two or more of the Commissioners choose to hear the complaint *en banc*. The parties shall be notified of the Commission designated arbitrator, or of the Commissioners' decision to act as arbitrator themselves. The arbitrator may be advised on legal and technical issues by members of the Commission Staff. The Commission staff members selected to advise the arbitrator shall be determined by the Director of the Public Utility Division and shall be identified to the parties. Within five (5) days of the selection of the arbitrator being named, any challenge to the appointment shall be brought forth. No parties to the dispute resolution process may have *ex parte* discussions with the arbitrator regarding the complaint, except those persons designated by the Director of the Public Utility Division.

(d) **Response to complaint.** The respondent shall file a response to the complaint within twenty (20) days after the filing of the complaint and shall serve a copy of the response on the complainant, the Office of the Attorney General, the Office of General Counsel, and to the Director of the Public Utility Division. The response shall specifically affirm or deny each allegation in the complaint. The response shall include the respondent's position on each issue in dispute, a cross-reference to the area or areas of the contract applicable or pertaining to the issue in dispute, and the respondent's proposed solution on each issue in dispute. In addition, the response also shall stipulate to any undisputed facts and identify relevant law or rules applicable to each disputed issue.

(e) **Reply to response to complaint.** The complainant may file a reply within five (5) business days after the filing of the response to the complaint and serve a copy to the respondent, the Office of the Attorney General, the Office of General Counsel, and to the Director of the Public Utility Division. The reply shall be limited solely to new issues raised in the response to the complaint.

(f) **Notice and hearing.** As soon as possible after his or her selection, the arbitrator shall schedule a prehearing conference with the parties to the arbitration. The arbitrator shall make arrangements for the hearing to address the complaint, which shall commence no later than 50 days after filing of the complaint. The arbitrator shall notify the parties, not less than 15 days before the hearing of the date, time, and location of the hearing. The hearing shall be held in Oklahoma City unless otherwise ordered by the Commission.

(g) **Transcripts.** The hearing shall be transcribed by a court reporter designated by the arbitrator. Copies of the transcript may be obtained from the designated court reporter at the expense of the requesting party.

Permanent Final Adoptions

(h) **Participation.** Only parties to the interconnection agreement, the Commission Staff, or the Office of the Attorney General, may participate as parties in the dispute resolution process subject to this Subchapter, unless otherwise ordered by the Commission upon a showing of good cause.

(i) **Authority of the arbitrator.** The arbitrator has broad discretion in conducting the dispute resolution proceeding. The arbitrator shall have the authority within the Commission to award remedies or relief deemed necessary by the arbitrator to resolve a dispute subject to the procedures established under this Subchapter.

(j) **Discovery.** Parties may obtain discovery by submitting a discovery request consistent with the Commission's Rules of Practice, OAC 165:5, which include requests for inspection and production of documents, requests for admissions, and depositions by oral examination, as provided by the Commission rules and as allowed within the discretion of the arbitrator.

(k) **Pre-filed evidence and witness list.** The arbitrator may require the parties to file a direct case, under the same deadline, and a joint issues list on or before the commencement of the hearing under the following guidelines:

(1) The prepared direct case shall include all of the party's direct evidence, including written direct testimony of all its witnesses and all exhibits that the party intends to offer. The joint issues list shall identify all issues to be addressed, the witnesses who will be addressing each issue, and a short synopsis of each witness's position on each issue. Confidential information shall be treated in accordance with the Commission's Rules of Practice, OAC 165:5.

(2) Each witness presenting written direct testimony shall be available for cross-examination by the other parties to the complaint. The arbitrator shall judge the credibility of each witness and the weight to be given his or her testimony based upon his or her response to cross-examination. If the arbitrator determines that a witness' responses are evasive or non-responsive to the questions asked, the arbitrator may disregard the witness' testimony on the basis of lack of credibility.

(3) The arbitrator may ask clarifying questions at any point during the proceeding and may direct a party or witness to provide additional information as needed to fully develop the record of the proceeding. If a party fails to present information requested by the arbitrator, the arbitrator shall render a recommendation on the basis of the best information available from whatever source derived.

(4) The arbitrator may require the parties to submit post-hearing briefs or written summaries of their positions. The arbitrator shall determine the filing deadline and any limitations on the length of such submissions.

(l) **Recommendation.** Timelines and appeals to the arbitrator's recommendation shall be governed by the following guidelines:

(1) The written recommendation of the arbitrator shall be filed with the Commission within fifteen (15) days after the close of the hearing and shall be faxed to all parties of record in the dispute resolution proceeding. The recommendation of the arbitrator shall be based upon the

record of the dispute resolution hearing, and shall include a specific ruling on each of the disputed issues presented for resolution by the parties. The recommendation shall include a narrative report explaining the arbitrator's rationale for each of the rulings included in the final decision.

(2) Within ten (10) days from the date of the arbitrator's recommendation is issued, any party may appeal the arbitrator's recommendation to the Commission *en banc* by the filing of a written appeal. The appellant shall serve, concurrent with filing, copies of the appeal and notice of hearing for the appeal to all parties of record and the arbitrator. The appeal shall be heard by the Commission *en banc* within ten (10) days of the filing of such appeal, unless the Commission orders otherwise.

(3) With respect to the recommendation by the arbitrator, the Commission *en banc* may affirm, reverse, or modify the findings of fact or conclusions of law of the arbitrator based on the record, hold additional hearings, or may remand the cause to the arbitrator for further hearing. The Commission shall enter its order on the complaint no later than 100 days after the filing of the complaint, unless otherwise agreed to by the parties.

165:55-22-9. Interim relief

(a) **Need for interim relief.** This Section establishes procedures whereby a party who requests dispute resolution pursuant to OAC 165:55-22-5 or OAC 165:55-22-7 may also request an interim ruling on whether the party is entitled to relief pending the resolution of the merits of the dispute. This relief is intended to provide an interim remedy when the dispute compromises the ability of a party to provide uninterrupted service or precludes the provisioning of scheduled service or as a means to guarantee that funds are available in a billing dispute.

(b) **Filing a request.** Any request for an interim ruling shall be filed at the same time and in the same cause as the complaint filed pursuant to OAC 165:55-22-5 or OAC 165:55-22-7. The heading of the complaint shall include the phrase "Request for Interim Ruling." The complaint shall set forth the specific grounds supporting the request for interim relief pending the resolution of the dispute, as well as a statement of the potential harm that may result if interim relief is not provided. A complaint that includes a request for interim ruling shall be verified by affidavit. Such complaint must list the contact person, address, telephone number, and facsimile number for both the complainant and respondent.

(c) **Service.** The complainant shall serve a copy of the complaint and request for an interim ruling on the respondent, the Office of the Attorney General, the Office of General Counsel, and to the Director of the Public Utility Division by hand-delivery or facsimile on the same day as the pleading is filed with the Commission.

(d) **Hearing.** Within three business days, if feasible, of the filing of a complaint and request for interim ruling, the arbitrator selected under this Subchapter shall conduct a hearing to determine whether interim relief should be granted during the pendency of the dispute resolution process. The arbitrator will

notify the parties of the date and time of the hearing by facsimile within one (1) business day of the filing of a complaint and request for interim ruling. The parties should be prepared to present their positions and evidence on factors including but not limited to: the type of service requested; the economic and technical feasibility of providing that service; and the potential harm in providing or not providing the service.

(e) **Ruling.** Based upon the evidence provided at the hearing, the arbitrator shall issue a written ruling on the request within 24 hours of the close of the hearing and will notify the parties by facsimile of the ruling. The interim ruling will be effective throughout the dispute resolution proceeding until a final order is issued by the Commission pursuant to this Subchapter. The interim ruling shall have no precedential impact.

SUBCHAPTER 23. WIRELESS ELIGIBLE TELECOMMUNICATIONS CARRIER

PART 1. GENERAL PROVISIONS

165:55-23-1. Requirements

The requirements of this Subchapter pertain to the provision of Supported Services by designated wireless Eligible Telecommunications Carriers (hereinafter referred to as "wireless ETC" or "ETC"). All ETCs shall comply with federal requirements.

SUBCHAPTER 25. HOMELAND SECURITY AND CRITICAL INFRASTRUCTURE

165:55-25-1. Purpose and scope

(a) The purpose of this Subchapter is to encourage facilities-based providers (FBPs) to take all reasonable measures necessary to protect their critical infrastructures from extended interruption of service from all extraordinary events, natural and man-made.

(b) The Corporation Commission encourages FBPs to develop, implement, and maintain Homeland Security and Critical Infrastructure Plans according to the industry standards enumerated in sub-section (d) below.

(c) To the extent that a FBP seeks cost recovery for the implementation of Homeland Security and/or Critical Infrastructure protections, the FBP shall comply with all provisions of this Subchapter.

(d) Each FBP serving Oklahoma jurisdictional customers is encouraged to follow the most current Network Reliability and Interoperability Council (NRIC) Best Practices (~~www.bell-labs.com/egi-user/krauscher/best-pr~~)(<http://www.atis.org/bestpractices/Search.aspx>) security guidelines and standards and the National Fire Protection Association's ("NFPA") NFPA 1600 - Standard on Disaster/Emergency Management and Business Continuity Programs (~~<http://www.nfpa.org/PDF/nfpa1600.pdf?src=nfpa>~~)(<http://www.nfpa.org/assets/files/PDF/NFPA1600.pdf>), as may be amended from time to time, for use as guidelines for protecting the FBP's Critical Infrastructure from extended service interruption.

(e) Each FBP seeking cost recovery for security measures from Oklahoma jurisdictional customers shall develop, implement, and maintain a Critical Infrastructure and Security Plan in accordance with this Subchapter.

(f) If the FBP has implemented a Security Plan or process in accordance with the applicable industry guidelines but is not seeking or receiving cost recovery for security-related costs, the FBP shall submit the Certification Letter required by OAC 165:55-25-7(f) and the Plan shall be subject to review pursuant to the Authorized Participation and Confidentiality provisions of OAC 165:55-25-10 and OAC 165:55-25-11. The FBP is not otherwise required to comply with the provisions of this Subchapter.

(g) The Commission retains its jurisdictional and supervisory authority to address the reasonableness and/or prudence of any proposed security cost recovery.

(h) Nothing in this Subchapter shall relieve any FBP from any duty otherwise prescribed by the laws of the State of Oklahoma or the Commission's rules.

(i) Nothing in this Subchapter is intended to divest the FBP of its right to object to any discovery requests from intervenors seeking access to "Highly Sensitive Confidential" materials.

(j) If any provision of this Subchapter is held invalid, such invalidity shall not affect other provisions or applications of this Subchapter which can be given effect without the invalid provision or application, and to this end, the provisions of this Subchapter are declared to be severable.

Permanent Final Adoptions

APPENDIX A. TELECOMMUNICATIONS COMPLAINT REPORT FORM [REVOKED]

COMPLAINT REPORT FORM

Company Name _____

Date Complaint Received _____ Time of Call _____

Customer (or Account) Name _____

Telephone No. _____ Contact No. (if different) _____

Customer Address _____ City _____

Location of Complaint _____

Name of Caller (if not customer) _____ Contact No. for Caller _____

Complaint Code _____

Nature of the Complaint:

Company findings and resolution:

Refund/Credit made, if applicable, Yes ___ No ___ Amount \$ _____

Date closed _____ Closed by _____

[OAR Docket #12-789; filed 6-7-12]

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

[OAR Docket #12-790]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Oklahoma Universal Service Fund

Part 9. Requests for OUSF Fund

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

Subchapter 7. Special Universal Service

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

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

AUTHORITY:

Article IX, § 18 Okla. Const., 17 Okla. Stat. §§ 139.106; Corporation Commission

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n/a

ANALYSIS:

Amendments and additions to existing Commission rules in Chapter 59 were needed to clarify the responsibilities of eligible telecommunications service providers or recipients of Special Universal Services in regards to receiving OUSF funding.

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 12, 2012:**

**SUBCHAPTER 3. OKLAHOMA UNIVERSAL
SERVICE FUND**

PART 9. REQUESTS FOR OUSF FUND

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

(a) An eligible telecommunications carrier or provider of Special Universal Services requesting funds from the OUSF shall file a "Request for OUSF Funding" with the Commission Court Clerk's Office. On the date of filing the Request for OUSF Funding, the eligible telecommunications carrier or provider of Special Universal Services shall deliver a filed copy of the Request to the Administrator for processing.

(b) It is the intention of the Commission that each funding request will be reviewed on a case-by-case basis. Part 9 of Subchapter 3 does not purport to predetermine the merits of any funding request. The eligible local exchange telecommunications service provider requesting OUSF funding for primary universal service shall make every reasonable and timely effort to obtain funding from alternative funding sources designated to support universal service, and shall submit all documentation of the effort to obtain funding from alternative funding sources designated to support universal service as a part of its Request for OUSF funding set forth in subsection (a), or an explanation for why alternative funding is not available. Upon the company providing the documentation that it has sought alternative funding sources, or an explanation for why alternative funding is not available, the company shall not be precluded from having its application processed. However, such efforts shall not delay the company's ability to pursue funding from the OUSF.

(c) If an eligible local exchange telecommunications service provider receives funding from alternative funding sources for an investment or expense already reimbursed by the OUSF, the company shall reduce the amount of any prospective funding request from the OUSF by an equivalent amount. Under no circumstances will double recovery be allowed.

(d) Concurrent with the filing of the Request for OUSF Funding, the eligible telecommunications carrier who is requesting funding from the OUSF shall provide copies of its Request for OUSF Funding, and notice of the Request for OUSF Funding, to the Director of the Public Utility Division and to the Attorney General. In addition, the eligible telecommunications carrier, which is requesting funding shall provide notice of the Request for OUSF Funding to the contributors to the OUSF. The notice requirement to each telecommunications carrier in the State of Oklahoma which is a contributor to the OUSF, shall be accomplished by providing an electronic copy of such notification to the Fund Administrator on the date the eligible telecommunications provider files its Request for OUSF Funding at the Commission's Court Clerk's office for posting on the OCC website. The OUSF Administrator will then place the notification on the OCC website within five (5) business days. The Administrator shall provide a list of the contributors to the OUSF, upon request by an eligible telecommunications carrier.

(e) An eligible telecommunications carrier or provider of Special Universal Services shall submit to the Administrator or file with its Request for OUSF Funding a copy of its tariffed rate for the data speed set forth in 17 OKLA. STAT. § 139.109(C)(4) or its equivalent. If the eligible carrier or provider does not have a tariffed rate for the data speed set

Permanent Final Adoptions

forth in 17 OKLA. STAT. § 139.109(C)(4), then the eligible carrier or provider shall provide a copy of its Individual Case Basis pricing or document that describes the rates being charged. The eligible carrier or provider shall also provide a diagram showing the configuration identifying components and charges.

(f) Within ninety (90) days after receipt of the completed Request for OUSF Funding, the Administrator shall review, determine the accuracy of the request, and advise the provider requesting the OUSF funds of the determination of eligibility. Simultaneously with the Administrator or contracted agent advising the provider, the Administrator or contracted agent shall provide the written determination to the Commission and post it to the Commission's website.

(g) Any adversely affected party shall have fifteen (15) days to file a request for reconsideration by the Commission of the determination made by the Administrator. Upon filing a request for reconsideration, the matter will be set for hearing.

(h) The Commission will, within thirty (30) days from the request for reconsideration, issue an order on the Request for OUSF Funding after reviewing the Administrator's or contracted agent's determination regarding the Request for OUSF Funding and any request for reconsideration. The Commission shall give notice to the provider making the Request for OUSF Funding, the Attorney General, the Administrator or contracted agent, and all parties requesting reconsideration of the time and place for hearing.

(i) If no request for reconsideration of the Administrator's determination is filed, an order will be issued by the Commission approving the request without further notice and/or hearing.

(j) If the Commission does not issue an order within the time frames set forth in this Section, the request shall be deemed approved, on an interim basis, subject to refund, with interest at a rate determined by the Commission. Any refund shall include interest at a rate of not more than the interest rate established by the Commission on customer deposits and shall accrue for a period not to exceed ninety (90) days from the date the funds were received by the requesting eligible provider.

(k) The Administrator or contracted agent shall ensure that all OUSF funds have been received and are on deposit in a sufficient manner so as to pay requests for OUSF funding for primary Universal Services as ordered by the Commission, or as may be deemed approved in accordance with State law. The Administrator or contracted agent shall provide the approved funding to the requesting eligible local exchange telecommunications service provider after issuance of a Commission order approving payment or the request is deemed approved, whichever occurs sooner.

(l) Any Request for OUSF Funding may be returned to the requesting party and deemed denied if the appropriate forms are not used or said forms are not completed in a satisfactory manner. The appropriate forms may be obtained from the Public Utility Division of the Commission.

(m) Unless good cause is shown, any request for OUSF funding should be made within eighteen (18) months from the date the requesting telecommunications carrier can determine

the impact of occurrence of the circumstance giving rise to the request.

(n) An eligible telecommunications carrier or provider shall receive future reimbursement upon submission of properly submitted true ups to the Fund Administrator or contracted agent, and upon request, provide copies of invoices submitted to the customer or subscriber showing, as required by OAC 165:59-7-17, the credit equivalent to the reimbursement to be received by the provider from the OUSF.

(o) An eligible telecommunications carrier or provider shall submit changes to the monthly recurring support based on e-rate discount adjustments and/or changes to the OUSF assessment factor to the Fund Administrator or contracted agent via the monthly or quarterly true-up reports, for processing. Any ongoing monthly recurring charges will be adjusted as necessary based on the appropriate e-rate discount approved by the Universal Service Administrative Company and/or any change in the OUSF assessment factor.

(p) An eligible telecommunications carrier or provider shall notify the Fund Administrator or contracted agent in writing, of any changes to the provisioning of service, including but not limited to disconnection of service, upgrade and/or downgrade in connectivity speed, and adding or removing eligible buildings. Any increase to the number of entities will require approval from the Fund Administrator or contract agent in order to determine if a new application will be required and a new Commission Order issued to approve reimbursement.

(q) **Preapproval.**

(1) An eligible telecommunications carrier or provider of Special Universal Services requesting funds from the OUSF may request preapproval of a Request for OUSF Funding for an entity for which eligibility is uncertain. A request for preapproval shall follow the procedures outlined in OAC 165:59-3-62 (a)-(p). The purpose of such a preapproval request is to provide greater certainty to providers of Special Universal Services and the eligible institutions that rely on those services. No OUSF funds shall be dispersed to an eligible telecommunications carrier or provider of Special Universal Services until the services are installed and in service. The amount of OUSF funding preapproved under this subsection shall be subject to adjustments based on the amount of support received from other sources, if any, as well as adjustments to pricing that may occur between the time of preapproval and installation of service. Additional services or buildings that are installed beyond those contained in the pre-approved application shall require an additional application to be filed.

(2) Upon receipt of an application under this paragraph, the Administrator shall process the application in the manner outlined in 165:59-3-62 (e)-(i). If the Administrator recommends that preapproval be granted, the Commission may enter an Interim Order regarding the specific request for which preapproval is sought. After the services are installed and in service, the provider of Special Universal Services shall provide documentation regarding the installation and charge for the services, after which time the Commission may enter a final order in the cause approving disbursement of OUSF funds if

there are no material differences between the services for which pre-approval was granted and the services that were installed.

(3) This paragraph is intended to supplement and not supplant the current application process, and eligible telecommunication carrier and providers of Special Universal Services shall still submit requests for funding from OUSF in the manner provided in OAC 165:59-3-62 (a)-(p).

(r) **Portability.** An eligible entity that has been approved to receive support for Special Universal Services and chooses to change providers may continue to receive Special Universal Service support, without requiring a new application to be filed if the following conditions are met:

(1) The support for which services are sought is for the same services at the same or lower rates;

(2) Written notification is submitted to the Administrator which includes the following:

(A) The entity name;

(B) The current provider;

(C) The new provider;

(D) The services being provided;

(E) The current and new prices for the services provided;

(F) Proposed date of installation of service by new provider; and

(G) Disconnection date of reimbursable services by the old provider.

(3) Within forty-five (45) days after receipt of a completed Request for OUSF Funding under this subsection, the Administrator shall review, determine the accuracy of the request, and provide a written determination of eligibility to the Commission. The Commission shall then issue an order approving the request.

(4) If the eligible entity is seeking to upgrade or add services, the entity will continue to receive support for the previously approved services at the same or lower rates; and any additional requests for support for Special Universal Services shall require an application to be filed pursuant to OAC 165:59-3-62.

(5) In the event a provider receives any funds in error under this section, the provider shall promptly notify the Administrator and return such funds to the Administrator within 60 days of the discovery of the erroneous payment. If the provider fails to return such funds within 60 days of the discovery of the erroneous payment, the repayment shall be subject to interest at the highest rates allowed under Oklahoma law beginning on the 61st day and continuing until such time as the proper funds plus applicable interest are paid in full.

SUBCHAPTER 7. SPECIAL UNIVERSAL SERVICES

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

(a) A provider of Special Universal Services may be eligible to receive funding from both the OUSF and other state or federal funds; however, in no instance will there be a double recovery. If the provider of Special Universal Services receives funding from another state or federal fund for an investment or expense already reimbursed by the OUSF, the provider shall reduce the amount of its prospective funding from the OUSF by an equivalent amount. ~~The provider~~recipient of Special Universal Services shall make every reasonable effort to obtain funding from another state and/or federal fund designated to support special universal service; however, such efforts shall not delay or affect the provider's ability to receive funding from the OUSF pursuant to the provisions of this Chapter and the Oklahoma Telecommunications Act of 1997. Recipients shall provide the Commission with information regarding the recipient's request for funding from government sources designed to support the provisioning of telemedicine. Failure to provide such documentation regarding telemedicine may result in the Commission denying the request for telemedicine funding from the OUSF.

(b) A provider of the free-of-charge telecommunications services identified in this Chapter and 17 O.S. (1997 Supp.) § 139.109 as Special Universal Services, shall be reimbursed from the OUSF for the provisioning of said Special Universal Services, if requested.

(c) A provider of Special Universal Services seeking reimbursement from the OUSF for the tariffed rate or charge for any Special Universal Service provided must make its request for reimbursement pursuant to OAC 165:59-3-62, in the same manner that an eligible telecommunications carrier requests funds from the OUSF for purposes other than the provisioning of Special Universal Services. The requesting provider shall submit information with its Request for OUSF Funding that identifies where and to whom the services are provided, along with documentation supporting the requested level of funding. The information shall include the applicable tariffed rate or charges for providing the services.

(d) Upon receipt of a Request for OUSF Funding, the Administrator of the OUSF or the contracted agent shall review the Request and, if appropriate, reimburse the provider of the Special Universal Services, consistent with the Oklahoma Telecommunications Act of 1997.

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

(a) It is the intention of the Commission that this Chapter be interpreted to assist in the development of telemedicine programs which in turn have the following effects on eligible health care entities:

(1) Empowering eligible healthcare entities, especially those in rural areas, to provide a higher level of medical service;

(2) Expanding the range of medical services available, especially those in rural areas;

(3) Providing greater access to more choices in medical care by patients in rural areas;

Permanent Final Adoptions

- (4) Reducing the number of rural patient transfers to urban areas;
- (5) Enhancing rural economic development; and
- (6) Reducing the costs of medical care at eligible healthcare entities.
- (b) Upon receipt of a written request by an authorized representative of an eligible healthcare entity, as defined by this Chapter, the telecommunications carrier or OneNet shall, by itself or in conjunction with another provider of telecommunications services, provide one telecommunications line or wireless connection, free of charge, sufficient for providing such telemedicine, clinical, and health consultation services as the entity is equipped to provide as set forth in 17 OKLA. STAT. § 139.109(C)(2).
- (c) The telecommunications carrier shall be entitled to reimbursement from the OUSF for the recurring amount of the tariff rate or charge directly attributable to the telecommunications line or wireless connection.
- (d) In no case, however, shall reimbursement from the OUSF be made for an Internet subscriber fee or charges incurred as a result of services accessed via the Internet.
- (e) The telecommunications carrier shall be entitled to reimbursement from the OUSF for a one-time reasonable charge for the establishment of service of a new telecommunications line or wireless connection. Reimbursement under this subsection (e) is intended to allow for reasonable changes in 1) the telecommunications services and technologies purchased by an eligible healthcare entity, 2) the physical location of an eligible healthcare entity by permitting establishment of new service at a new location, and 3) the telecommunications carrier providing service to an eligible healthcare entity.
- (f) The written request by an authorized representative of an eligible healthcare entity to a telecommunications carrier or OneNet shall be in the form and content approved by the Director of the Public Utility Division.
- (g) If available, the eligible healthcare entity shall select an Internet provider that is accessible via a non-toll call, in order to minimize the toll charges that may be recoverable from the OUSF. If no non-toll provider is available, the eligible healthcare entity may seek a waiver letter from the Director of the Public Utility Division in order to select an Internet provider that is accessible via a toll call.
- (h) No later than February 1, each eligible healthcare entity that receives OUSF telemedicine funding shall, annually recertify for the purpose of determining their continued eligibility. The annual recertification shall be in the form and content approved by the Director of the Public Utility Division.

[OAR Docket #12-790; filed 6-7-12]

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

[OAR Docket #12-793]

RULEMAKING ACTION:

PERMANENT final adoption

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 educational development (GED) testing program [AMENDED]

Subchapter 13. Student Assessment

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

AUTHORITY:

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

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N/A

INCORPORATION BY REFERENCE:

N/A

ANALYSIS:

Rules implement provisions of the Oklahoma School Bullying Prevention Act, 70 O. S. § 24-100.2, et seq. Pursuant to this law, the State Board of Education shall adopt rules for monitoring school districts for compliance with this section and providing sanctions for noncompliance with this section.

The purpose of the rule is to establish a GED computer-based testing fee. GED Testing Service is requiring all states to implement computer-based testing by 2013. GED paper-based testing will end in 2013.

Rules implement new law, as enacted through H. B. 1456 (70 O. S. § 1210.545), which establishes an "A" through "F" grading system for certain public schools and school districts. Rules define and clarify criteria which relate to each letter grade, establish guidelines for the issuance of school report cards, and address information regarding school improvement.

CONTACT PERSON:

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING RULES ARE CONSIDERED
FINALLY ADOPTED AS SET FORTH IN O. S. 75,
SECTION 308.1(A), WITH AN EFFECTIVE DATE
OF JULY 12, 2012:**

SUBCHAPTER 1. GENERAL PROVISIONS

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

(a) **Purpose.** *Bullying has a negative effect on the social environment of schools, creates a climate of fear among students, inhibits the ability to learn, and leads to other antisocial behavior. Other detrimental effects of bullying include impact on school safety, student engagement, and the overall school environment. Successful school programs recognize, prevent, effectively identify, and intervene in incidents involving harassment, intimidation and bullying behavior. Schools that implement these programs have improved safety and create a more inclusive learning environment. The purpose of the Oklahoma School Bullying Prevention Act, 70 O.S. § 24-100.2, et seq., is to provide a comprehensive approach for public schools to create an environment free of unnecessary disruption which is conducive to the learning process by implementing policies for the prevention of harassment, intimidation and bullying.*

(b) **Definitions.** The following words and terms, when used in this subchapter, shall have the following meaning:

(1) **"Harassment, Intimidation, and Bullying"** means any gesture, written or verbal expression, electronic communication, or physical act that a reasonable person should know will:

- (A) Harm another student;
- (B) Damage another student's property;
- (C) Place another student in reasonable fear of harm to the student's person or damage to the student's property; or
- (D) Insult or demean any student or group of students.

(2) **"Applicability"** means the aforementioned conduct constitutes harassment, intimidation, and bullying if conducted in such a way as to disrupt or interfere with the school's educational mission or the education of any student. This includes, but is not limited to gestures, written, verbal, or physical acts, or electronic communications.

(3) **"Electronic Communication"** means the communication of any written, verbal, or pictorial information by means of an electronic device, including, but not limited to, a telephone, a cellular telephone or other wireless telecommunication device, or computer.

(4) **"Threatening Behavior"** means any pattern of behavior or isolated action, whether or not it is directed at another person, that a reasonable person would believe indicates potential for future harm to students, school personnel, or school property.

(5) **Scope.** Threatening behavior, harassment, intimidation, and bullying is prohibited on school grounds, in school vehicles, at designated bus stops, at school-sponsored activities, or at school-sanctioned events. Threatening behavior, harassment, intimidation, and bullying by electronic communication is prohibited whether or not such communication originated at school, or with school equipment, if the communication is specifically directed at students or school personnel and concerns harassment, intimidation, or bullying at school.

(c) **Implementation.** *Each district board of education shall adopt a policy for the control and discipline of all children attending public school in that district. Such policy shall set forth investigative procedures of reported incidents of harassment, intimidation, bullying or threatening behavior. Such policy shall provide options for the methods of control and discipline of the students and shall define standards of conduct to which students are expected to conform, which may include a detailed description of a graduated range of consequences and sanctions for bullying. The policy adopted by each district board of education shall include and/or establish the following:*

(1) *Specifically prohibit threatening behavior, harassment, intimidation, and bullying by students at school and by electronic communication. Electronic communication shall be prohibited whether or not such communication originated at school or with school equipment, if the communication is specifically directed at students or school personnel and concerns harassment, intimidation, or bullying at school.*

(2) *Address prevention of and education about threatening behavior, harassment, intimidation, and bullying.*

(3) *A procedure for the investigation of harassment, intimidation, bullying or threatening behavior reported to school officials for the purpose of determining the severity of the incidents and their potential to result in future violence.*

(4) *A procedure which provides, upon the completion of an investigation, that a school may recommend that available community mental health care options be provide to the student, if appropriate. This may include information about the types of support services available to the student bully, victim, and any other students affected by the prohibited behavior.*

(5) *A procedure whereby a school may request the disclosure of any information concerning students who have received mental health care pursuant to sub-section (4) of this rule that indicates an explicit threat to the safety of students or school personnel provided, the disclosure of information does not violate the provisions or requirements of the Family Educational Rights and Privacy Act of 1974, the Health Insurance Portability and Accountability Act of 1996, Section 2503 of Title 12 of the Oklahoma Statutes, Section 1376 of Title 59 of Oklahoma Statutes, or any other state or federal laws relating to the disclosure of confidential information.*

(d) **Policy Adoption.** *The policy adopted by the local school board pursuant to 70 O.S. § 24-100.4 shall include the statutorily required sections outlined in section (c) of this rule. Failure to include such items shall result in action pursuant to section (f) of this rule.*

(e) **Policy Development.** *In developing a district policy, each district board of education shall make an effort to involve teachers, parents, and students. The students, teachers, and parents or guardian of every child residing within a school district shall be notified by the district board of education of the adoption of the policy and shall receive a copy upon request.*

Permanent Final Adoptions

(f) **Monitoring and Compliance.** The State Board of Education shall monitor school districts for compliance with 70 O.S. § 24-100.4 and section (c) of this rule.

(1) To assist the State Department of Education with compliance efforts pursuant to this section, each school district shall identify a Bullying Coordinator who will serve as the district contact responsible for providing information to the State Board of Education. The Bullying Coordinator shall maintain on file with the Department of Education updated contact information. Each school district shall notify the State Department of Education within fifteen (15) business days of the appointment of a new Bullying Coordinator.

(2) Beginning with the 2012-2013 school year, and for each school year following, each school district shall submit to the State Board of Education a copy of the district's bullying policy. The bullying policy shall be submitted to the State Department of Education by December 10th of each school year, and shall be submitted as a part of the school's Annual Performance Report.

(3) Beginning with the 2012-2013 school year, and for each school year following, the State Department of Education shall conduct a comprehensive review of each school district's bullying policy to ensure compliance with 70 O.S. § 24-100.4. School districts that do not comply with the statutory requirements of the statute shall be notified in writing, and be required to make necessary changes to comply with state law.

(4) State Department of Education staff shall monitor school districts for compliance with 70 O.S. § 24-100.4 and section (c) of this rule. The State Department of Education may initiate a compliance review upon receipt of evidence which indicates noncompliance with 70 O.S. § 24-100.4. Evidence of potential noncompliance shall be based on the nature or frequency of confirmed complaints of non-compliance received by the State Department of Education. The scope of a compliance review initiated pursuant to sub-section (f) of this rule shall be limited to determining whether a school district has implemented policies required by 70 O.S. § 24-100.4.

(5) Records indicating substantial noncompliance with sub-sections (3) or (4) of this rule shall be submitted to the school district's Regional Accreditation Officer (RAO) for review and consideration during the district's accreditation process. Record of a school district's failure to comply with 70 O.S. § 24-100.4, including the number of confirmed complaints of non-compliance involving the district shall be documented in the district's compliance report and be considered for purposes of accreditation.

(g) **Federal Applicability.** Harassment, intimidation, and bullying behavior may also result in discriminatory harassment, prohibited by Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 (Section 504); and Title II of the Americans with Disabilities Act of 1990 (Title II). Section 504 and Title II

prohibit discrimination on the basis of disability. Each school district shall take necessary steps to ensure compliance with federal law.

SUBCHAPTER 9. LIFELONG LEARNING

210:10-9-6. General educational development (GED) testing program

(a) The Lifelong Learning Section of the State Department of Education has responsibility for directing the GED Testing Program in Oklahoma and for issuing high school diplomas to those who successfully complete the GED Tests.

(b) An applicant shall be 18 years of age or older, except beginning August 1, 1995, persons having attained the age of 16, but who are not yet 18, must be permitted to take the GED Tests provided the applicant meets the residency requirements and submits along with the application to take the GED Tests, a notarized joint written agreement between the school administrator of the school district in which the applicant resides, and the parent, guardian, or custodian, stating that it has been determined that such action is in the best interest of the child and community.

(c) An applicant shall be a resident of the State of Oklahoma.

(d) The GED Tests shall be administered by one of the many local GED Testing Centers in Oklahoma approved by the GED Testing Service, Washington, D.C.

(e) To become eligible to take the GED Tests, an application must be made to the Lifelong Learning Section of the State Department of Education online or through an approved local GED Testing Center. A fee will be charged by the local testing center at the time the tests are taken.

(f) The State Department of Education will contract with an independent scoring service approved by the GED Testing Service for the scoring of GED Tests. The local GED Testing Centers shall send the test answer sheets to the contracted scoring service for scoring.

(g) An applicant shall make the minimum score required for passing the GED Tests, as established by the GED Testing Service.

(h) A high school diploma shall be awarded by the State Department of Education to those who make a passing score on the GED Tests. This credential certifies that the holder has shown evidence of general educational development equivalent to a high school education, as revealed by scores made on the GED Tests.

(i) The Lifelong Learning Section will collect a \$10 fee for processing the initial application for GED Testing and the original GED Diploma. This fee is in addition to the fees required by the GED Testing Service for first-time test takers and the scoring fee. Payment will be in the form of a school or institution check.

(j) The Lifelong Learning Section will collect a fee of \$5 to score and process the writing test; a fee of \$5 to score and process one or more of the science, social studies, reading, or math tests; and a fee of \$10 to score and process a combination of the writing test plus one or more of the other four tests.

(k) The Lifelong Learning Section will require a fee of \$20 for a duplicate GED Diploma with transcript and a fee of \$10 for an official GED transcript.

(l) Only scores from the 2002 GED Tests will count toward earning a GED Diploma from January 1, 2002, forward.

(m) The Lifelong Learning Section will collect a \$25 fee from the local GED Testing Center for processing a form repeat error. The local GED Testing Center may not collect this fee from the test-taker for whom the error occurred since this is an administrative error.

(n) Beginning September 1, 2012, GED Testing Centers in Oklahoma may begin offering a computer-based GED test.

(o) The Lifelong Learning Section will collect a four dollar (\$4) administration fee for each computer-based delivered content area test. This fee is in addition to the computer-based delivery fee for each content area test required by the GED Testing Service.

(p) By January 1, 2014, every GED Testing Center in Oklahoma shall have fully implemented a computer-based testing program.

SUBCHAPTER 13. STUDENT ASSESSMENT

210:10-13-22. Implementation of a system of school improvement and accountability

(a) Purpose. Accountability for student learning is the key focus of school improvement. Results from the statewide assessment program shall form the basis of the system of school improvement and accountability. Student achievement data from the State's annual standardized assessments in grades three (3) through eight (8) and end-of-instruction tests administered under Section 1210.508 of Title 70 shall be used to establish both proficiency levels and annual progress for individual students, school sites, school districts, and the State. Results shall further be used as the primary criteria in calculating school performance grades as specified in subsection (f) of this rule and shall be annually reported. Results may further be used by the Legislature in calculating any performance-based funding policy that is provided to public school districts. The statewide assessment program shall be used to measure the annual learning gains of each student toward achievement of the State standards appropriate for the student's grade level and to inform parents of the educational progress of their public school children.

(b) Implementation. The A-F school accountability system will be implemented in the year 2012, based on data from the 2011-2012 school year, and shall be reported annually thereafter. The school accountability system will be considered to be fully implemented with the following accountability elements:

(1) Designation of school performance grades shall be based on a combination of the following:

(A) Thirty-three percent (33%) on student test scores, based on the Oklahoma School Testing Program assessments in grades three (3) through twelve (12);

(B) Seventeen percent (17%) on annual student learning gains as measured by the State's annual standardized assessments in reading and mathematics in grades three (3) through eight (8); and Algebra I and English II end-of-instruction tests;

(C) Seventeen percent (17%) on annual student learning gains as measured by the State's annual standardized assessments in reading and mathematics in grades three (3) through eight (8); and Algebra I and English II end-of-instruction tests for the lowest twenty-five percent (25%) of students in the school, unless the students so designated are exhibiting satisfactory performance;

(D) Thirty-three percent (33%) on whole school improvement, based on the factors listed in subsection (f)(4) of this rule.

(2) Schools shall earn individual performance grades measuring the individual criteria listed in sub-sections (b)(1) and (f) of this rule. Additionally, schools shall earn an overall performance grade based on a combination of the criteria listed in sub-sections (b)(1) and (f) of this rule.

(3) To ensure that student data accurately represent school performance, schools shall be required to assess at least ninety-five percent (95%) of eligible students to earn a school performance grade. Failure to assess at least ninety-five percent (95%) of eligible students will result in a letter grade reduction in the school's overall school performance grade. Schools assessing less than ninety percent (90%) of eligible students will result in the school earning an overall performance grade of F.

(c) School Accountability for Student Performance. All schools shall be accountable for performance. Each school is accountable for the performance of its entire student population. Student achievement data from the State's annual standardized assessment and end-of-instruction tests administered in this State shall be used to measure a school's student performance for the subject areas of reading, mathematics, social studies, science and writing.

(d) Reporting Student Achievement Data for School Accountability. Student achievement data shall be reported for all students in a school. Each year, reports of achievement data for all students shall be prepared for each school, each district, and the State.

(1) The scores will be computed from the number of eligible students of enrolled in the school. Eligible students shall include all students enrolled for the full academic year in the school and taking the State's annual standardized assessments or end-of-instruction tests. Only first opportunity students are included in the calculation of eligible students.

(2) All eligible students, regardless of disability or limited English proficiency classification, with valid state standardized assessment scores in reading and math in both the current school year and the previous school year are included in paragraphs (f)(2) and (f)(3) of this rule regarding the determination of student learning gains. In addition, the inclusion of these students shall be applied to sub-section (b)(3) of this rule, regarding the percentage

Permanent Final Adoptions

of students assessed. Current and previous school years reading and math scores for students with disabilities assessed on the State's annual standardized alternate assessment shall be included in the determination of test scores, including achievement and improvement addressed in sub-sections (f)(1) and (f)(4) of this rule.

(3) The Superintendent of Public Instruction is authorized to designate a single school performance grade for schools that serve multiple levels: elementary and/or middle and/or high school grade levels.

(4) The State Department of Education will verify that each school is appropriately classified by type before the issuance of school grades. School type is defined as the school level designation of a school based on the grade levels served: elementary, middle, high, or a combination across levels.

(e) School Performance Grades. The measure of school accountability shall be the school performance grade. The Oklahoma State Board of Education is authorized to designate a school performance grade for each school that:

(1) Has at least thirty (30) eligible students with valid state standardized assessment scores or end-of-instruction tests in reading in both the current and the previous school years, and

(2) Has at least thirty (30) eligible students scores with from valid state standardized assessment scores in math in the current and previous school years or end-of-instruction tests. Performance designations shall be made using School Performance Grades A, B, C, D, and F. School performance grades shall be based on the assessments and criteria as specified in subsection (f) of this rule. The Superintendent of Public Instruction is authorized to establish and adjust appropriate achievement level criteria to the extent allowed by law for submission to the State Board of Education for final approval.

(f) Criteria for Designating School Performance Grades. School performance grades shall be based on a combination of the four components outlined in sub-section (b)(1) of this rule: (1) student achievement scores; (2) annual learning gains; (3) improvement of the lowest twenty-five percent (25%); and (4) whole school improvement.

(1) Student achievement scores are represented through a performance index, aggregated for each school, calculated based on all state standardized assessments and/or end-of-instruction tests collectively, and by each subject area. A point value shall be given to each exam based on proficiency score. Points shall be summed and divided by the number of exams administered to eligible students.

(A) Points shall be assigned based on the following criteria:

- (i) Unsatisfactory = 0
- (ii) Limited Knowledge = 0.2
- (iii) Proficient = 1.0
- (iv) Advanced = 1.2

(B) A letter grade shall be earned based on the following criteria:

- (i) 90 or Above = A

(ii) 80 - 89 = B

(iii) 70 - 79 = C

(iv) 60 - 69 = D

(v) 59 or Below = F

(2) Annual learning gains are represented through a growth index, aggregated for each school.

(A) This calculation represents the number of eligible students who have:

(i) Improved their state standardized assessment achievement level or state standardized alternative assessment achievement level, as applicable, from the previous school year to the current school year; or

(ii) Maintained their proficient or satisfactory achievement level on the state standardized assessment or state standardized alternate assessment, as applicable, from the previous school year to the current school year.

(B) The growth index shall be calculated based on improved state standardized assessment and end-of-instruction test performance from the previous school year to the current school year. The growth index shall be calculated by subject-matter and by assigning a point value to the change in proficiency score from the previous year to the next. Points based on student gains shall be summed and divided by the number of exams administered, and shall include only eligible students for whom comparative test scores exist. Points shall be assigned based on the following criteria:

(i) Change from Unsatisfactory to Limited Knowledge = 1.0

(ii) Change from Unsatisfactory to Proficient or Satisfactory = 2.0

(iii) Change from Unsatisfactory to Advanced = 3.0

(iv) Change from Limited Knowledge to Proficient or Satisfactory = 1.0

(v) Change from Limited Knowledge to Advanced = 2.0

(vi) Remain Proficient from Previous to Current Year 2 = 1.0

(vii) Change from Proficient or Satisfactory to Advanced = 1.0

(viii) Remain Advanced from Year 1 to Year 2 = 1.0

(ix) Meets or Exceeds State Average Growth = 1.0

(C) A letter grade shall be earned based on the following criteria:

(i) 90 or Above = A

(ii) 80 - 89 = B

(iii) 70 - 79 = C

(iv) 60 - 69 = D

(v) 59 or Below = F

(3) Improvement of the lowest twenty-five percent (25%) of students in reading and math shall be aggregated

unless the students in this category are exhibiting satisfactory performance, as defined by scoring Satisfactory, Proficient or Advanced. The score shall be calculated in whole and by subject-matter by assigning points for a positive change in proficiency score for eligible students from the previous school year to the current school year or by a positive change in Oklahoma Performance Index (OPI) score that meets or exceeds the State's average growth.

(A) The calculation of a positive change in OPI score that meets or exceeds the State's average growth represents the number of eligible students who have:

(i) Improved their state standardized assessment achievement level or state standardized alternative assessment achievement level, as applicable, from the previous school year to the current school year; or

(ii) Remained within a not proficient achievement level, but who demonstrated state average growth.

(B) The score shall be based on improved state standardized assessment and end-of-instruction test performance from the previous school year to the current school year. Points based on student gains shall be summed and divided by the number of exams administered, and shall include only eligible students for whom comparative test scores exist. The growth of the lowest twenty-five percent (25%) shall be calculated based on the following criteria:

(i) Change from Unsatisfactory to Limited Knowledge = 1.0

(ii) Change from Unsatisfactory to Proficient or Satisfactory = 2.0

(iii) Change from Unsatisfactory to Advanced = 3.0

(iv) Change from Limited Knowledge to Proficient or Satisfactory = 1.0

(v) Change from Limited Knowledge to Advanced = 2.0

(vi) Meets or Exceeds State Average Growth = 1.0

(C) A letter grade shall be earned based on the following criteria:

(i) 90 or Above = A

(ii) 80 - 89 = B

(iii) 70 - 79 = C

(iv) 60 - 69 = D

(v) 59 or Below = F

(4) The criteria listed in sub-sections (4)(A) and (4)(B) shall be used to calculate whole school improvement for high schools, middle schools, and elementary grade schools. Annually, the Oklahoma State Department of Education shall publish technical assistance specifically detailing the weighted formula and the projected availability of valid data used for computing whole school improvement. Technical assistance shall be published in time for school districts to make meaningful use of the information and data.

(A) For schools comprised of high school grades, the whole school improvement grade shall include:

(i) Four-year high school graduation rate. For this component, a letter grade shall be earned based on the calculation of a graduation rate, only including students counted as on-time graduates as defined by federal regulations.

(I) 90% - 100% = A

(II) 80% - 89% = B

(III) 70% - 79% = C

(IV) 60% - 69% = D

(V) 59% or Below = F

(ii) Participation in accelerated coursework. Participation in accelerated coursework, is defined as participation in Advanced Placement (AP) courses, International Baccalaureate (IB) programs, concurrent enrollment, Advanced International Certificate of Education (AICE) courses, and industry certification courses. For this component, participation shall be calculated for the school year by dividing a count of accelerated coursework participants in grades nine (9) through twelve (12) (numerator) by the count of all students enrolled in grades eleven (11) and twelve (12) (denominator). For this component, a student must earn a passing grade in the course in order to be counted as a participant. A letter grade for accelerated coursework shall be earned based on percentage of participation:

(I) 70% - 100% = A

(II) 60% - 69% = B

(III) 50% - 59% = C

(IV) 30% - 49% = D

(V) 29% or Below = F

(iii) Performance in Advanced Placement (AP) and International Baccalaureate (IB). For this component, a letter grade shall be earned based on the percent of students scoring a three (3) or better on the AP exams, or a four (4) or better on IB exams:

(I) 75% - 100% = A

(II) 65% - 74% = B

(III) 50% - 64% = C

(IV) 30% - 49% = D

(V) 29% or Below = F

(iv) Performance in concurrent enrollment, Advanced International Certificate of Education (AICE) courses, and industry certification courses. For this component, the denominator of the performance calculation shall include all students in grades nine (9) through twelve (12) who took an accelerated course or subject area examination during the academic year. AICE successful completion is defined as earning a "C" or higher and being awarded credit for specific postsecondary course(s). For concurrent enrollment, successful completion is defined as a passing grade of "C" or

Permanent Final Adoptions

higher in a concurrent enrollment course for college credit. For industry certification, successful completion is defined as passing an industry certification examination. Schools can earn additional successful completions for students who achieve industry certifications that result in credit for more than one (1) college course through statewide articulation agreements. A letter grade shall be earned based on the percentage of students enrolled in these programs who meet the criteria listed above:

- (I) 90% - 100% = A
- (II) 80% - 89% = B
- (III) 70% - 79% = C
- (IV) 60% - 69% = D
- (V) 59% or Below = F

(v) ACT and SAT participation. For this component, schools will earn a grade based on the calculated percent of students taking the ACT and/or SAT. The percent is calculated by dividing the number of twelfth (12th) grade students who have taken the ACT and/or SAT tests, divided by the number of students enrolled in grade twelve (12). Students will be counted once for the ACT and/or once for the SAT, regardless of the number of times or at which grade levels the test(s) are taken. A letter grade for ACT and SAT participation shall be earned based on the following criteria:

- (I) 75% - 100% = A
- (II) 65% - 74% = B
- (III) 50% - 64% = C
- (IV) 30% - 49% = D
- (V) 29% or Below = F

(vi) ACT and SAT performance. For this component, schools will earn aof or greater, and/or an SAT score of 1410 or greater. Students will be counted once for the ACT and/or once for the SAT, regardless of the number of times or at which grade levels the test(s) are taken. A letter grade for ACT and SAT performance shall be earned based on the following criteria:

- (I) 75% - 100% = A
- (II) 65% - 74% = B
- (III) 50% - 64% = C
- (IV) 30% - 49% = D
- (V) 29% or Below = F

(vii) High school graduation rate of eighth (8th) graders. For this component, schools shall earn a grade based on the high school graduation rate of students who scored at limited knowledge or unsatisfactory on the eighth (8th) grade reading and mathematics criterion-referenced test administered pursuant to the Oklahoma State Testing Program (OSTP). For this component, schools shall earn a grade based on the calculation of the graduation rate of this population of eighth (8th) graders, regardless of where the student attended

the eighth (8th grade.) This component shall only include students counted as on-time graduates.

- (I) 85% - 100% = A
- (II) 75% - 84% = B
- (III) 65% - 74% = C
- (IV) 55% - 64% = D
- (V) 54% or Below = F

(viii) Graduation rate, including students taking four (4) or more years to graduate. For this component, schools shall earn a grade based on the calculation of a graduation rate to include all graduates regardless of the amount of time required to meet graduation requirements.

- (I) 90% - 100% = A
- (II) 80% - 89% = B
- (III) 70% - 79% = C
- (IV) 60% - 69% = D
- (V) 59% or Below = F

(B) For schools comprised of middle school grades, the whole school improvement grade shall include:

(i) The percentage of students who are taking higher level coursework at a satisfactory or higher level in middle school. For this component, schools shall earn a grade based on the percentage of students taking traditional high school courses in the middle school grades, pre-Advanced Placement courses, or other advanced coursework in a traditional classroom or in a virtual environment who score at a satisfactory level or higher on the corresponding state standardized assessment. A letter grade will be earned based on the following criteria:

- (I) 30% or Higher = A
- (II) 25% - 29% = B
- (III) 20% - 24% = C
- (IV) 15% - 19% = D
- (V) 14% or Below = F

(ii) Attendance. For this component, schools will earn a grade for the level of student attendance based on the calculation of a student attendance rate. This rate is the Average Daily Attendance (ADA) divided by the Average Daily Membership (ADM). ADA is calculated by dividing the total number of days students were present by the number of days in the school calendar or by dividing the number of hours students were present by the number of hours in the school calendar, whichever applicable. ADM is calculated by dividing the total number of days students were enrolled in school by the number of days in the school calendar or by dividing the number of hours students were enrolled by the number of hours in the school calendar, whichever applicable. A letter grade for attendance will be earned based on the following criteria.

- (I) 94% - 100% = A
- (II) 92% - 93% = B

- (III) 90% - 91% = C
- (IV) 88% - 89% = D
- (V) 87% or Below = F

(iii) Dropout rate. For this component, schools shall earn a grade based on the annual number of students reported as dropouts to the Oklahoma State Department of Education on the Annual Dropout Report. A letter grade for dropout rate will be earned based on the following scale:

- (I) 0% - 0.9% = A
- (II) 1% - 1.9% = B
- (III) 2% - 2.9% = C
- (IV) 3% - 3.9% = D
- (V) 4% or More = F

(C) For schools comprised of elementary school grades, the whole school improvement grade shall include:

(i) Attendance. For this component, schools will earn a grade for the level of student attendance based on the calculation of a student attendance rate. This rate is the Average Daily Attendance (ADA) divided by the Average Daily Membership (ADM). ADA is calculated by dividing the total number of days students were present by the number of days in the school calendar or by dividing the number of hours students were present by the number of hours in the school calendar, whichever applicable. ADM is calculated by dividing the total number of days students were enrolled in school by the number of days in the school calendar or by dividing the number of hours students were enrolled by the number of hours in the school calendar, whichever applicable. A letter grade for attendance will be earned based on the following criteria.

- (I) 94% - 100% = A
- (II) 92% - 93% = B
- (III) 90% - 91% = C
- (IV) 88% - 89% = D
- (V) 87% or Below = F

(ii) Dropout rate. For this component, schools shall earn a grade based on the annual number of students reported as dropouts to the Oklahoma State Department of Education on the Annual Dropout Report. A letter grade for dropout rate will be earned based on the following scale:

- (I) 0% - 0.9% = A
- (II) 1% - 1.9% = B
- (III) 2% - 2.9% = C
- (IV) 3% - 3.9% = D
- (V) 4% or More = F

(g) In addition to the criteria listed in sub-section (f)(4) of this rule, schools may earn additional points that will be factored into the school's whole school improvement grade. Annually, the Oklahoma State Department of Education shall publish technical assistance specifically detailing the weighted formula used for computing additional points into the whole school improvement grade. Technical assistance shall be

published in time for school districts to make meaningful use of the information and data.

(1) For all schools comprised of high school, middle school, and elementary school grades, additional points may be earned and factored into the whole school improvement grade based on the following school improvement factors:

(A) School climate indicators. For this component, schools shall earn additional points based on the results of the Oklahoma School Climate Survey, which should be made available to all faculty, parents, and students. The Oklahoma School Climate Survey must be completed by at least ninety percent (90%) of faculty, twenty percent (20%) of students, and ten percent (10%) of parents in the school. The survey shall be administered online and results submitted directly to the Oklahoma State Department of Education.

(B) Parent and community engagement factors. For this component, schools shall earn additional points based on the number of volunteer hours performed during the school year by parents and/or community members.

(2) In addition to the factors outlined in sub-section (g)(1), for schools comprised of elementary school grades, additional points may be earned and factored into the whole school improvement grade based on the following school improvement factors: Higher Level Coursework. The percentage of students who are taking higher level coursework at a satisfactory or higher level in elementary school. For this component, schools shall earn points based on the percentage of students taking traditional middle school courses in the elementary school grades or other advanced coursework in a traditional classroom or in a virtual environment who score at a satisfactory level or higher on the corresponding state standardized assessment.

(3) In addition to the factors outlined in sub-section (g)(1), for schools comprised of high school grades, additional points may be earned and factored into the whole school improvement grade based on the following school improvement factors:

(A) College preparatory coursework. For this component, high schools serving students in grades nine (9) through twelve (12) shall earn points based on the percentage of students completing the State's college and career preparatory curriculum. This shall be calculated based on a sum of all students, in grades nine (9) through twelve (12), enrolled in college preparatory coursework divided by the total number of students enrolled in the school in grades nine (9) through twelve (12).

(B) College remediation. For this component, a college remediation rate shall be calculated by dividing the unduplicated count of students needing remediation in reading, English, math, or science by the total number of the students attending an Oklahoma college or university.

Permanent Final Adoptions

(h) School Performance Grading Scale. The School Performance Grade shall be based on a combination of the factors outlined in sub-section (b)(1) of this rule and detailed in sub-section (f) of this rule. Thirty-three percent (33%) shall be based on student test scores; seventeen percent (17%) on student learning gains; seventeen percent (17%) on improvement of the lowest twenty-five percent (25%) of students in the school in reading and mathematics; and thirty-three percent (33%) on whole school improvement. Letter grades will be converted based on the following point distribution: A's will be converted to 4 points; B's will be converted to 3 points; C's will be converted to 2 points; D's will be converted to 1 point; and F's will be converted to 0 points. The grades for each factor described in sub-section (b)(1) will be averaged to compute an overall grade.

(1) A grade point average of 3.75- 4.0 shall be required for a School Performance Grade of A.

(2) A grade point average of 2.75- 3.74 shall be required for a School Performance Grade of B.

(3) A grade point average of 1.75- 2.74 shall be required for a School Performance Grade of C.

(4) A grade point average of 0.75- 1.74 shall be required for a School Performance Grade of D.

(5) If a school's grade point average is lower than 0.74, it shall be assigned a School Performance Grade of F.

(i) Accuracy and Representativeness of Performance Data. The Oklahoma State Department of Education shall review all information submitted by school districts to represent the performance of schools receiving a school performance grade.

(1) Each school district superintendent shall designate a school accountability contact person to be responsible for verifying accuracy of data.

(2) The Superintendent of Public Instruction shall withhold the designation of a school's performance grade if he or she determines that the performance data does not accurately represent the progress of the school.

(A) Circumstances under which a school's performance data may be considered to not accurately represent the progress of the school include:

(i) Less than ninety-five percent (95%) of the school's student population eligible for inclusion in the designation of the school's performance grade was assessed.

(ii) Circumstances identified before, during, or following the administration of any state assessment where the validity or integrity of the test results are called into question and are subject to review as determined by the Department.

(B) After the initial issuance of school performance grades, the school district shall have at least thirty (30) calendar days to review the data on which the performance grade was based. If the school district determines that a different performance grade should be assigned because of the omission of student data, a data miscalculation, or special circumstances that might have affected the grade assigned, a request for a review of the data can be submitted to the State Department of Education. Changes to the criteria

or process shall not be considered as part of this review. Documentation of all elements and data to be reviewed by the Department must be submitted within the time limits specified in this sub-section. No changes to data shall be made after the expiration of the thirty (30) calendar day review period.

(j) The Oklahoma State Board of Education's determination of a school's performance grade shall be final.

(1) Planned System Enhancements. As indicated in this subsection, planned enhancements will occur in the System of School Improvement and Accountability. The Superintendent of Public Instruction will periodically recommend additional changes to the system to the State Board of Education for approval as necessary to ensure that continuous improvements are made in the educational programs of the State. Performance data shall be reviewed annually to determine whether to adjust the school grading scale for the following year's school grades. Adjustments may include, but shall not be limited to grading criteria, classification of school type, point calculations, point requirements, and minimum points necessary to obtain a certain grade. Adjustments may reset the minimum required number of points for each grade.

[OAR Docket #12-793; filed 6-8-12]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF

[OAR Docket #12-791]

RULEMAKING ACTION:

PERMANENT final adoption

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 area examination [NEW]

AUTHORITY:

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

DATES:

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ANALYSIS:

Rules establish two certifications. First, rules establish a process for the State Department of Education to issue international visiting teacher certification pursuant to 70 O.S. § 3-104(6). Second, rules provide for the State Department of Education to issue a world language certification to individuals who meet qualifications and score intermediate high on a national exam in a foreign language in which Oklahoma has no current subject-matter competency examination.

CONTACT PERSON:

Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 12, 2012:

SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION AND CERTIFICATION

PART 9. TEACHER CERTIFICATION

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

(a) Evaluation of foreign credentials. Foreign credentials must be either analyzed by a recognized translation service or an Oklahoma college before the State Department of Education will accept them.

(b) Noncitizens of the United States. Requirements for noncitizens seeking an Oklahoma teaching credential are as follows:

(1) Noncitizens of the United States will be required to submit an unexpired United States Citizenship and Immigration Services (USCIS) employment authorization document with the application before an Oklahoma teaching credential may be issued.

(2) The Oklahoma teaching credential may be issued/reissued for no longer than the validity of the employment authorization document.

(c) Noncitizen Visiting Teacher Certification. The State Board of Education may, upon request of a local school district, issue an international visiting teacher certification pursuant to 70 O.S. § 3-104(6).

(1) An international visiting teacher certification may be issued to applicants who meet the following criteria:

(A) Applicant presents a document from an accredited public school district in this state offering employment following certification;

(B) Applicant must be a citizen of a country other than the United States and hold a J-1 visa issued by the United States Department of State;

(C) Applicant holds the equivalent of a bachelor's degree or higher from an accredited college and has

completed a major in a world language other than English (WLOE) to be taught in Oklahoma;

(D) Applicant must have a minimum of three years of teaching experience in the world language other than English (WLOE) requested;

(E) Applicant is a participant in a visiting teacher program approved by the Oklahoma State Department of Education;

(F) Applicant must demonstrate proficiency at the advanced-low level of the American Council on the Teaching of Foreign Languages' (ACTFL) proficiency scale in both spoken and written English; and

(G) Applicant must complete an orientation program prior to employment and must be assigned a mentor teacher by the district.

(2) Applicants meeting all qualifications shall be granted a one-year teaching credential which may be renewed on a year-to-year basis for a maximum of three years upon request of the employing district.

(ed) Privacy and access. Any person, with proper identification, that makes a written or oral request, will be informed of the certification status of any individual subject to certification. No other information will be given to a third party without the written consent of the person about whom the information is sought.

(1) College transcripts and other supporting documents will neither be duplicated by nor released by the State Department of Education.

(2) An original out-of-state teaching certificate may be returned, upon written request, to the applicant.

(de) Multiple applications. When application is made at the same time for two (2) or more certificates of the same class, only a single processing fee will be charged.

(1) Applications may be made for multiple classes of certificates on one (1) form. There is a fee for each class.

(2) When application is made at different times for two (2) or more certificates, a fee will be charged for each certificate requested.

(ef) Duplicate/update certificates. A certificate/license may be duplicated or updated by submitting a written request and paying the fee.

(fg) Change of name. A legal change of last name on a certificate/license may be accomplished at any time upon written request and paying the fee.

(gh) Refusal of certification. No certificate/license will be issued unless all requirements for the certificate/license in question are fully met. In addition, no certificate/license will be issued if the attempt to become certified is based on misrepresentation, forgery, or fraud.

(hi) Grounds for cancellation of certificates. Any certificate/license, credential, or endorsement obtained by misrepresentation, forgery, fraud, or issued by error will be cancelled. Upon written request the holder must surrender the certificate/license in question to the State Department of Education.

(ij) Felony as grounds for noncertification. No person shall receive an Oklahoma certificate/license who has been

Permanent Final Adoptions

convicted of a felony, any crime involving moral turpitude, or a felony violation of the narcotics laws of the United States or the State of Oklahoma, provided the conviction was entered within the ten (10) year period immediately preceding application for teacher certification.

(jk) **Revocation of teaching certificate.** Teaching certificates/licenses issued by authority of the Oklahoma State Board of Education may be revoked by the board for willful violation of any rule or regulation of the board or any federal or state law or other proper cause. A certificate/license will be revoked only after a sufficient hearing has been given to the teacher before the State Board of Education.

(1) No person whose certificate/license has been revoked in Oklahoma or any other state shall be issued an Oklahoma certificate/license unless the revoked certificate/license has been fully reinstated by the revoking state and grounds for the revocation do not conflict with Oklahoma law.

(2) A person who has either voluntarily surrendered a teaching certificate in another state, been denied certification/licensure in another state or has had a certificate suspended in another state is not eligible for Oklahoma certification until an investigation has resolved the issues surrounding the surrender, denial, or suspension of certification.

(kl) **Extending provisional certificates.** A request for extension of validity of any expired provisional certificate will be presented to the State Board of Education only when extenuating circumstances seem to justify its consideration. These requests shall be submitted in writing by the employing superintendent. A superintendent who holds an expired provisional certificate needs to have the president of the local board of education make the written request.

(lm) **Degree/college credit accepted for certification regulations.** Only degrees conferred by state- or regionally accredited colleges and universities recognized by the Oklahoma State Board of Education will be accepted by the Professional Standards Section as part of the requirements for teacher certification. Only work completed in state and regionally accredited colleges and universities, or transfer credit validated by them, will be accepted as a basis for teacher certification. For purposes of Oklahoma certification, state-accredited colleges and universities are considered to be colleges and universities accredited by the Oklahoma State Regents for Higher Education or their counterpart in other states (a statewide higher education coordinating board/agency of control). Regionally accredited colleges and universities are considered to be colleges and universities accredited by regional institutional accrediting bodies recognized by the United States Department of Education.

(mn) **Fee for duplicate licenses and certificates.** The State Board of Education shall charge and collect reasonable fees for the issuance and duplication of licenses and certificates.

210:20-9-104. Certification for languages with no subject area examination

(a) The Oklahoma State Department of Education (OSDE) shall issue a certification in world languages that have no state

competency examination to qualified applicants who meet the following eligibility requirements.

(b) A qualified applicant seeking certification in a world language that has no state competency examination must obtain a score of at least "intermediate-high" on the following exams administered by the American Council on the Teaching of Foreign Languages (ACTFL) in the foreign language for which the applicant is seeking certification:

(1) The Oral Proficiency Interview (OPI) or the Oral Proficiency Interview Computer (OPIC); and

(2) The Writing Proficiency Test (WPT)

(c) The testing assessments listed in section (b) of this rule are the only testing assessments which may be used as appropriate subject area assessments in a world language that has no state competency examination.

(d) Applicants holding a valid Oklahoma traditional or alternative credential may add a world language that has no state competency examination by meeting the requirements listed in sub-section (b) of this rule.

(e) Applicants seeking certification in a world language that has no state competency examination who do not hold an Oklahoma traditional or alternative credential must meet the requirements of sub-section (b) of this rule and must qualify for an Alternative Placement Teaching Certificate. Applicants seeking certification pursuant to this section must comply with all statutory requirements of the Alternative Placement Program listed in 70 O.S. § 6-122.3.

[OAR Docket #12-791; filed 6-8-12]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 25. FINANCE

[OAR Docket #12-792]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Budgeting and Business Management

Part 1. Implementation

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

AUTHORITY:

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

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ANALYSIS:

The purpose of the rule amendment is to provide clarification to the term "deficiencies" in the existing rule and identify situations that would be considered as a deficiency. Authority: 70 O. S. 3-104, *et seq.* 70 O.S. 5-135.4, 70 O. S. 5-135, *et seq.*

CONTACT PERSON:

Connie Holland, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN O. S. 75, SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 12, 2012:

SUBCHAPTER 5. BUDGETING AND BUSINESS MANAGEMENT

PART 1. IMPLEMENTATION

210:25-5-5. Auditing

(a) The statutes of the State of Oklahoma require the board of education of each school district to cause an annual audit of the district's financial activity. The audit must be made in accordance with State Statutes, State Board of Education Regulations and Federal Office of Management and Budget (OMB) Circular A-133. ~~Audits may be performed only by those auditors possessing basic legal qualifications and admitted to the list of auditors approved by the State Board of Education. The State Board of Education has the option to deny the following year's application of any auditor or audit firm for noncompliance with the "School Audit Law." The auditor or audit firm may make application to be included on the approved list of auditors after one year's suspension.~~ The State Board of Education shall examine each audit report and demand corrections of any existing deficiencies. It is mandatory that State Aid payments be withheld during noncompliance with the "School Audit Law."

(b) Auditing is process of examining documents, reports, systems of internal control, accounting and financial procedures, and other evidence to ascertain:

- (1) That the statements prepared from the accounts present fairly the financial position and results of financial operations of each of the school's funds;
- (2) That the school administration has properly complied with statutory requirements and the rules and regulations of the State Board of Education in the conduct of its financial transactions;
- (3) That the school's financial transactions have been conducted with mathematical accuracy and have been properly recorded;
- (4) That the school has complied with the terms of grants and special agreements;

(5) That adequate stewardship has been exercised by the school board, its officers and employees in the conduct of their duties in the administration of school assets.

(c) The audit must encompass all of the school district's funds. The requirements in (b) of this Section form the basis for the reporting of the school's general, special revenue, capital projects and debt service funds. School activity funds, including school lunch funds, and other trust or fiduciary funds must also be included in the audit report.

(d) The accounting principles by which all audits will be performed are as follows:

- (1) The school district's accounting system must conform with the laws of the State of Oklahoma and the rules and regulations of the State Board of Education.
- (2) The school district's accounting system shall make it possible to demonstrate compliance with legal provisions.
- (3) The school district's accounting system shall clearly reflect the financial operations of the school district.
- (4) If accounting principles, procedures, or standards conflict with legal or regulatory provisions, the legal or regulatory provisions shall take precedence.
- (5) The accounting system shall be kept in the manner prescribed by the State Board of Education or in the manner of an accounting system approved by the State Board of Education.
- (6) The school district shall establish the funds prescribed or authorized by law and necessitated by sound financial judgment. The classification of funds shall be faithfully followed in the Estimate of Needs, Accounting System and Financial Reports.
- (7) A complete self-balancing group of accounts shall be established for each fund. Each such group will include all the accounts necessary to set forth the financial operations of the fund and to reflect compliance with legal and regulatory provisions.
- (8) If a fixed asset fund is maintained, the accounts shall be kept on the basis of original cost, or the estimated cost if the original cost is not available, or in the case of gifts, the appraised value at the time received.
- (9) The accounting system shall provide for budgetary control for both revenues and expenditures, and the financial statements will reflect, among other things, budgetary information.
- (10) The accounts, except activity funds, shall be maintained on a modified cash basis in accordance with the laws of the State of Oklahoma or a school district may elect to file an application with the State Board of Education to convert to Generally Accepted Accounting Principles (GAAP) accounting. The State Board of Education will approve or reject the application based on the district's ability to implement the practice.
- (11) Revenue and expenditures shall be classified in accordance with State Board of Education regulations in order to provide uniform accounting and consistent statistics.
- (12) A cost accounting system is required. Cost accounting is in addition to a required financial accounting

Permanent Final Adoptions

system, however, and must not be allowed to interfere with its uniform application. Although depreciation is not included in a required accounting system, it should be considered in determining unit cost when a cost accounting system is used.

(13) A common terminology and classification based upon that prescribed by State Board of Education rules and regulations, shall be used consistently throughout the estimate of needs, accounts, and financial reports.

(e) Primary audit procedures will consist of the following:

(1) Each Local Education Agency (LEA) will engage an independent auditor, approved by the Oklahoma State Board of Education, to examine its financial statements. Each LEA superintendent shall notify the State Board of Education, prior to the end of the fiscal year to be audited, of the independent auditor who has been engaged to conduct the audit.

(2) Where there are differences in state and federal standards due to the statutory and regulatory requirements in both levels of government, the LEA and the auditor will examine and adhere to both in order to be in total compliance.

(3) The Oklahoma State Department of Education will establish and maintain a monitoring system to assure that federal and state audit requirements are met. The Oklahoma State Department of Education will review each audit report and notify the appropriate federal program administrator of any deficiencies reported by the independent auditor regarding federal programs. The administrator will implement the procedures deemed necessary to resolve the exceptions noted by the auditor. The final result of the action taken will be filed with the audit report no later than 90 days after the program administrator has been advised of the auditor's findings.

(4) The State Board of Education may make inquiries and request additional documentation and response related to exceptions, recommendations or comments noted by an auditor.

(f) Audit report requirements are as follows:

(1) Audit reports may be presented in the following formats:

(A) Schools which have obtained prior approval from the State Board of Education to use generally accepted accounting principles (GAAP), must use a straight GAAP Governmental Accounting Standards Board (GASB) No. 34 compliant presentation.

(B) Schools using the regulatory basis of accounting as defined by Oklahoma Statutes may use GASB 34 compliant audit report presentations.

(C) Schools using the regulatory basis of accounting as defined by Oklahoma Statutes may use another comprehensive basis of accounting as prescribed by the Oklahoma State Department of Education. An example of a school district single audit report presented in conformity with another comprehensive basis of accounting as prescribed by the Oklahoma State Department of Education is available in the Financial Accounting Section, State Department of

Education. Schools need only present the funds and note disclosures that apply to the specific district. The example is not intended to take precedence over professional reporting standards and requirements.

(2) Informational statements will specify

(A) Board members and officers

(B) Statutory bonds

(C) Other fidelity or honesty bonds

(D) Insurance coverage

(E) Other desirable statements

(3) Size of audit report will conform to the specified dimensions:

(A) Length = Maximum, 11"

(B) Width = Maximum, 8 1/2"

(4) Each audit report shall be presented to and reviewed with the local board of education in a public meeting as required by law. Each audit report must contain a signed Acknowledgement Page on a form supplied by the State Department of Education. The Acknowledgement Page will verify the date the audit was reviewed with the local school board as well as the school board's acknowledgement that as the governing body of the district responsible for the district's financial and compliance operations the audit findings and exceptions have been presented to them.

(g) Requirements specific to Federal programs must be included in each audit.

(1) Federal regulations (OMB Circular A-133, and Compliance Supplement) require a financial and compliance audit of programs receiving federal funds. These regulations (in accordance with P.L. 98-502) ensure that audits be made on an organization-wide basis rather than a grant-by-grant basis and according to the standards and procedures expressed therein. The Oklahoma State Department of Education shall serve as the recipient agency for A-133 purposes for the local education agencies. Overclaim assessments may be levied where necessary when there has been a lack of compliance and treated as a current expenditure.

(2) This rule and the adoption of the standards and regulations for audits of local boards of education does not limit the authority of federal or state agencies to make audits of programs in the local education agencies, and is in keeping with OMB Circular A-133. Some state and local governmental units in Oklahoma prepare their financial statements in conformity with a comprehensive basis of accounting other than generally accepted accounting principles. A-133 does not prohibit such practice; nonetheless, it requires, as do generally accepted auditing standards, that auditors state in their report the departures from generally accepted accounting principles. However, any additional audit work must build on the work already done.

(3) The auditor should clearly understand that A-133 audits require the expression of opinions and inclusion of comments in audit reports which go beyond the standard opinions and comments usually presented. Specifically, the audit report shall include:

- (A) Financial statements, including footnotes, of the recipient organization.
- (B) The auditors' comments on the financial statements which should:
 - (i) Identify the statements examined, and the period covered.
 - (ii) Identify the various programs under which the organization received Federal funds, and the amount of the awards received.
 - (iii) Identify by a schedule showing receipts and disbursements for each grant program.
 - (iv) State that the audit was done in accordance with the "General Accounting Office Standards for Audit of Governmental Organizations, Programs, Activities, and Functions," the "Guidelines for Financial and Compliance Audits of Federally Assisted Programs," any compliance supplements approved by OMB, and generally accepted auditing standards established by the American Institute of Certified Public Accountants.
 - (v) Express an opinion as to whether the financial statements are fairly presented in accordance with generally accepted accounting principles. If an unqualified opinion cannot be expressed, state the nature of the qualification.

- (C) The auditors' comments on compliance and internal control should:
 - (i) Include comments on weaknesses in and noncompliance with the systems of internal control, separately identifying material weaknesses.
 - (ii) Identify the nature and impact of any noted instances of noncompliance with the terms of agreements and those provisions of Federal law or regulations that could have a material effect on the financial statements and reports.
 - (iii) Contain an expression of positive assurance with respect to compliance with requirements for tested items, and negative assurance for untested items.
- (D) Comments on the accuracy and completeness of financial reports and claims submitted to state or federal agencies for federal fund advances or reimbursements.
- (E) Comments on corrective action taken or planned by the recipient.
- (F) Comments as to whether the indirect cost rates are appropriately calculated and applied.

- (4) These requirements are common to nearly all state and local funds and federal programs:
 - (A) Funds disbursed by other governments were received and properly identified.
 - (B) Interest earned on idle funds was credited to the proper funds.
 - (C) Unexpended funds or unearned federal funds advanced or overpaid were correctly accounted for.
 - (D) A system of encumbrance accounting was maintained which reported the amount obligated,

- disbursed, remaining unobligated balance, and outstanding unliquidated obligations for each fund and program.
- (E) Obligations reported were actually incurred during the fiscal year or approved program period, and, upon liquidation, were properly adjusted.
- (F) Payments reported: Were actually made to the vendors, contractors and employees; were supported by adequate evidence of delivery of goods or performance of services; and conformed to applicable laws and regulations, including procurement requirements.
- (G) Refunds, discount, etc., were properly applied as reductions of the gross expenditures of the specific funds or programs.
- (H) Costs, direct and indirect, were correctly prorated to the proper funds or programs.
- (I) The same expenditure was not claimed under more than one program or reported as an expenditure for two fiscal or program years.
- (J) Inventory requirements for materials and equipment purchased with federal funds were maintained.

[OAR Docket #12-792; filed 6-8-12]

**TITLE 265. STATE FIRE MARSHAL COMMISSION
CHAPTER 45. FIREWORKS**

[OAR Docket #12-781]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
265:45-1-1. Purpose and scope [NEW]
265:45-1-2. Training and renewals [NEW]
265:45-1-3. Examination and testing [NEW]
265:45-1-4. Licensing of Outdoor Display Operators [NEW]
265:45-1-5. Renewals [NEW]
265:45-1-6. Training; Continuing Education [NEW]

AUTHORITY:
Title 68 O.S. § 1625; Oklahoma State Fire Marshal Commission

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ANALYSIS:

Title 265:45-1-1 through 265:45-1-6 defines the minimum requirements, training and testing for outdoor fireworks displays and for licensing of display operators.

CONTACT PERSON:

JoAnne Sellars, Assistant State Fire Marshal, 2401 NW 23rd Street, Suite 4, Oklahoma City, OK 73107, 405-522-5010.

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 12, 2012:

265:45-1-1. Purpose and scope

The purpose of the rules shall be to provide the minimum requirements for outdoor fireworks displays and for licensure of display operators. The State Fire Marshal shall establish a program for the licensure of Outdoor Display Operators. A license may be granted upon demonstration that the applicant has a satisfactory understanding of the handling and use of fireworks, equipment used for outdoor fireworks displays, and the operations of the display as required by the currently adopted version of NFPA 1123 Code for Fireworks Display.

265:45-1-2. Training and renewals

Pre-license Outdoor Display Operator training programs and continuing education classes shall be approved by the State Fire Marshal. Pre-license training programs and continuing education classes shall be taught by a currently licensed Outdoor Display Operator. Pre-license training program curriculum shall include training on the currently adopted NFPA 1123. All requests for approval of pre-license training programs and continuing education classes shall be submitted on forms prescribed by the State Fire Marshal. Upon completion of at least eight (8) hours of OSFM approved pre-license outdoor display operator training an applicant is eligible to take the required examination. An applicant seeking renewal of their existing outdoor display operator license shall submit proof of completion of at least six (6) hours of OSFM approved continuing education prior to issuance of a renewed license.

265:45-1-3. Examination and testing

To obtain an Outdoor Display Operator License an applicant shall pass an examination prescribed by the State Fire Marshal. Correctly answering 70% or more of the questions will be considered a passing score. If the applicant fails to pass the test on the first attempt the applicant is eligible to immediately take the examination a second time. If a passing score is not achieved on the second attempt the applicant may only attempt the examination once every thirty (30) days. Applicants shall be responsible for the cost of administering the examination as prescribed by OSFM administrative rules.

265:45-1-4. Licensing of Outdoor Display Operators

An applicant for licensure as an outdoor fireworks display operator shall:

- (1) Submit a license fee of \$75.00 with the application form prescribed by the State Fire Marshal.
- (2) Complete at least eight (8) hours of OSFM approved pre-license outdoor display operator training.
- (3) Pass the examination prescribed by the State Fire Marshal with a score of 70% or better.
- (4) Provide proof satisfactory to the State Fire Marshal of working under competent supervision on at least three (3) outdoor fireworks displays in the three (3) years immediately preceding the application.

265:45-1-5. Renewals

- (a) Renewal notices will be sent out by the state fire marshal sixty (60) days prior to expiration of each license. Failure to renew a license prior to expiration may result in the retaking of a pre-license training program.
- (b) An applicant for renewal of an Outdoor Display Operator license shall submit a renewal of \$75.00. Re-issuance of a lost license may be at a cost of \$75.00.
- (c) Proof of completion of at least six (6) hours of OSFM approved continuing education requirements must be provided as a prerequisite to renewal.

265:45-1-6. Training; Continuing Education

- (a) All continuing education courses must be approved by the State Fire Marshal for applicants to receive credit for the course.
- (b) The applicant shall provide verification to the State Fire Marshal of having obtained the required continuing education credits. Verification consists of a form certifying attendance at the course, the number of continuing education credits obtained at the course, and the course instructor's signature.
- (c) A renewal applicant shall submit to the State Fire Marshal the application form after completing the required continuing education hours. The applicant is responsible for ensuring timely submittal of the required continuing education verification. Documentation that shows the applicant was self-taught without course instruction will not be accepted for continuing education credits.
- (d) In order to obtain approval to provide pre-license training or continuing education courses, the course provider shall first obtain a Trainer/Instructor issued number through the State Fire Marshal. The provider shall submit to the State Fire Marshal course materials including an outline of the course instruction, resume of the instructor, the number of instruction hours provided, and the dates and times of the course will be offered. A course provider seeking approval of a course shall submit the required documentation no later than forty (40) business days prior to the first offering of the course.
- (e) Continuing education credit may be granted to the instructor, at the discretion of the State Fire Marshal, for the instruction of continuing education courses.

- (f) Applicants who take more hours than the required continuing education for the renewal period will not be permitted to carry-over the credit hours into the next renewal cycle.
- (g) The state fire marshal may conduct random audits of applicants and continuing education courses to ensure compliance.
- (h) Each applicant is responsible for maintaining sufficient records which may be used to support claimed continuing education credits.
- (i) The state fire marshal may require completion of specific continuing education classes in order to renew registration.
- (j) Applicants will not receive credit for taking a course more than once each renewal cycle.

[OAR Docket #12-781; filed 6-5-12]

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 515. COMMUNICABLE DISEASE
AND INJURY REPORTING**

[OAR Docket #12-786]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. Disease and Injury Reporting
- 310:515-1-3. Diseases to be reported immediately [AMENDED]
- 310:515-1-4. Additional diseases, conditions, and injuries to be reported [AMENDED]
- 310:515-1-8. Organisms/specimens to be sent to the Public Health Laboratory [AMENDED]

AUTHORITY:

Oklahoma State Board of Health, 63 O.S. Sections 1-104(B)(2) and Title 63 O.S. Sections 1-502 and 1-503

DATES:

Comment Period:

January 5, 2012, through February 8, 2012

Public Hearing:

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May 1, 2012

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Failure of the Legislature to disapprove the rules resulted in approval on May 18, 2012

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May 18, 2012

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July 12, 2012

SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATION BY REFERENCE:

"n/a"

ANALYSIS:

The proposal updates the existing rules in accordance with recommendations from the Council of State and Territorial Epidemiologists

(CSTE), the Centers for Disease Control and Prevention, and local public and private health partners pertaining to reportable diseases. The proposal amends the lists of reportable diseases, in order to clarify those conditions and diseases that are required to be reported to the Department. These changes reduce the reporting burden placed upon clinicians and do not adversely affect the public health follow-up or disease prevention activities.

The proposal also refines requirements for reporting negative results in certain conditions, which might involve an unknown organism. The following amendments are proposed to the rules:

The proposal updates the reporting of Vibriosis and submission of *Vibrio* isolates to reflect taxonomic changes that have resulted in some *Vibrio* species being reassigned to new genera. Discussion of the taxonomic changes may be found in the CSTE, "Update to Vibriosis Case Definition," CSTE position statement 11-ID-12, Atlanta: CSTE; 2011. See <http://www.cste.org/ps2011/11-ID-12.pdf>.

Currently all Acid Fast Bacillus (AFB) positive smears are mandated to be reported. Additional testing would exclude some AFBs, that are not needed by the Department, from un-needed reporting. The new language clarifies that only those specimens without further testing or are indicative of *Mycobacterium tuberculosis* Complex need to be reported. Due to the advances in laboratory techniques many times the organism is known the same day the AFB smear is done. When the results are atypical no public health intervention is needed.

The proposal refines requirements for reporting HIV viral load results based on the federal requirement that states receiving Ryan White Part B funding must calculate the Unmet Need for Health Services, defined as the need for HIV-related health services by individuals with HIV who are aware of their HIV status, but are not receiving regular primary health care. Health Resources and Services Administration (HRSA) provides an Unmet Need Framework for this calculation and determines that an individual with HIV or AIDS is considered to have an unmet need for care (or to be out of care) when there is no evidence that s/he received any of the following three components of HIV primary medical care during a defined 12-month time frame: (1) viral load (VL) testing, (2) CD4 count, or (3) provision of anti-retroviral therapy (ART). Additionally, the goal of antiretroviral therapy is to achieve suppressed viral load. Therefore, in order to accurately calculate unmet need in Oklahoma, all HIV viral loads test results must be reported. Discussion of HRSA's requirements pertaining to HIV Viral Load reporting may be found in the "Ryan White CARE Act Title II Manual," published by the U.S. Dept. of Health and Human Services, Health Resources and Services Administration, HIV/AIDS Bureau. See Assessing Unmet Need, Section VIII, Chapter 1: <http://hab.hrsa.gov/tools2/title2/t2SecVIIIChap1.htm#SecVIIIChap1d>.

Pelvic Inflammatory Disease (PID) is removed as a reportable disease based on the emergence of testing methodologies and techniques that are very specific to gonorrhea and Chlamydia infections, therefore, a proxy indicator of these infections is no longer necessary. See "Gonorrhea Laboratory," U.S. Dept. of Health and Human Services, Centers for Disease Control and Prevention: <http://www.cdc.gov/std/Gonorrhea/lab/default.htm>. These changes reduce the reporting burden placed upon clinicians and do not adversely affect the public health follow-up or disease prevention activities.

The proposal removes facsimile as a method of reporting diseases to the Department within one business day.

With these changes, the Department will receive information that is more precise and thereby be better equipped to respond quickly and effectively to disease outbreaks or unusual or uncommon adverse health conditions.

CONTACT PERSON:

Lauri Smithe, Ph.D., Chief, Acute Disease Service, phone (405) 271-4060, e-mail LauriS@health.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 12, 2012:**

**SUBCHAPTER 1. DISEASE AND INJURY
REPORTING**

Permanent Final Adoptions

310:515-1-3. Diseases to be reported immediately

The following diseases must be reported by any health practitioner or laboratory personnel to the OSDH electronically via the secure web-based Public Health Investigation and Disease Detection of Oklahoma system or by telephone (405-271-4060 or 800-234-5963) immediately upon suspicion, diagnosis, or testing as specified in the "Oklahoma Disease Reporting Manual".

- (1) Anthrax (*Bacillus anthracis*).
- (2) Bioterrorism - suspected disease.
- (3) Botulism (*Clostridium botulinum*).
- (4) Diphtheria (*Corynebacterium diphtheriae*).
- (5) *Haemophilus influenzae* invasive disease.
- (6) Hepatitis A (Anti-HAV-IgM+).
- (7) Hepatitis B during pregnancy (HBsAg+).
- (8) Measles (Rubeola).
- (9) Meningococcal invasive disease (*Neisseria meningitidis*).
- (10) Outbreaks of apparent infectious disease.
- (11) Plague (*Yersinia pestis*).
- (12) Poliomyelitis.
- (13) Rabies.
- (14) Smallpox.
- (15) Tularemia (*Francisella tularensis*).
- (16) Typhoid fever (*Salmonella Typhi*/Typhi).
- (17) Viral hemorrhagic fever.

310:515-1-4. Additional diseases, conditions, and injuries to be reported

The following diseases, conditions and injuries must be reported by physicians, laboratories, and hospitals (by infection control practitioners, medical records personnel, and other designees) to the OSDH as dictated in the following subsections:

- (1) **Infectious diseases.** Reports of infectious diseases and conditions listed in this subsection must be submitted electronically via the PHIDDO system, telephoned, ~~faxed~~, or submitted via secure electronic data transmission to the OSDH within one (1) ~~business-working day~~ (Monday through Friday, state holidays excepted) of diagnosis or positive test as specified in the "Oklahoma Disease Reporting Manual".
 - (A) Acid Fast Bacillus (AFB) positive smear. Report only if no additional testing is performed or subsequent testing is indicative of *Mycobacterium tuberculosis* Complex.
 - (B) AIDS (Acquired Immunodeficiency Syndrome).
 - (C) Arboviral infections (West Nile virus, St. Louis encephalitis virus, Eastern equine encephalitis virus, Western equine encephalitis virus, Powassan virus, California serogroup virus).
 - (D) Brucellosis (*Brucella* spp.).
 - (E) Campylobacteriosis (*Campylobacter* spp.).
 - (F) Congenital rubella syndrome.
 - (G) Cryptosporidiosis (*Cryptosporidium* spp.).
 - (H) Dengue Fever.
 - (I) *E. coli* O157, O157:H7, or a Shiga toxin producing *E. coli* (~~STEC infections~~).

- (J) Ehrlichiosis (*Ehrlichia* or *Anaplasma* spp.).
- (K) Hantavirus pulmonary syndrome.
- (L) Hemolytic uremic syndrome, postdiarrheal.
- (M) Hepatitis B. If HBsAg+, anti-HBc-IgM+, HBeAg+, or HBV DNA+ then report results of the entire hepatitis panel.
- (N) Hepatitis C in persons < or = 40 years or in persons having jaundice or ALT > or = 400 regardless of age with laboratory confirmation. If hepatitis C EIA is confirmed by RIBA or NAT for HCV RNA, or signal-to-cut-off (s/co) ratio or index is predictive of a true positive then report results of the entire hepatitis panel.
- (O) Human Immunodeficiency Virus (HIV) infection.
- (P) Influenza associated pediatric mortality
- (Q) Legionellosis (*Legionella* spp.).
- (R) Leptospirosis (*Leptospira interrogans*).
- (S) Listeriosis (*Listeria monocytogenes*).
- (T) Lyme disease (*Borrelia burgdorferi*).
- (U) Malaria (*Plasmodium* spp.).
- (V) Mumps.
- (W) Pertussis (*Bordetella pertussis*).
- (X) Psittacosis (~~*Chlamydia*~~*Chlamydophila psittaci*).
- (Y) Q Fever (*Coxiella burnetii*/~~*burnetii*~~).
- (Z) Rocky Mountain Spotted Fever (*Rickettsia rickettsii*).
- (AA) Rubella.
- (BB) Salmonellosis (*Salmonella* spp.).
- (CC) Shigellosis (*Shigella* spp.).
- (DD) *Staphylococcus aureus* with reduced susceptibility to vancomycin (VISA or VRSA).
- (EE) *Streptococcus pneumoniae* invasive disease, in persons less than 5 years of age.
- (FF) Syphilis (*Treponema pallidum*).
- (GG) Tetanus (*Clostridium tetani*).
- (HH) Trichinellosis (*Trichinella spiralis*).
- (II) Tuberculosis (*Mycobacterium tuberculosis*).
- (JJ) Unusual disease or syndrome.
- (KK) Vibriosis (*Vibrionaceae* family: *Vibrio* spp. infections (including cholera), *Grimontia* spp., *Photobacterium* spp., and other genera in the family).
- (LL) Yellow Fever.

- (2) **Infectious diseases.** Reports of infectious diseases and conditions listed in this subsection must be reported to the OSDH within one (1) month of diagnosis or ~~positive test result~~ as specified in the OSDH Disease Reporting Manual.

- (A) CD4 cell count < 500 with corresponding CD4 cell count percentage of total (by laboratories only).
- (B) Chlamydia infections (*Chlamydia trachomatis*).
- (C) Creutzfeldt-Jakob disease.
- (D) Gonorrhea (*Neisseria gonorrhoeae*).
- (E) HIV viral load (by laboratories only).
- (~~F~~) ~~Pelvic inflammatory disease (PID).~~

(3) **Occupational or Environmental diseases.** Laboratories must report blood lead level results greater than 10 ug/dL within one (1) week and results less than 10 ug/dL within one (1) month. Health care providers must report blood lead level results 20 ug/dL or greater within twenty-four (24) hours and results 10-19 ug/dL within one (1) week.

(4) **Injuries (hospitalized and fatal cases only).**

- (A) Burns.
- (B) Drownings and Near Drownings.
- (C) Traumatic Brain Injuries.
- (D) Traumatic Spinal Cord Injuries.

310:515-1-8. Organisms/specimens to be sent to the Public Health Laboratory

(a) Isolates or appropriate specimens of the following organisms shall be sent to the OSDH Public Health Laboratory for typing.

- (1) *Bacillus anthracis*.
- (2) *Brucella* spp.
- (3) *E. coli* O157, O157:H7, or a Shiga toxin producing *E. coli*-(~~STEC~~).
- (4) *Francisella tularensis*.
- (5) *Haemophilus influenzae* (sterile site).
- (6) *Listeria monocytogenes* (sterile site).
- (7) *Mycobacterium tuberculosis*.
- (8) *Neisseria meningitidis* (sterile site).
- (9) *Plasmodium* spp.
- (10) *Salmonella* spp.
- (11) *Staphylococcus aureus* that are VISA or VRSA
- (12) *Vibrionaceae* family (*Vibrio* spp., *Grimontia* spp., *Photobacterium* spp. and other genera in the family).
- (13) *Yersinia* spp.

(b) Following consultation with an OSDH epidemiologist, clinical specimens from suspected cases of Botulism must be sent to the OSDH Public Health Laboratory for testing.

[OAR Docket #12-786; filed 6-6-12]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 667. HOSPITAL STANDARDS

[OAR Docket #12-787]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 13. Infection control
310:667-13-5 [NEW]

AUTHORITY:

Oklahoma State Board of Health, 63 O.S. Sections 1-104(B)(2), 1-705(a), and 1-707(A)(9).

DATES:

Comment Period:

December 2, 2011, through January 11, 2012

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March 30, 2012

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Failure of the Legislature to disapprove the rules resulted in approval on April 19, 2012

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April 19, 2012

Effective:

July 12, 2012

SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATION BY REFERENCE:

"n/a"

ANALYSIS:

The proposed new rule language ensures that all live infants born in Oklahoma are protected against hepatitis B disease by receiving the birth dose of hepatitis B vaccine within twelve hours of birth. This change is necessary because all pregnant women who are at risk of transmitting the hepatitis B virus to their newborn during birth are not being identified prior to delivery.

The December 23, 2005, issue of the Centers for Disease Control and Prevention's (CDC) Morbidity and Mortality Weekly Report reported, "Rates of new infection and acute disease are highest among adults, but chronic infection is more likely to occur in persons infected as infants or young children. Before hepatitis B vaccination programs became routine in the United States, an estimated 30%-40% of chronic infections are believed to have resulted from perinatal or early childhood transmission, even though <10% of reported cases of hepatitis B occurred in children aged <10 years (1). Chronically infected persons are at increased lifetime risk for cirrhosis and hepatocellular carcinoma (HCC) and also serve as the main reservoir for continued HBV transmission."

Source: Centers for Disease Control and Prevention. A comprehensive immunization strategy to eliminate transmission of hepatitis B virus infection in the United States: recommendations of the Advisory Committee on Immunization Practices (ACIP); Part 1: Immunization of Infants, Children, and Adolescents. MMWR 2005;54(No. RR-16):[inclusive page numbers], <http://www.cdc.gov/mmwr/pdf/wk/mm5506.pdf>.

The Department's Perinatal hepatitis B Program identified 83 babies born to HbsAg positive women in Oklahoma in 2010. The CDC recommends that infants born to HbsAg positive women be given hepatitis B immune globulin (HBIG) and hepatitis B vaccine within 12 hours of birth. Seventy (85.4%) of these babies received both injections within 12 hours, seventy-five (91.5%) received both injections within 24 hours and seventy-seven (93.9%) received both injections within 48 hours of birth. Fifty-two (63.4%) of the infants had received HBIG and all three hepatitis B vaccines by 12 months of age.

The effect of this new rule language will be to help prevent perinatal hepatitis B infection in infants born in licensed hospitals in Oklahoma.

CONTACT PERSON:

Tom Welin, Chief, Medical Facilities, Protective Health Services, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; telephone: (405) 271-6576; electronic mail: tomw@health.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 12, 2012:

SUBCHAPTER 13. INFECTION CONTROL

Permanent Final Adoptions

310:667-13-5. Universal birth dose hepatitis B vaccination

All Oklahoma birthing hospitals shall implement a procedure to ensure that the hepatitis B vaccination is administered to all live infants within twelve hours of birth and recorded in the Oklahoma State Immunization Information System. A parent or guardian may refuse hepatitis B vaccination of their newborn on the grounds of medical reasons or that such vaccination conflicts with their religious tenets or personal beliefs. A refusal based on medical reasons shall include a statement in the medical record by a physician stating that the physical condition of the newborn is such that the vaccination would endanger the life or health of the child and that the child should be exempt from the vaccination requirement. A refusal based on the parent's or guardian's religious tenets or personal beliefs shall be documented in the newborn's medical record.

[OAR Docket #12-787; filed 6-6-12]

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

[OAR Docket #12-771]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
390:1-1-4 [AMENDED]
390:1-1-6 [AMENDED]

AUTHORITY:
Council on Law Enforcement Education and Training; 70 O. S., Section 3311(B)(2) and 70 O.S., Section 3311, et seq.

DATES:
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February 3, 2012 - March 6, 2012

Public hearing:
March 6, 2012

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April 27, 2012

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July 13, 2012

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

ANALYSIS:
Additions to this chapter set procedures for CLEET to approve new or reactivated law enforcement agencies and police departments in accordance with a new statutory mandate. The changes in this chapter also clarify statutory citations related to Title 51, Section 24A.1 et. seq.

CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

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 13, 2012:

390:1-1-4. Objectives of the Council

The objectives of the Council are:

(1) To raise the level of professional competence and integrity of law enforcement by:

(A) Establishing and administering minimum standards for the training and certification of law enforcement officers, to include physical, mental, and moral standards.

(B) Establishing and administering minimum curriculum and instructional standards for law enforcement training at a variety of levels.

(C) Providing these and other services to law enforcement officers as directed by law.

(D) Recommending legislation necessary to upgrade Oklahoma law enforcement to professional status.

(E) Appointing a larger Advisory Council.

(i) The Advisory Council shall be composed of seventeen (17) members who are certified full-time peace officers employed by a campus, city, county, state or federal law enforcement agency. At least one member shall be appointed from each of the ten (10) geographic CLEET training regions.

(ii) Advisory Council members shall serve for a term of three years and may be reappointed for additional terms, unless removed by the Council.

(iii) An Advisory Council member may be removed and that position declared vacant by the Council for any reason.

(iv) When a vacancy occurs on the Advisory Council, the Advisory Council shall recommend an individual to the Council for the vacant position.

(F) Appointing a Drug Dog Advisory Council.

(i) The Drug Dog Advisory Council shall be composed of members as provided in 70 O.S. §3311(L)(2).

(ii) Drug Dog Advisory Council members shall serve for a term of three years and may be reappointed for additional terms, unless removed by the Council.

(iii) The Drug Dog Advisory Council shall meet as the business of the Drug Dog Advisory Council demands.

(iv) A Drug Dog Advisory Council member may be removed and that position declared vacant by the Council for any reason.

- (v) The Drug Dog Advisory Council shall report research, recommendations and other matters related to minimum standards, educational needs, and other matters imperative to the certification of canines and canine teams trained to detect controlled dangerous substances to the larger Advisory Council for review prior to submission to the Council for final action.
- (vi) When a vacancy occurs on the Drug Dog Advisory Council, the Drug Dog Advisory Council shall recommend an individual to the Council for the vacant position.
- (G) Appointing a Bomb Dog Advisory Council
 - (i) The Bomb Dog Advisory Council shall be composed of members as provided in 70 O.S. §3311(M)(2).
 - (ii) Bomb Dog Advisory Council members shall serve for a term of three years and may be reappointed for additional terms, unless removed by the Council.
 - (iii) The Bomb Dog Advisory Council shall meet as the business of the Bomb Dog Advisory Council demands.
 - (iv) A Bomb Dog Advisory Council member may be removed and that position declared vacant by the Council for any reason.
 - (v) The Bomb Dog Advisory Council shall report research, recommendations and other matters related to minimum standards, educational needs, and other matters imperative to the certification of canines and canine teams trained to detect explosives, explosive materials, explosive devices, and materials which could be used to construct an explosive device to the larger Advisory Council for review prior to submission to the Council for final action.
 - (vi) When a vacancy occurs on the Bomb Dog Advisory Council, the Bomb Dog Advisory Council shall recommend an individual to the Council for the vacant position.
- (H) Appointing a Curriculum Review Board as provided in 70 O.S., Section 3311(B)(16).
- (I) Approve New Law Enforcement Agencies and Police Departments as provided in 70 O.S., Section 3311(B)(20).
- (J) Entities must submit the following information 60 days prior to the creation of a law enforcement agency:
 - (i) the need for the agency in the community,
 - (ii) the funding sources and proof that no more than fifty percent (50%) of the funding of the entity will be derived from ticket revenue and/or fines,
 - (iii) the physical resources available to officers,
 - (iv) the physical facilities that the law enforcement agency or police department will operate, including descriptions of the evidence room, dispatch area, restroom facilities, and public area.
- (v) law enforcement policies of the law enforcement agency or police department, including published policies on the use of force, vehicle pursuit, mental health, professional conduct of officers, domestic abuse, response to missing persons, supervision of part-time officers, and impartial policing,
- (vi) the administrative structure of the law enforcement agency or police department,
- (vii) liability insurance, and
- (viii) any other information CLEET requires by rule.
- (K) CLEET will respond within sixty (60) days of receiving the request and will forward to the entity by certified mail, return receipt requested, a letter of authorization or denial.
- (L) If denied, the entity may appeal the decision of the director to the full CLEET Council.
- (2) To raise the level of professional competence and integrity of the private security industry by:
 - (A) Establishing and administering minimum standards for the employment of security guards and private investigators, and the establishment of private security and investigative agencies, through a licensing program based on physical, mental, and moral standards.
 - (B) Establishing and supervising a validated training program for security guards and private investigators.
 - (C) Enforcing the provisions for the Oklahoma Security Guard and Private Investigator Act (Title 59, Sections 1750.1 ~~–1750.13~~ *et seq.*).
 - (D) Appointing an Advisory Committee comprised of representatives from security guard and investigative agencies.
 - (i) The Committee shall be comprised of seven (7) representatives from licensed security guard and private investigative agencies as follows: One (1) from each quadrant of the state, one (1) at large, one (1) selected by the American Society for Industrial Security (ASIS) and one (1) selected by the Oklahoma Private Investigators Association (OPIA).
 - (ii) Committee representatives shall serve for a term of three years and may be reappointed for additional terms unless removed by the Council.
 - (iii) A Committee representative may be removed and that position declared vacant by the Council for any reason including but not limited to the following:
 - (I) Failure to be in good standing with their license;
 - (II) Use of their appointment on the Committee for threats or perceived personal gain; or
 - (III) Repeated absences.

Permanent Final Adoptions

(iv) When a vacancy occurs on the Advisory Committee, the Advisory Committee shall recommend an individual to the Council for the vacant position.

(v) Committee representatives shall meet at least quarterly or more often as the business of the Committee demands.

(vi) The Committee shall report research, recommendations and other matters related to licensure of security guards, security agencies, private investigators and private investigative agencies to the Advisory Council for review prior to submission to the Council for final action.

390:1-1-6. Public records

(a) Except as specifically exempted as a confidential record, official records of the Council on Law Enforcement Education and Training are subject to the Oklahoma Open Records Act, ~~Sections 24A.1 through 24A.20 of Title 51 of the Oklahoma Statutes~~ Title 51, Section 24A.1 et seq.

(b) Copies of public information may be obtained from the Council office during regular business hours upon receipt of a written request and payment of a fee to cover the cost of providing copies of the requested.

(c) There may be a charge of Twenty-Five Cents (\$.25) per page for copies of public records of the Council.

(d) In the event a request for copies is for a commercial purpose or would cause disruption of the performance of the regular duties of the Council or Council staff, there may be an additional charge computed and assessed for locating and copying the requested materials based upon the cost of the lowest paid employee necessary to accomplish the copying request.

[OAR Docket #12-771; filed 6-4-12]

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

[OAR Docket #12-772]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

390:2-1-2 [AMENDED]

390:2-1-4 [AMENDED]

390:2-1-11 [AMENDED]

AUTHORITY:

Council on Law Enforcement Education and Training; 70 O. S., Section 3311 et seq.; 59 O.S., Section 1451 et seq.; 59 O.S., Section 1750 et seq., 20 O.S. Section 1313.12; 21 O.S. Section 1289.9 and 21 O.S. Section 1290.1 et seq.

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n/a

ANALYSIS:

These changes relate to actions which affect persons licensed under Title 59. Amendments in this chapter are necessary to correct a statutory citation reference, and to correct a typographical error. The other amendment in this chapter lengthens the time allowed for subpoenas to be submitted to CLEET prior to a hearing from five (5) to ten (10) days.

CONTACT PERSON:

Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

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 13, 2012:

390:2-1-2. Denials, reprimands, suspensions, revocations, disciplinary penalties, fines

(a) **Persons affected by individual actions.** Under the authority of 70 O.S., Section 3311 et seq.; 59 O.S., Section 1750.1 et seq.; 59 O.S., Sections 1451-1476; 20 O.S., Section 1313.2, 21 O.S., Section 1289.9 and 21 O.S. Section 1290.1 et seq., CLEET may take Administrative Actions against the following parties for violations of said statutes and the Rules and Regulations of CLEET:

- (1) Certified peace officers and applicants;
- (2) Basic Peace Officer Academy students and applicants;
- (3) Private security training schools and applicants;
- (4) Armed and unarmed security guards, private investigators, security agencies, investigative agencies and applicants;
- (5) Certified drug detector dogs, handlers and applicants;
- (6) CLEET certified instructors for Law Enforcement;
- (7) Counties, cities and towns involved in the penalty assessment program;
- (8) Private security training instructors and applicants;
- (9) Approved SDA Firearms Instructors;
- (10) Retired municipal, county, state and federal peace officers;
- (11) Certified Reserve Peace Officers and applicants; and

- (12) any other parties for which CLEET has statutory responsibility.
- (b) **Type of sanctions.** CLEET may take the following actions against the parties mentioned in (a) of this section:
 - (1) Oral Reprimand
 - (2) Written Reprimand
 - (3) Denial
 - (4) Suspensions
 - (5) Revocation and/or
 - (6) Disciplinary penalty or fine.
- (c) **Disciplinary procedures.** In the event CLEET, or its designated agent, has determined that an action will be taken, the following procedures shall apply in accordance with the Administrative Procedures Act, Section 301, et. seq. Title 75 of the Oklahoma Statutes.
 - (1) The issuance or denial of a new license or new certification is not an individual proceeding, and is not subject to review by the administrative hearing process set forth below.
 - (2) CLEET or its designated agent shall serve by certified mail, return receipt requested, or by personal delivery by an individual authorized by CLEET, a "Notice of Council Action" containing information required by 75 O.S. Section 309 et. seq., to the party at his last known residential address as reflected by the records of CLEET or current employing department or agency address if the personal address is unknown. If said letter is returned and notation of U.S. Postal Service indicates "unclaimed", "moved", "refused" or any non-delivery markings and the Council's records indicate no change of address as required by rule 390:35-5-13, the notice and any subsequent order shall be deemed served. Any order issued shall be deemed valid as if said individual or agency had been served.
 - (3) The notice shall provide that CLEET action shall commence and become effective fifteen (15) days after receipt of said notice by the party, unless the party timely files a written request for a hearing with CLEET except as follows:
 - (A) When CLEET determines that an allegation warrants immediate action, the commencement and effective date of fifteen (15) days will be waived and the action will be effective upon receipt of said notice.
 - (B) A request for hearing will be timely filed if said request is in writing and received by CLEET, its Director, or designated agent within ten (10) days of the date the party received notice.
 - (C) If a timely written request for a hearing is not received by CLEET, the allegations shall be deemed confessed by the party and the action will become final.
 - (D) If the written request for hearings is timely received by CLEET, such hearings shall be scheduled within sixty (60) days from the date said request is received.
 - (4) The timely filing of a written request for a hearing will stay CLEET's action pending disposition of the

- hearing, unless the notice and allegations fall within ~~the purview of (2)(3)(A)~~ of this subsection.
- (5) The hearings will be held at a location designated by the Council.
- (6) The hearing officer will be designated by CLEET or the Director thereof, and each party shall be afforded an opportunity to be heard and present evidence.
- (7) The hearing will be electronically recorded and the tapes of said hearing will be preserved until all avenues of appeal have expired or been exhausted. If a party desires a court reporter, or certified stenographer, it shall be the party's burden to provide and bear the cost of said services and subsequent transcription.
- (8) If a party fails to appear at the scheduled hearings without prior notification or good cause, the hearing officer shall default the party, and enter an order sustaining the allegations set forth in the notice and imposing the sanctions set forth therein; or if the State sustains its burden, the hearing examiner shall rule accordingly.
- (9) If the complaining party fails to show or the state otherwise fails to prove the allegations by clear and convincing evidence, the action against the party shall be dismissed without sanctions.
- (10) The designated hearing officer shall render a decision based upon the law and the evidence presented at the hearing.
- (11) Each party shall be notified, in written order form, of the findings of fact and conclusions of law relating to the action.
- (12) A party may appeal the hearing officer's decision as set forth in 75 O.S. Section 301 et. seq. of the Administrative Procedures Act.

390:2-1-4. Discovery

- (a) **Purpose.** Discovery is designed to enable a party to obtain relevant information needed for presentation of the party's case. These Rules are intended to provide a simple method of discovery.
- (b) **Explanation.** Discovery is a process apart from the hearing whereby a party may obtain relevant information from another person which has not otherwise been provided. Relevant information means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the information. This information is obtained for the purpose of assisting the parties in developing, preparing and presenting their cases.
- (c) **Methods.** Discovery may be obtained by written interrogatories or oral interrogatories reduced in writing, depositions, production of documents for inspection or copying.
 - (1) **Depositions.**
 - (A) Deposition of a witness for use at a hearing may be taken only when ordered upon motion by CLEET or on application of a party. The order may direct that the deposition of a witness be taken inside or outside the State of Oklahoma.

Permanent Final Adoptions

- (B) The order shall state the time and place the deposition shall be taken, and the party taking the deposition shall serve a copy of the order by regular mail on each party of record at least five days prior to the date scheduled for taking the deposition.
- (C) The manner of taking depositions and the attendance of witnesses shall be governed by the laws relating to taking the depositions for use in the District Courts, except that the attendance of a witness for deposition shall be required only in the county of his residence.
- (D) A deposition may be offered in evidence at the hearing by any party.
- (2) **Production of documents.**
- (A) Upon application of a party, or upon motion of CLEET, with or without notice, CLEET may make an order requiring a party to produce designated documents or tangible objects for inspection by parties to the proceeding, or for copying at the expense of the applicant, or to be offered into evidence. The order shall direct production thereof at the hearing, and production shall be at the principal office of CLEET, unless some other place is stated in the order.
- (B) The party applying therefore shall serve a copy of the order by regular mail on each party of record at least five days prior to the date upon which production is required.
- (C) An order pursuant to this section may require production of any document not privileged which constitutes or contains evidence relevant to the subject matter of the proceeding, or may reasonably lead to such evidence. Business records shall not be deemed privileged as such; but confidential business records and information will be protected from disclosure except where directly relevant to the issues in the proceeding.
- (D) The order shall identify the documents or object to be produced individually or by categories, with sufficient particularity to permit easy identification thereof by the party ordered to make production.
- (E) An exact photographic copy of a document may be substituted for the original, at the expense of the person producing the instrument.
- (3) **Admission of facts and genuineness of documents.** CLEET may order any party to respond to requests for the admission of the genuineness of any relevant documents identified within the request or the truth of any relevant matters of fact or application of law to the facts as set forth in the request.
- (4) **Stipulations.** The parties may stipulate as to any matter of fact. Such a stipulation will satisfy a party's burden of proving the fact alleged.
- (d) **Witnesses.**
- (1) **Lists.** All parties to a proceeding shall file a list of witnesses expected to be called during the proceeding. Such list shall include a brief statement describing the testimony to be offered. Witness lists will be made available for inspection and copying to all parties of record. The witness list shall be made available at least five days prior to the hearing.
- (2) **Exclusion.** The Hearing Examiner may exclude the testimony of any witness when said testimony is deemed irrelevant, unduly repetitious or cumulative.
- (3) **Testimony.** A witness present at a hearing pursuant to subpoena may be called to testify by the Hearing Examiner or by any party.
- (4) **Protective orders.** CLEET may make any orders with respect to subpoenas and attendance of a witness with or without application or notice, as may be appropriate for the protection of parties and witnesses, including an order excusing attendance, or limiting documents to be produced.
- (e) **Subpoenas.**
- (1) **Duces Tecum.** CLEET may, upon request of a party, issue a subpoena in the name of CLEET in any pending proceeding requiring attendance of a witness from any place in the state to the place of hearing. A Subpoena Duces Tecum may require a witness to produce at the hearing, books, records, accounts, papers and other instruments and tangible objects, which shall be described with reasonable particularity in the subpoena. A subpoena duces tecum directed to a party, not an individual, may direct that the records be produced by an officer or employee responsible therefore.
- (2) **Request for subpoena.** A request for subpoena shall be submitted to CLEET not less than ~~five~~^{ten} days prior to the hearing. Such requests shall be supported by a showing of general relevance and reasonable scope and a statement of the facts expected to be proven.
- (f) **Interrogatories.**
- (1) Upon application of a party, or upon the motion of CLEET, with or without notice, an order may be entered requiring a party to answer in writing under oath of the party or a person authorized to make an answer, certain written interrogatories attached to the order. Unless otherwise ordered, the answers shall be submitted at the hearing, or at a pre-hearing conference.
- (2) The party applying for the order shall serve a copy thereof, with interrogatories attached, by regular mail, upon each party of record at least ten days prior to the date upon which answer is required.
- 390:2-1-11. Declaratory rulings**
- (a) Any person subject to the rules and regulations contained in this chapter may petition in writing to CLEET or its designated agent for interpretation of a specific rule, regulation or order as to the applicability of said rule, regulation or order and its effect on petitioner. In petitioning CLEET for a declaratory ruling the following procedures must be followed:
- (1) The petition must be in writing and submitted to CLEET or its designated agent.
- (2) The petition shall state with specificity the rule, regulation or order in question; and
- (3) The petition shall state a brief, concise statement of facts in question; and

- (4) The petition shall pose a specific question(s) to be answered by CLEET.
- (5) The petition must further allege that application or the threatened application of said rule or regulation interferes with or impairs or threatens to interfere with or impair, the legal rights or privileges of the petitioner.
- (b) CLEET or its designated agent shall make a declaratory ruling based upon the rule, regulation, facts, and question(s) presented.
- (c) The petitioner will be notified of the declaratory ruling in writing by the U.S. ~~Mails~~ Mail.
- (d) The declaratory ruling will apply only to the petitioner unless CLEET or its designated agent finds that said ruling is general in nature and not unique to the petitioner.
- (e) A declaratory ruling or refusal to issue such ruling, shall be subject to judicial review in the manner provided for review of decisions in individual proceedings in the Administrative Procedures Act.

[OAR Docket #12-772; filed 6-4-12]

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

[OAR Docket #12-773]

RULEMAKING ACTION:

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RULES:

- Subchapter 1. Basic Academy Programs
- 390:15-1-13 [AMENDED]
- 390:15-1-18 [AMENDED]
- Subchapter 3. Collegiate Officer Program
- 390:15-3-7 [AMENDED]
- 390:15-3-8 [AMENDED]

AUTHORITY:

Council on Law Enforcement Education and Training; 70 O. S., Section 3311 (B)(2), 70 O.S. Section 3311(J) and 70 O.S. Section 3311 et seq.

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n/a

ANALYSIS:

Amendments in this chapter clarify specific procedures for officers who fail firearms in the basic academy, as to when the department must request that the officer be retested, and or be allowed to complete the block of instruction. The other amendment changes the percentage score for testing of a Collegiate Officer Student to a standard established by CLEET. This makes the testing requirements consistent throughout CLEET rules, and allows the Council to increase minimum standards without a change in rules.

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 13, 2012.

SUBCHAPTER 1. BASIC ACADEMY PROGRAMS

390:15-1-13. Academic requirements

- (a) In order to successfully complete the basic academy program, trainees must achieve a minimum passing score as designated by CLEET or a higher standard if so required by an approved academy entity. All training standards and academic requirements must be completed within the time frame specified in Section 3311 of Title 70 of the Oklahoma Statutes.
- (b) Any trainee who fails a specific block examination will be permitted to retake that block examination within a time frame established by CLEET.
- (c) If the trainee fails the block examination a second time, the trainee's agency head may request that the trainee repeat the block of instruction and take the examination for a third time.
- (d) If a trainee fails to complete any block of instruction the trainee will not be allowed to take the certification examination.
- (e) Trainees who fail the certification examination will be permitted to retake the examination within ten (10) business days. A second failure will necessitate reenrollment into a basic academy.
- (f) When a trainee fails a proficiency test in the Custody Control block, or the Law Enforcement Driver Training block, the trainee will not be certified, and will be scheduled for up to two remedial training sessions at a later time. If the trainee does not successfully complete remedial training, no further testing will be allowed.
- (g) If the trainee fails a proficiency test in the Firearms Block, ~~and cannot be remediated within that academy,~~ the trainee will not be certified, and shall be required to obtain additional firearms training through his/her employing agency; such training to be conducted by a CLEET certified firearms instructor within ninety (90) calendar days of the student's original academy completion date. Upon completion of such training, the student's employing agency administrator must, within ninety (90) calendar days of the student's original academy completion date, in writing, notify the Director of CLEET that the student is ready to be scheduled for firearms

Permanent Final Adoptions

proficiency testing by CLEET firearms staff. Such testing shall be completed by allowing the student up to three (3) attempts to attain the CLEET required proficiency in firearms. If the trainee does not successfully complete additional training, no further testing will be allowed until the student has retaken the entire firearms block of instruction.

(h) Trainees are expected to attend all blocks of instruction. If a trainee misses any time during the academy, the trainee must state in writing the reasons for the absence.

(i) Absences due to unforeseen emergencies, illnesses, subpoenas, or other unusual circumstances may be approved by the Training Division Manager or Assistant Director for make-up during the current academy. Each case will be reviewed to evaluate the length of time missed and the impact upon the instructional staff and class to remediate the trainee. The trainee may be required to provide documentation for excused absences such as a copy of the subpoena, doctor's statement, etc. Absences of more than five (5) hours in any training block may require the trainee to attend the entire block in the next subsequent academy.

(j) Each applicant is required to attend all class sessions, subject to previously state exceptions. Unexcused absences or repeated tardiness requires makeup work during a current or future academy, and may result in administrative discipline. Decisions that the Training Manager or Assistant Director make, regarding attendance and makeup requirements, may be appealed to the Director.

(k) It is mandated by the Council that all examinations, and all proficiency tests must be successfully completed to meet the requirements for peace officer certification.

(l) If a health condition or an injury exists, prohibiting a trainee from fully participating in any block of instruction, a signed release from the trainee's physician must be submitted before the trainee will be allowed to further participate in that block.

(m) If the trainee cannot be so released by a physician to fully participate in that block then participation is prohibited.

(n) Approved academy entities shall establish their own requirements for academy testing, retesting, and attendance except that no academic standards shall be less than those established by CLEET in 390:15-1-13.

390:15-1-18. Administrative discipline

(a) In the event that a trainee's personal conduct or academic performance falls below accepted standards, appropriate reports shall be submitted by the academy coordinator to the ~~Training training Division division Manager manager~~. Reports shall outline the nature and scope of the trainee's standard performance or conduct, the nature of any counseling or remedial action taken by coordinator/instructors, and recommendations for resolution of the matter. A copy of these reports shall be retained in the trainee's file.

(b) The ~~Training training Division division Manager manager~~ shall make every effort to resolve the matter in the best interest of the trainee, the sponsoring agency, and CLEET. Should it become necessary, matters may be referred to the Assistant Director, and the trainee's agency head may be notified.

(c) Trainees who wish to register a complaint regarding some aspect of his or her treatment at the academy, shall make every effort to resolve the matter with the class coordinator. In the event this is not possible, the class coordinator shall consult with the Training Division Manager on the matter. If necessary, arrangements shall be made for the trainee to discuss the complaint with the manager. If the matter cannot be resolved, the manager shall consult with the Assistant Director. Students wishing to appeal the decision of the Assistant Director may submit a request for appeal in writing to the Director.

(d) Approved academy entities shall establish their own requirements for administrative discipline.

SUBCHAPTER 3. COLLEGIATE OFFICER PROGRAM

390:15-3-7. Course testing

(a) All academic COP course testing shall be subject to the higher education institution's testing and grading system with the exception that under no circumstances shall a course grade of less than 80 percent for First Aid, and ~~no less than 70 percent for other course offerings, be considered a passing score~~ successful achievement on other cognitive examinations or performance tests shall be at a standard established by CLEET for a course offering which contains a portion of the CLEET basic Academy instructional goals and objectives.

(b) COP skills training courses shall meet the minimum grading standards set forth for the CLEET Basic Academy skills training programs.

(c) Practical application exercises may be evaluated at a standard established by the COP institution.

390:15-3-8. Qualification examination

(a) The CLEET qualification examination which is administered to COP students by an authorized CLEET representative, is a comprehensive objective examination which covers, at a minimum, those topical areas set forth in 390:15-1-2 and 390:15-3-6. Should additional topical areas be added, the qualification examination may be expanded to cover such additions.

(b) The qualification examination shall be administered on a quarterly basis at times and locations to be determined by CLEET.

(c) Students may take the qualification examination prior to their twenty-first birthday but shall not be certified until their twenty-first birthday.

(d) Students who pass the qualification examination prior to becoming commissioned shall have two-years from the date the associate's or bachelor's degree is conferred in which to obtain their certification. Certification shall be withheld until they have been commissioned and all requirements of 70 O.S., Section 3311 have been met.

(e) ~~A score of 70 percent or higher shall be required to pass the qualification examination.~~ Successful achievement of the qualification examination will be at a standard established by CLEET.

(f) Students who fail their initial qualification examination may be given only two re-tests.

[OAR Docket #12-773; filed 6-4-12]

**TITLE 390. COUNCIL ON LAW
ENFORCEMENT EDUCATION AND
TRAINING
CHAPTER 30. CDS DETECTOR DOG
CERTIFICATION**

[OAR Docket #12-774]

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PERMANENT final adoption

RULES:

390:30-1-6 [AMENDED]

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Council on Law Enforcement Education and Training; 70 O.S., Section 3311(A), 70 O.S., Section 3311(L)(2), and 70 O.S., Section 3311 et seq.

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n/a

ANALYSIS:

The only amendment in this chapter allows a canine team to be retested after seven (7) days from the last failure. The previous time frame was sixty (60) days. This change was based on a recommendation from the CLEET Drug Dog Advisory Council.

CONTACT PERSON:

Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

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 13, 2012:

390:30-1-6. Application for certification

(a) Any person, group, or organization, public or private, that utilized canine teams for the purposes of detecting controlled dangerous substances, as a public service or for private gain, shall be required to annually obtain CLEET certification

for such canine teams. Certification as to the demonstration abilities of any such canine team shall be based on evaluation of the canine team's performance during field tests.

(b) Persons wishing to seek CLEET CDS detector canine team certification may receive an application and instructions by calling or making a written request to CLEET administrative offices.

(c) Applicants must submit the application and appropriate test fee to CLEET.

(d) All applications must be completely filled out and be accompanied by two (2) full-body, color photographs of the applicant canine team and any other information required by CLEET. The photographs shall include the full side-body of the dog and the face of the handler.

(e) Normally, no more than ten (10) applicant dogs shall be scheduled for testing on any date.

(f) Upon completion of CDS detector canine team testing, the owner/handler of each dog shall be informed as to the examiner's evaluation of the canine team's performance.

(g) Canine teams that fail to successfully complete the CDS detector tests in accordance with the required standards of performance may not be retested until ~~sixty (60)~~ **seven (7)** days from the last attempt, and must submit the retest fee to CLEET prior to testing.

(h) Canine teams that successfully complete CDS Detections tests in accordance with the required standards of performance shall be notified in writing by CLEET.

(i) When CLEET has determined that all application procedures are fully complete; the applicant canine team has met all required performance standards; and the correct certification fee has been received, a CDS detector canine team certificate shall be issued by CLEET.

(j) Any time a certified CDS detector canine team is being employed or otherwise utilized in CDS detection activities, the CLEET CDS detector canine team certificate, or a copy thereof, shall be immediately available for inspection by any interested party.

(k) CLEET CDS detector canine team certification shall remain effective for one (1) year from the date it was issued.

(l) CDS detector canine teams shall be recertified annually. Application for renewal and the process of testing and performance evaluation shall be conducted in the same manner as the original certification. Application for recertification should be initiated not less than thirty (30) days prior to the expiration date of the previous certificate.

(m) All CDS detector canine team certifications that are not renewed shall be inactivated by CLEET. If a renewal of an expired certification is not initiated by the canine team within thirty (30) days from the expiration date of the certificate, the canine team shall be required to remit the full two hundred dollars (\$200.00) certification test fee to reinstate the certification status of the canine team concerned. Application and testing procedures in such cases shall be conducted in the same manner as an original certification.

(n) When any canine team certified under these laws and rules will no longer be utilized in the performance of CDS detection activities, the owner of such dog or the handler shall notify CLEET in writing.

Permanent Final Adoptions

(o) CDS detector canine teams owned by or used solely by a bona fide law enforcement agency for CDS detection activities in the service of the public shall be exempt from the certification fees herein, but shall be required to certify such canine teams annually in accordance with the laws and the rules of this section, unless such canine teams are certified annually by the United States Custom Service.

[OAR Docket #12-774; filed 6-4-12]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING CHAPTER 31. BOMB DETECTOR DOG CERTIFICATION

[OAR Docket #12-775]

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PERMANENT final adoption

RULES:
390:31-1-3 [AMENDED]
390:31-1-5 [AMENDED]

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Council on Law Enforcement Education and Training; 70 O.S., Section 3311(B)(9), 70 O.S., Section 3311(L)(2), and 70 O.S., Section 3311 et seq.

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n/a

ANALYSIS:
Based on recommendations from the CLEET Bomb Dog Advisory Council, this chapter adds three organizations whose standards are acceptable as valid tests for certification or recertification of bomb detector canine teams.

CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

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390:31-1-3. Statutory requirements and fees

(a) Every canine team in the state trained to detect explosive substances shall be certified, by test, in the detection of such explosive substances and shall be recertified annually so long as the canine team is used for such detection purposes. The certification test and annual recertification test provisions of this section shall not be applicable to canine teams that are owned by a law enforcement agency and that are certified and annually recertified in the detection of explosives by the North American Police Work Dog Association, TSA National Explosives Detection Canine Program, National Tactical Police Dog Association, International Police Work Dog Association, National Police Canine Association, or United States Police Canine Association, Inc.

(b) No canine team will be dual certified in controlled dangerous substances and bomb detection.

(c) Each application shall be accompanied by the required fee established in 70 O.S. Section 3311 (L). These fees are non-refundable.

(d) Payment must be in the form of a money order, cashiers check, or if presented in person, United States Currency. Checks and money orders should be made to CLEET.

390:31-1-5. Standards for certification

The following agency or organization certification standards are recognized as a valid test for certification and annual recertification of the Bomb detector canine team:

- (1) North American Police Work Dog Association (NAPWDA)
- (2) United States Police Canine Association, Inc. (US-PCA)
- (3) TSA National Explosives Detection Canine Program (NEDCP)
- (4) National Tactical Police Dog Association (NT-PDA)
- (5) International Police Work Dog Association (IP-WDA)
- (6) National Police Canine Association (NPCA)
- (47) Other standards reviewed and accepted by the Bomb Dog Advisory Council

[OAR Docket #12-775; filed 6-4-12]

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

[OAR Docket #12-769]

RULEMAKING ACTION:
PERMANENT final adoption.

RULES:
Subchapter 5. Regulation of Practice
435:20-5-10. Referrals [NEW]

AUTHORITY:
Title 59 O.S., Section 489, Board of Medical Licensure and Supervision

DATES:

Comment period:

January 17, 2012 through March 2, 2012

Public hearing:

March 8, 2012

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March 9, 2012

Gubernatorial approval:

April 13, 2012

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May 24, 2012

Effective:

July 12, 2012

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATED BY REFERENCE:

n/a

ANALYSIS:

The rule facilitates extension or reinstatement of physical therapy treatment for up to 90 days from the original referral as authorized under Title 59 O.S., § 887.5 and § 887.17.

CONTACT PERSON:

Kathy Plant, Executive Secretary, 405-962-1400, #122

(c) If the physical therapist determines, based on the physical therapy screening and evaluation, that the patient's condition is outside the scope of the physical therapy practice, the physical therapist may not initiate, extend, or reinstitute treatment and must immediately refer the patient to a licensed health care professional.

(d) If the physical therapist determines, based on reasonable evidence that appropriate improvement in symptoms or function has not been made within 60 days of the date on the referral, the physical therapist shall consult with or refer the patient back to the health care professional who originated the referral.

(e) The provisions of paragraphs (a) - (d) of this section do not apply if the patient is receiving physical therapy services pursuant to the Individuals with Disabilities Education Improvement Act of 2004, as may be amended, and the Rehabilitation Act of 1973, Section 504, as may be amended.

[OAR Docket #12-769; filed 6-1-12]

**TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION
CHAPTER 30. OCCUPATIONAL THERAPISTS AND ASSISTANTS**

[OAR Docket #12-770]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

435:30-1-2. Definitions [AMENDED]

435:30-1-16. Responsible supervision [AMENDED]

AUTHORITY:

TITLE 59 O.S., § 888.14, § 489, State Board of Medical Licensure and Supervision

DATES:

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September 15, 2011 through October 18, 2011

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October 20, 2011

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November 3, 2011

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December 5, 2011

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May 30, 2012

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATED BY REFERENCE:

n/a

ANALYSIS:

The proposed amendments to **OAC435:30-1-2. Definitions** and **OAC435:30-1-16. Responsible supervision** add definitions for Occupational Therapist supervisors at different levels and clarifies the meaning of supervision at the different levels as authorized by 59 O.S. § 489 and 888.14. The proposed amendments also further clarify the responsibilities of

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 12, 2012:

SUBCHAPTER 5. REGULATION OF PRACTICE

435:20-5-10. Referrals

(a) A licensed physical therapist who has received a referral from a person licensed as an allopathic physician, osteopathic physician, physician assistant, dentist, chiropractor or podiatrist may extend or reinstitute physical therapy for the patient named on the referral for a time period not to exceed ninety (90) days after the origination of the referral, unless a longer duration of physical therapy services is requested by the referring health care professional, provided that:

(1) the diagnosis or symptom listed on the referral is the same as the reason for the extension or reinstatement of the physical therapy treatment;

(2) the referring health care professional is notified of the extension or reinstatement of the treatment within five (5) business days of the date of the extension or reinstatement of the physical therapy treatment; and

(3) the patient involved has made or is making sufficient improvement in symptoms or function to warrant the extension or reinstatement of the physical therapy treatment without first being seen or re-evaluated by the by the referring health care professional.

(b) The physical therapist may not make a medical diagnosis or diagnosis of disease.

Permanent Final Adoptions

both the Occupational Therapist and the Occupational Therapy Assistant in their roles as supervisor/supervisee.

CONTACT PERSON:

Kathy Plant, Executive Secretary, 405-962-1400, #122

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 12, 2012:

435:30-1-2. Definitions

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

"Alternate supervisor" means an Oklahoma licensed Occupational Therapist who has signed a Form #5, Verification of Supervision, agreeing to provide supervision to the Occupational Therapy Assistant or applicant for licensure in the absence of the supervising Occupational Therapist. The alternate supervisor assumes all duties and responsibilities of the primary supervisor during that absence.

"Consultation" means periodic meetings to review and to provide recommendations and resource information regarding methods of implementation of the occupational therapy programs.

"Direct supervision" means personal supervision and specific delineation of tasks and responsibilities by an Oklahoma licensed occupational therapist who has signed a Form #5, Verification of Supervision, agreeing to supervise the Occupational Therapy Assistant or applicant for licensure, and Direct supervision shall include the responsibility for personally reviewing and interpreting the results of any habilitative or rehabilitative procedures conducted by the supervisee. It is the responsibility of the Oklahoma licensed supervising occupational therapist to be onsite during treatment to ensure that the supervisee does not perform duties for which he is not trained.

"General supervision" means responsible supervision and control by an Oklahoma licensed occupational therapist who has signed a Form #5, Verification of Supervision, agreeing to supervise the Occupational Therapy Assistant or applicant for licensure, with the Oklahoma licensed supervising occupational therapist providing provides both initial direction in developing a plan of treatment and periodic inspection of the actual implementation of the plan. Such plan of treatment shall not be altered by the supervised individual without prior consultation with and approval of the supervising occupational therapist. The supervising occupational therapist need not always be physically present or on the premises when the assistant is performing services; however, except in cases of emergency, supervision shall require the availability of the supervising occupational therapist for consultation with and direction of the supervised individual. Supervision is an interactive process, more than a paper review or a co-signature, and requires direct in-person contact.

"In association with" means a formal working relationship in which there is regular consultation.

"Occupational therapist of record" means the occupational therapist who assumes responsibility for the provision and /or supervision of occupational therapy services for a client, and is held accountable for the coordination, continuation and progression of the plan of care.

"Primary supervisor" means the Oklahoma licensed Occupational Therapist who has signed a Form #5, Verification of Supervision, agreeing to provide supervision to the Occupational Therapy Assistant or applicant for licensure. The Primary Supervisor must have access to the client's plan of care.

435:30-1-16. Responsible supervision

(a) An occupational therapist will not sign the Form #5, Verification of Supervision, to be the direct clinical supervisor for more than a total of four occupational therapy assistants or applicants for licensure regardless of the type of professional licensure or level of training.

(b) It shall be the responsibility of the occupational therapist to monitor the number of persons under his/her direct clinical supervision. It shall be the responsibility of the occupational therapy assistant to inquire of the occupational therapist in regards to the number of persons being directly supervised.

(c) ~~In unique cases,~~ On a case-by-case basis, an occupational therapist may petition the Committee to receive permission to supervise additional occupational therapy assistants or applicants.

(d) If responsible supervision is not practiced, both the occupational therapist and occupational therapy assistant are in violation of this rule.

(e) If the licensed occupational therapist agrees to supervise an occupational therapy assistant, the occupational therapist shall:

(1) determine the frequency and manner of consultations, taking into consideration the treatment settings being used, client rehabilitation status, and the competency of the occupational therapy assistant being supervised;

(2) maintain a record of all consultations provided;

(3) document in the client treatment record each time the occupational therapist supervising the occupational therapy assistant is physically present and directly supervises the treatment of a client by the occupational therapy assistant being supervised,

(4) make herself/himself available to the occupational therapy assistant in person or via telecommunication for consultation prior to implementation of any treatment program revisions; and

(5) review with the occupational therapy assistant in person or via telecommunication the diagnosis of the condition to be treated, the authorization of the procedure, dismissal of the client, and evaluation of the performance of the treatment given.

(f) The licensed occupational therapy assistant shall:

(1) consult with the supervising occupational therapist in person or via telecommunication prior to any treatment program revision; and

(2) notify the supervising occupational therapist of any significant changes in the physical, cognitive and/or psychological status of the client. Contact, or attempts to contact the supervising occupational therapist will be documented in the record.

(g) Occupational therapy assistants with more than one employer must have a primary supervisor at each job who has completed a Form #5, Verification of Supervision.

(h) The evaluating occupational therapist will document transfer of care to the occupational therapist of record.

[OAR Docket #12-770; filed 6-1-12]

**TITLE 485. OKLAHOMA BOARD OF NURSING
CHAPTER 1. ADMINISTRATION**

[OAR Docket #12-778]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

485:1-1-1. [AMENDED]

AUTHORITY:

Oklahoma Board of Nursing 59 O.S. §§567.2, 567.4.F, 567.5, 567.6, 567.6a, 567.7, 567.12, and 567.12a

DATES:

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The functions of the Board have been updated to ensure an accurate reflection of all classes of licenses and certifications regulated by the Oklahoma Board of Nursing, and to update the status of recognition of Advanced Practice Registered Nurses to licensure. These updates were made to ensure consistency with the *Oklahoma Nursing Practice Act*. Other clarifications were made to improve readability of the statement.

CONTACT PERSON:

Gayle McNish, Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, OK 73106 (405) 962-1800.

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 JULY 12, 2012:

485:1-1-1. Functions

The Board is authorized to:

(1) *adopt and revise rules not inconsistent with . . . the Oklahoma Nursing Practice Act; [59 O.S. Section 567.4(F)]*

(2) *prescribe standards for ~~educational~~education programs preparing persons for licensure to practice practical nursing, registered nursing, or ~~preparing individuals for~~ advanced practice ~~registered nursing; or for certification as an Advanced Unlicensed Assistant;~~*

(3) *provide for surveys of such ~~educational~~education programs;*

(4) *approve such ~~educational~~education programs for the preparation ~~for licensure to practice of practitioners of~~ practical nursing, registered nursing, or advanced practice ~~registered nursing; or for certification as an Advanced Unlicensed Assistant;~~ as shall meet the requirements of this statute and of the Board;*

(5) *deny, or withdraw approval of ~~educational~~education programs for failure to meet or maintain prescribed standards required by this statute and by the Board;*

(6) *examine ~~applicants for licensure, certification, and/or recognition;~~ license and issue, renew, and reinstate the licenses, certificates, and ~~recognitions~~ for duly qualified applicants;*

(7) *recognize ~~Advanced Practitioners in accordance with the Rules and Regulations;~~ establish requirements for licensure to practice practical nursing, registered nursing, or advanced practice registered nursing, and requirements for certification to practice as an Advanced Unlicensed Assistant;*

(8) *conduct hearings upon charges calling for disciplinary action; and*

(9) *provide consultation, conduct conferences, forums, studies and research on nursing education and practice.*

(10) *approve the agency's budget and authorize disbursement of the funds by the Executive Director.*

[OAR Docket #12-778; filed 6-4-12]

**TITLE 485. OKLAHOMA BOARD OF NURSING
CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES**

[OAR Docket #12-779]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

485:10-1-1. [AMENDED]

485:10-1-2. [AMENDED]

485:10-1-3. [AMENDED]

Permanent Final Adoptions

Subchapter 5. Minimum Standards for Approved Nursing Education Programs

485:10-5-12. [AMENDED]

Subchapter 7. Requirements for Registration and Licensure as a Registered Nurse

485:10-7-1. [AMENDED]

485:10-7-2. [AMENDED]

485:10-7-4. [AMENDED]

485:10-7-5. [AMENDED]

Subchapter 8. Criminal Background Checks for Applicants for Licensure/Certification

485:10-8-1. [NEW]

Subchapter 9. Requirements for Registration and Licensure as a Licensed Practical Nurse

485:10-9-1. [AMENDED]

485:10-9-2. [AMENDED]

485:10-9-4. [AMENDED]

485:10-9-5. [AMENDED]

Subchapter 10. Advanced Unlicensed Assistive Personnel/Assistant

485:10-10-2. [AMENDED]

485:10-10-3. [AMENDED]

485:10-10-5. [AMENDED]

485:10-10-6. [AMENDED]

485:10-10-7. [AMENDED]

485:10-10-8. [AMENDED]

485:10-10-8.1. [AMENDED]

485:10-10-10. [AMENDED]

Subchapter 11. Disciplinary Action

485:10-11-1. [AMENDED]

485:10-11-2. [AMENDED]

485:10-11-3. [AMENDED]

Subchapter 13. Requirements for Employment

485:10-13-1. [AMENDED]

485:10-13-2. [AMENDED]

485:10-13-3. [AMENDED]

Subchapter 15. Requirements for Practice as an Advanced Practice Registered Nurse

485:10-15-4. [AMENDED]

485:10-15-4.1. [REVOKED]

485:10-15-5. [AMENDED]

485:10-15-6. [AMENDED]

485:10-15-7. [AMENDED]

485:10-15-8. [AMENDED]

485:10-15-9. [AMENDED]

485:10-15-9.1. [NEW]

Subchapter 16. Requirements for Prescriptive Authority for Advanced Practice Registered Nurses

485:10-16-1. [AMENDED]

485:10-16-2. [AMENDED]

485:10-16-3. [AMENDED]

485:10-16-4. [AMENDED]

485:10-16-5. [AMENDED]

485:10-16-6. [AMENDED]

485:10-16-7. [AMENDED]

485:10-16-8. [AMENDED]

Subchapter 18. Prescriptive Authority for ~~C.R.N.A.~~ CRNA

485:10-18-2. [AMENDED]

485:10-18-3. [AMENDED]

485:10-18-4. [AMENDED]

485:10-18-5. [AMENDED]

AUTHORITY:

Oklahoma Board of Nursing 59 O.S. §§567.2, 567.3a.5, 567.3a.6, 567.3a.7, 567.3a.8, 567.3a.10, 567.3a.13, 567.4.F, 567.4a.2, 567.4a.3, 567.4a.6, 567.5.A, 567.5.B, 567.5.C, 567.5.D, 567.5a.A, 567.5a.B, 567.5a.C, 567.5a.D, 567.5a.E, 567.6.A, 567.6.B, 567.6.C, 567.6.D, 567.6a.A, 567.6a.B, 567.6a.C, 567.7.A, 567.7.B, 567.8.A, 567.8.B, 567.12a.A, 567.12a.B, 567.18.A, and 567.18.B; 75 O.S. § 314.1

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n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Many of the rule revisions incorporate 2011 statute changes in the *Oklahoma Nursing Practice Act*. These revisions include updates to titles used throughout the rules; additions to and revisions of definitions in 485:10-1-2; the deletion of a fee for temporary recognition of Advanced Practice Registered Nurses (APRNs) in 485:10-1-3; and the addition of a statement regarding the minimum age for licensure for Registered Nurses (RNs) and Licensed Practical Nurses (LPNs), and for certification of the Advanced Unlicensed Assistant (AUA). References throughout the *Rules* to effective dates that are now in the past are deleted for brevity.

Requirements related to endorsement of RNs and LPNs educated outside the United States have been revised to clarify terminology related to licensure or registration in the original country. In addition, language is added to clarify that the nursing education program from which the applicant graduated must be post-secondary, as there are some countries that, in the past, incorporated nursing education into high school technical programs. Requirements for English language testing are revised to reflect currently available tests, and requirements for CGFNS reports are revised to reflect current titles of reports. The requirements for an endorsement applicant to receive a temporary license are revised to reflect that fingerprint images must be submitted prior to the temporary license being issued, in order to allow the criminal background check to be conducted prior to the permanent license being issued.

In 485:10-8-1, new requirements are added related to criminal background checks for initial licensure/certification. These rules are needed to allow implementation of 2011 statute revisions requiring federal criminal background checks for initial applications, a process that is scheduled to commence on January 1, 2013.

Clarifying language is added to 485:10-10-7 related to the requirements for AUA certification, to better describe the educational preparation that can be accepted for certification. The requirement for notarization of the AUA application is deleted to allow online application submission.

Revisions have been made to 485:10-11-1 related to denial, revocation or suspension of a license or certificate, to clarify wording and align the language to the 2011 statute changes. In 485: 10-11-2, the rules related to the conduct of hearings have been revised to add timelines for receipt of continuance requests, discovery, and pre-hearing motions, so that adequate time is available for review of such requests or motions prior to the case hearing. Language is clarified related to subpoena requests and delivery, and the *Rules* are aligned to 2011 statute changes requiring the agency to issue the subpoenas. In addition, the *Rules* are clarified to address the Board's ability to take emergency action with regard to a respondent's license. The *Rules* related to informal disposition are clarified in 485:10-11-3 to address that, should the Board not accept the recommendation of the Informal Disposition Panel, a case will be set and notice given for a hearing before the full Board. This eliminates a reference in the *Rules* to the next Board meeting, as it may not be possible to schedule the hearing for the next meeting.

There are several changes in Subchapter 15: Requirements for Practice as an Advanced Practice Registered Nurse. These changes are driven by 2011 statute revisions, which updated terminology and definitions, revised requirements for initial licensure of the APRN, and added requirements for endorsement of an APRN license and approval of APRN education programs. Rule changes that implement 2011 statute revisions include a January 1, 2016, requirement for APRN education and certification in one of the population foci; clarifying language regarding certification that is consistent with APRN educational preparation; requirements for endorsement of APRN licensure from another state or territory; new requirements for

certification programs; deletion of an option for temporary recognition; the addition of requirements for continuing qualifications for practice as an APRN as a condition for reinstatement or return to active status; and new requirements for approval of advanced practice education programs, effective January 1, 2016. A requirement for enrollment in a current cycle of continuing competency assessment (CCA) or Certificate Maintenance Program is deleted, as requirements for re-certification have now been established by the American Midwifery Certification Board for all Certified Nurse-Midwives. Other clarifications are made to improve readability and flow, and to provide consistency throughout the APRN Rules.

In Subchapter 16, requirements related to prescriptive authority recognition are revised to ensure consistent use of terminology, and to end a current exception to educational requirements for Clinical Nurse Specialists on January 1, 2016. After that time, Clinical Nurse Specialists will need to demonstrate their advanced practice education programs included an academic course in pharmacotherapeutic management, and didactic and clinical preparation for prescribing. This is consistent with educational requirements for Certified Nurse Practitioners and Certified Nurse Midwives. Other language clarifies current rule requirements related to renewal. In 485:10-16-7, language is deleted that requires the Board to automatically place the APRN's prescriptive authority recognition on inactive status upon notification the APRN does not have a current supervising physician, as the APRN is allowed by law 30 days to notify the Board of a change in supervising physician. If the APRN does not notify the Board office of a change within 30 days of the change, disciplinary action may be taken. In Subchapter 18, requirements for CRNA prescriptive authority are revised to clarify that academic hours may be used to meet educational requirements, as well as continuing education hours.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF JULY 12, 2012:

SUBCHAPTER 1. GENERAL PROVISIONS

485:10-1-1. Purpose

(a) The Oklahoma Nursing Practice Act requires any person who practices or offers to practice practical nursing, ~~or registered nursing,~~ or advanced practice registered nursing, to be licensed and to submit sufficient evidence of qualification so to practice and shall be licensed and recognized as provided.

(b) The Oklahoma Board of Nursing is established by the Oklahoma Nursing Practice Act for the implementation of the statute by carrying on the licensing, certification, and educational functions for advanced unlicensed assisting, practical nursing, registered nursing and advanced practice registered nursing.

485:10-1-2. Definitions

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

"**Academic credit hours**" are calculated as follows:

- (A) 1 academic semester credit hour = 16 contact hours
- (B) 1 academic quarter credit hour = 12.5 contact hours

"**Accountable**" means assuming responsibility to the client, the public, other health-care practitioners and oneself for one's actions and/or decisions and their outcomes.

"**Additional nursing function**" means the nursing functions, procedures, or tasks, not usually included at the time of matriculation in most nursing education programs; requiring additional knowledge, instruction, and practice before they can be safely performed. Such functions must fall within the scope of accepted nursing practice; may become necessary due to technological advances, new practice standards, or the natural evolution of an occupation; and must not be precluded by other Oklahoma Practice Acts.

~~"Advanced practice nurse"~~ **Practice Registered Nurse**" or "**APRN**" is a term that includes ~~Advanced Registered Certified Nurse Practitioners (ARNP)(CNP), Clinical Nurse Specialists (CNS), Certified Nurse Midwives (CNM), and Certified Registered Nurse Anesthetists (CRNA).~~

~~"Advanced unlicensed assistive person"~~ **Unlicensed Assistant**" or "**AUA**" means an individual, other than a licensed nurse, who performs in an assistive role and has been certified to perform core skills as delegated by a licensed nurse and as authorized by the Rules and Regulations of the Oklahoma Board of Nursing.

"**Board**" means the Oklahoma Board of Nursing [59 O.S. Section 567.3(1)]

"**Client**" means a consumer of nursing care; may be an individual or group; is synonymous with "patient".

"**Clinical learning experiences**" means faculty-planned and guided activities designed to assist students to meet stated program and course outcomes and to safely apply knowledge and skills when providing nursing care to clients across the lifespan as appropriate to the role expectations of the graduates. These experiences occur in a variety of affiliating agencies or clinical practice settings including, but not limited to: acute care facilities, extended care facilities, long-term care facilities, clients' residences, and community agencies; and in associated clinical pre- and post-conferences.

"**Clinical skills laboratory**" means a designated area in which equipment and supplies are provided to simulate a clinical facility, allowing skills and procedures to be demonstrated and practiced.

"**Continuing education contact hours**" are calculated as: 1 contact hour = 50 minutes.

"**Continuous incarceration**" means a period of confinement inside a penal institution, pursuant to a sentence from a court of competent jurisdiction, which confinement continues uninterrupted by periods of liberty from its beginning to its end. It does not include such sentences as weekends in jail with the defendant at liberty during the week.

"**Controlling institution**" means the agency or institution that administers the nursing education program, assumes responsibility for its financing, graduates the students, and grants the diploma, certificate or degree to the graduates.

~~"Core skills" means the list of functions developed by the working committee prescribed in 59 O.S. § 567.3a.13 that an advanced unlicensed assistive person~~ **Advanced Unlicensed Assistant shall should be able to perform capable of performing**

Permanent Final Adoptions

upon completion of the certification training program and satisfactory passage of the certification examination.

"Delegating" means entrusting the performance of selected nursing duties to individuals qualified, competent and legally able to perform such duties.

"Distance learning program" means 50% or more of the theory components of the board-approved nursing education program are offered by correspondence, on-line, through video-conferencing, or via CD-ROM.

"Innovative approach" means a creative nursing education strategy that departs from the current rule structure and requires Board approval for implementation.

"Key Party" means immediate family members and others who would be reasonably expected to play a significant role in health care decisions of the patient and includes but is not limited to, the spouse, domestic partner, sibling, parent, child, guardian, and person authorized to make health care decision for the patient.

"Legal authority" means the authorized state agency for the administration of the statutes relating to the practice of nursing in this state. The Oklahoma Board of Nursing is the only legal authority for licensing ~~practical nurses~~ Licensed Practical Nurses, Registered Nurses, and Advanced Practice Registered Nurses; and for certifying Advanced Unlicensed Assistants issuing recognition to advanced practice nurses in Oklahoma.

"Licensed nurse" means a ~~registered nurse~~ Registered Nurse or "RN", or licensed practical nurse Licensed Practical Nurse or "LPN", or an Advanced Practice Registered Nurse currently licensed by the Oklahoma Board of Nursing.

"Nurse Administrator" means the Registered Nurse responsible for the administration of the nursing education program or the nurse holding the highest level of management in an agency/facility regardless of the title used.

"Preceptor" means a licensed nurse who is employed by the facility in which the clinical experience takes place, and who agrees to provide supervision to a student for a specified period of time during the preceptor's scheduled work hours in order to assist the student to meet identified learning objectives.

"State approved program of nursing" means a nursing education program approved by the Oklahoma Board of Nursing.

"Member board jurisdiction" means a full member board of National Council of State Boards of Nursing.

"Supervising" means providing guidance by a qualified nurse for the accomplishment of the nursing task or activity with initial direction of the task or activity and periodic inspection of the actual act of accomplishing a task or activity.

485:10-1-3. Fees

(a) Fee schedule.

(1) **Initial applications.** The following fees shall be charged by the Board of Nursing for initial applications:

- (A) Registered Nurse/Licensed Practical Nurse
 - (i) Licensure examination fee - \$85.00
 - (ii) Endorsement fee - \$85.00
 - (iii) Education equivalence evaluation fee - \$40.00

- (iv) Cost of national examination
- (v) R.N. examination challenge of results fee - \$200.00
- (vi) LPN examination challenge of results fee - \$125.00
- (vii) Examination review fee - \$90.00
- (viii) Temporary license fee - \$10.00

(B) Advanced Unlicensed ~~Assistant~~ Assistive ~~person~~

- (i) Certification examination fee - \$20.00
- (ii) Cost of examination

(C) Advanced Practice Registered Nurses

- (i) ~~Recognition~~ Licensure fee - \$70.00
- (ii) ~~Temporary recognition~~ fee - \$10.00
- ~~(iii)~~ Prescriptive authority fee - \$85.00
- ~~(iv)~~ Authority to order, select, obtain and administer drugs - \$85.00

(2) **Renewal.** The following fees shall be charged in accordance to the biennial licensure/certificate/recognition renewal schedule established by the Board:

- (A) Registered Nurse/Licensed Practical Nurse license - \$75.00
- (B) Advanced Unlicensed ~~Assistant~~ Assistive ~~Person~~ certificate - \$25.00
- (C) Advanced Practice Registered Nurse licen- sure ~~recognition~~ - \$40.00
- (D) Prescriptive authority - \$40.00
- (E) Authority to order, select, obtain and administer drugs - \$40.00
- (F) Reinstatement of lapsed license/certificate/recognition - renewal fee(s) + \$40.00
- (G) Return to active - renewal fee(s) + \$40.00

(3) **Miscellaneous fees.** The following miscellaneous fees shall be charged by the Board:

- (A) Transcripts from closed schools of nursing - \$15.00
- (B) Duplication or modification of license/certificate/recognition - \$25.00
- (C) Certified verification of license/certificate/recognition - \$40.00
- (D) Written verification of status of license/certificate/recognition - \$10.00 per name
- (E) Supervisory Physician change request - \$10.00
- (F) Requested review of contact hours for Prescriptive Authority - \$70.00
- (G) Corporation certificate - \$15.00
- (H) Certificate for framing - \$15.00
- (I) Insufficient funds processing fee - \$25.00
- (J) Facsimile (Fax) fee (per page) - \$1.00
- (K) Oklahoma Nursing Practice Act, Rules - \$15.00
- (L) Full survey visit to a nursing education program - \$500.00 ~~effective July 1, 2009~~
- (M) Consultative visit to a nursing education program - \$250.00 ~~effective July 1, 2009~~

(4) **Public access, open records.** The following public access, open record fees shall be charged by the Board:

- (A) Certification of public records (per page) - \$1.00
- (B) Duplication of public records (per page) - \$0.25
- (C) Computer address list - \$0.01/record + \$4.50/1000 labels + postage, \$40.00 minimum charge
- (D) Staff research time, when available (per hour) - \$20.00
- (E) Computer research time, when available (per hour) - \$100.00

(b) **Submission of fees.**

- (1) All fees assessed by the Board as set out in the fee schedule in (a) of this section shall be received prior to processing an application for licensure, certification or recognition or providing the requested service.
- (2) All fees are non-refundable.

SUBCHAPTER 5. MINIMUM STANDARDS FOR APPROVED NURSING EDUCATION PROGRAMS

485:10-5-12. Out-of-State nursing education programs conducting clinical experiences in Oklahoma

- (a) Nursing education programs leading to initial licensure that wish to conduct clinical experiences in Oklahoma must obtain prior permission from the Board.
- (b) To apply for permission from the Board, the program must submit a letter of request to the Board and provide evidence that the following standards will be met:
 - (1) The program must be on full approval status with the board of nursing in another member board jurisdiction;
 - (2) The program will provide for supervision of students while in the clinical area by a nursing faculty member licensed in Oklahoma;
 - (3) A written clinical affiliation agreement with the clinical facility will be in place; and
 - (4) If precepted clinical experiences are requested, the program will ensure they are conducted in accordance with the Board's policy.
- (c) Registered Nurses enrolled in out-of-state advanced practice ~~registered nursing educational~~ education programs may participate in clinical experiences and clinical preceptorship in Oklahoma as part of the advanced practice ~~registered nursing educational~~ education program, under the following conditions:
 - (1) The advanced practice registered nurse student has an Oklahoma license to practice registered nursing, and
 - (2) The advanced practice ~~registered nursing educational~~ education program meets the requirements established by the Oklahoma Board of Nursing for ~~educational~~ education preparation of ~~advanced practice registered nurses~~ Advanced Practice Registered Nurses.

SUBCHAPTER 7. REQUIREMENTS FOR REGISTRATION AND LICENSURE AS A REGISTERED NURSE

485:10-7-1. Licensure by examination

- (a) **Qualifications.** An applicant for licensure by examination as a Registered Nurse must meet the following qualifications:
 - (1) Submits an application containing such information as the Board may prescribe;
 - (2) is a minimum of eighteen (18) years of age on or before the date the license is issued;
 - (23) Submits proof satisfactory to the Board in such manner and upon such forms as the Board may require to show that the applicant has completed the basic professional curricula of a state Board-approved registered nursing education program conducted in a member board jurisdiction that meets the requirements of 485:10-5-6 (d-1, 2, and 3), and holds or is entitled to hold a diploma or degree therefrom.
- (b) **Applications.**
 - (1) Applications for licensure by examination must be completed, notarized, and filed with the Board prior to the examination. If the application is not completed within one (1) year, a new application and new fee will be required.
 - (2) One (1) photograph signed by the applicant must be filed with the application.
- (c) **Admission to the examination.** The candidate must register with the authorized testing service and submit the required fee. An authorization to test will be issued by the testing service allowing the candidate to schedule the examination.
- (d) **Fee for examination.**
 - (1) The fee for writing the licensing examination adopted by the Board for Registered Nurse licensure shall be established by the Board in accordance with statutory guidelines and shall accompany the application.
 - (2) The fee for rewriting the licensing examination adopted by the Board for Registered Nurse licensure shall be the same as the fee established for the first-time writing.
 - (3) The fee for the examination is not refundable.
- (e) **Policies for the examination.**
 - (1) Applicants must pass the National Council Licensure Examination for Registered Nurses (NCLEX-RN).
 - (2) Applicants who fail the NCLEX-RN may be eligible to repeat the examination upon filing an application and fee, and upon meeting Board requirements.
 - (3) To be eligible to write or rewrite the NCLEX-RN, the applicant must submit a completed application, transcript, and fee to the Board and a completed registration form and fee to the authorized testing service within two years of completion of the nursing education program. If more than two years has elapsed, the applicant must complete additional education as follows:
 - (A) Successfully complete a Board-approved refresher course in accordance with the Board's policy; or
 - (B) Successfully complete nursing didactic coursework and faculty-supervised clinical experience in a board-approved nursing education program at the appropriate educational level, to include at least 80 hours in classroom and skills laboratory review and at

Permanent Final Adoptions

least 80 hours participating in patient care activities in the clinical setting.

(4) After completion of the required additional education, the applicant will have two years from the completion date of the additional education to take and pass the NCLEX-RN.

485:10-7-2. Licensure by endorsement

(a) Qualifications.

(1) The applicant must submit an application containing such information as the Board may prescribe;

~~(2) is a minimum of eighteen (18) years of age on or before the date the license is issued;~~

~~(23)~~ An applicant for licensure by endorsement as a Registered Nurse must meet the requirements of the Oklahoma Nursing Practice Act. An evaluation of educational requirements may be completed to ensure the applicant meets educational standards.

~~(34)~~ An applicant licensed in another state or U.S. territory since January 1, 1952 must have written the licensing examination adopted by the Board with a passing score as established by the Board. A license to practice nursing in Oklahoma will not be issued until this requirement is met.

~~(45)~~ An applicant must submit evidence of either:

(A) successful completion of the National Council Licensure Examination for Registered Nurses since July 1, 1982; or

(B) passing the State Board Test Pool Examination for Registered Nurse licensure prior to July 1, 1982.

~~(56)~~ In addition to meeting other requirements for endorsement established by the Board in these rules, ~~effective January 1, 2005~~, each applicant for endorsement must demonstrate evidence of continued qualifications for practice through completion of one or more of the following requirements within the last two (2) years prior to receipt of the completed application in the Board office:

(A) Submission of an official transcript or certificate of completion verifying completion of a nurse refresher course with content consistent with Board policy;

(B) Successfully pass the National Council Licensure Examination for Registered Nurses;

(C) Submission of an official transcript verifying successful completion of at least ~~seven (7)~~ six (6) academic semester credit hours of nursing courses which include classroom and clinical instruction; and/or

(D) Present evidence of licensure as a registered nurse in another state with employment in a position that requires nursing licensure with verification of at least 520 work hours during the past two (2) years.

~~(67)~~ Applicants for endorsement who took the National Council Licensure Examination for Registered Nurses for initial licensure within the last two years must:

(A) Provide evidence of completion of the nursing education program within two years of initial application for licensure by examination; or

(B) Provide evidence of at least six months work experience as a registered nurse in the state, U.S. territory, or country of ~~original~~ licensure.

(b) Applications.

(1) Applications must be completed, notarized and accompanied by a photograph signed by the applicant and filed with the Board.

(2) Endorsement may be accepted from the original state or U.S. territory of licensure by examination.

(3) If the applicant has written the licensing examination adopted by the Board in a state other than the state or U.S. territory of original licensure, an endorsement will be requested from that state, also.

(4) If the application is not completed within one (1) year after receipt of fee, the application must be refilled.

(c) Fee for licensure by endorsement.

(1) The fee shall accompany the application.

(2) The fee is not refundable.

(3) If the application is not completed within one (1) year, a new application and new fee will be required for licensure.

(d) Qualifications for applicants educated in foreign countries or in a U.S. territory.

An applicant educated in a foreign country must meet the current educational requirements for licensure in Oklahoma. An applicant educated in a U.S. territory not recognized as a full member of National Council of State Boards of Nursing (NCSBN) must meet the requirements for applicants educated in foreign countries. An applicant educated in a U.S. territory that is a full member of NCSBN but in a nursing education program not included on the NCSBN state-approved programs of nursing list at the time of the applicant's graduation from the program must meet the requirements for applicants educated in foreign countries.

(1) The applicant must present evidence of:

(A) graduation from a government-approved post-secondary nursing education program, as verified from the Commission of Graduates of Foreign Nursing Schools (CGFNS);

(B) completion of formal courses including theory and clinical experience in nursing care of the adult, nursing care of children, maternal-infant nursing, psychiatric-mental health nursing as evidenced by:

(i) a translated transcript with certified proof of translation received directly from the nursing education program in the original country of licensure, or

(ii) a certified copy of original transcript obtained directly from the Commission of Graduates of Foreign Nursing Schools (CGFNS)

(C) licensure or registration as required in country of graduation as evidenced by official verification received directly from the Commission of Graduates of Foreign Nursing Schools;

(D) current competence in oral and written English as evidenced by receipt of current, valid scores directly from the approved testing service or from CGFNS verifying successful completion of:

- (i) ~~Test of English as a Foreign Language (TOEFL) and Test of Spoken English (TSE) and Test of Written English (TWE) of the Educational Testing Service, or~~
 - (ii) ~~Test of English for International Communication (TOEIC) and Test of Spoken English and Test of Written English, to include the Listening and Reading Test, and the Speaking and Writing Test of the Educational Testing Service, or~~
 - (iii) International English Language Testing System (IELTS), or
 - (iv) Test of English as a Foreign Language Internet-based test (TOEFL iBT) of the Educational Testing Service.
- (E) An evaluation of educational credentials as evidenced by:
- (i) CGFNS Certificate Status or Visa Screen Certificate or
 - (ii) CGFNS Healthcare Profession and Science Course-by-Course Report or Credentials Evaluation Service Professional Report;
 - (iii) Reports received from CGFNS must have been completed within the five (5) years immediately preceding the date of application for licensure by endorsement. The five-year requirement is waived if the applicant holds a license in another state.
- (F) Evidence of either:
- (i) successful completion of the National Council Licensure Examination for Registered Nurses since July 1, 1982; or
 - (ii) passing the State Board Test Pool Examination for Registered Nurse licensure prior to July 1, ~~1981~~1982;
- (2) The requirements for competence in spoken and written English are waived for applicants who are:
- (A) Graduates of nursing education programs taught in English in Australia, Canada (except Quebec), Ireland, New Zealand, the United Kingdom, Trinidad, Tobago, Jamaica, Barbados, South Africa, and the United States.
 - (B) Licensed in another US State or Territory, have successfully completed the licensure examination approved by the Board and provide evidence of at least one year full-time equivalent work experience in a clinical setting as a registered nurse in the state or territory of licensure.
- (3) Applicants must submit a completed application and the required fee.
- (e) **Temporary license for endorsement applicants.**
- (1) A temporary license may be issued to the applicant on proof of
 - (A) Current unrestricted licensure in another state with no history of arrest or disciplinary action requiring further review;
 - (B) Evidence of having successfully passed the licensure examination adopted by the Oklahoma Board of Nursing;
 - (C) Evidence of meeting educational qualifications through completion of a state board-approved nursing education program meeting the educational standards established by the Board, or an evaluation of educational credentials and nursing licensure or registration as required in country of origin for the foreign-educated nurse as evidenced by:
 - (i) Commission on Graduates of Foreign Nursing Schools (CGFNS) Healthcare Profession and Science Course-by-Course Report or Credentials Evaluation Service Professional Report with verification of equivalent educational credentials and unrestricted licensure in country of origin, or
 - (ii) Commission on Graduates of Foreign Nursing Schools (CGFNS) Certificate status or Visa Screen Certificate, accompanied by a verification of graduation from a government approved nursing education program, the translated transcript, and verification of unrestricted nursing licensure or registration as required in country of graduation;
 - (D) Payment of the fee for licensure by endorsement and temporary license;
 - (E) Foreign-educated applicants must provide evidence of current competence in oral and written English by meeting the requirements of 485:10-7-2(d)(1)(D)(i-iv); ~~and~~
 - (F) Certification of employment in a position that requires nursing licensure as a registered nurse for a minimum of 520 work hours in the past two years; and
 - (G) Effective January 1, 2013, submission of fingerprint images with the fee established by the Oklahoma State Bureau of Investigation for the purpose of permitting a state and national criminal history records search to be completed.
- (2) The temporary license may not be issued for a period longer than ninety (90) days.
- (3) The temporary license may be extended, but such period shall be no longer than one (1) year for any applicant.
- 485:10-7-4. Reinstatement of license**
- (a) The Registered Nurse license is lapsed if not renewed by expiration date thereof.
 - (b) The applicant must submit an application containing such information as the Board may prescribe.
 - (c) A completed application for reinstatement must be submitted to the Board office with the required fee. If the application is not completed within one (1) year, a new application and new fee will be required.
 - (d) The fee for reinstatement of license shall be established by the Board.
 - (e) An application for reinstatement for a license that has been suspended or surrendered must be in compliance with all terms and conditions of any Order entered with regard to the suspension or surrender and shall be considered by the Board.

Permanent Final Adoptions

(f) An application for reinstatement of a license that has been revoked by the Board shall be considered by the Board.

(g) An application for reinstatement for a license not previously revoked, suspended or surrendered may be granted on such terms and conditions as the Board may require.

(h) In addition to meeting other reinstatement requirements established by the Board in these rules, ~~effective January 1, 2005~~, if the Oklahoma nursing license has not been in an active licensure status for a period of two (2) years or more, the applicant for reinstatement must demonstrate continued qualifications for practice through completion of one or more of the following requirements within the last two (2) years prior to receipt of the completed application in the Board office:

(1) Submission of an official transcript or certificate of completion verifying completion of a nurse refresher course with content consistent with Board policy;

(2) Successfully pass the National Council Licensure Examination for Registered Nurses;

(3) Submission of an official transcript verifying successful completion of at least ~~seven (7)~~six (6) academic semester credit hours of nursing courses which include classroom and clinical instruction; and/or

(4) Present evidence of licensure as a registered nurse in another state with employment in a position that requires nursing licensure with verification of at least 520 work hours during the past two (2) years preceding receipt of the application for reinstatement in the Board office.

485:10-7-5. Inactive status

(a) Any Registered Nurse licensee who desires to retire from the practice of nursing shall submit a written request to be placed on the Inactive List.

(b) The date of transfer to the inactive status will be the date of approval by the Board. The Board may delegate approval of the licensee's request to be placed on inactive status to the Board Staff.

(c) A licensee shall remain on the Inactive List unless otherwise indicated without the payment of the renewal fee.

(d) The return to active fee shall be due when the licensee desires to return to active practice. The applicant must submit an application containing such information as the Board may prescribe.

(e) An application for return to active status for a license that has been placed on Inactive Status by Order of the Board shall be considered by the Board.

(f) In addition to meeting other requirements to return to active status as established by the Board in these rules, ~~effective January 1, 2005~~, if the nursing license has been on the Inactive List for a period of two (2) years or more, the licensee must demonstrate continued qualifications for practice through completion of one or more of the following requirements within the last two (2) years prior to receipt of the completed application in the Board office:

(1) Submission of an official transcript or certificate of completion verifying completion of a nursing refresher course with content consistent with Board policy;

(2) Successfully pass the National Council Licensure Examination for Registered Nurses;

(3) Submission of an official transcript verifying successful completion of at least ~~seven (7)~~six (6) academic semester credit hours of nursing courses which include classroom and clinical instruction; and/or

(4) Present evidence of licensure as a nurse in another state with employment in a position that requires nursing licensure with verification of at least 520 work hours during the past two (2) years preceding receipt of the request for return to active status in the Board office.

SUBCHAPTER 8. CRIMINAL BACKGROUND CHECKS FOR APPLICANTS FOR LICENSURE/CERTIFICATION

485:10-8-1. Requirements for criminal background checks for initial licensure/certification in this state

(a) All applications for registered nurse or practical nurse licensure by examination or endorsement or for certification as an Advanced Unlicensed Assistant shall include a criminal history records search.

(b) Until January 1, 2013, such applications shall be accompanied by a completed Oklahoma State Bureau of Investigation (OSBI) criminal history records search with a search of the applicant's full legal name, all alias names, and Social Security number/s, to include a search for sex offender and violent offender status.

(c) Effective January 1, 2013, each application shall be accompanied by two full sets of fingerprint images to be used for the purpose of permitting a state and national criminal history records search. An applicant who has submitted fingerprint images that were used for the purpose of permitting a state and national criminal history records search with a previous application submitted to the Board within the last twelve (12) months or submitted to the Board after the implementation of the federal continuous Record of Arrest reports is exempt from this requirement.

(d) The fingerprint images will be accompanied by a money order or cashier's check made payable to the OSBI for the fee established by the OSBI.

(e) Upon receipt of the application and fingerprint images with the established fees, the Board shall timely forward the fingerprint images to the OSBI to permit a state and national criminal history records search to be completed.

SUBCHAPTER 9. REQUIREMENTS FOR REGISTRATION AND LICENSURE AS A LICENSED PRACTICAL NURSE

485:10-9-1. Licensure by examination

(a) **Qualifications.** An applicant for licensure by examination as a Licensed Practical Nurse must meet the following qualifications:

(1) has received a high school diploma or a ~~high school~~ equivalency General Educational Development certificate

(GED), ~~or meets criteria for an Adult High School Diploma;~~

~~(2)~~ is a minimum of eighteen (18) years of age on or before the date the license is issued;

~~(23)~~ submits an application containing such information as the Board may prescribe;

~~(34)~~ submits proof satisfactory to the Board in such manner and upon such forms as the Board may require to show that the applicant has completed the basic curricula of a state Board-approved practical nursing education program conducted in a member board jurisdiction that meets the requirements of 485:10-5-6 (e-1, 2), and holds or is entitled to hold a diploma or degree therefrom;

~~(45)~~ has completed equivalent courses through one of the following methods:

(A) in a state approved program of nursing with a minimum overall grade point average of 2.0, and a grade of a "C" or higher in all nursing courses. Evidence must be provided that verifies successful completion of a minimum of one academic year of instruction in a registered nursing education program, including classroom instruction and clinical practice in nursing care of the adult, nursing care of children, and maternal-infant nursing. Course content in anatomy and physiology, growth and development, mental health, pharmacology and nutrition also must have been successfully completed. Courses in external degree programs or completed by challenge examination are not acceptable for PN equivalency; or

(B) has completed a registered nursing education program in a foreign country and meets the requirements of 485:10-7-2(d).

~~(56)~~ Board-approved role transition learning packet related to legal and ethical aspects of practical nursing must be successfully completed by all PN equivalency applicants prior to approval to write the examination for licensure.

(b) Applications.

(1) Applications for licensure by examination must be completed, notarized and filed with the Board prior to the examination. If the application is not completed within one (1) year, a new application and new fee will be required.

(2) One (1) photograph signed by the applicant must be filed with the application.

(c) Admission to the examination. The candidate must register with the authorized testing service and submit required fee. An authorization to test will be mailed to the candidate by the testing service allowing them to schedule the exam.

(d) Fee for examination.

(1) The fee for writing the licensing examination adopted by the Board for practical nurse licensure shall be established by the Board in accordance with statutory guidelines and shall accompany the application.

(2) The fee for rewriting the licensing examination adopted by the Board for practical nurse licensure shall be the same as the fee established for the first-time writing.

(3) The fee for the examination (first time and rewrite) is not refundable.

(e) Policies for the examination.

(1) Applicants must pass the National Council Licensure Examination for Practical Nurses (NCLEX-PN).

(2) Applicants who fail the NCLEX-PN may be eligible to repeat the examination upon filing an application and fee meeting Board requirements.

(3) To be eligible to write or rewrite the NCLEX-PN, the applicant must submit a completed application, transcript, and fee to the Board and a completed registration form and fee to the authorized testing service within two years of completion of the nursing education program or the equivalent coursework and/or related experience. If more than two years has elapsed, the applicant must complete additional education as follows:

(A) Successfully complete a Board-approved refresher course in accordance with the Board's policy; or

(B) Successfully complete nursing didactic coursework and faculty-supervised clinical experience in a board-approved nursing education program at the appropriate educational level, to include at least 80 hours in classroom and skills laboratory review and at least 80 hours participating in patient care activities in the clinical setting.

(4) After completion of the required additional education, the applicant will have two years from the completion of the additional education to take and pass the NCLEX-PN.

485:10-9-2. Licensure by endorsement

(a) Qualifications.

(1) The applicant must submit an application containing such information as the Board may prescribe;

~~(2)~~ is a minimum of eighteen (18) years of age on or before the date the license is issued;

~~(3)~~ has received a high school diploma or a General Educational Development certificate (GED);

~~(24)~~ An applicant for licensure by endorsement as a Licensed Practical Nurse shall meet the requirements of the Oklahoma Nursing Practice Act. An evaluation of educational requirements may be completed to ensure the applicant meets educational standards.

~~(35)~~ An applicant licensed in another state or U.S. territory since June 30, 1954 must have passed the licensing examination adopted by the Board. A license to practice practical nursing in Oklahoma will not be issued until this requirement is met.

~~(46)~~ In addition to meeting other requirements for endorsement established by the Board in these rules, ~~effective January 1, 2005,~~ each applicant for endorsement must demonstrate evidence of continued qualifications for practice through completion of one or more of the following requirements within the last two (2) years prior to receipt of the completed application in the Board office:

(A) Submission of an official transcript or certificate of completion verifying completion of a nurse

Permanent Final Adoptions

- refresher course with content consistent with Board policy;
- (B) Successfully pass the National Council Licensure Examination for Practical Nurses;
- (C) Submission of an official transcript verifying successful completion of at least ~~seven (7)~~ six (6) academic semester credit hours or 105 contact hours of nursing courses in a state-approved practical or registered nursing education program, which includes classroom and clinical instruction; and/or
- (D) Present evidence of licensure as a practical nurse in another state with employment in a position that requires practical nursing licensure with verification of at least 520 work hours during the past two (2) years.
- (57) Applicants for endorsement who took the National Council Licensure Examination for Practical Nurses for initial licensure within the last two years must
- (A) Provide evidence of completion of the nursing education program within two years of initial application for licensure by examination; or
- (B) Provide evidence of at least six months work experience as a practical nurse in the state, U.S. territory, or country of ~~original~~ licensure.
- (b) **Applications.**
- (1) Applications must be completed, certified and accompanied by a photograph signed by the applicant and filed with the Board.
- (2) Endorsement may be accepted from the original state of licensure by examination.
- (3) If the applicant has written the licensing examination adopted by the Board in a state other than the state or U.S. territory of original licensure, an endorsement will be requested from that state, also.
- (4) If the application is not completed within one (1) year after receipt of fee, the application must be refiled.
- (c) **Fee for licensure by endorsement.**
- (1) The fee shall accompany the application.
- (2) The fee is not refundable.
- (3) If the application is not completed within one (1) year, a new application and new fee will be required for licensure.
- (d) **Qualifications for applicants educated in foreign countries or in a U.S. territory.** An applicant educated in a foreign country must meet the current educational requirements for licensure in Oklahoma. An applicant educated in a U.S. territory not recognized as a full member of National Council of State Boards of Nursing (NCSBN) must meet the requirements for applicants educated in foreign countries. An applicant educated in a U.S. territory that is a full member of NCSBN but in a nursing education program not included on the NCSBN state-approved programs of nursing list at the time of the applicant's graduation from the program must meet the requirements for applicants educated in foreign countries.
- (1) The applicant must present evidence of:
- (A) completion of a high school diploma or a ~~high school equivalency certificate~~ General Educational

Development certificate (GED), or meet criteria for an Adult High School Diploma;

(B) current competence in oral and written English as evidenced by receipt of current, valid scores directly from the testing service or from CGFNS verifying successful completion of:

(i) ~~Test of English as a Foreign Language (TOEFL), Test of Written English (TWE) and Test of Spoken English (TSE) of the Educational Testing Service; or~~

~~(ii) Test of English for International Communication (TOEIC) and Test of Spoken English and Test of Written English, to include the Listening and Reading Test, and the Speaking and Writing Test of the Educational Testing Service; or~~

~~(iii) International English Language Testing System (IELTS); or~~

~~(iv) Test of English as a Foreign Language Internet-based test (TOEFL iBT) of the Educational Testing Service.~~

(C) graduation from a government approved post-secondary practical nursing education program or equivalent courses in a government approved post-secondary nursing education program, as verified from the Commission of Graduates of Foreign Nursing Schools (CGFNS);

(D) licensure or registration as required in country of graduation as evidenced by official verification completed within the last twelve (12) ~~12~~ months immediately preceding the date of application for licensure by endorsement received directly from the Commission of Graduates of Foreign Nursing Schools,

(E) completion of formal courses including theory and clinical experience in nursing care of the adult, nursing care of children, and maternal-infant nursing in a government-approved school of nursing as evidenced by:

(i) a translated transcript received directly from the nursing education program in the original country of licensure with certified proof of translation; or

(ii) a certified copy of the transcript received directly from the Commission on Graduates of Foreign Nursing Schools (CGFNS).

(F) An evaluation of educational credentials as evidenced by:

(i) Commission on Graduates of Foreign Nursing Schools (CGFNS) Healthcare Profession and Science Course-by-Course Report or Credentials Evaluation Service Professional Report, or

(ii) Commission on Graduates of Foreign Nursing Schools (CGFNS) Certificate or Visa Screen Certificate status;

(iii) Reports received from CGFNS must have been completed within the five (5) years immediately preceding the date of application for licensure by endorsement. The five-year requirement

is waived if the applicant holds a license in another state.

(2) The applicant must successfully complete the licensing examination adopted by the Oklahoma Board of Nursing.

(3) The requirements for competence in spoken and written English are waived for applicants who are:

(A) Graduates of nursing education programs taught in English in Australia, Canada (except Quebec), Ireland, New Zealand, the United Kingdom, Trinidad, Tobago, Jamaica, Barbados, South Africa, and the United States, or

(B) Licensed in another US State or Territory, have successfully completed the licensure examination approved by the Board and provide evidence of at least one year full-time equivalent work experience in a clinical setting as a practical nurse in the state or territory of licensure.

(4) Applicants must submit a completed application with the required application and evaluation fees.

(e) **Temporary license for endorsement applicants.**

(1) A temporary license may be issued to the applicant on proof of

(A) Current unrestricted licensure in another state with no history of arrest or disciplinary action requiring further review;

(B) Evidence of having successfully passed the licensure examination adopted by the Oklahoma Board of Nursing;

(C) Evidence of meeting educational qualifications through completion of a state board-approved nursing education program meeting the educational standards established by the Board, or an evaluation of educational credentials and nursing licensure or registration as required in country of origin for the foreign-educated nurse as evidenced by:

(i) Commission on Graduates of Foreign Nursing Schools (CGFNS) Healthcare Profession and Science Course-by-Course Report or Credentials Evaluation Service Professional Report with verification of equivalent educational credentials and unrestricted licensure in country of origin, or

(ii) Commission on Graduates of Foreign Nursing Schools (CGFNS) Certificate status or Visa Screen Certificate, accompanied by a verification of graduation from a government approved nursing education program, the translated transcript, and verification of unrestricted nursing licensure or registration as required in country of graduation;

(D) Payment of the fee for licensure by endorsement and temporary license;

(E) Foreign-educated applicants must provide evidence of current competence in oral and written English by meeting the requirements of 485:10-9-2(d)(1)(B)(i-iv); and

(F) Certification of employment in a position that requires nursing licensure as a licensed practical

nurse for a minimum of 520 work hours in the past two years; and

(G) Effective January 1, 2013, submission of fingerprint images with the fee established by the Oklahoma State Bureau of Investigation for the purpose of permitting a state and national criminal history records search to be completed.

(2) The temporary license may not be issued for a period longer than ninety (90) days.

(3) The temporary license may be extended, but such period shall be no longer than one (1) year.

485:10-9-4. Reinstatement of license

(a) The Licensed Practical Nurse license is lapsed if not renewed by expiration date thereof.

(b) The applicant must submit an application containing such information as the Board may prescribe.

(c) A completed application for reinstatement must be submitted to the Board office with the required fee. If the application is not completed within one (1) year, a new application and new fee will be required.

(d) The fee for reinstatement of license shall be established by the Board.

(e) An application for reinstatement for a license that has been suspended or surrendered must be in compliance with all terms and conditions of any Order entered with regard to the suspension or surrender and shall be considered by the Board.

(f) An application for reinstatement of a license that has been revoked by the Board shall be considered by the Board.

(g) An application for reinstatement for a license not previously revoked, suspended or surrendered may be granted on such terms and conditions as the Board may require.

(h) In addition to meeting other reinstatement requirements established by the Board in these rules, ~~effective January 1, 2005,~~ if the Oklahoma practical nursing license has not been in an active licensure status for a period of two (2) years or more, the applicant for reinstatement must demonstrate continued qualifications for practice through completion of one or more of the following requirements within the last two (2) years prior to receipt of the completed application in the Board office:

(1) Submission of an official transcript or certificate of completion verifying completion of a nurse refresher course with content consistent with Board policy;

(2) Successfully pass the National Council Licensure Examination for Practical nurses;

(3) Submission of an official transcript verifying successful completion of at least ~~seven (7)~~ six (6) academic semester credit hours or 105 contact hours of nursing courses in a state-approved practical or registered nursing education program, which includes classroom and clinical instruction; and/or

(4) Present evidence of licensure as a practical nurse in another state with employment in a position that requires practical nursing licensure with verification of at least 520 work hours during the past two (2) years preceding receipt of the application for reinstatement in the Board office.

Permanent Final Adoptions

485:10-9-5. Inactive status

(a) Any licensee who desires to retire from the practice of practical nursing shall submit a written request to be placed on the inactive list.

(b) The date of transfer to the inactive status will be the date of approval by the Board. The Board may delegate approval of the licensee's request to be placed on inactive status to the Board Staff.

(c) A licensee shall remain on the Inactive List unless otherwise indicated without the payment of the renewal fee.

(d) The return to active fee shall be due when the licensee desires to return to active practice. The applicant must submit an application containing such information as the Board may prescribe.

(e) An application for return to active status for a license that has been placed on Inactive Status by Order of the Board shall be considered by the Board.

(f) In addition to meeting other requirements to return to active status as established by the Board in these rules, ~~effective January 1, 2005,~~ if the practical nursing license has been on the Inactive List for a period of two (2) years or more, the licensee must demonstrate continued qualifications for practice through completion of one or more of the following requirements within the last two (2) years prior to receipt of the completed application in the Board office:

(1) Submission of an official transcript or certificate of completion verifying completion of a nursing refresher course with content consistent with Board policy;

(2) Successfully pass the National Council Licensure Examination for Practical Nurses;

(3) Submission of an official transcript verifying successful completion of at least ~~seven (7)~~ six (6) academic semester credit hours or 105 contact hours of nursing courses in a state-approved practical or registered nursing education program, which includes classroom and clinical instruction; and/or

(4) Present evidence of licensure as a practical nurse in another state with employment in a position that requires practical nursing licensure with certification of at least 520 work hours during the past two (2) years preceding receipt of the request for return to active status in the Board office.

SUBCHAPTER 10. ADVANCED UNLICENSED ASSISTIVE PERSONNEL ASSISTANT

485:10-10-2. Certification training program

(a) The certification training program shall consist of classroom and clinical instruction in the performance of specific core skills ~~submitted by the working committee prescribed in 59 O.S. Section 567.3a.13 and that have been selected and approved by the Board;~~

(b) Any certified training program submitted to the Board ~~by the working committee prescribed in 59 O.S. § 567.3a.13 for approval~~ shall meet the following requirements:

(1) Any health-care facility, educational institution or education provider that meets the Board's criteria for

approved programs and is approved by the Board may provide the certification training program.

(2) Any health-care facility, educational institution or education provider wishing to establish a certification training program for advanced unlicensed assistive personnel shall file the appropriate forms with the Board. The application shall include, but is not limited to:

(A) program plan following the curriculum approved by the Board;

(B) clock hours of classroom and supervised clinical instruction;

(C) description of classroom and skills training facility;

(D) evidence of adequate learning resources; and

(E) faculty qualification record for each instructor.

(3) The Board shall advise the institution in writing of its decision to:

(A) approve proceeding with the program; or

(B) defer approval pending a site visit and/or receipt of further information; or

(C) deny approval specifying reasons for denial.

(4) An approved program shall notify the Board when there are substantive changes in the program that alter the length of the program, reorganize course offerings or change in instructors.

485:10-10-3. Curriculum

(a) The curriculum of the certification training program shall prepare the graduate for certification and practice as an ~~advanced unlicensed assistive person~~ Advanced Unlicensed Assistant and shall include:

(1) core skills, personal responsibilities, communication and interpersonal skills;

(2) content outlines appropriately sequenced and organized to include purpose of procedure, proper equipment, safety precautions and hazards, step-by-step procedure, appropriate disposal of used equipment and materials, documentation and reporting, and legal and ethical responsibilities; and

(3) classroom/laboratory instruction and supervised clinical practice.

(b) The length of the training program shall be a minimum of 200 hours with the ratio of classroom instruction and practice appropriate to ensure safe and accurate performance. The program shall include at least 80 hours of classroom/laboratory instruction and at least 40 hours of clinical instruction.

485:10-10-5. Applicants

(a) Persons admitted to the program shall provide validation of the ability to safely and accurately perform personal care skills, measuring and recording vital signs, feeding techniques, non-sterile specimen collection, transfer, positioning and turning techniques, infection control, emergency procedures including CPR and the Heimlich maneuver, and non-invasive and non-sterile treatments unless otherwise prohibited by these rules and regulations.

(b) Persons may be admitted into a program that combines training in these skills with training as an ~~advanced unlicensed assistive person~~ Advanced Unlicensed Assistant, provided that the training hours for the ~~advanced unlicensed assistive person~~ Advanced Unlicensed Assistant component meet the requirement under 485:10-10-3(b).

485:10-10-6. Certification examination

- (a) The certification examination shall consist of both a written examination and a core skills performance evaluation conducted by a Registered Nurse Skills Observer who meets the qualifications established by the Board.
- (b) Applicants for certification as ~~advanced unlicensed assistive personnel~~ Advanced Unlicensed Assistant must successfully complete both the core skills performance evaluation and the written examination adopted by the Board. The core skills performance evaluation and the written examination must be completed within one year of each other.
- (c) Applicants who fail either the written certification examination or the core skills performance evaluation shall be eligible to repeat the examination upon filing an application and fee meeting Board requirements.
- (d) If an applicant fails either the core skills performance evaluation or the written examination three (3) times, applicant must repeat the course prior to rewriting the examination.
- (e) The Board shall permit the written examination and the core skills performance evaluation to be administered at Board-approved testing sites and proctored by qualified personnel.

485:10-10-7. Certification

- (a) The Board shall establish and maintain a listing (registry) of persons authorized to function as an ~~"advanced unlicensed assistive person"~~ Advanced Unlicensed Assistant.
- (b) An applicant for certification by examination as an ~~advanced unlicensed assistive person~~ Advanced Unlicensed Assistant must meet the following requirements:
 - (1) has successfully completed the prescribed curricula in a state-approved education program for Advanced Unlicensed Assistants and holds or is entitled to hold a diploma or certificate therefrom a certification training course for advanced unlicensed assistive personnel approved by the Board; or
 - (2) has successfully completed an equivalent course approved by the Board in a formal program of instruction in a health-care facility or an educational institution with;
 - (3) ~~has completed classroom/laboratory instruction and supervised clinical experience in an equivalent structured course in a health care facility or an educational institution. Evidence must be provided that verifies ability to safely and accurately perform each core skill included in Board-approved advanced unlicensed assistive personnel/Advanced Unlicensed Assistant course-;~~ is a minimum of eighteen (18) years of age on or before the date the certificate is issued;
- (c) Application for certification:

- (1) Applications for certification must be filed with the Board in accordance with the procedure designated by the Board. The application must be complete, ~~and signed and notarized.~~ The required fee and one (1) photograph signed by the applicant must be filed with the application.
- (2) The candidate must register with the authorized testing service and submit the required fee.
- (3) The applicant must submit an application containing such information as the Board may prescribe.
- (d) Fee for certification:
 - (1) The fees for certification and writing the certification examination adopted by the Board shall accompany the applications.
 - (2) The fee for rewriting the certification examination adopted by the Board shall be the same as the fee established for the first-time writing.
 - (3) The fee for the examination is not refundable.

485:10-10-8. Recertification

- (a) Certification as an ~~advanced unlicensed assistive person~~ Advanced Unlicensed Assistant (AUA) shall be renewed every two years in accordance with the schedule published by the Board.
- (b) The application for recertification must be completed and accompanied by the established fee before a new certificate is issued.
- (c) The applicant must submit an application containing such information as the Board may prescribe.
- (d) The application for recertification must be accompanied by one of the following:
 - (1) verification of employment as an AUA in an acute care setting for a minimum of 12 months within the previous 24 months immediately prior to renewal of AUA certification; or
 - (2) verification of successful completion of twelve hours of clinical inservice appropriate to the AUA role within the previous 24 months; or
 - (3) rewriting the certification examination with a passing score, both the written and core skills portions of the exam, within the 24 months immediately preceding renewal of AUA certification; or
 - (4) verification of initial certification as an AUA within the 24 months immediately prior to renewal of AUA certification.
- (e) The fee for renewal of the certificate shall be established by the Board.

485:10-10-8.1. Reinstatement of certification

- (a) The certification of the ~~advanced unlicensed assistive person~~ Advanced Unlicensed Assistant is lapsed if not renewed by expiration date thereof.
- (b) A completed application for reinstatement must be submitted to the Board office with the required fee. If the application is not completed within one (1) year, a new application and new fee will be required.
- (c) The applicant must submit an application containing such information as the Board may prescribe.

Permanent Final Adoptions

(d) The application for reinstatement must be accompanied by one of the following:

- (1) verification of employment as an AUA in an acute care setting for a minimum of 12 months within the previous 24 months; or
- (2) verification of successful completion of twelve hours of clinical inservice appropriate to the AUA role within the previous 24 months; or
- (3) rewriting the certification examination with a passing score, both the written and core skills portions of the exam; or
- (4) verification of initial certification as an AUA within the 24 months immediately prior to reinstatement of AUA certification.

(e) An application for reinstatement for a certification that has been revoked, suspended or surrendered must be in compliance with all terms and conditions of any Order entered with regard to the revocation, suspension or surrender and shall be considered by the Board.

485:10-10-10. Disciplinary action

(a) The Board may deny, revoke, suspend the certificate to practice as an ~~advanced unlicensed assistive person~~ Advanced Unlicensed Assistant and/or otherwise discipline the holder of a certificate upon proof that the individual is guilty of any offense prohibited in 59 O.S. §567.8.

(b) Nothing contained in these rules shall require a licensed nurse to delegate to an ~~Advanced Unlicensed Assistive Person~~ Assistant the performance of any core skill.

SUBCHAPTER 11. DISCIPLINARY ACTION

485:10-11-1. Denial, revocation or suspension of license or certificate

(a) **Causes.** Causes for denial, revocation or suspension of license or certificate as a Registered Nurse, Licensed Practical Nurse, Advanced Practice Registered Nurse and/or Authorization for Prescriptive Authority or Authority to Order, Select, Obtain, and Administer Drugs, or as an ~~advanced unlicensed assistive person~~ Advanced Unlicensed Assistant are as defined in 59 O.S. Section 567.8.

(b) **Definitions.** The following definitions relate to the causes for disciplinary action as specified in the statutes.

(1) The terms "~~fraud~~ or ~~deceit~~ or material ~~deception~~ misrepresentation" shall include but not be limited to:

- (A) false representation of facts in connection with an application for licensure, or certificate, or renewal of license; or application for recognition as an advanced practitioner; or
 - (B) false representation by having another person appear in her/his place for the licensing examination.
- (2) Sufficient knowledge or reasonable skill means adherence to minimal standards of acceptable practical nurse practice, registered nurse practice, advanced registered nurse practice, or advanced unlicensed ~~assistive~~

~~persons'~~ assistant's practice generally prevailing in the State of Oklahoma.

(3) Unprofessional conduct is ~~nursing~~ behavior (acts, knowledge, and practices) which fails to conform to the accepted standards of the nursing profession, or advanced unlicensed ~~assistive persons'~~ assistant's activities generally prevailing in the State of Oklahoma and which could jeopardize the health and welfare of the people which shall include but not be limited to the following:

- (A) inaccurate recording, falsifying, ~~or~~ altering or inappropriate destruction of patient records; or
- (B) verbally or physically abusing patients; or
- (C) falsely manipulating drug supplies, narcotics or patient records; or
- (D) appropriating without authority medications, supplies or personal items of the patient or agency; or
- (E) falsifying documents submitted to the Board of Nursing; or
- (F) leaving a nursing assignment or patient care assignment without properly advising appropriate personnel; or
- (G) violating the confidentiality of information or knowledge concerning the patient by any means; or
- (H) conduct detrimental to the public interest; or
- (I) discriminating in the rendering of nursing services or patient care assignment; or
- (J) aiding and abetting the practice of practical nursing, registered nursing, advanced practice registered nursing, or advanced unlicensed assistive persons by any person not licensed as a Licensed Practical Nurse or a Registered Nurse or ~~recognized as an advanced practitioner~~ Advanced Practice Registered Nurse or not certified as an ~~advanced unlicensed assistive person~~ Advanced Unlicensed Assistant; or
- (K) impersonating any applicant or acting as proxy for the applicant in any examination required for the issuance of a license or certificate; or
- (L) impersonating another licensed or certified practitioner, or permitting another person to use her/his license, certificate, or certificate of recognition for any purpose; or
- (M) aiding, abetting or assisting any other person to violate or circumvent any law or rule or regulation intended to guide the conduct of a ~~nurse~~ Registered Nurse, Licensed Practical Nurse, Advanced Practice Registered Nurse, or advanced unlicensed assistive person Advanced Unlicensed Assistant; or
- (N) forging a prescription for ~~medication~~ drugs medication, drugs, or supplies or equipment; or
- (O) presenting a forged prescription; or
- (P) selling or attempting to sell ~~ad~~ drugs or controlled ~~dangerous substances~~ substances or otherwise making such drugs available without authority to self, friends, or family members; or
- (Q) ~~while caring for a patient~~, engaging in conduct with a patient or key party, inside or outside the

health care setting that is sexual or may reasonably be interpreted as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient or key party, or engaging in sexual exploitation of a patient or key party. Patient or key party consent to, or initiation of, a relationship is not a defense; or

(R) obtaining money, property or services from a patient, other than reasonable fees for service provided to the patient, through the use of undue influence, harassment, duress, deception or fraud; or

(S) engaging in fraudulent billing practices, including violations of federal Medicare and Medicaid laws or state medical assistance laws; or

(T) failure to maintain proper custody and control of controlled dangerous substances of the patient or agency; or

(U) diversion or attempts to divert drugs or controlled substances; or

(V) failure to cooperate with a lawful investigation by Board of Nursing staff.

(4) Conduct which jeopardizes a patient's life, health or safety shall include but not be limited to the following:

(A) Failure of a Licensed Practical Nurse, a Registered Nurse, or ~~advanced practitioner~~ Advanced Practice Registered Nurse to supervise adequately the performance of acts by any person working at the nurse's direction; or

(B) Delegating or accepting the delegation of a nursing function or a prescribed health care function when the delegation or acceptance could reasonably be expected to result in unsafe or ineffective patient care; or

(C) Unauthorized alterations of medications; or

(D) Failure to utilize appropriate judgment in administering safe nursing practice or patient care assignment based upon the level of nursing for which the individual is licensed or recognized; or

(E) Failure to exercise technical competence in carrying out nursing care or patient care assignment; or

(F) Performing new nursing techniques, procedures or patient care activities without proper education and preparation; or

(G) Failure to report through the proper channels the unsafe or illegal practice of any person who is providing nursing care or patient care.

485:10-11-2. Hearings

(a) **Conduct of hearing.** All hearings and notice thereof shall be conducted and governed in accordance with the provisions of the Oklahoma Administrative Procedures Act. [75 O.S. Section 309]

(b) **Notice of hearing.** Notice of the hearing shall be served in any manner authorized by the Oklahoma Pleading Code for the personal service of summons in proceedings in state courts.

(c) **Procedures before the Board.**

(1) Every individual proceeding shall be initiated by a sworn complaint containing a brief statement of the facts supporting the request for action by the Board.

(2) The respondent shall file with the Board a written response under oath to the Complaint by the date to be furnished. If no response is filed, the Respondent shall be considered in default and the Board may take whatever action it deems sufficient and appropriate. The Executive Director of the Board or designee may extend the time within which a response must be filed, but in no event may the time be extended beyond the hearing date.

(3) ~~Written Requests~~ requests for continuances ~~or extensions of time shall be filed in writing and received in the Board office not less than four (4) business days prior to the date and time set for the hearing. The request shall state the reasons for the request and time period desired.~~ The Board or its designee shall promptly rule on such requests.

(4) Discovery shall be conducted in accordance with the ~~Oklahoma Discovery Code~~ Administrative Procedures Act except that all discovery must be completed ten (10) days prior to the date set for hearing unless otherwise ordered by the Board. ~~The time periods contained in the Oklahoma Discovery Code shall be modified to conform to this Rule.~~

(5) The order of procedure shall be the same as followed by the state trial courts in civil proceedings.

(6) The admissibility of evidence shall be governed by the provisions of the Oklahoma Administrative Procedures Act [75 O.S. Section 310].

(7) The President of the Board or his/her designee shall rule on admissibility of evidence and objections to such evidence and shall rule on other motions or objections in the course of the hearing.

(8) The Board, its designee, attorney for the Board, the respondent or attorney for the respondent, may conduct examinations.

(9) A respondent who fails to appear, after having received proper notice, may be determined to have waived the right to present a defense to the charges in the complaint and the Board may declare the respondent in default and revoke, suspend or otherwise discipline respondent as it may deem necessary.

(10) Subpoenas for the attendance of witnesses and/or furnishing of information required by the Board staff and as requested by the respondent, and/or the production of evidence or records of any kind shall be issued by the ~~Board~~ Director of the Investigative Division or the Director's designee. ~~Should any person fail to obey a subpoena, the Board may institute appropriate judicial proceedings under the laws of the State for an Order to compel compliance with the subpoena.~~

(A) In all cases where a party desires to have subpoenas or subpoenas duces tecum issued to compel the attendance of witnesses, or production of documents, a written request shall be filed with the administrative office of the Board by such party or his attorney, and directed to the Director of the Investigative Division or the Director's designee. The Director of the Investigative Division or the Director's designee

Permanent Final Adoptions

shall have three (3) business days to process the request. The request shall specify the witness by name and address; and shall identify any documents to be subpoenaed. The request shall acknowledge that any expense associated with the subpoena process shall be paid by the party requesting the subpoena, including travel expense and daily attendance fees, in the amount as set by statute for other civil matters, at the time of the service of such subpoena.

(B) The Director of the Investigative Division or the Director's designee shall cause such subpoenas to be issued and mailed in conformity with said written requests; provided, that in said subpoena the witnesses named therein shall be advised that they may demand their travel fees and daily attendance fees from the party, or his representative; and that neither the Board nor the State of Oklahoma shall be responsible for any traveling fees, daily attendance fees, or other expenses incurred by such witness in attending any proceeding.

(C) All requests for subpoenas and subpoenas duces tecum shall be filed with the Director of the Investigative Division or the Director's designee, no later than ten (10) business days prior to the date of the proceeding at which the presence of any such witness or documents would be required.

(D) A party requesting issuance of subpoenas and subpoenas duces tecum shall be responsible for obtaining service and for the cost of that service.

(11) The respondent is responsible for any expenses associated with witnesses, subpoenas and/or evidence presented on her/his behalf.

~~(12) In the event disciplinary action is imposed against the defendant of an individual proceeding, the Board may require the defendant to reimburse the Board for its actual costs in the investigation and prosecution of the disciplinary action. Such costs shall include, but not be limited to: staff time and expenses, travel expenses, witness fees and expenses, attorney fees and expenses, and court reporter fees, if applicable. Any pre-trial motions and/or discovery motions must be filed in the Board office not less than 15 days prior to the date set for hearing unless otherwise ordered by the Board.~~

(13) The respondent shall not communicate with any member of the Board concerning the matters alleged in the complaint before or during or after the hearing. This restriction does not apply to the presentation of testimony or evidence by the respondent in the course of the hearing.

(14) If for any reason a hearing is not completed and the Board finds that the public health, safety or welfare imperatively requires emergency action, the Board may take such emergency action with regard to the respondent's license as it deems necessary in order to protect the health, safety or welfare of the public.

(d) **Administrative Penalties.** When determining the amount of the administrative penalty to be imposed for a violation of the Oklahoma Nursing Practice Act the following

additional factors shall be a part of the consideration by the Board when establishing the nature, circumstance, and gravity of the violation, the degree of culpability, the effect on the ability of the person to continue to practice and any show of good faith in attempting to achieve compliance with the provisions of the Oklahoma Nursing Practice Act:

- (1) evidence of actual or potential harm to patients, clients or the public;
- (2) the seriousness of the violation, including the nature, circumstances, extent and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety and welfare of the public;
- (3) evidence of misrepresentation(s) of knowledge, education, experience, credentials or skills which would lead a member of the public, an employer, a member of the health-care team, or a patient to rely on the fact(s) misrepresented where such reliance could be unsafe;
- (4) evidence of practice history;
- (5) evidence of present lack of fitness;
- (6) evidence of prior disciplinary history by the Board or any other health care licensing agency in Oklahoma or another jurisdiction;
- (7) the length of time the licensee has practiced;
- (8) the actual damages, physical or otherwise resulting from the violation;
- (9) the deterrent effect of the penalty imposed;
- (10) attempts by the licensee to correct or stop the violation;
- (11) any mitigating or aggravating circumstances;
- (12) the extent to which system dynamics in the practice setting contributed to the problem;
- (13) evidence of a lack of truthfulness or trustworthiness;
- (14) any other matter that justice may require.

(e) **Orders.**

- (1) At the conclusion of the hearing, the Board will announce its decision and a written order will be issued within twenty (20) days of the Board's decision.
- (2) A copy of the order shall be delivered or mailed to the Respondent and the Respondent's attorney of record.

(f) **Record of hearing.**

- (1) The record in an individual proceeding shall be as defined in the Oklahoma Administrative Procedures Act and shall also include the licensing history of the respondent.
- (2) All hearings shall be transcribed by a duly certified reporter, unless the presiding officer designates otherwise. A transcript of the proceedings shall not be made except in the event of an appeal of the decision of the Board, or upon written application accompanied by a deposit sufficient to cover the cost of transcription. Tapes and shorthand or stenotype notes of the proceedings shall be retained for a period of not less than five (5) years.

(g) **Appeals and reconsideration.** Requests for reconsideration and appeals of order in individual proceeding shall be in accordance with the Oklahoma Administrative Procedures Act.

485:10-11-3. Informal disposition

. . . *Informal disposition may be made of any individual proceeding by stipulation, agreed settlement, consent order, or default.* [75 O.S. Section 309(d)]

(1) **Informal proceedings.** Informal proceedings may be conducted after the filing of a sworn complaint; and information so presented may be considered by the Board as a body or by any designated member or any representative designated therefore, with the party or parties affected by correspondence or otherwise in an effort to bring about an adjustment and solution of the problem without a formal Hearing. Such proceedings shall be held without prejudice to the right of the Board, thereafter to institute formal proceedings and conduct Hearings covering the same subject matter.

(2) **Informal conferences.** If deemed advisable to speed the consideration and determination of complaints and controversies which may not justify or require more formal proceedings, the Board may hold an informal conference with the party or parties affected. Thereafter the Board as a body, or any designated member, or representative thereof, shall attempt to resolve the controversy in an equitable manner. Such proceedings shall be without prejudice to the right of the Board thereafter to institute formal proceedings covering the same or related subject matter, or the right of the person involved, if the controversy is not resolved, to request a formal hearing.

(3) **Informal Disposition Panel.** The respondent has a right to a hearing before the full Board. In the alternative informal disposition may be requested under certain circumstances.

(A) Informal Disposition Panel shall be composed of one or more individuals appointed by the Board President, at least one of whom shall be a current Board member. More than one panel may be appointed if warranted by the number of cases.

(B) Informal Disposition Panel may be utilized for the following types of cases or otherwise at the discretion of the Executive Director:

- (i) Reinstatement/Return To Active which require Board action such as:
 - (I) when working with a lapsed license;
 - (II) after surrender, suspension or revocation of license;
- (ii) Voluntary surrenders;
- (iii) Termination of Probation;
- (iv) Requests to amend orders;
- (v) Certain uncontested complaints such as action in another jurisdiction and/or criminal convictions;
- (vi) Negotiated disposition of complaint.

(C) If the nurse and the Panel member(s) do not agree, the case will be set for a Board hearing. The outcome of the informal disposition will be held in confidence and not admitted into evidence at the hearing. The Panel member(s) will not participate in the hearing before the full Board.

(D) If the nurse and the Panel member(s) do agree but the Board does not accept the recommendations of the Panel, the case will be set for a hearing before the full Board at the next regularly scheduled Board meeting.

SUBCHAPTER 13. REQUIREMENTS FOR EMPLOYMENT

485:10-13-1. Conditions of employment

(a) Any person who practices or offers to practice nursing or represents himself or herself as a licensed nurse, (excluding federal employment) shall possess a valid Oklahoma license.

(b) Any individual offering to practice advanced practice registered nursing as an ARNPCNP, CNS, CNM, CRNA, shall possess a valid Oklahoma license as an Advanced Practice Registered Nurse and a certificate of recognition issued by the Board.

(c) A valid temporary license shall be required in lieu of a full certificate of licensure.

(d) Any person employed as a Nurse Administrator, as defined in these rules, shall possess a valid license to practice nursing in Oklahoma, except as otherwise provided by law.

(e) If the term "doctor" is used by a licensed nurse holding the appropriate educational credentials, such usage must be in accordance with 59 O.S. Supp. 2009, §725.1, et seq.

485:10-13-2. Annual report of employing institutions

The nursing administrator in each licensed health institution or agency may be requested to file an annual report each year. The report, when requested, shall be filed in a format established by the Board. The report is to indicate the name, certificate number and expiration date of each Licensed Practical Nurse, Registered Nurse and ~~Advanced Practitioner~~ Advanced Practice Registered Nurse employed on the designated date.

485:10-13-3. Continuing education

Each licensed health institution and agency is advised to provide opportunities for Licensed Practical Nurses, Registered Nurses and ~~Advanced Practitioners~~ Advanced Practice Registered Nurses to maintain a sound knowledge of current nursing practices and procedures. Such opportunities include orientation, skill training, continuing education, and leadership development.

SUBCHAPTER 15. REQUIREMENTS FOR PRACTICE AS AN ADVANCED PRACTICE REGISTERED NURSE

485:10-15-4. Application

(a) An applicant for ~~recognition~~ licensure as an ~~advanced practice nurse~~ Advanced Practice Registered Nurse must:

Permanent Final Adoptions

- (1) hold a current license to practice as a Registered Nurse in Oklahoma;
 - (2) submit an official transcript verifying completion of ~~a formal~~ an advanced practice registered nursing educational education program in one of the four advanced practice registered nurse roles (CNP, CNM, CNS, and CRNA) and a specialty area ~~accepted~~ recognized by the Board. Effective January 1, 2016, the applicant shall have completed an accredited graduate level advanced practice registered nursing education program in at least one of the following population foci: family/individual across the lifespan, adult-gerontology (acute and/or primary), neonatal, pediatrics (acute and/or primary), women's health/gender related, or psychiatric/mental health;
 - (3) submit evidence of current national certification consistent with educational preparation and by a national certifying body recognized by the Board; and
 - (4) submit a completed application for ~~recognition~~ licensure containing such information as the Board may prescribe and the required fee.
- (b) Changing and adding certifications
- (1) An ~~advanced practice nurse~~ Advanced Practice Registered Nurse who wishes to ~~change or~~ add an area of specialty and national certification must meet initial requirements for advanced practice ~~recognition~~ licensure, as identified in 485:10-15-4(a).
 - (2) An ~~advanced practice nurse~~ Advanced Practice Registered Nurse who changes their national certification and certifying body within the same specialty area must notify the Board in writing within thirty (30) days of the change and submit a copy of a current national certification recognized by the Board within the same specialty area.
 - (3) An ~~advanced practice nurse~~ Advanced Practice Registered Nurse holding more than one certification who does not renew or maintain one of their national certifications must notify the Board in writing within ~~30~~ thirty (30) days of the change. The ~~recognition~~ licensure for which the national certification has expired will be placed on inactive status. The ~~advanced practice nurse~~ Advanced Practice Registered Nurse shall not work in the specialty area upon expiration of their national certification.
- (c) Endorsement.
- (1) An applicant who is licensed or recognized as an APRN in another U.S. state or territory may be issued an APRN license by endorsement if current Board requirements for licensure as an APRN are met. The applicant must have met all requirements of the advanced practice certifying body to maintain full certification, including requirements for maintaining continuing competence. An applicant for APRN licensure by endorsement who holds certification on provisional or conditional status may be considered for licensure by the Board.
 - (2) In addition to meeting other requirements for endorsement established by the Board in these rules, the applicant for endorsement of the APRN license must demonstrate continued qualifications for practice through

completion of one or more of the following requirements within the last two (2) years prior to receipt of a completed application in the Board office:

- (A) Submission of an official transcript or certificate of completion verifying completion of an APRN nursing refresher course meeting the requirements established by the Board in policy;
 - (B) Submission of an official transcript verifying successful completion of at least six (6) academic semester credit hours of APRN nursing courses in the same role and population focus as was previously held by the APRN in a graduate-level APRN program, which includes classroom and clinical instruction; and/or;
 - (C) Present evidence of licensure or recognition as an APRN in another state with employment in a position that requires APRN licensure or recognition with verification of at least 520 work hours during the past two (2) years preceding receipt of the application for endorsement in the Board office.
- (d) Certification program. The Board shall identify and keep on file the current list of recognized APRN certifications and certifying bodies approved by the Board. A Board-recognized APRN holding recognition prior to July 1, 2012, may continue to be licensed as an APRN with his or her current certification, even if such certification is no longer included on the list of recognized APRN certifications and certifying bodies approved by the Board, PROVIDED the APRN license remains in an active status and current certification is maintained. A licensee may request that a certification program be considered by the Board for inclusion on the list. Effective July 1, 2012, the certification program shall provide documentation of compliance with the following standards:
- (1) The certification program is national in the scope of its credentialing;
 - (2) Conditions for taking the certification examination are consistent with standards of the testing community;
 - (3) Educational requirements are consistent with the requirements of the advanced practice role and specialty;
 - (4) The standard's methodologies used are acceptable to the testing community such as incumbent job analysis studies and logical job analysis studies;
 - (5) Certification programs are accredited by a national accreditation body as acceptable by the Board;
 - (6) The examination represents entry-level practice in the APRN role and specialty;
 - (7) The examination represents the knowledge, skills and abilities essential for the delivery of safe and effective advanced nursing care to patients;
 - (8) Examination items shall be reviewed for content validity and correct scoring using an established mechanism, both before use and at least every five years. When possible, items will be reviewed for cultural bias;
 - (9) The passing standard is established using acceptable psychometric methods and is re-evaluated at least every five years;
 - (10) Certification is issued based upon meeting all certification requirements and passing the examination;

- (11) A re-take policy is in place;
- (12) Certification maintenance program, which includes review of qualifications and continued competence, is in place;
- (13) Mechanisms are in place for communication to boards of nursing for timely verification of an individual's certification status, changes in the certification status, and changes in the certification program, including qualifications, test plan and scope of practice; and
- (14) An evaluation process is in place to provide quality assurance in the certification program.

485:10-15-4.1. Temporary recognition [REVOKED]

~~Temporary recognition may be granted under the following conditions:~~

- (1) ~~hold a current license to practice as a Registered Nurse in Oklahoma;~~
- (2) ~~submit documentary evidence of registration for a Board approved national certifying examination applicable to the level and clinical specialty;~~
- (3) ~~submit a completed application for temporary recognition and the required fee;~~
- (4) ~~submit an official transcript verifying successful completion of the advanced practice educational program.~~

485:10-15-5. Recognition, renewalRenewal, reinstatement and inactive status of licensure

(a) **Recognition.**

- (1) ~~A certificate of recognition shall be issued by the Board.~~
- (2) ~~The pocket license card will have an advanced practice designation code.~~
- (3) ~~A list of all Board recognized advanced practice nurses shall be maintained by the Board.~~

(ba) **Renewal.**

- (1) ~~Renewal shall be concurrent with the two-year licensure renewal for Registered Nurse.~~
- (2) ~~The renewal form shall include a statement that the nurse's national certification is current and that certification will be maintained during the period of licensure renewal.~~
- (3) ~~Each advanced practice nurseAdvanced Practice Registered Nurse shall submit a copy of a current national certification document to the Board with the renewal form, if requested.~~
- (4) ~~The applicant must submit an application containing such information as the Board may prescribe.~~

(c) **Reinstatement.**

- (1) ~~If an advanced practice nurseAdvanced Practice Registered Nurse fails to renew recognitionlicensure prior to the expiration date of that authoritylicense, the advanced practice recognitionlicense shall lapse.~~
- (2) ~~The applicant may request reinstatement of advanced practice recognitionlicensure by submitting a completed application and the required fee. If the reinstatement is not approved within two (2) years of the~~

~~expiration date of recognitionlicensure, the applicant must meet current requirements for initial advanced practice recognitionlicensure.~~

(3) ~~The applicant must submit an application containing such information as the Board may prescribe.~~

(4) In addition to meeting other requirements for reinstatement established by the Board in these rules, if the Oklahoma APRN license has not been in an active licensure status for a period of two (2) years or more, the applicant for reinstatement of the APRN license must demonstrate continued qualifications for practice through completion of one or more of the following requirements within the last two (2) years prior to receipt of a completed application in the Board office:

(A) Submission of an official transcript or certificate of completion verifying completion of an APRN nursing refresher course meeting the requirements established by the Board in policy;

(B) Submission of an official transcript verifying successful completion of at least six (6) academic semester credit hours of APRN nursing courses in the same role and population focus as was previously held by the APRN in a graduate-level APRN program, which includes classroom and clinical instruction; and/or

(C) Present evidence of licensure or recognition as an APRN in another state with employment in a position that requires APRN licensure or recognition with verification of at least 520 work hours during the past two (2) years preceding receipt of the application for reinstatement in the Board office.

(d) **Inactive Status.**

(1) ~~An advanced practice nurseAdvanced Practice Registered Nurse may submit a written request to place advanced practice recognitionlicensure on inactive status.~~

~~(2) Advanced practice recognition will be placed on inactive status upon notification to the Board office the advanced practice nurse does not have current national certification from a national certifying body approved by the Board.~~

~~(3) The date of inactive status will be the date of approval by the Board.~~

~~(4) The Board may delegate approval to place advanced practice recognitionlicensure on inactive status to Board staff.~~

~~(5) The applicant may request return-to-active status of advanced practice recognitionlicensure by submitting a completed application containing such information as the Board may prescribe and the required fee. If the advanced practice recognitionlicense has been on inactive status for two or more years, the applicant must meet current requirements for initial advanced practice recognitionlicensure.~~

(5) In addition to meeting other requirements for return to active status established by the Board in these rules, if the Oklahoma APRN license has not been in an active licensure status for a period of two (2) years or more, the applicant for return to active status of the APRN license must

Permanent Final Adoptions

demonstrate continued qualifications for practice through completion of one or more of the following requirements within the last two (2) years prior to receipt of a completed application in the Board office:

(A) Submission of an official transcript or certificate of completion verifying completion of an APRN nursing refresher course meeting the requirements established by the Board in policy;

(B) Submission of an official transcript verifying successful completion of at least six (6) academic semester credit hours of APRN nursing courses in the same role and population focus as was previously held by the APRN in a graduate-level APRN program, which includes classroom and clinical instruction; and/or

(C) Present evidence of licensure or recognition as an APRN in another state with employment in a position that requires APRN licensure or recognition with verification of at least 520 work hours during the past two (2) years preceding receipt of the application for return to active status in the Board office.

485:10-15-6. Practice as an ~~Advanced Registered~~ Certified Nurse Practitioner

(a) **Educational programs preparation.** Successful completion of an ~~educational~~ education program shall establish eligibility to take the recognized ~~advanced practice nurse practitioner~~ certification examination in a specialty area. The ~~educational~~ education program shall:

(1) Prepare ~~advanced practice nurses~~ nurse practitioners as a part of a ~~Master's level or higher preparation in a graduate-level nursing in~~ a program accredited by or holding preliminary approval or candidacy status with the National League for Nursing Accrediting Commission or the Commission on Collegiate Nursing Education; or

(2) Meet the following requirements:

(A) be based on measurable objectives that relate directly to the scope of practice for the specialty area;

(B) include theoretical and clinical content directed to the objectives;

(C) be equivalent to at least one academic year. A preceptorship which is part of the formal program shall be included as part of the academic year;

(D) be university-based or university-affiliated with oversight by a nursing program accredited by an approved national nursing accrediting agency.

(3) Effective January 1, 2016, all applicants for initial licensure or licensure by endorsement as a Certified Nurse Practitioner must hold a graduate level degree from an advanced practice education program accredited by or holding preliminary approval or candidacy status with the National League for Nursing Accrediting Commission or the Commission on Collegiate Nursing Education.

(b) **National Certification.** National certification in the specialty area at an advanced practice level is required for recognition. The Board shall identify and keep on file the current list of recognized certifications and certifying bodies

~~approved by the Board. A licensee may request that a certification program be considered by the Board for inclusion on the list. A certifying body examination shall meet the following requirements:~~

~~(1) require applicants for the certification examination to have completed a formal program of study consistent with the area of certification;~~

~~(2) offer an examination in the area of certification which shall:~~

~~(A) measure the theoretical and clinical content based on the scope of practice in the specialty area;~~

~~(B) be developed in accordance with generally accepted standards of validity and reliability; and~~

~~(C) be open only to Registered Nurses who have successfully completed the appropriate formal program of study as defined in these Rules and Regulations.~~

(eb) **Scope of practice for ARNPCNP.** The ~~Advanced Registered~~ Certified Nurse Practitioner's scope of practice includes the full scope of nursing practice and practice in an expanded role as follows:

(1) The ~~Advanced Registered~~ Certified Nurse Practitioner (~~ARNP~~)(CNP) provides comprehensive health care to clients across the life span.

(2) The ARNPCNP is responsible and accountable for the continuous and comprehensive management of a broad range of health services, which include, but are not limited to:

(A) promotion and maintenance of health;

(B) prevention of illness and disability;

(C) diagnosis and prescription of medications, treatments, and devices for acute and chronic conditions and diseases;

(D) management of health care during acute and chronic phases of illness;

(E) guidance and counseling services;

(F) consultation and/or collaboration with other health care providers and community resources;

(G) referral to other health care providers and community resources.

(3) The ARNPCNP will provide services based upon education, experience, and national certification. It is the responsibility of the licensee to document competency of any act, based upon education, experience and certification.

(4) The scope of practice as previously defined is incorporated into the following specialty categories and further delineates the population served:

(A) Adult ARNPCNP (acute and/or primary) provides acute and/or primary health care to adolescents and adults.

(B) Family ARNPCNP provides health care to persons across the lifespan.

(C) Geriatric ARNPCNP provides health care to older adults.

(D) Neonatal ARNPCNP provides health care to neonates and infants.

(E) Pediatric ARNPCNP (acute and/or primary) provides acute and/or primary health care to persons from newborn to young adulthood.

(F) Women's Health Care ARNPCNP provides health care to adolescent and adult females. Care may also be provided to males with reproductive health needs or problems.

(G) Acute Care ARNPCNP provides health care to adults who are acutely or critically ill.

(H) The Adult Psychiatric and Mental Health ARNPCNP provides acute and chronic psychiatric and mental health care to persons age 13 or older.

(I) The Family Psychiatric and Mental Health ARNPCNP provides acute and chronic psychiatric and mental health care to persons across the lifespan.

(J) The Acute Care Pediatric ARNPCNP provides health care to persons from newborn to young adulthood with complex acute, critical and chronic health conditions.

(5) Effective January 1, 2016, the applicant for initial APRN licensure or APRN licensure by endorsement as a CNP shall hold certification in at least one of the following population foci: family/individual across the lifespan, adult-gerontology (acute and/or primary), neonatal, pediatrics (acute and/or primary), women's health/gender related, or psychiatric/mental health.

485:10-15-7. Practice as a Clinical Nurse Specialist

(a) **Education**Educational preparation. Successful completion of an education program shall establish eligibility to take the recognized Clinical Nurse Specialist certification examination in a specialty area. The education program shall prepare Clinical Nurse Specialists in a graduate-level advanced practice education program accredited by or holding preliminary approval or candidacy status with the National League for Nursing Accrediting Commission or the Commission on Collegiate Nursing Education.

(1) Any nurse graduating prior to September 1, 1991, may apply for recognition as a Clinical Nurse Specialist by submitting a transcript which verifies conferral of a Master's Degree in Nursing and documentation verifying the completion of a minimum of two semesters of course work in supervised advanced clinical practice.

(2) Any nurse graduating with a Master's Degree in Nursing after September 1, 1991, may apply for recognition as a Clinical Nurse Specialist by submitting an official transcript verifying conferral of a Master's Degree in Nursing from a nursing program accredited by or holding preliminary approval or candidacy status with the National League for Nursing Accrediting Commission or the Commission on Collegiate Nursing Education and documentation verifying the completion of a minimum of two semesters of course work in which the major focus of study was a clinical nurse specialist track or pathway.

(3) Successful completion of the educational program shall establish an academic preparation consistent with the recognized certification examination in the specialty area.

(b) **National certification.**

(1) National certification in the specialty area at an advanced practice level or the highest level available in lieu of the availability of an advanced practice level examination in that specialty is required for recognition.

(2) The Board shall identify and keep on file the current list of recognized certifications and certifying bodies approved by the Board. A licensee may request that a certification program be considered for inclusion on the list. A certifying body examination shall meet the following requirements:

(A) Approved or accredited by a certification credentialing body approved by the Board. The certification credentialing body shall verify the certification examination meets the following requirements:

- (i) measures theoretical and clinical content based on the scope of practice in the specialty area;
- (ii) is developed in accordance with generally accepted standards of validity and reliability;

(B) Open only to licensed or credentialed health care professionals;

(C) Based upon national standards of practice for the specialty area.

485:10-15-8. Practice as a Certified Nurse-Midwife

(a) **Qualifications**Educational preparation. ApplicantsAn applicant for recognitionlicensure as a Certified Nurse-Midwife must provide evidence of meet the following qualifications:

(1) Hold a current license to practice as a Registered Nurse in Oklahoma

(2) Successful completion of a nurse midwifery program accredited by the American College of Nurse Midwives Division of Accreditation Accreditation Commission for Midwifery Education. Effective January 1, 2016, an applicant for initial licensure or licensure by endorsement as a Certified Nurse-Midwife must hold a graduate level degree from an advanced practice education program accredited by the Accreditation Commission for Midwifery Education.

(b) **Certification.**

(3) HoldThe applicant for licensure as a Certified Nurse-Midwife must hold current certification for the practice of nurse-midwifery from the American Midwifery Certification Board (AMCB).

(4) Proof of enrollment in a current cycle of continuing competency assessment (CCA) or Certificate Maintenance Program as maintained by the American Midwifery Certification Board

(b) **Applications.**

(1) Applications must be completed and filed with the Board

(2) The credentials of the applicant must be verified by the American College of Nurse Midwives or American Midwifery Certification Board

(c) **Recognition for practice of Certified Nurse Midwifery.** Upon receipt of a valid application as established by the Board, the Board may recognize for practice of Certified

Permanent Final Adoptions

~~Nurse Midwifery and approve for inclusion on its official listing, the name so recognized.~~

485:10-15-9. Practice as a Certified Registered Nurse Anesthetist

(a) **Educational preparation.** ~~An applicant for licensure as a Certified Registered Nurse Anesthetist must provide evidence of successful completion of a nurse anesthesia educational education program accredited by the American Association of Nurse Anesthetists' Council on Accreditation of Nurse Anesthesia Educational Programs. Effective January 1, 2016, the applicant for initial licensure or licensure by endorsement as a Certified Registered Nurse Anesthetist must hold a graduate-level degree from a program preparing the graduate for certification as a nurse anesthetist accredited by the American Association of Nurse Anesthetists' Council on Accreditation of Nurse Anesthesia Educational Programs.~~

(b) **Certification.** ~~The applicant for initial licensure or licensure by endorsement as a Certified Registered Nurse Anesthetist must hold current certification as a nurse anesthetist through the National Board for Certification and Recertification of Nurse Anesthetists. Maintenance. Maintenance of recertification through American Association of Nurse Anesthetists' Council on Recertification of Nurse Anesthetists.~~

485:10-15-9.1. Approval of advanced practice education programs (Effective January 1, 2016)

(a) Requirements for approval.

(1) The Board shall have the authority for approval of advanced practice education programs located in the State of Oklahoma.

(2) To be approved as an advanced practice education program in the State of Oklahoma, the program shall meet the following standards:

(A) A graduate-level program offered by a university accredited by an accrediting body that is recognized by the U.S. Secretary of Education and/or the Council for Higher Education Accreditation (CHEA);

(B) The APRN program holds accreditation or candidacy status from the National League for Nursing Accrediting Commission, the Commission on Collegiate Nursing Education, the Accreditation Commission for Midwifery Education, or the American Association of Nurse Anesthetists' Council on Accreditation of Nurse Anesthesia Educational Programs;

(C) The curriculum of the APRN nursing education program must prepare the graduate to practice in one of the four identified APRN roles (i.e., CRNA, CNM, CNS, or CNP) and in at least one of the six population foci (i.e., Family/Individual across the Lifespan, Adult-Gerontology (acute and/or primary), Neonatal, Pediatrics (acute and/or primary), Women's Health/Gender-Related, or Psychiatric/Mental Health).

(b) **Establishment of a new advanced practice education program in the State of Oklahoma.**

(1) An institution wishing to establish a new advanced practice education program shall submit an application for approval to the Board at least six weeks prior to a regularly-scheduled Board meeting and at least six months prior to planned admission of the first students, which provides the following information for the Board's consideration:

(A) mission and organization of the education institution;

(B) accreditation or candidacy status of the education institution and of the proposed program;

(C) advanced practice registered nurse role(s) and population focus/foci of the proposed program;

(D) degree to be offered;

(E) degree plan;

(F) tentative time-table for program development and implementation;

(G) proposed size of program.

(3) The application shall be signed by the controlling institution's administrative official with evidence that the institution is authorized to offer education programs in Oklahoma.

(4) The Board shall advise the institution in writing of its decision to:

(A) approve the program; or

(B) defer approval pending receipt of further information; or

(C) deny approval specifying reasons for denial.

(c) Reports to the Board.

(1) A Board-approved advanced practice education program shall submit notification to the Board of changes in accreditation status, nurse administrator for the program, or institutional ownership within 30 days of the change.

(2) Upon notification of loss of accreditation status, the program will be removed from the list of Board-approved advanced practice education programs. The program will be notified that its graduates are not eligible for licensure as Advanced Practice Registered Nurses in the State of Oklahoma.

(3) Additions to or changes in the advanced practice education program that change the advanced practice role, population focus, or degree require approval of the Board prior to implementation.

SUBCHAPTER 16. REQUIREMENTS FOR PRESCRIPTIVE AUTHORITY FOR ADVANCED PRACTICE REGISTERED NURSES

485:10-16-1. Definitions

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

"Continuing education categories" as set out below present and define methods for meeting initial and renewal contact and academic credit hours at an advanced practice level as required for prescriptive authority:

(A) Category A: Academic credit. ~~See continuing education equivalencies table for semester/quarter hour conversion to contact hours.~~

(B) Category B:

(i) Onsite Seminar or lecture or workshop or course approved for contact hours, continuing education units or continuing medical education units through a recognized approver of continuing education; or

(ii) Online continuing education for initial applications must be approved through a recognized approver of continuing education, and includes a minimum of thirty hours obtained from a single provider that is faculty-directed, with processes for interaction of the participant with faculty, evaluating the participant's learning through successful completion of case studies or written assignments and a comprehensive examination using a mechanism to ensure security of the evaluation process.

(C) Category C: Online seminars or workshops, or articles in professional journals or other professional references approved for contact hours, continuing education units or continuing medical education units through a recognized approver of continuing education.

(D) Category D: Published article in refereed journal/book/research project. Evidence of publication of one article related to pharmacotherapy appropriate for ~~advanced practice nurses~~ Advanced Practice Registered Nurses. These will be evaluated on a case-by-case review.

(E) Category E: Presenter/lecturer. Evidence of providing content related to pharmacotherapeutics at an advanced practice level. The presentation/lecture must be approved for contact hours or offered as part of an academic course with a target audience of advanced practice nurses.

"Course in pharmacotherapeutic management" means a course in which the content must include pharmacodynamic and kinetic principles, classifications of medications relevant to the scope of practice, sources for and methods of evaluating drug information, legal and ethical implications of prescribing, clinical application and use of pharmacological agents in the prevention of illness, restoration and maintenance of health.

"Qualified preceptor" means an ~~advanced practice nurse~~ Advanced Practice Registered Nurse with a current unrestricted license who has a scope of practice which includes prescribing and has met the requirements for prescriptive authority; or a licensed practitioner of medicine or osteopathy with unrestricted prescriptive authority.

485:10-16-2. Provision

The Board of Pharmacy, pharmacies, and registered pharmacists may access the Board of Nursing's website for the formulary and the licensure and recognition status of ~~advanced practice nurses~~ Advanced Practice Registered Nurses recognized for prescriptive authority.

485:10-16-3. Initial application

The ~~advanced practice nurse~~ Advanced Practice Registered Nurse applicant for prescriptive authority shall:

(1) hold a current ~~R.N.~~ Registered Nurse and Certified Nurse Practitioner, Certified Nurse Midwife, or Clinical Nurse Specialist license and recognition as an ~~A.R.N.P., C.N.M., or C.N.S.~~ in Oklahoma;

(2) submit a completed application for each type of recognition and advanced practice specialty certification held containing such information as the Board may prescribe and the required fee;

(3) submit a written statement from an Oklahoma-licensed physician supervising prescriptive authority which identifies a mechanism for:

(A) appropriate referral, consultation, and collaboration between the ~~advanced practice nurse~~ Advanced Practice Registered Nurse and physician supervising prescriptive authority;

(B) availability of communication between the ~~advanced practice nurse~~ Advanced Practice Registered Nurse and physician supervising prescriptive authority through direct contact, telecommunications, or other appropriate electronic means for consultation, assistance with medical emergencies or patient referral;

(4) submit documentation verifying completion of forty-five contact hours of Category B continuing education or three academic credit hours of education, as required by law and defined in the rules and regulations, in a course or courses in pharmacotherapeutic management that target/s Advanced Practice Registered Nurses or individuals enrolled in an advanced practice registered nursing education program and/or other authorized prescribers which are applicable to the scope of practice, in pharmacotherapeutics, clinical application, and use of pharmacological agents in the prevention of illness, and in the restoration and maintenance of health in a program beyond basic nursing preparation. Such contact hours or academic credits shall be obtained within a time period of three (3) years immediately preceding the date of receipt of application for prescriptive authority. The three (3) year time period may be waived if the applicant has graduated from their advanced practice registered nursing education program within a time period of three years immediately preceding the date of application for prescriptive authority and ~~submits the following official documentation from the advanced practice program:~~ evidence that didactic and clinical preparation for prescribing was incorporated throughout the program:

(A) Course descriptions with course objectives verifying the integration of didactic and clinical hours in pharmacotherapeutic management content throughout the advanced practice program curriculum; and

(B) Credentials of the faculty teaching the courses verifying the faculty's scope of practice includes prescribing.

(C) Verification of the total number of contact hours completed in pharmacotherapeutics.

Permanent Final Adoptions

(5) Submit documentation verifying successful completion of a graduate level advanced practice registered nursing education program that included an academic course in pharmacotherapeutic management and didactic and clinical preparation for prescribing incorporated throughout the program degree at an advanced practice level or post master's certificate at an advanced practice level, if the Master's degree is in nursing. Until January 1, 2016, a Clinical Nurse Specialist who verifies completion of a graduate level advanced practice registered nursing education program that included an academic course in pharmacotherapeutic management may meet the requirements in 485:10-16-4 in lieu of submitting verification of didactic and clinical preparation for prescribing incorporated throughout the advanced practice nursing education program.

485:10-16-4. Clinical Nurse Specialist pharmacology requirements

Until January 1, 2016, in addition to meeting the requirements in 485:10-16-3, and in lieu of submitting verification of didactic and clinical preparation for prescribing incorporated throughout the advanced practice nursing education program, the Clinical Nurse Specialist who submits an initial application for prescriptive authority ~~shall~~ may also submit:

- (1) Documentation verifying completion of a course in pharmacotherapeutic management applicable to the Clinical Nurse Specialist's specialty area which must be a minimum of two credit hours or 30 contact hours of Categories A or B continuing education categories.
- (2) Documentation verifying satisfactory completion of a minimum of 320 clock hours preceptorial experience with a qualified preceptor whereby the Clinical Nurse Specialist is providing direct care including demonstrating competence in prescribing drugs and medicines. This preceptorial experience must be developed and overseen by an academic program that prepares Clinical Nurse Specialists. All didactic coursework in pharmacotherapeutics must be a prerequisite or corequisite to the preceptorial experience verified by official documentation of approval by the academic program that offers the preceptorial experience.

485:10-16-5. Maintenance

- (a) ~~The advanced practice nurse~~ Advanced Practice Registered Nurse may prescribe in writing, orally, or by other means of telecommunication, drugs or medical supplies which are not listed on the exclusionary formulary approved by the Board, and which are within the scope of practice for the ~~advanced practice nurse~~ Advanced Practice Registered Nurse, and that are not otherwise prohibited by law.
- (b) ~~The advanced practice nurse~~ Advanced Practice Registered Nurse must have a supervising physician on file with the Board prior to prescribing drugs or medical supplies. Changes to the written statement between the ~~advanced practice nurse~~ Advanced Practice Registered Nurse and supervising

physician shall be filed with the Board within ~~thirty~~ 30 (30) days of the change and shall be effective upon filing.

(c) ~~The advanced practice nurse~~ Advanced Practice Registered Nurse with prescriptive authority who prescribes Schedule III-V drugs will comply with state and Federal Drug Enforcement Administration (DEA) requirements prior to prescribing controlled substances.

- (1) ~~The advanced practice nurse~~ Advanced Practice Registered Nurse with prescriptive authority will submit in writing the assigned DEA number to the Board of Nursing within fourteen (14) days of receipt.
- (2) No more than a 30-day supply for Schedule III-V drugs shall be prescribed by the ~~advanced practice nurse~~ Advanced Practice Registered Nurse with prescriptive authority.

485:10-16-6. Renewal

The application for renewal of prescriptive authority shall:

- (1) be concurrent with the two-year RN licensure renewal and renewal of advanced practice recognition;
- (2) include:
 - (A) a completed application containing such information as the Board may prescribe and required fee;
 - (B) documentation approved by the Board verifying a minimum of ~~fifteen (15)~~ 15 contact hours, or one academic credit hour of education, or the equivalent, in pharmacotherapeutics, clinical application and use of pharmacological agents in the prevention of illness, and in the restoration and maintenance of health, in a program beyond basic registered nurse preparation, approved by the Board, within the two-year period immediately preceding the effective date of application for renewal of prescriptive authority, which is applicable to the scope of practice and specialty certification. This documentation requirement does not apply to individuals renewing within ~~twenty-four (24)~~ 24 months of initial prescriptive authority approval.
 - (i) The following categories identify how this requirement may be met. No more than the identified percentage for each category may apply towards the contact hour/academic hour or the equivalent requirements for renewal of prescriptive authority;
 - (ii) Maximum number of units acceptable in continuing education categories:
 - (I) Category A: up to 100% of requirement (1 credit hour)
 - (II) Category B: up to 100% of requirement (15 contact hours)
 - (III) Category C: up to 100% of requirement (15 contact hours)
 - (IV) Category D: up to 20% of requirement (3 contact hours)
 - (V) Category E: up to 20% of requirement (3 contact hours)
 - (C) A written statement signed by the physician supervising prescriptive authority that includes a

method of assuring availability of the supervising physician through direct contact, telecommunications or other appropriate electronic means for consultation, assistance with medical emergencies, or patient referral. Applicants for renewal who have submitted a written statement signed by the physician supervising prescriptive authority prior to renewal but within ~~ninety (90)~~90 days of the expiration date are not required to submit another written statement for renewal.

485:10-16-7. Reinstatement/Inactive Status

(a) Reinstatement.

(1) If an ~~advanced practice nurse~~Advanced Practice Registered Nurse fails to renew prescriptive authority prior to the expiration date of that authority, the ~~advanced practice nurse's~~Advanced Practice Registered Nurse's prescriptive authority shall expire and the ~~advanced practice nurse~~Advanced Practice Registered Nurse shall cease prescribing.

(2) The ~~advanced practice nurse~~Advanced Practice Registered Nurse may reinstate the prescriptive authority renewal by submitting:

(A) a completed application containing such information as the Board may prescribe and required fee;

(B) evidence of having met requirements for renewal of prescriptive authority as listed in 485:10-16-6 (2)(B)(i)(ii).

(C) A written statement signed by the Oklahoma-licensed physician supervising prescriptive authority that includes a method of assuring availability of the supervising physician through direct contact, telecommunications or other appropriate electronic means for consultation, assistance with medical emergencies, or patient referral.

(3) If reinstatement is not approved within three years of the expiration of prescriptive authority, the applicant will be required to meet initial application criteria.

(b) Inactive Status.

(1) An ~~advanced practice nurse~~Advanced Practice Registered Nurse may submit a written request to place prescriptive authority on inactive status.

~~(2) An advanced practice nurse's prescriptive authority will be placed on inactive status upon notification to the Board office that the nurse does not have a current physician supervising prescriptive authority.~~

~~(3) The date of inactive status will be the date of approval by the Board. The Board may delegate approval of the licensee's request to be placed on inactive status to Board staff.~~

(4) The ~~advanced practice nurse~~Advanced Practice Registered Nurse may return to active status the prescriptive authority renewal by submitting:

(A) a completed application containing such information as the Board may prescribe and required fee;

(B) evidence of having met requirements for renewal of prescriptive authority as listed in 485:10-16-6 (2)(B)(i)(ii).

(C) A written statement signed by the Oklahoma-licensed physician supervising prescriptive authority that includes a method of assuring availability of the supervising physician through direct contact, telecommunications or other appropriate electronic means for consultation, assistance with medical emergencies, or patient referral.

~~(5) If return to active status of prescriptive authority is not approved within three (3) years of the date of approval of inactive status, the applicant will be required to meet initial application criteria.~~

485:10-16-8. Information which must be included on the prescription

(a) Prescriptions will comply with all applicable state and federal laws.

(b) All prescriptions will include the following information:

(1) Name, title, address, and telephone number of the ~~advanced practice nurse~~Advanced Practice Registered Nurse who is prescribing.

(2) Name of physician supervising prescriptive authority.

(3) Name of the client.

(4) Date of the prescription.

(5) Full name of the drug, dosage, route and specific directions for administration.

(6) DEA number of ~~advanced practice nurse~~Advanced Practice Registered Nurse, if required.

(c) Written prescriptions shall include the signature of the ~~advanced practice nurse~~Advanced Practice Registered Nurse.

(d) Records of all prescriptions will be documented in client records.

SUBCHAPTER 18. PRESCRIPTIVE AUTHORITY FOR ~~C.R.N.A.~~CRNA

485:10-18-2. Initial application

The Certified Registered Nurse Anesthetist (~~C.R.N.A.~~)CRNA who applies for authority to order, select, obtain and administer drugs shall:

(1) hold a current R.N. license and ~~recognition~~licensure as a ~~C.R.N.A.~~CRNA in Oklahoma;

(2) submit the following:

(A) a completed application containing such information as the Board may prescribe for authority to order, select, obtain and administer drugs and the required fee;

(B) evidence of satisfactory completion of a minimum of fifteen (15) units of continuing education in advanced pharmacology related to the administration of anesthesia as recognized by the American Association of Nurse Anesthetists or within an approved nurse anesthetist education program within the two-year period immediately preceding the date of application;

~~(C) evidence of professional liability insurance.~~

Permanent Final Adoptions

- (~~DC~~) official transcript of ~~C.R.N.A.~~CRNA education, if not on file with Board office; and
(~~ED~~) ~~legible copy~~verification of current national certification.

485:10-18-3. Renewal

The application for renewal of authority to order, select, obtain and administer drugs shall:

- (1) be concurrent with the two-year ~~R.N.RN and advanced practice registered nursing~~ licensure renewal and ~~renewal of advanced practice recognition~~;
- (2) include:
 - (A) a completed application containing such information as the Board may prescribe and required fee;
 - (B) documentation verifying satisfactory completion of a minimum of eight (8) units of continuing education in advanced pharmacology relating to the administration of anesthesia, as recognized by the Council on Certification of Nurse Anesthetists or the Council on Recertification of Nurse Anesthetists, completed during the two (2) years immediately preceding renewal.

485:10-18-4. Reinstatement

(a) If a ~~C.R.N.A.~~CRNA fails to renew authority to order, select, obtain and administer drugs prior to the expiration date of that authority, the ~~C.R.N.A.~~CRNA's authority to order, select, obtain and administer drugs shall expire. If reinstatement is not approved within two years of the expiration of authority to order, select, obtain and administer, the applicant will be required to meet initial application criteria.

(b) The ~~C.R.N.A.~~CRNA may reinstate the authority to order, select, obtain and administer drugs by submitting

- (1) a completed application containing such information as the Board may prescribe and required fee;
- (2) documentation verifying satisfactory completion of a minimum of eight (8) units of continuing education in advanced pharmacology relating to the administration of anesthesia, as recognized by the American Association of Nurse Anesthetists, completed during the two (2) years immediately preceding renewal.

485:10-18-5. Information which must be included in the order

(a) The ~~C.R.N.A.~~CRNA with authority to order, select, obtain and administer drugs shall document all orders in the patient record.

(b) All orders shall:

- (1) comply with all applicable state and federal laws;
- (2) include:
 - (A) name of the client,
 - (B) date of the order,
 - (C) full name of the drug, dosage, route and specific directions for administration,
 - (D) signature of the ~~C.R.N.A.~~CRNA

(c) The ~~C.R.N.A.~~CRNA with authority to order, select, obtain and administer Schedule II-V drugs shall comply with

the Uniform Controlled Dangerous Substance Act requirements. The ~~C.R.N.A.~~CRNA with authority to order, select, obtain and administer drugs will ~~immediately~~ notify the Board of Nursing in writing that the DEA registration was received within fourteen (14) days of receipt.

[OAR Docket #12-779; filed 6-4-12]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #12-761]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 11. Fees

535:1-11-1. Annual licenses, permits and renewals [AMENDED]

AUTHORITY:

Oklahoma State Board of Pharmacy is the regulatory authority under Title 59 O.S., Sec. 353.3, 353.5 - 353.7, 353.9, 353.11, 353.18; 353.20, 353.22, 353.24 - 353.26, 353.29, 353.30; and Title 75 O.S., Section 302, 305, 307, and 309; and Title 63 O.S., Sec 2-201, 2-208 and 2-210; and Title 51 Sec. 24 A.5 (3)

DATES:

Comment period:

August 1, 2011 through September 28, 2011

Public hearings:

September 29, 2011

Adoption:

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Submitted to Governor:

November 18, 2011

Submitted to House:

November 18, 2011

Submitted to Senate:

November 18, 2011

Gubernatorial approval:

December 21, 2011

Legislative approval:

Approved May 24, 2012 by House Joint Resolution 1097

Final adoption:

May 24, 2012

Effective:

July 12, 2012

SUPERSEDED EMERGENCY ACTION:

n/a

INCORPORATED BY REFERENCE:

n/a

ANALYSIS:

535:1-11-1 (a) (3) revision identifies remote medication order processing (RMOP) pharmacy as pharmacy license category that is at the \$150 fee, not a fee increase but correctly to label. 535:1-11-1 (a) (4) revision sets pharmacy emergency medication kit in facility remote sites at a lower \$50 fee due to restricted use and lesser inspection / enforcement costs. Rules in 535:1-11-1 (a)(4)-(12) are renumbered to (a)(5)-(13).

CONTACT PERSON:

Mr. John A. Foust, Executive Director, Oklahoma State Board of Pharmacy, 4545 Lincoln Blvd Ste 112, Oklahoma City, OK 73105-3488, Phone number 405 521-3815

**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 12, 2012:

SUBCHAPTER 11. FEES

535:1-11-1. Annual licenses, permits and renewals

Annual license, permit and renewal fees, as set by the Board, shall be as follows:

- (1) Pharmacist renewal (active or inactive) - \$ 100
- (2) Senior inactive pharmacist renewal (age 65 or over, retired) - \$20
- (3) Pharmacy license
 - (A) Retail, hospital, ~~and non-resident, and remote medication order processing~~ - \$150
 - (B) Charitable clinic - \$ 75
 - (C) Hospital drug room - \$ 40
 - ~~(D) Long term care pharmacy~~
- (4) Oklahoma licensed pharmacy emergency medication kit placed in an Oklahoma facility [59 O.S. 367.8 (C)] remote site - \$50
 - ~~(5) Parenteral permit - \$ 75~~
 - ~~(6) Drug supplier permit - \$ 20~~
 - ~~(7) Wholesaler permit - \$200~~
 - ~~(8) Packager permit - \$200~~
 - ~~(9) Manufacturer permit - \$200~~
 - ~~(10) Medical gas supplier permit- \$100~~
 - ~~(11) Medical gas distributor permit - \$200~~
 - ~~(12) Pharmacy technician permit - \$40~~
 - ~~(13) Duplicate renewal receipt, permit, or practical experience certificate:~~
 - (A) Duplicate for lost, destroyed or damaged original-\$10
 - (B) Duplicate or multiple location copy - \$10

[OAR Docket #12-761; filed 5-29-12]

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

[OAR Docket #12-762]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:

- Subchapter 3. Pharmacies
- 535:15-3-4.1. Pharmacy licensing requirement [AMENDED]
- 535:15-3-17. Pharmacy prescription records [AMENDED]
- Subchapter 6. Hospital Drug Room
- 535:15-6-9. Emergency room pre-packaged medications formulary [AMENDED]
- Subchapter 16. Pharmacy Emergency Medication Kits for Use in a Facility [NEW]
- 535:15-16-1. Purpose [NEW]
- 535:15-16-2. Definitions [NEW]
- 535:15-16-3. Licensing requirements [NEW]
- 535:15-16-4. Policies and procedures for use of emergency medication kit drugs [NEW]
- 535:15-16-5. Security [NEW]

- 535:15-16-6. Drug categories allowed in emergency medication kits [NEW]
- 535:15-16-7. Violations [NEW]

AUTHORITY:

Oklahoma State Board of Pharmacy is the regulatory authority under Title 59 O.S., Sec. 353.7, 353.13, 353.13A, 353.16A, 353.17, 353.18, 353.20, 353.22, 353.24 - 353.26, 353.29 and 354.

DATES:

Comment period:

August 1, 2011 through September 28, 2011

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Adoption:

November 16, 2011

Submitted to Governor:

November 18, 2011

Submitted to House:

November 18, 2011

Submitted to Senate:

November 18, 2011

Gubernatorial approval:

December 21, 2011

Legislative approval:

Approved May 24, 2012 by House Joint Resolution 1097

Final adoption:

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Effective:

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SUPERSEDED EMERGENCY ACTION:

n/a

INCORPORATED BY REFERENCE:

n/a

ANALYSIS:

This 535:15-3-4.1 revision removes the requirement that every pharmacy list the corporate registered agent and address on all new or renewal applications. The revision in 535:15-3-17 allows the pharmacy prescription record to be digital while keeping the other requirement of the rule the same.

This 535:15-6-9 (C) revision removes "Propoxyphene / acetaminophen" from the emergency room pre-packaged medications formulary (since it is no longer produced) and changes it to "Hydrocodone / ibuprofen" combination.

535:15-16-1 through 535:15-16-6 are new rules for pharmacy emergency medication kits which rules allow pharmacies to place in specifically defined facility remote sites limited emergency medication kits to allow for emergency and urgent care for patients. These rules provide purpose in 535:15-16-1, definitions in 535:15-16-2, licensure requirement in 535:15-16-3, policies and procedures in 535:15-16-4, security in 535:15-16-5, description of drug categories and limits in 535:15-16-6 and violations in 535:15-16-7.

CONTACT PERSON:

Mr. John A. Foust, Executive Director, Oklahoma State Board of Pharmacy, 4545 Lincoln Blvd Ste 112, Oklahoma City, OK 73105-3488, Phone number 405 521-3815

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 12, 2012:

SUBCHAPTER 3. PHARMACIES

535:15-3-4.1. Pharmacy licensing requirement

(a) Every pharmacy conducting intrastate transactions in Oklahoma shall be licensed as required under Title 59, O.S., Section 353.18 (A). Every pharmacy shall also be licensed as required by Title 59 O.S. Section 353.18(A) if Oklahoma is the state from which it or to which it delivers, distributes, or dispenses or offers to sale, deliver, distribute, or dispense

Permanent Final Adoptions

dangerous drugs, medicines, chemicals or poisons for the treatment or prevention of diseases, excluding agricultural chemicals and drugs.

(b) ~~Every pharmacy shall list the corporate registered agent and address as required on their new and/or renewal application.~~

(e) Every applicant for pharmacy license issued under Title 59 O.S. Section 353.18 shall fully and completely disclose ownership as required by the Board on their new and/or renewal application.

535:15-3-17. Pharmacy prescription records

(a) The original prescription [as defined in 353.1(29)] shall be maintained and readily retrievable for five years.

(b) Faxed prescriptions received in electronic format (which have not been printed) or electronically transmitted prescriptions may be electronically stored and maintained in a readily retrievable format for five years.

(c) Prescriptions for controlled dangerous substances (CDS) must additionally meet the requirements of the federal Drug Enforcement Administration (DEA) and the Oklahoma Bureau of Narcotics and Dangerous Drugs (OBNDD).

AGENCY NOTE: DEA does not consider a faxed prescription to be an electronically transmitted prescription. Faxed prescriptions for CDS must be printed and maintained as original printed prescriptions.

SUBCHAPTER 6. HOSPITAL DRUG ROOM

535:15-6-9. Emergency room pre-packaged medications formulary

(a) Each hospital drug room may choose the medicines to be included in their emergency room (ER) pre-packaged medications formulary within the requirements and limits listed below. This formulary shall be included within the policies and procedures of the hospital drug room. These pre-packaged medications shall be administered only as allowed in 535:15-6-8 for a maximum of a 72-hour supply.

(b) Type of Medication defined or parameters for choice [Limits]

- (1) Controlled Dangerous Substances (CDS):
 - (A) Hydrocodone / acetaminophen combination [one]
 - (B) Codeine/acetaminophen combination [one]
 - (C) ~~Propoxyphene/acetaminophen~~Hydrocodone/ibuprofen combination [one]
 - (D) Hydrocodone containing antitussive preparation [one]
- (2) ACE inhibitor: per ER formulary [two]
- (3) Anti-nausea: per ER formulary [two]
- (4) Anti-viral: per ER formulary [two]
- (5) Anti-coagulant: per ER formulary [two]
- (6) Antihistamine: per ER formulary [two]
- (7) Anti-hypertensive: per ER formulary [three]
- (8) Antimicrobial: per ER formulary [unlimited]
- (9) Asthma: per ER formulary [one]

- (10) Beta blocker: per ER formulary [two]
- (11) Diuretic: per ER formulary [two]
- (12) Ear: antibiotic/steroid or antibiotic/ steroid/pain combination
- (13) Eye: antibiotic or antibiotic/steroid combination
- (14) Miscellaneous:
 - (A) terbutaline
 - (B) oral contrast media
- (15) Muscle relaxant: per ER formulary [two non-CDS]
- (16) Pain: per ER formulary [two non-CDS]
- (17) Proton pump inhibitor per ER formulary [one] 110
- (18) Steroid: per ER formulary [three]

SUBCHAPTER 16. PHARMACY EMERGENCY MEDICATION KITS FOR USE IN A FACILITY

535:15-16-1. Purpose

(a) This subchapter establishes rules regarding drugs that an Oklahoma licensed pharmacy may maintain in an emergency medication kit, as authorized under Title 59 O.S. Section 367.8.

(b) The purpose of these Oklahoma licensed pharmacy emergency medication kits for use in a facility is not to relieve a pharmacist or an Oklahoma licensed pharmacy of the responsibility for timely provision of a facility resident's routine drug needs; but to ensure that an emergency medication kit is available to facility residents in need of urgent or emergency medications.

535:15-16-2. Definitions

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

"Emergency medication kits", "Emergency medication boxes", or "Emergency medication carts", "emergency kits", "kits", "boxes" or "carts" means those drugs which are allowed under these rules that may be required to meet the immediate emergency therapeutic needs of facility residents; and which are not available from any other authorized source in sufficient time to prevent risk of harm or death to residents.

"Facility" or "Institution" means a facility as defined by the Nursing Home Care Act or an Assisted Living Center as defined by the Continuum of Care and Assisted Living Act.

"Remote site" means a facility location where a Oklahoma licensed pharmacy has placed an emergency medication kit.

"Resident" means a patient residing at the facility.

"Single dose injectable medication" means any injectable medication vial in the emergency medication kit.

AGENCY NOTE: Facility defined in 59 OS Section 367.8(C) included in rules for reference.

535:15-16-3. Licensing requirements

(a) The Oklahoma licensed pharmacy shall maintain a separate pharmacy emergency medication kit permit for each facility remote site for an annual fee set by the Board.

(b) The Oklahoma licensed pharmacy shall contact DEA and OBN and comply with any registration or requirements for each remote site prior to providing a controlled dangerous substance in the emergency medication kit.

535:15-16-4. Policies and procedures for use of emergency medication kit drugs

(a) The drugs in the emergency medication kits shall remain the property of an Oklahoma licensed pharmacy.

(b) Only one Oklahoma licensed pharmacy may provide emergency medication kits to each facility.

(c) Emergency medications kits maintained by an Oklahoma licensed pharmacy within the facility shall be approved by the medical director of the facility and the facility's consultant pharmacist on at least an annual basis.

(d) Medications may be administered from the facility's emergency medication kit only upon a physician's order for the emergency medication; and must be administered by a licensed nurse, physician, or physician's assistant.

(e) The facility licensed nurse shall

(1) verbally transmit the order for an emergency drug requiring access to the emergency medication kit to an Oklahoma licensed pharmacist who is an employee of the Oklahoma licensed pharmacy and is physically located within the 50 United States at the time the order is transmitted prior to the removal of a medication from the emergency medication kit,

(2) or may electronically transmit the order to an Oklahoma licensed pharmacy and located within the 50 United States following all federal and state regulations and rules only if the Oklahoma licensed pharmacy is utilizing technology which requires the Oklahoma licensed pharmacist to release the medication from the emergency medication kit by electronic means.

(f) The facility and Oklahoma licensed pharmacy shall have a written agreement that clearly states these drugs should not be used for routine use, but for emergency use and the need of the patient for urgent care.

(1) This written agreement shall contain a policy for record keeping of medications removed from the emergency medication kit.

(2) The Oklahoma licensed pharmacy shall require the facility to maintain a readily retrievable log of usage from the emergency medication kit which shall include for each dose administered from the emergency medication kit, at a minimum:

(A) Name of ordering physician or practitioner,

(B) Date and time of order,

(C) Facility resident's name,

(D) Medication name and strength,

(E) Name of person administering medication, and date and time administered,

(F) Such log shall be maintained in the facility and the Oklahoma licensed pharmacy and shall be available for Board inspection.

(3) The facility and Oklahoma licensed pharmacy shall document the nature of the emergency.

(4) Name of person verbally notifying the Oklahoma licensed pharmacy shall be recorded by the Oklahoma licensed pharmacy,

(5) The agreement shall document the protocol for handling and storage of these drugs by authorized employees and shall be approved by the Oklahoma licensed pharmacy manager.

(6) The Oklahoma licensed pharmacy shall review the agreement, recordkeeping and drug storage and handling at a minimum of annually.

(7) The facility and Oklahoma licensed pharmacy shall have a policy on replacement of medication in a timely manner.

(A) Replacement of controlled drug substances (CDS) in the emergency medication kit in a facility may be done by an authorized licensed or permitted employee of the Oklahoma licensed pharmacy.

(B) Replacement of the non-controlled drugs from the licensed Oklahoma pharmacy in the emergency medication kit may be done by a licensed nurse, agent of the Oklahoma licensed pharmacy, licensed or permitted employee of the Oklahoma licensed pharmacy.

(g) The Oklahoma licensed pharmacy shall maintain the following records for each facility remote site where an emergency medication kit is maintained:

(1) A log of which facilities the Oklahoma licensed pharmacy provides emergency medications for;

(2) A log of medications stored at each facility;

(3) The Oklahoma licensed pharmacy shall require the facility to maintain a log of usage from the emergency medication kit; and

(4) The log of usage from the emergency medication kit shall be auditable and maintained in a readily retrievable manner by the facility.

(h) Expired medications shall be removed from emergency supply by a licensed or permitted employee of the Oklahoma licensed pharmacy; and shall not be dispensed or administered.

(i) Controlled Dangerous Substances (CDS) may be maintained only in a medication kit that is separate from non-controlled dangerous substances or within an electronic medication dispensing machine, if allowed, in accordance with Oklahoma Bureau of Narcotics and the federal Drug Enforcement Administration laws and rules.

(j) Emergency medication kits that do not contain controlled dangerous substances may be maintained in an electronic system or in a secure emergency medication kit. A list of drugs in the emergency medication kit shall be attached to the same.

(k) A record of transactions involving the controlled substance emergency medication kit shall be maintained for two (2) years in a readily retrievable manner by the Oklahoma licensed pharmacy and facility. This transaction record is separate from the prescription record which must be maintained for a minimum of 5 years.

535:15-16-5. Security

(a) Emergency medication kits shall have adequate security and procedures to:

Permanent Final Adoptions

- (1) Prohibit unauthorized access;
 - (2) Comply with federal and state law and regulations;
and
 - (3) Maintain patient confidentiality.
- (b) The emergency medication kit shall be sealed with a tamper-evident seal; or,
- (1) It shall be locked or sealed in a manner that obviously reveals when the kit has been opened or tampered with; or,
 - (2) An electronic system may be used, which notifies the Oklahoma licensed pharmacy when the kit has been accessed.
 - (3) Paper or tape seals are unacceptable.
- (c) If an electronic system is utilized, the Oklahoma licensed pharmacy and facility must maintain a written procedure for how the kit can be accessed in the event of downtime.
- (d) The emergency medication kit shall be properly sealed, stored, and accessible only to authorized personnel.
- (e) The emergency medication kit shall be securely locked in a sufficiently well-constructed cabinet or cart maintained in the medication room, and access to the cabinet or cart shall be available only to the nurse or nurses as determined by the pharmaceutical services committee or its equivalent.
- (f) Access to the controlled substances in the emergency medication kit shall be limited to a licensed nurse, authorized licensed or permitted employee of the Oklahoma licensed pharmacy.
- (g) Access to non-controlled drugs in the emergency medication kit shall be limited to a licensed nurse, agent of the Oklahoma licensed pharmacy, licensed or permitted employee of the Oklahoma licensed pharmacy.

535:15-16-6. Drug categories allowed in emergency medication kits

- (a) An Oklahoma licensed pharmacy and its pharmacists shall be responsible for timely provision of a facility resident's routine drug needs. The drugs listed below are to ensure that such drugs are available to each resident of a facility in need of emergency medications.
- (b) The following categories of drugs are acceptable for emergencies medication kits in a facility:
- (1) Analgesic oral:
 - (A) Non-CDS - Limit 2;
 - (B) Plus CDS, (CII-CV) - Limit 4 medications; of which only 2 may be CII [Only if approved by Oklahoma Bureau of Narcotics (OBND) and the Federal Drug Enforcement Administration (DEA)]
 - (2) Antipsychotic - Limit 4
 - (3) Anti-epileptic - Limit 2
 - (4) Anti-diarrheal - Limit 1
 - (5) Antinauseant - Limit 2
 - (6) Antibiotic
 - (A) Oral - Limit 6
 - (B) Injectable (IM or IV) - Limit 2
 - (7) Antihistamine/allergic reactions - Limit 4
 - (8) Anti-hypertensive - Limit 4 (may include nitroglycerin, clonidine, nifedipine)
 - (9) Anti-asthmatic - Limit 2

- (10) Anti-anxiety - Limit 4 (scheduled and non scheduled, injectable and oral)
 - (11) Diabetic Medications - Limit 4 (may include medications for hypoglycemia)
 - (12) Diuretic - Limit 2
 - (13) Parenteral Fluid:
 - (A) Isotonic - Limit 1 bag;
 - (B) Hypotonic - Limit 1 bag; and,
 - (C) Hypertonic solution - Limit 1 bag.
 - (14) Steroid - Limit 3
 - (15) Misc. non CDS medications - Limit 6
- (c) Before placing miscellaneous non-controlled or CDS medications listed in b (1)-(15) above the Oklahoma licensed pharmacy and facility must have a written policy indicating what these drugs are; and the reason for their need. This written policy must be available for Board inspection. The Oklahoma licensed pharmacy must be in compliance with the rules and laws of the Oklahoma Bureau of Narcotics and the federal Drug Enforcement Administration.
- (d) All injectable medications shall be considered a single dose vial; any remainder shall be destroyed as required under Oklahoma or federal law and rules.

535:15-16-7. Violations

- (a) Theft or diversion of prescription drugs is a violation of state law and these rules.
- (1) Violation by a licensed nursing home or licensed Assisted Living Center of these rules will be referred to the Oklahoma State Health Department and/or other proper authorities for possible action.
 - (2) Violation by a registrant of the Board may result in action under Title 59 O.S. Section 353.26 and/or other proper authorities for possible action.
- (b) Violation of this subchapter by a Oklahoma licensed pharmacy or a facility may result in loss of the ability to have or use emergency medication kits as authorized under these rules.
- (c) Violation(s) may be referred for criminal prosecution where appropriate.

[OAR Docket #12-762; filed 5-29-12]

TITLE 748. UNIFORM BUILDING CODE COMMISSION CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #12-782]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

748:1-1-2. Address [AMENDED]

748:1-1-4. Meetings [AMENDED]

AUTHORITY:

Oklahoma Uniform Building Code Commission; 59 O.S. §§ 1000.23

DATES:

Comment Period:

February 16, 2012 through March 19, 2012

Public Hearing: March 20, 2012
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Submitted to Governor: March 28, 2012
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Submitted to Senate: March 28, 2012
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Legislative approval: Approved on May 30, 2012 by House Joint Resolution 1127
Final adoption: May 30, 2012
Effective: November 1, 2012
SUPERSEDED EMERGENCY ACTIONS: n/a
INCORPORATIONS BY REFERENCE: n/a
ANALYSIS: The purpose of the amendments to these rules was to update the principal address and meeting location for the agency.
CONTACT PERSON: Billy Pope, Chief Executive Officer, OUBCC, 2401 NW 23rd, Suite 2F, Oklahoma City, OK 73107, 405-521-6501

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

748:1-1-2. Address
The principal office of the Oklahoma Uniform Building Code Commission shall be at the Construction Industries Board, located in 2401 NW 23rd Street, Suite 5, Oklahoma City, Oklahoma 73107.

748:1-1-4. Meetings
(a) The Commission shall hold such meetings, as it deems necessary, with a regular meeting once during each quarter of the calendar year. Special meetings may be called by the Chairman in his discretion, and shall be called when four (4) members of the Commission of the Commission request of the Chairman, in writing, that such a meeting be called.
(b) The Commission may convene at any location within the state of Oklahoma as the Commission may specify; provided, that unless otherwise specified, meetings shall be conducted at the room provided for that purpose located in the offices of the Commission at the Construction Industries Board, 2401 NW 23rd Street, Suite 5, Oklahoma City, Oklahoma 73107.

[OAR Docket #12-782; filed 6-6-12]

TITLE 748. UNIFORM BUILDING CODE COMMISSION
CHAPTER 3. GENERAL PROVISIONS

[OAR Docket #12-783]

RULEMAKING ACTION: PERMANENT final adoption
RULES: 748:3-1-2. Definitions [AMENDED]
AUTHORITY: Oklahoma Uniform Building Code Commission; 59 O.S. §§ 1000.23
DATES:
Comment Period: February 16, 2012 through March 19, 2012
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Legislative approval: Approved on May 30, 2012 by House Joint Resolution 1127
Final adoption: May 30, 2012
Effective: November 1, 2012
SUPERSEDED EMERGENCY ACTIONS: n/a
INCORPORATIONS BY REFERENCE: n/a
ANALYSIS: The purpose of the amendments to these rules was to provide definitions for residential and commercial construction to provide clarity to the public and a better explanation of what those terms mean in relation to the adoption of residential and commercial construction codes. A definition of a hardship waiver has been added to provide an explanation as to what constitutes a valid reason for requesting relief from late fees payable to the State of Oklahoma.
CONTACT PERSON: Billy Pope, Chief Executive Officer, OUBCC, 2401 NW 23rd, Suite 2F, Oklahoma City, OK 73107, 405-521-6501

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

748:3-1-2. Definitions
The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Authority Having Jurisdiction" means an organization, office, or individual responsible for enforcing the requirements of the State Adopted Building Codes, including the prior authorization or approval of any equipment, materials, installations or procedures used in all or part of the construction of a new, or the alteration or renovation of an existing, building or structure, including integral finishes, fixtures and building systems therein.

Permanent Final Adoptions

"Building Code" means a collection of required standards and practices intended to apply to all or part of the construction of new, or the alteration or renovation of existing, buildings or structures, including integral finishes, fixtures and building systems therein.

"Building Permit" means any written or verbal authorization or approval, issued by an authority having jurisdiction, which allows the holder or other persons to commence the construction, alteration or renovation of all or part of a residential or commercial building or structure subject to the requirements of the State Adopted Building Codes. For purposes of this Title, the term building permit includes any process wherein authorization, approval or registration is required prior to construction even though: 1) a permitting or registration document is not issued at that time; 2) the authority having jurisdiction refers to the authorization, approval or registration as something other than a "permit"; or 3) the only activities performed by the authority having jurisdiction are fee-based inspections of the work performed. For purposes of this Title, each segment of a multi-segment permit shall be considered a separate building permit if the segment meets each of the following conditions: 1) the authority having jurisdiction requires a separate, stand-alone building permit for the segment work when said work is not performed as part of a multi-segment construction project; 2) the authority having jurisdiction charges a stand-alone building permit fee for the segment work when said work is not performed as part of a multi-segment construction project; and 3) the segment work is subject to the requirements of the State Adopted Building Codes.

"Commercial Construction" means any building related construction or appurtenances for commercial, retail or industrial purposes and residential construction other than one- and two-family dwellings and townhouses.

"Construction Code" and **"Construction Permit"** shall have the same meaning as, and be respectively interchangeable and synonymous with, the terms "Building Code" and "Building Permit" as defined herein, respectively.

"Hardship Waiver of Late Fees" shall be defined as a waiver of late fees based on or caused by some form of disaster, such as a tornado, flood, straight-line winds, hail, fire, etc. or man-made event destroying or impacting business operations of the jurisdiction and/or destroying jurisdictional records. The disaster shall be evidenced by police report, insurance claim forms, and claim forms supplied to FEMA or other documented and quantifiable claim for casualty loss to property of the governing body of the jurisdiction. Employee turnover, computer issues and similar problems/issues shall not justify a hardship waiver. OUBCC shall be initially notified within 30 days of such disaster/event. A waiver shall only be considered when a written request for a waiver is received within 90 days of the initial notification of the hardship disaster/event.

"Multi-Segment Permitting" is the administrative process of consolidating multiple building permit work authorizations, approvals and/or registrations and the payment of required permit fees for a multi-segment construction project into a single administrative process.

"Residential Construction" means any building related construction or appurtenances for residential one- and two-family dwellings and townhouses.

"State Adopted Building Codes" means any legally applicable building code currently in force and effect within the State or a governing jurisdiction until superseded by a code adopted by the Commission and all building codes adopted by the Oklahoma Uniform Building Code Commission.

[OAR Docket #12-783; filed 6-6-12]

TITLE 748. UNIFORM BUILDING CODE COMMISSION CHAPTER 20. ADOPTED CODES

[OAR Docket #12-785]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. IBC® 2009 Edition [NEW]

748:20-1-1. Adoption of International Building Code® 2009 [NEW]

748:20-1-2. Effect of Adoption [NEW]

748:20-1-3. IBC® 2009 Appendices [NEW]

748:20-1-4. IBC® 2009 Provisions Adopted and Modified [NEW]

748:20-1-5. IBC® 2009 Participation in Federal Programs and/or Federally Funded or Financed Projects [NEW]

748:20-1-6. IBC® 2009 Chapter 1 Scope and Administration [NEW]

748:20-1-7. IBC® 2009 Chapter 2 Definitions [NEW]

748:20-1-8. IBC® 2009 Chapter 3 Use and Occupancy Classification [NEW]

748:20-1-9. IBC® 2009 Chapter 4 Special Detailed Requirements Based on Use and Occupancy [NEW]

748:20-1-10. IBC® 2009 Chapter 8 Interior Finishes [NEW]

748:20-1-11. IBC® 2009 Chapter 9 Fire Protection Systems [NEW]

748:20-1-12. IBC® 2009 Chapter 10 Means of Egress [NEW]

748:20-1-13. IBC® 2009 Chapter 16 Structural Design [NEW]

748:20-1-14. IBC® 2009 Chapter 18 Soils and Foundations [NEW]

748:20-1-15. IBC® 2009 Chapter 29 Plumbing System [NEW]

748:20-1-16. IBC® 2009 Chapter 32 Encroachments into the Public Right-of-Way [NEW]

748:20-1-17. IBC® 2009 Chapter 34 Existing Buildings and Structures [NEW]

748:20-1-18. IBC® 2009 Chapter 35 Referenced Standards [NEW]

Subchapter 3. IFC® 2009 [NEW]

748:20-3-1. Adoption of International Fire Code® 2009 Edition [NEW]

748:20-3-2. Effect of Adoption [NEW]

748:20-3-3. IFC® 2009 Appendices [NEW]

748:20-3-4. IFC® 2009 Provisions Adopted and Modified [NEW]

748:20-3-5. IFC® 2009 Participation in Federal Programs and/or Federally Funded or Financed Projects [NEW]

748:20-3-6. IFC® 2009 Chapter 1 Scope and Administration [NEW]

748:20-3-7. IFC® 2009 Chapter 2 Definitions [NEW]

748:20-3-8. IFC® 2009 Chapter 5 Fire Service Features [NEW]

748:20-3-9. IFC® 2009 Chapter 6 Building Services and Systems [NEW]

748:20-3-10. IFC® 2009 Chapter 8 Interior Finish, Decorative Materials and Finishes [NEW]

748:20-3-11. IFC® 2009 Chapter 9 Fire Protection Systems [NEW]

748:20-3-12. IFC® 2009 Chapter 10 Means of Egress [NEW]

748:20-3-13. IFC® 2009 Chapter 46 Construction Requirements for Existing Buildings [NEW]

748:20-3-14. IFC® 2009 Chapter 47 Referenced Standards [NEW]

Subchapter 7. IEBC® 2009 [NEW]

748:20-7-1. Adoption of International Existing Building Code® 2009 Edition [NEW]

748:20-7-2. Effect of Adoption [NEW]

748:20-7-3. IEBC® 2009 Appendices [NEW]

748:20-7-4. IEBC® 2009 Provisions Adopted and Modified [NEW]

- 748:20-7-5. IEBC® 2009 Participation in Federal Programs and/or Federally Funded or Financed Projects [NEW]
- 748:20-7-6. IEBC® 2009 Chapter 1 Scope and Administration [NEW]
- 748:20-7-7. IEBC® 2009 Chapter 2 Definitions [NEW]
- 748:20-7-8. IEBC® 2009 Chapter 13 Performance Compliance Methods [NEW]
- 748:20-7-9. IEBC® 2009 Chapter 15 Referenced Standards [NEW]

AUTHORITY:

Oklahoma Uniform Building Code Commission; 59 O.S. §§ 1000.23

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March 20, 2012

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November 1, 2012

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated standards:

International Building Code®, 2009 Edition (IBC®, 2009 Edition)

International Fire Code®, 2009 Edition (IFC®, 2009 Edition)

International Existing Building Code®, 2009 Edition (IEBC®, 2009 Edition)

Incorporating rules:

748:20-1-1 through 748:20-1-18, 748:20-3-1 through 748:20-3-14, and 748:20-7-1 through 748:20-7-9

Availability:

8:00 a.m. to 4:30 p.m., Monday through Friday at the Uniform Building Code Commission, 2401 NW 23rd Street, Suite 2F, Oklahoma City, OK 73107, 405-521-6501

ANALYSIS:

The purpose of these rules is to implement 59 O.S. §§1000.2 - 1000.29 enacted by SB1182, effective June 2, 2009, creating the Oklahoma Uniform Building Code Commission. These rules establish the adoption of the IBC®, 2009 edition, without appendices, as the minimum code for commercial building construction, the IFC®, 2009 edition, without appendices, as the minimum code for residential and commercial fire prevention and fire protection systems and the IEBC®, 2009 edition, without appendices as minimum code for commercial existing building construction the State of Oklahoma, as modified by the Commission for implementation in the State of Oklahoma.

CONTACT PERSON:

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

SUBCHAPTER 1. IBC® 2009

748:20-1-1. Adoption of International Building Code®, 2009 Edition (IBC® 2009)

The Uniform Building Code Commission hereby adopts the International Building Code®, 2009 Edition as amended and modified in this subchapter as the minimum code for commercial building construction in the State of Oklahoma pursuant to 59 O.S. 1000.23.

748:20-1-2. Effect of Adoption

The International Building Code®, 2009 Edition (IBC® 2009), as amended and revised by these rules, are hereby established and adopted as the statewide minimum standards for commercial building construction in Oklahoma pursuant to 59 O.S. § 1000.23, and may only be amended or altered by other jurisdictions pursuant to Oklahoma law and the administrative rules of the Oklahoma Uniform Building Code Commission as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code.

748:20-1-3. IBC® 2009 Appendices

(a) None of the appendices of the IBC® 2009 have been adopted by the Commission for inclusion in the minimum standards for commercial building construction in the State of Oklahoma.

(b) Appendices A through K are not adopted as the minimum standards for commercial building construction within the State of Oklahoma. However, other jurisdictions within this State may adopt any or all of said appendices in accordance with 59 O.S. § 1000.29.

748:20-1-4. IBC® 2009 Provisions Adopted and Modified

All chapters and provisions within chapters, including exceptions, of the IBC® 2009 not specifically addressed within these rules as being modified, deleted, moved or removed are hereby adopted without modification as the minimum standards for commercial building construction within the State of Oklahoma pursuant to 59 O.S. § 1000.23. Chapters and provisions within chapters, including exceptions adopted with modifications are specifically addressed in these rules.

748:20-1-5. Participation in Federal Programs and/or Federally Funded or Financed Projects

In order to maximize federal financial aid, assistance, participation, financing and/or funding in any public project(s) and/or federal financial aid, participation, funding for and participation in any federal program(s) by the State of Oklahoma, its agencies, public trusts and instrumentalities, or by any Oklahoma municipalities and other political subdivisions, that receive financial aid, assistance, participation, financing and/or funding for and participate in any federal program(s), the State of Oklahoma, its agencies and instrumentalities, and any Oklahoma municipalities and other political subdivisions, may cooperate with the United States Government and any agency or instrumentality thereof, in the manner authorized and provided

Permanent Final Adoptions

by federal law and regulation and in doing so may perform all necessary functions and take all necessary actions for accomplishing such federal purposes and programs, including but not limited to, following and/or complying with federal laws, regulations and/or requirements arising from or related to federal financial aid, assistance, participation, financing and/or funding, in the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, improvement, expansion, operation, maintenance, removal, and demolition of buildings and structures or any appurtenances attached to such buildings or structures, notwithstanding any provisions of any and all uniform building codes and standards adopted by the Oklahoma Uniform Building Code Commission to the contrary.

748:20-1-6. IBC® 2009 Chapter 1 Scope and Administration

Chapter 1 the Oklahoma adopted IBC® 2009, includes the following Preamble at the very beginning of the chapter:

(1) Pursuant to 59 O.S. § 1000.23, the Uniform Building Code Commission has adopted the International Building Code®, 2009 Edition (IBC® 2009) as amended and revised by the Commission, as the minimum standards to be used by all entities for commercial building construction in jurisdictions throughout the State of Oklahoma. However, the Commission's adoption of Chapter 1 "Scope and Administration" of the IBC® 2009 is for continuity purposes and the Commission's adoption of Chapter 1 recognizes the methods of best practice in fully implementing the minimum standards for commercial building construction.

(2) All provisions of the adopted IBC® 2009, including Chapter 1, as amended and revised by the Commission, are hereby established and adopted as the statewide minimum standards for commercial building construction in Oklahoma pursuant to 59 O.S. § 1000.23, which may only be amended or altered pursuant to Oklahoma law and the administrative rules of the Oklahoma Uniform Building Code Commission as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code. However, the provisions of Chapter 1 adopted herein are only intended to be in force and effect to the extent that the respective provisions do not conflict with State law or the lawful exercise of code administration and enforcement jurisdiction by entities empowered to do so pursuant to applicable law.

(3) The Commission's adoption of Chapter 1 in this manner is made with the recognition that the legal authority granting state and local code administration and enforcement jurisdictions the power and discretion to administer and enforce codes arises from Oklahoma laws governing those jurisdictions. Furthermore, the Commission also recognizes that many state and local code administration and enforcement jurisdictions have already created, or have the lawful authority to create, departments, offices and administrative policies pursuant to various applicable laws and other adopted model codes with "Scope

and Administration" provisions similar to Chapter 1 of the adopted IBC® 2009

(4) This limited adoption of Chapter 1 is made in recognition of the authority and discretion possessed by jurisdictions to administer and enforce building codes. Exercising such authority and jurisdiction in a manner inconsistent with Chapter 1 must be supported by Oklahoma law. Code administration and enforcement jurisdictions shall not use the Commission's limited adoption of Chapter 1 to circumvent the remainder of the requirements established by the Oklahoma adopted IBC® 2009 and the Commission will strongly oppose any such practice.

748:20-1-7. IBC® Chapter 2 Definitions

Chapter 2 of the IBC® 2009 is adopted with the following modification: The definition of the word "Repair" has been modified to further define a repair to include repair to any build or structure regardless of the classification of the building as a new or existing building. The definition has been modified to read: The reconstruction or renewal (restoration to good or sound condition) of any part of any building for the purpose of its maintenance.

748:20-1-8. IBC® Chapter 3 Use and Occupancy Classification

Chapter 3 of the IBC® 2009 is adopted with the following modification: Section 310.1 Residential Group R has been modified to provide clarification between the IBC® 2009 and the International Residential Code® 2009 when R-1 and R-2 classifications are constructed as R-3 classification. The section has been modified to read:

(1) R-1 Residential occupancies containing sleeping units where the occupants are primarily transient in nature including: Boarding houses (transient), Hotels (transient), Motels (transient), Congregate living facilities (transient) with 10 or fewer occupants are permitted to comply with the construction requirements for Group R-3, except as otherwise provided for in this code, or shall comply with the International Residential Code®, provided the building is protected by an automatic sprinkler system installed in accordance with Section 903.2.8.

(2) R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature including: Apartment houses, Boarding houses (non-transient), Convents, Dormitories, Fraternities and sororities, Hotels (non-transient), Live/work units, Monasteries, Motels (non-transient), Vacation time share properties and Congregate living facilities with 16 or fewer occupants are permitted to comply with the construction requirements for Group R-3, except as provided for in this code, or shall comply with the International Residential Code®, provided the building is protected by an automatic sprinkler system installed in accordance with Section 903.2.8.

748:20-1-9. IBC® Chapter 4 Special Detailed Requirements Based on Use and Occupancy

Chapter 4 of the IBC® 2009 is adopted with the following modifications:

- (1) Section 423.1 General has been revised to provide for alternative design and engineered methods without relying on jurisdictional interpretation. The section has been modified to read: Section 423.1 General. In addition to other applicable requirements in this code, storm shelters shall be constructed in accordance with ICC-500, FEMA 320, FEMA 361 or other equivalent approved engineered system.
- (2) Section 423.2 Definitions has been revised to modify the definition of a Storm Shelter to remove the specific reference to ICC-500 and to allow for alternative design and engineered methods listed in Section 423.1. This section has been modified to read: STORM SHELTER. A building, structure, or portion(s) thereof, constructed in accordance with the standards listed in Section 423.1 and designated for use during a severe wind storm event, such as a hurricane or tornado.

748:20-1-10. IBC® Chapter 8 Interior Finishes

Chapter 8 of the IBC® 2009 is adopted with the following modification: Section 803.1.4. Acceptance criteria for textile and expanded vinyl wall or ceiling coverings tested to ASTM E 84 or UL 723 has been modified to include the word "either" before the two types of standards to provide clarification and prevent a different interpretation other than the intent of the code. This section has been modified to read: Section 803.1.4. Acceptance criteria for textile and expanded vinyl wall or ceiling coverings tested to ASTM E 84 or UL 723. Textile wall and ceiling covering and expanded vinyl wall and ceiling covering shall have a Class A flame spread index in accordance with either ASTM E 84 or UL 723 and be protected by an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 3.3.1.2. Test specimen preparation and mounting shall be in accordance with ASTM E 2404.

748:20-1-11. IBC® Chapter 9 Fire Protection Systems

Chapter 9 of the IBC® 2009 is adopted with the following modifications:

- (1) Section 903.2.7 Group M has been modified to reword subsection 4 of this text to provide a reasonable limit for these occupancies and adequate protection without excessive burden on Group M occupancies with small areas of upholstered furniture and mattresses. This section has been modified to read: Section 903.2.7 Group M. An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy where one of the following conditions exists:
 - (A) A Group M fire area exceeds 12,000 square feet (1115 square meters).
 - (B) A Group M fire area is located more than three stories above grade plane.

(C) The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 square meters).

(D) A Group M occupancy where the cumulative area used for the display and sale of upholstered furniture or mattresses exceeds 5,000 square feet (464 square meters).

(2) Section 903.6 Pump and riser room size has been added to the code to provide the designer clarification for maintenance clearances needed for these rooms. This section has been added to read: Section 903.6 Pump and riser room size. Fire pump and automatic sprinkler system riser rooms shall be designed with adequate space for all equipment necessary for the installation, as defined by the manufacturer with sufficient working room around the stationary equipment. Clearances around equipment to elements of permanent construction, including other installed equipment and appliances shall be sufficient to allow inspection, service, repair, or replacement without removing such elements of permanent construction or disabling the function of a required fire resistance-rated assembly. Fire Pump and automatic sprinkler riser room shall be provided with a door(s) and unobstructed passageway large enough to allow removal of the largest piece of equipment.

(3) Section 911.1.3 Size was modified to include an exception to make the fire command center smaller when approved by the fire code official. This section was modified to read: Section 911.1.3. Size. The room shall be a minimum of 200 square feet (19 square meters) with a minimum dimension of 10 feet (3048 mm). Exception: When approved by the fire code official the fire command center can be reduced in size to not less than a minimum of 96 square feet (9 square meters) with a minimum dimension of 8 feet (2438 mm).

748:20-1-12. IBC® Chapter 10 Means of Egress

Chapter 10 of the IBC® 2009 is adopted with the following modifications:

(1) Section 1005.1 Minimum required egress width has been modified to include two more exceptions to modify egress width for all occupancies other than H and I-2 occupancies with sprinklers and a voice evacuation system. This section has been modified to read: Section 1005.1 Minimum required egress width. The means of egress width shall not be less than required by this section. The total width of means of egress in inches (mm) shall not be less than the total occupant load served by the means of egress multiplied by 0.3 inch (7.62 mm) per occupant for stairways and by 0.2 inch (5.08 mm) per occupant for other egress components. The width shall not be less than specified elsewhere in this code. Multiple means of egress shall be sized such that the loss of any one means of egress shall not reduce the available capacity to less than 50 percent of the required capacity. The maximum capacity required from any story of a building shall be maintained to the termination of the means of egress. Exceptions:

(A) Means of egress complying with Section 1028;

Permanent Final Adoptions

(B) For other than H and I-2 occupancies, the capacity, in inches, of means of egress stairways shall be calculated multiplying the occupant load served by such stairway by a means of egress capacity factor of 0.2 inches (5.1 mm) per occupant in buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 and an emergency voice/alarm communication system in accordance with Section 907.5.2.2.

(C) For other than H and I-2 occupancies, the capacity, in inches, of means of egress components other than stairways shall be calculated multiplying the occupant load served by such component by a means of egress capacity factor of 0.15 inches (3.8 mm) per occupant in building equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 and an emergency voice/alarm communication system in accordance with Section 907.5.2.2.

(2) Section 1022.1 Enclosures required has been modified to add an eighth exception to the code that will direct users to the correct reference for exemptions to allowances for open stairs. This section has been modified to read: Section 1022.1 Enclosures required. Interior exit stairways and interior exit ramps shall be enclosed with fire barriers constructed in accordance with Section 707 or horizontal assemblies constructed in accordance with Section 712, or both. Exit enclosures shall have a fire-resistance rating of not less than 2 hours where connecting four stories or more and not less than 1 hour when connecting less than four stories. The number of stories connected by the exit enclosure shall include any basements but not any mezzanines. Exit enclosures shall have a fire-resistance rating not less than the floor assembly penetrated, but need not exceed 2 hours. Exit enclosures shall lead directly to the exterior of the building or shall be extended to the exterior of the building with an exit passageway conforming to the requirements of Section 1023, except as permitted in Section 1027.1. An exit enclosure shall not be used for any purpose other than means of egress. Exceptions:

(A) In all occupancies, other than Group H and I occupancies, a stairway is not required to be enclosed when the stairway serves an occupant load of less than 10 and the stairway complies with either Item 1.1 or 1.2. In all cases, the maximum number of connecting opening stories shall not exceed two.

(i) 1.1. The stairway is open to not more than one story above its level of exit discharge; or

(ii) 1.2. The stairway is open to not more than one story below its level of exit discharge.

(B) Exits in buildings of Group A-5 where all portions of the means of egress are essentially open to the outside need not be enclosed.

(C) Stairways serving and contained within a single residential dwelling unit or sleeping unit in Group R-1, R-2 or R-3 occupancies are not required to be enclosed.

(D) Stairways in open parking structures that serve only the parking structure are not required to be enclosed.

(E) Stairways in Group I-3 occupancies, as provided for in Section 408.3.8, are not required to be enclosed.

(F) Means of egress stairways as required by Sections 410.5.3 and 1015.6.1 are not required to be enclosed.

(G) Means of egress stairways from balconies, galleries or press boxes as provided for in Section 1028.5.1 are not required to be enclosed.

(H) Stairways complying with exception 3 or 4 of Section 1016.1 are not required to be enclosed.

748:20-1-13. IBC® Chapter 16 Structural Design

Chapter 16 of the IBC® 2009 is adopted with the following modifications:

(1) Section 1611.1 Design rain loads. This section has been modified to increase secondary drain size for short duration intensities. This section has been modified to read: 1611.1 Design rain loads. Each portion of a roof shall be designed to sustain the load of rainwater that will accumulate on it if the primary drainage system for that portion is blocked plus the uniform load caused by water that rises above the inlet of the secondary drainage system at its design flow. The design rainfall shall be based on two conditions: 1) the 100-year hourly rainfall rate indicated in Figure 1611.1; and 2) the 100-year, 5-minute duration rainfall rate of 10.2 inches per hour. Alternately, the 100-year, one-hour and 100-year, 5-minute duration rainfall rates may be determined from approved local weather data.

(2) Section 1612.2 Definitions. This section has been modified to change the definition of an Existing Structure to correlate with the changed definition in the IEBC® 2009. This section has been modified to read: EXISTING BUILDING OR EXISTING STRUCTURE see "Existing construction" for reference connotation and requirements related to a jurisdiction's flood plain management code, ordinance, or standard. Refer to 3402.1 for reference connotation related to the application of existing building code provisions as provided in Chapter 34, notwithstanding other flood plain management requirements within this code, such as but not limited to "substantial improvement."

748:20-1-14. IBC® Chapter 18 Soils and Foundations

(a) Chapter 18 of the IBC® 2009 is adopted with the following modification: Section 1809.4 Depth and width of footings has been modified to provide an exception to the code for minor buildings such as small storage buildings to be constructed without expensive foundations and be mounted on skids and would apply to light gage metal or similar carports provided they are adequately anchored. This section has been modified to read: Section 1809.4 Depth and width of footings. The minimum depth of footings below the undisturbed ground surface

shall be 12 inches (305 mm). Where applicable, the requirements of Section 1809.5 shall also be satisfied. The minimum width of footings shall be 12 inches (305 mm). Exception: Single story free-standing building meeting all of the following conditions shall be permitted without footings:

- (1) Assigned to Occupancy Category 1, in accordance with Section 1604.5;
- (2) Light-frame wood or metal construction;
- (3) Area of 400 square feet (37 square meters) or less;
- (4) Eave height of 10 feet (3048 mm) or less; and
- (5) Building height of 15 feet (4575 mm) or less.

(b) Such buildings shall have an approved wooden floor, or shall be placed on a concrete slab having a minimum thickness of 3 1/2 inches (89 mm). Buildings shall be anchored to resist uplift as required by Section 1609.

748:20-1-15. IBC® Chapter 29 Plumbing Systems

Chapter 29 of the IBC® 2009 is adopted with the following modifications:

- (1) Table [PI] 2902.1 Minimum number of required plumbing fixtures has been modified. It has been modified to add footnote "g" to number 2 (classification of business) and number 6 (classification of mercantile). The footnote will be added to the Other column of the table at the end of the service sink requirement. This section has been modified to read: [PI] 2902.1 Minimum number of required plumbing fixtures. Footnote "g". For business and mercantile occupancies with an occupant load of 15 or fewer, service sinks shall not be required.
- (2) Section 2902.2 Separate facilities. This section has been modified to change the occupant load in the third exception from 50 to 100 occupants. This section has been modified to read: Section [PI] 2902.2 Separate facilities. Where plumbing fixtures are required, separate facilities shall be provided for each sex. Exceptions:

- (A) Separate facilities shall not be required for dwelling units and sleeping units.
- (B) Separate facilities shall not be required in structures or tenant spaces with a total occupant load, including both employees and customers, of 15 or less.
- (C) Separate facilities shall not be required in mercantile occupancies in which the maximum occupant load is 100 or less.

748:20-1-16. IBC® Chapter 32 Encroachments into the Public Right-of-Way

Chapter 32 of the IBC® 2009 is adopted with the following modification: Section 3201.3 Other Laws has been modified to allow the authority having jurisdiction the ability in unusual circumstances to evaluate the risk of making an exception to a requirement in this chapter. This section has been modified to read: Section 3201.3 Other Laws. The provisions of this chapter shall not be construed to permit the violation of other laws or ordinances regulating the use and occupancy of public property or to prevent the holders of public right-of-way to grant special permission for encroachments in their rights-of-way greater than those permitted in Section 3202.

748:20-1-17. IBC® Chapter 34 Existing Buildings and Structures

Chapter 34 of the IBC® 2009 is adopted with the following modifications:

- (1) Section 3402.1 Definitions has been modified to change the definition for an Existing Structure to correlate the language between the IBC® 2009 and the IEBC® 2009. This section has been modified to read: Section 3402.1 Definitions. EXISTING BUILDING OR EXISTING STRUCTURE: A building or structure on which construction was begun at least ten (10) years prior to the date of adoption of this code by the State of Oklahoma [OR, ANY DATE MAY BE INSERTED BY A JURISDICTION THAT HAS THE LEGAL RIGHT TO DO SO, SUCH AS BUT NOT LIMITED TO COUNTIES AND MUNICIPALITIES].
- (2) Section 3412.2 Applicability has been modified to correlate the language between the IBC® 2009 and the IEBC® 2009. This section has been modified to read: Section 3412.2 Applicability. Existing buildings or existing structures on which construction was begun at least ten (10) years prior to the date of adoption of this code by the State of Oklahoma [OR, ANY DATE MAY BE INSERTED BY A JURISDICTION THAT HAS THE LEGAL RIGHT TO DO SO, SUCH AS BUT NOT LIMITED TO COUNTIES AND MUNICIPALITIES], in which there is work involving additions, alterations or changes of occupancy shall be made to comply with the requirements of this section or the provisions of Section 3401.5 or Sections 3404 through 3409. The provisions in Section 3412.2.1 through 3412.2.5 shall apply to existing occupancies that will continue to be or are proposed to be, in Groups A, B, E, F, M, R, S and U. These provisions shall not apply to buildings with occupancies in Group H or I.

748:20-1-18. IBC® Chapter 35 Referenced Standards

Chapter 35 of the IBC® 2009 is adopted with the following modifications:

- (1) The reference to the International Existing Building Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: IEBC-09 International Existing Building Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.
- (2) The reference to the International Energy Conservation Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma by the State Fire Marshal until replaced by an adoption done through the Uniform Building Code Commission". This section has been modified to read: IECC-06 International Energy Conservation Code® as adopted and modified by the State of Oklahoma through the State Fire Marshal until replaced by an adoption done through the Uniform Building Code Commission.

Permanent Final Adoptions

(3) The reference to the International Fire Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: IFC-09 International Fire Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.

(4) The reference to the International Fuel Gas Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: IFGC-09 International Fuel Gas Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.

(5) The reference to the International Mechanical Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: IMC-09 International Mechanical Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.

(6) The reference to the International Plumbing Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: IPC-09 International Plumbing Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.

(7) The reference to the International Residential Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: IRC-09 International Residential Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.

(8) The referenced standard for NFPA 70® National Electrical Code® has been modified to change the edition year from 2008 to 2011 and add after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section shall now read: 70-11 National Electrical Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.

SUBCHAPTER 3. IFC® 2009

748:20-3-1. Adoption of International Fire Code®, 2009 Edition (IFC® 2009)

The Uniform Building Code Commission hereby adopts the International Fire Code®, 2009 Edition as amended and modified in this subchapter as the minimum code for residential and commercial fire prevention and fire protection systems in the State of Oklahoma pursuant to 59 O.S. 1000.23.

748:20-3-2. Effect of Adoption

The International Fire Code®, 2009 Edition (IFC® 2009), as amended and revised by these rules, are hereby established and adopted as the statewide minimum standards for residential and commercial fire prevention and fire protection systems in Oklahoma pursuant to 59 O.S. § 1000.23, and may only be amended or altered by other jurisdictions pursuant to Oklahoma law and the administrative rules of the Oklahoma Uniform Building Code Commission as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code.

748:20-3-3. IFC® 2009 Appendices

(a) None of the appendices of the IFC® 2009 have been adopted by the Commission for inclusion in the minimum standards for commercial building construction in the State of Oklahoma.

(b) Appendices A through J are not adopted as the minimum standards for commercial building construction within the State of Oklahoma. However, other jurisdictions within this State may adopt any or all of said appendices in accordance with 59 O.S. § 1000.29.

748:20-3-4. IFC® 2009 Provisions Adopted and Modified

All chapters and provisions within chapters, including exceptions, of the IFC® 2009 not specifically addressed within these rules as being modified, deleted, moved or removed are hereby adopted without modification as the minimum standards for residential and commercial fire prevention and fire protection systems within the State of Oklahoma pursuant to 59 O.S. § 1000.23. Chapters and provisions within chapters, including exceptions adopted with modifications are specifically addressed in these rules.

748:20-3-5. Participation in Federal Programs and/or Federally Funded or Financed Projects

In order to maximize federal financial aid, assistance, participation, financing and/or funding in any public project(s) and/or federal financial aid, participation, funding for and participation in any federal program(s) by the State of Oklahoma, its agencies, public trusts and instrumentalities, or by any Oklahoma municipalities and other political subdivisions, that receive financial aid, assistance, participation, financing and/or funding for and participate in any federal program(s), the State of Oklahoma, its agencies and instrumentalities, and any Oklahoma municipalities and other political subdivisions, may cooperate with the United States Government and any agency or instrumentality thereof, in the manner authorized and provided by federal law and regulation and in doing so may perform all necessary functions and take all necessary actions for accomplishing such federal purposes and programs, including but not limited to, following and/or complying with federal laws, regulations and/or requirements arising from or related to federal

financial aid, assistance, participation, financing and/or funding, in the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, improvement, expansion, operation, maintenance, removal, and demolition of buildings and structures or any appurtenances attached to such buildings or structures, notwithstanding any provisions of any and all uniform building codes and standards adopted by the Oklahoma Uniform Building Code Commission to the contrary.

748:20-3-6. IFC® 2009 Chapter 1 Scope and Administration

Chapter 1 the Oklahoma adopted IFC® 2009, includes the following Preamble at the very beginning of the chapter:

(1) Pursuant to 59 O.S. § 1000.23, the Uniform Building Code Commission has adopted the International Fire Code® 2009 Edition (IFC® 2009) as amended and revised by the Commission, as the minimum standards to be used by all entities for residential and commercial fire prevention and fire protection systems in jurisdictions throughout the State of Oklahoma. However, the Commission's adoption of Chapter 1 "Scope and Administration" of the IFC® 2009 is for continuity purposes and the Commission's adoption of Chapter 1 recognizes the methods of best practice in fully implementing the minimum standards for residential and commercial fire prevention and fire protection systems.

(2) All provisions of the adopted IFC® 2009, including Chapter 1, as amended and revised by the Commission, are hereby established and adopted as the statewide minimum standards for residential and commercial fire prevention and fire protection systems in Oklahoma pursuant to 59 O.S. § 1000.23, which may only be amended or altered pursuant to Oklahoma law and the administrative rules of the Oklahoma Uniform Building Code Commission as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code. However, the provisions of Chapter 1 adopted herein are only intended to be in force and effect to the extent that the respective provisions do not conflict with State law or the lawful exercise of code administration and enforcement jurisdiction by entities empowered to do so pursuant to applicable law.

(3) The Commission's adoption of Chapter 1 in this manner is made with the recognition that the legal authority granting state and local code administration and enforcement jurisdictions the power and discretion to administer and enforce codes arises from Oklahoma laws governing those jurisdictions. Furthermore, the Commission also recognizes that many state and local code administration and enforcement jurisdictions have already created, or have the lawful authority to create, departments, offices and administrative policies pursuant to various applicable laws and other adopted model codes with "Scope and Administration" provisions similar to Chapter 1 of the adopted IFC® 2009

(4) This limited adoption of Chapter 1 is made in recognition of the authority and discretion possessed by jurisdictions to administer and enforce building codes.

Exercising such authority and jurisdiction in a manner inconsistent with Chapter 1 must be supported by Oklahoma law. Code administration and enforcement jurisdictions shall not use the Commission's limited adoption of Chapter 1 to circumvent the remainder of the requirements established by the Oklahoma adopted IFC® 2009 and the Commission will strongly oppose any such practice.

748:20-3-7. IFC 2009® Chapter 2 Definitions

Chapter 2 of the IFC® 2009 is adopted with the following modifications:

(1) The definition for Residential Group R-1 has been modified to clarify the International Residential Code® 2009 can be utilized so long as the facilities have a fire sprinkler system. This definition has been modified to read: R-1 Residential occupancies containing sleeping units where the occupants are primarily transient in nature including: Boarding houses (transient), Hotels (transient), Motels (transient), Congregate living facilities (transient) with 10 or fewer occupants are permitted to comply with the construction requirements for Group R-3, except as otherwise provided for in this code, or shall comply with the International Residential Code®, provided the building is protected by an automatic sprinkler system installed in accordance with Section 903.2.8.

(2) The definition for Residential Group R-2 has been modified to clarify the International Residential Code® 2009 can be utilized so long as the facilities have a fire sprinkler system. This definition has been modified to read: R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including Apartment houses, Boarding houses (non-transient), Convents, Dormitories, Fraternities and sororities, Hotels (non-transient), Live/Work units, Monasteries, Motels (non-transient), Vacation timeshare and Congregate living facilities with 16 or fewer occupants are permitted to comply with the construction requirements for Group R-3, except as otherwise provided for in this code, or shall comply with the International Residential Code®, provided the building is protected by an automatic sprinkler system installed in accordance with Section 903.2.8.

748:20-3-8. IFC® 2009 Chapter 5 Fire Service Features

Chapter 5 of the IFC® 2009 is adopted with the following modification: Section 508.1.3 Size has been modified to include an exception to make the fire command center smaller when approved by the fire code official. This section has been modified to read: Section 508.1.3 Size. The fire command center shall be a minimum of 200 square feet (19 square meters) in area with a minimum dimension of 10 feet (3048 mm). Exception: When approved by the fire code official the fire command center can be reduced in size to not less than a minimum of 96 square feet (9 square meters) with a minimum dimension of 8 feet (2438 mm).

Permanent Final Adoptions

748:20-3-9. IFC® 2009 Chapter 6 Building Services and Systems

Chapter 6 of the IFC® 2009 is adopted with the following modifications:

- (1) Section 604.5 Supervision of maintenance and testing has been modified to change the section number to Section 604.6 to allow a new section to be inserted before this section. The section number has been modified to read: Section 604.6 Supervision of maintenance and testing. Routine maintenance, inspection and operational testing shall be overseen by a properly instructed individual.
- (2) Section 604.5 Emergency lighting equipment has been added to the code to outline a procedure for testing emergency lighting equipment. This section has been added to read: Section 604.5 Emergency lighting equipment. Emergency lighting shall be inspected and tested in accordance with Sections 604.5.1 through 604.5.2.1
- (3) Section 604.5.1 Activation test has been added to the code to outline the activation testing requirement for testing emergency lighting. This section has been added to read: Section 604.5.1 Activation test. An activation test of emergency lighting equipment shall be completed monthly. The activation test shall ensure the emergency lighting activates automatically upon normal electrical disconnect and stays sufficiently illuminated for a minimum of 30 seconds.
- (4) Section 604.5.1.1 Activation test record has been added to the code to outline the requirements for record keeping of the monthly activation test. This section has been added to read: Section 604.5.1.1 Activation test record. Records shall be maintained on the premises for a minimum of three years and submitted to the fire code official upon request. The record shall include the location of the emergency lighting tested, whether the unit passed or failed, the date of the test, and the person completing the test.
- (5) Section 604.5.2 Power test has been added to the code to outline a procedure for testing battery powered emergency lighting equipment. This section has been added to read: Section 604.5.2 Power test. For battery powered emergency lighting, a power test of the emergency lighting equipment shall be completed annually. The power test shall operate the emergency lighting for a minimum of 90 minutes and shall remain sufficiently illuminated for the duration of the test.
- (6) Section 604.5.2.1 Power test record has been added to the code to outline the requirements for record keeping of the annual power test. This section has been added to read: Section 604.5.2.1 Power test record. Records shall be maintained on the premises for a minimum of three years and submitted to the fire code official upon request. The record shall include the location of the emergency lighting tested, whether the unit passed or failed, the date of the test, and the person completing the test.

748:20-3-10. IFC® 2009 Chapter 8 Interior Finish, Decorative Materials and Furnishings

Chapter 10 of the IFC® 2009 is adopted with the following modification: Section 803.5.1 Textile wall coverings has been modified to clarify the language that the flame spread can be in accordance with either ASME E 84 or UL 723 but in both applications the textile wall covering must be protected with automatic sprinklers. This section has been modified to read: Section 803.5.1 Textile wall coverings. Textile wall coverings shall comply with one of the following:

- (1) The coverings shall have a Class A flame spread index in accordance with either ASME E 84 or UL 723 and be protected by automatic sprinklers installed in accordance with Section 903.3.1.1 or 903.3.1.2.
- (2) The covering shall meet the criteria of Section 903.5.1.1 or 803.5.1.2 when tested in the manner intended for use in accordance with NFPA 265 using the product-mounting system (including adhesive) of actual use, or
- (3) The covering shall meet the criteria of Section 803.1.2.1 when tested in accordance with NFPA 286 using the product-mounting system (including adhesive) of actual use.

748:20-3-11. IFC® 2009 Chapter 9 Fire Protection Systems

Chapter 9 of the IFC® 2009 is adopted with the following modifications:

- (1) Section 901.4.5 Pump and riser room size has been added to the code to provide the designer clarification for the maintenance clearances needed for these rooms. This section has been added to read: Section 904.4.5 Pump and riser room size. Fire pump and automatic sprinkler system riser rooms shall be designed with adequate space for all equipment necessary for the installation, as defined by the manufacturer, with sufficient working space around the stationary equipment. Clearances around equipment to elements of permanent construction, including other installed equipment and appliances, shall be sufficient to allow inspection, service, repair or replacement without removing such elements of permanent construction or disabling the function of a required fire resistance-rated assembly. Fire pump and automatic sprinkler riser rooms shall be provided with a door(s) and unobstructed passageway large enough to allow removal of the largest piece of equipment.
- (2) Section 903.2.7 Group M has been modified to reword subsection 4 to provide a reasonable limit for these occupancies and adequate protection without excessive burden on Group M occupancies with small areas of upholstered furniture and mattresses. This section has been modified to read: Section 903.2.7 Group M. An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy where one of the following conditions exists:
 - (A) A Group M fire area exceeds 12,000 square feet (1115 square meters).

(B) A Group M fire area is located more than three stories above grade plane.

(C) The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 square meters).

(D) A group M occupancy where the cumulative area used for the display and sale of upholstered furniture or mattresses exceeds 5,000 square feet (464 square meters).

(3) Section 906.1 Where required has been modified to remove the exceptions to where portable fire extinguishers are required in Groups A, B, and E occupancies, and to allow an exception to the requirement for portable fire extinguishers under certain conditions in R-2 occupancies. This section has been modified to read: Section 906.1 Where required. Portable fire extinguishers shall be installed in the following locations:

(A) In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies. Exception: In Group R-2 occupancies, portable fire extinguishers shall be required only in locations specified in items 2 through 6 where each dwelling unit is provided with portable fire extinguisher having a minimum rating of 1-A:10-b:C.

(B) Within 30 feet (9144 mm) of commercial cooking equipment.

(C) In areas where flammable or combustible liquids are stored, used or dispensed.

(D) On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1.

(E) Where required by the section indicated in Table 906.1.

(F) Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms, where required by the fire code official.

(A) Means of egress complying with Section 1028.

(B) For other than H and I-2 occupancies, the capacity, in inches (mm), means of egress stairways shall be calculated multiplying the occupant load served by a stairway by a means of egress capacity factor of 0.2 inches (5.08 mm) per occupant in buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.1.1 or 903.1.2 and an emergency voice/alarm communication system in accordance with Section 907.5.2.2.

(C) For other than H and I-2 occupancies, the capacity, in inches (mm), means of egress components other than stairways shall be calculated multiplying the occupant load served by such component by a means of egress capacity factor of 0.15 inches (3.81 mm) per occupant in buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.1.1 or 903.1.2 and an emergency voice/alarm communication system in accordance with Section 907.5.2.2.

(2) Section 1022.1 Enclosures required has been modified to add an eighth exception to the code that will direct users to the correct reference for exemptions to allowances for open stairs. This section has been modified to read: Section 1022.1 Enclosures required. Interior exit stairways and interior exit ramps shall be enclosed with fire barriers constructed in accordance with Section 707 of the International Building Code® or horizontal assemblies constructed in accordance with Section 712 of the International Building Code®, or both. Exit enclosures shall have a fire-resistance rating of not less than 2 hours where connecting four stories or more and not less than 1 hour when connecting less than four stories. The number of stories connected by the exit enclosure shall include any basements but not any mezzanines. Exit enclosures shall have a fire-resistance rating not less than the floor assembly penetrated, but need not exceed 2 hours. Exit enclosures shall lead directly to the exterior of the building or shall be extended to the exterior of the building with an exit passageway conforming to the requirements of Section 1023, except as permitted in Section 1027.1. An exit enclosure shall not be used for any purpose other than means of egress. Exceptions:

(A) In all occupancies, other than Group H and I occupancies, a stairway is not required to be enclosed when the stairway serves an occupant load of less than 10 and the stairway complies with either Item 1.1 or 1.2. In all cases, the maximum number of connecting opening stories shall not exceed two.

(i) 1.1 The stairway is open to not more than one story above its level of exit discharge; or

(ii) 1.2 The stairway is open to not more than one story below its level of exit discharge.

(B) Exits in buildings of Group A-5 where all portions of the means of egress are essentially open to the outside need not be enclosed.

748:20-3-12. IFC® 2009 Chapter 10 Means of Egress

Chapter 10 of the IFC® 2009 is adopted with the following modifications:

(1) Section 1005.1 Minimum required egress width has been modified to include two more exceptions to modify egress width for all occupancies other than H and I-2 occupancies with sprinklers and a voice evacuation system. This section has been modified to read: Section 1005.1 Minimum required egress width. The means of egress width shall not be less than required by this section. The total width of means of egress in inches (mm) shall not be less than the total occupant load served by the means of egress multiplied by 0.3 inches (7.62 mm) per occupant for stairways and by 0.2 inches (5.08 mm) per occupant for other egress components. The width shall not be less than specified elsewhere in this code. Multiple means of egress shall be sized such that the loss of any one means of egress shall not reduce the availability capacity to less than 50 percent of the required capacity. The maximum capacity required from any story of a building shall be maintained to the termination of the means of egress. Exceptions:

Permanent Final Adoptions

(C) Stairways serving and contained within a single residential dwelling unit or sleeping unit in Group R-1, R-2 or R-3 occupancies are not required to be enclosed.

(D) Stairways in open parking structures that serve only the parking structure are not required to be enclosed.

(E) Stairways in Group I-3 occupancies, as provided for in Section 408.3.8 of the International Building Code[®], are not required to be enclosed.

(F) Means of egress stairways as required by Section 1015.6.1 of this code and Section 410.5.3 of the International Building Code[®] are not required to be enclosed.

(G) Means of egress stairways from balconies, galleries or press boxes as provided for in Section 1028.5.1 are not required to be enclosed.

(H) Stairways complying with exception 3 or 4 of Section 1016.1 are not required to be enclosed.

748:20-3-13. IFC[®] 2009 Chapter 46 Construction Requirements for Existing Buildings

Chapter 46 of the IFC[®] 2009 is adopted with the following modifications:

(1) Section 4601.1 Scope has been modified to include an exception allowing for structures complying with the International Existing Building Code[®] be considered safe enough to where the provisions of Chapter 46 would not apply and resolve discrepancies between the two codes. This section has been modified to read: Section 4601.1 Scope. The provisions of this chapter shall apply to existing buildings constructed prior to the adoption of this code. Exception: Buildings or portions of a building that comply with the latest edition of the International Existing Building Code[®] or the edition that was adopted at the time a remodel occurred.

(2) Section 4603.3.2 Three to five stories has been modified to add a fourth exception to provide relief from this section of the code when vertical openings comply with the requirements of Section 703.2.1 of the International Existing Building Code[®]. This section has been modified to read: Section 4603.3.2 Three to five stories. In other than Group I occupancies, interior vertical openings connecting three to five stories shall be protected by either 1-hour fire-resistant-rated construction or an automatic sprinkler system shall be installed throughout the building in accordance with Section 903.3.1.1 or 903.3.1.2. Exceptions:

(A) Vertical opening protection is not required for Group R-3 occupancies.

(B) Vertical opening protection is not required for open parking garages and ramps.

(C) Vertical opening protection for escalators shall be in accordance with Section 4603.3.5, 4603.3.6 or 4603.3.7.

(D) Vertical openings that comply with the requirements of Section 703.2.1 of the International Existing Building Code[®].

(3) Section 4604.1 General has been modified to allow the means of egress in an existing building to be considered as complying if in the opinion of both the building code official and the fire code official they do not constitute a distinct hazard to life and the requirements of a life safety evaluation have been stricken from the code. This section has been modified to read: Section 4604.1 General. Means of egress in existing buildings shall comply with the minimum egress requirements when specified in Table 4603.1 as further enumerated in Section 4604.2 through 4604.23 or means of egress conforming to the requirements of the building code under which they were constructed shall be considered as complying means of egress if, in the opinions of the building official and the fire code official, they do not constitute a distinct hazard to life. Existing buildings that were not required to comply with a building code at the time of construction shall comply with the minimum egress requirements when specified in Table 4603.1 as further enumerated in Sections 4604.2 through 4604.23.

(4) Section 4604.18.2 Dead ends has been modified to add another exception to the requirements of this section provided the dead ends comply with the requirements of Section 705.6 of the International Existing Building Code[®]. This section has been modified to read: Section 4604.18.2 Dead ends. Where more than one exit or exit access doorway is required, the exit access shall be arranged such that dead ends do not exceed the limits specified in Table 4604.18.2. Exceptions:

(A) A dead-end passageway or corridor shall not be limited in length where the length of the dead-end passageway or corridor is less than 2.5 time the least width of the dead-end passageway or corridor.

(B) Dead ends that comply with the requirements of Section 705.6 of the International Existing Building Code[®].

748:20-3-14. IFC[®] 2009 Chapter 47 Referenced Standards

Chapter 8 of the IFC[®] 2009 is adopted with the following modifications:

(1) The reference to the International Building Code[®] has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: IBC-09 International Building Code[®] as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.

(2) The reference to the International Existing Building Code[®] has been added to the reference section and will include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission" and provide the sections to be referenced. This section has been added to read: IEBC-09 International Existing Building Code[®] as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission. Sections 4601.1, 4603.3.2, 4604.18.2

(3) The reference to the International Fuel Gas Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: IFGC-09 International Fuel Gas Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.

(4) The reference to the International Mechanical Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: IMC-09 International Mechanical Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.

(5) The reference to the International Plumbing Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: IPC-09 International Plumbing Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.

(6) The reference to the International Residential Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: IRC-09 International Residential Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.

(7) The referenced standard for NFPA 70® National Electrical Code® has been modified to change the edition year from 2008 to 2011 and include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: 70-11 National Electrical Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.

SUBCHAPTER 7. IEBC® 2009

748:20-7-1. Adoption of International Existing Building Code®, 2009 Edition (IEBC® 2009)

The Uniform Building Code Commission hereby adopts the International Existing Building Code®, 2009 Edition as amended and modified in this subchapter as the minimum code for commercial existing building construction in the State of Oklahoma pursuant to 59 O.S. 1000.23.

748:20-7-2. Effect of Adoption

The International Existing Building Code®, 2009 Edition (IEBC® 2009), as amended and revised by these rules, are hereby established and adopted as the statewide minimum standards for commercial existing building construction in Oklahoma pursuant to 59 O.S. § 1000.23, and may only be amended

or altered by other jurisdictions pursuant to Oklahoma law and the administrative rules of the Oklahoma Uniform Building Code Commission as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code.

748:20-7-3. IEBC® 2009 Appendices

(a) None of the appendices of the IEBC® 2009 have been adopted by the Commission for inclusion in the minimum standards for commercial existing building construction in the State of Oklahoma.

(b) Appendices A and B and Resource A are not adopted as the minimum standards for commercial existing building construction within the State of Oklahoma. However, other jurisdictions within this State may adopt any or all of said appendices and Resource A in accordance with 59 O.S. § 1000.29.

748:20-7-4. IEBC® 2009 Provisions Adopted and Modified

All chapters and provisions within chapters, including exceptions, of the IEBC® 2009 not specifically addressed within these rules as being modified, deleted, moved or removed are hereby adopted without modification as the minimum standards for commercial existing building construction within the State of Oklahoma pursuant to 59 O.S. § 1000.23. Chapters and provisions within chapters, including exceptions adopted with modifications are specifically addressed in these rules.

748:20-7-5. Participation in Federal Programs and/or Federally Funded or Financed Projects

In order to maximize federal financial aid, assistance, participation, financing and/or funding in any public project(s) and/or federal financial aid, participation, funding for and participation in any federal program(s) by the State of Oklahoma, its agencies, public trusts and instrumentalities, or by any Oklahoma municipalities and other political subdivisions, that receive financial aid, assistance, participation, financing and/or funding for and participate in any federal program(s), the State of Oklahoma, its agencies and instrumentalities, and any Oklahoma municipalities and other political subdivisions, may cooperate with the United States Government and any agency or instrumentality thereof, in the manner authorized and provided by federal law and regulation and in doing so may perform all necessary functions and take all necessary actions for accomplishing such federal purposes and programs, including but not limited to, following and/or complying with federal laws, regulations and/or requirements arising from or related to federal financial aid, assistance, participation, financing and/or funding, in the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, improvement, expansion, operation, maintenance, removal, and demolition of buildings and structures or any appurtenances attached to such buildings or structures, notwithstanding any provisions of any and all uniform building codes and standards adopted by the Oklahoma Uniform Building Code Commission to the contrary.

Permanent Final Adoptions

748:20-7-6. IEBC® 2009 Chapter 1 Scope and Administration

Chapter 1 the Oklahoma adopted IEBC® 2009, includes the following Preamble at the very beginning of the chapter:

(1) Pursuant to 59 O.S. § 1000.23, the Uniform Building Code Commission has adopted the International Existing Building Code®, 2009 Edition (IEBC® 2009) as amended and revised by the Commission, as the minimum standards to be used by all entities for commercial existing building construction in jurisdictions throughout the State of Oklahoma. However, the Commission's adoption of Chapter 1 "Scope and Administration" of the IEBC® 2009 is for continuity purposes and the Commission's adoption of Chapter 1 recognizes the methods of best practice in fully implementing the minimum standards for commercial existing building construction.

(2) All provisions of the adopted IEBC® 2009, including Chapter 1, as amended and revised by the Commission, are hereby established and adopted as the statewide minimum standards for commercial existing building construction in Oklahoma pursuant to 59 O.S. § 1000.23, which may only be amended or altered pursuant to Oklahoma law and the administrative rules of the Oklahoma Uniform Building Code Commission as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code. However, the provisions of Chapter 1 adopted herein are only intended to be in force and effect to the extent that the respective provisions do not conflict with State law or the lawful exercise of code administration and enforcement jurisdiction by entities empowered to do so pursuant to applicable law.

(3) The Commission's adoption of Chapter 1 in this manner is made with the recognition that the legal authority granting state and local code administration and enforcement jurisdictions the power and discretion to administer and enforce codes arises from Oklahoma laws governing those jurisdictions. Furthermore, the Commission also recognizes that many state and local code administration and enforcement jurisdictions have already created, or have the lawful authority to create, departments, offices and administrative policies pursuant to various applicable laws and other adopted model codes with "Scope and Administration" provisions similar to Chapter 1 of the adopted IEBC® 2009

(4) This limited adoption of Chapter 1 is made in recognition of the authority and discretion possessed by jurisdictions to administer and enforce building codes. Exercising such authority and jurisdiction in a manner inconsistent with Chapter 1 must be supported by Oklahoma law. Code administration and enforcement jurisdictions shall not use the Commission's limited adoption of Chapter 1 to circumvent the remainder of the requirements established by the Oklahoma adopted IEBC® 2009 and the Commission will strongly oppose any such practice.

748:20-7-7. IEBC® Chapter 2 Definitions

Chapter 2 of the IEBC® 2009 is adopted with the following modifications:

(1) The definition of an Existing Building has been modified to further define an existing building to include a default date of 10 years from the date of construction, but still allowing for a jurisdiction with the legal authority to select a different date and to remove the words "appropriate" and "legal building permit" from the definition. A reference to code applicability was added to the definition. The definition has been modified to read: **EXISTING BUILDING OR EXISTING STRUCTURE.** A building or structure on which construction was begun at least ten (10) years prior to the date of adoption of this code by the State of Oklahoma (or any date may be inserted by a jurisdiction that has the legal right to do so, such as but not limited to counties and municipalities). For code applicability, refer to IEBC® Section 101.4 and Section 1301.2, including associated subparagraphs with each.

(2) The definition of a Repair has been modified to further define a repair to include repair to any build or structure regardless of the classification of the building as a new or existing building. The definition has been modified to read: The restoration to good or sound condition of any part of any building for the purpose of its maintenance.

748:20-7-8. IEBC® Chapter 13 Performance Compliance Methods

Chapter 13 of the IEBC® 2009 is adopted with the following modification: Section [B] 1301.2 Applicability. This section has been modified to clarify the application of the definition of an existing building. This section has been modified to read: Existing buildings or existing structures on which construction was begun at least ten (10) years prior to the date of adoption of this code by the State of Oklahoma (or any date may be inserted by a jurisdiction that has the legal right to do so, such as but not limited to counties and municipalities) in which there is work involving additions, alterations or changes of occupancy shall be made to conform to the requirements of this chapter or the provisions of Chapters 4 through 12. The provisions of Sections 1301.2.1 through 1301.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, and S. These provisions shall not apply to buildings with occupancies in Group H or Group I.

748:20-7-9. IEBC® Chapter 15 Referenced Standards

Chapter 15 of the IEBC® 2009 is adopted with the following modifications:

(1) The reference to the International Building Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: **IBC-09 International Building Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.**

(2) The reference to the International Energy Conservation Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma by the State Fire Marshal until replaced by an adoption done through the Uniform Building Code Commission". This section has been modified to read: IECC-06 International Energy Conservation Code® as adopted and modified by the State of Oklahoma through the State Fire Marshal until replaced by an adoption done through the Uniform Building Code Commission.

(3) The reference to the International Fire Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: IFC-09 International Fire Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.

(4) The reference to the International Fuel Gas Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: IFGC-09 International Fuel Gas Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.

(5) The reference to the International Mechanical Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: IMC-09 International Mechanical Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.

(6) The reference to the International Plumbing Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: IPC-09 International Plumbing Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.

(7) The reference to the International Residential Code® has been modified to include after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section has been modified to read: IRC-09 International Residential Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.

(8) The referenced standard for NFPA 70® National Electrical Code® has been modified to change the edition year from 2005 to 2011 and add after the title the words "as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission". This section shall now read: 70-11 National Electrical Code® as adopted and modified by the State of Oklahoma through the Uniform Building Code Commission.

[OAR Docket #12-785; filed 6-6-12]

**TITLE 748. UNIFORM BUILDING CODE COMMISSION
CHAPTER 20. ADOPTED CODES**

[OAR Docket #12-784]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 9. NEC® 2011 Edition [NEW]
- 748:20-9-1. Adoption of National Electrical Code® 2011 [NEW]
- 748:20-9-2. Effect of Adoption [NEW]
- 748:20-9-3. NEC® 2011 Informative Annexes [NEW]
- 748:20-9-4. NEC® 2011 Provisions Adopted and Modified [NEW]
- 748:20-9-5. NEC® 2011 Participation in Federal Programs and/or Federally Funded or Financed Projects [NEW]
- 748:20-9-6. NEC® 2011 Article 90 Introduction [NEW]
- Subchapter 11. IFGC® 2009 [NEW]
- 748:20-11-1. Adoption of International Fuel Gas Code® 2009 Edition [NEW]
- 748:20-11-2. Effect of Adoption [NEW]
- 748:20-11-3. IFGC® 2009 Appendices [NEW]
- 748:20-11-4. IFGC® 2009 Provisions Adopted and Modified [NEW]
- 748:20-11-5. IFGC® 2009 Participation in Federal Programs and/or Federally Funded or Financed Projects [NEW]
- 748:20-11-6. IFGC® 2009 Chapter 1 Scope and Administration [NEW]
- 748:20-11-7. IFGC® 2009 Chapter 3 General Regulations [NEW]
- 748:20-11-8. IFGC® 2009 Chapter 4 Gas Piping Installations [NEW]
- 748:20-11-9. IFGC® 2009 Chapter 6 Specific Appliances [NEW]
- Subchapter 13. IMC® 2009 [NEW]
- 748:20-13-1. Adoption of International Mechanical Code® 2009 Edition [NEW]
- 748:20-13-2. Effect of Adoption [NEW]
- 748:20-13-3. IMC® 2009 Appendices [NEW]
- 748:20-13-4. IMC® 2009 Provisions Adopted and Modified [NEW]
- 748:20-13-5. IMC® 2009 Participation in Federal Programs and/or Federally Funded or Financed Projects [NEW]
- 748:20-13-6. IMC® 2009 Chapter 1 Scope and Administration [NEW]
- 748:20-13-7. IMC® 2009 Chapter 2 Definitions [NEW]
- 748:20-13-8. IMC® 2009 Chapter 3 General Regulations [NEW]
- 748:20-13-9. IMC® 2009 Chapter 5 Exhaust Systems [NEW]
- 748:20-13-10. IMC® 2009 Chapter 6 Duct Systems [NEW]
- Subchapter 15. IPC® 2009 [NEW]
- 748:20-15-1. Adoption of International Plumbing Code® 2009 Edition [NEW]
- 748:20-15-2. Effect of Adoption [NEW]
- 748:20-15-3. IPC® 2009 Appendices [NEW]
- 748:20-15-4. IPC® 2009 Provisions Adopted and Modified [NEW]
- 748:20-15-5. IPC® 2009 Participation in Federal Programs and/or Federally Funded or Financed Projects [NEW]
- 748:20-15-6. IPC® 2009 Chapter 1 Scope and Administration [NEW]
- 748:20-15-7. IPC® 2009 Chapter 2 Definitions [NEW]
- 748:20-15-8. IPC® 2009 Chapter 3 General Provisions [NEW]
- 748:20-15-9. IPC® 2009 Chapter 4 Fixtures, Faucets and Fixture Fittings [NEW]
- 748:20-15-10. IPC® 2009 Chapter 5 Water Heaters [NEW]
- 748:20-15-11. IPC® 2009 Chapter 6 Water Supply and Distribution [NEW]
- 748:20-15-12. IPC® 2009 Chapter 7 Sanitary Drainage [NEW]
- 748:20-15-13. IPC® 2009 Chapter 8 Indirect/Special Waste [NEW]
- 748:20-15-14. IPC® 2009 Chapter 9 Vents [NEW]
- 748:20-15-15. IPC® 2009 Chapter 10 Traps, Interceptors, and Separators [NEW]
- 748:20-15-16. IPC® 2009 Chapter 11 Storm Drainage [NEW]

AUTHORITY:

Oklahoma Uniform Building Code Commission; 59 O.S. §§ 1000.23

DATES:

Comment Period:

December 16, 2011 through January 17, 2012

Public Hearing:

January 17, 2012

Adoption:

January 17, 2012

Permanent Final Adoptions

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:

Approved on May 30, 2012 by House Joint Resolution 1121

Final adoption:

May 30, 2012

Effective:

November 1, 2012

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated standards:

National Electrical Code®, 2011 Edition (NEC®, 2011 Edition)
International Fuel Gas Code®, 2009 Edition (IFGC®, 2009 Edition)
International Mechanical Code®, 2009 Edition (IMC®, 2009 Edition)
International Plumbing Code®, 2009 Edition (IPC®, 2009 Edition)

Incorporating rules:

748:20-9-1 through 748:20-9-6, 748:20-11-1 through 748:20-11-9,
748:20-13-1 through 748:20-13-10, and 748:20-15-1 through 748:20-15-16

Availability:

8:00 a.m. to 4:30 p.m., Monday through Friday at the Uniform Building Code Commission, 2401 NW 23rd Street, Suite 2F, Oklahoma City, OK 73107, 405-521-6501

ANALYSIS:

The purpose of these rules is to implement 59 O.S. §§1000.2 - 1000.29 enacted by SB1182, effective June 2, 2009, creating the Oklahoma Uniform Building Code Commission. These rules establish the adoption of the NEC®, 2011 edition, without annexes, as the minimum standards for commercial electrical construction, the IFGC®, 2009 edition, without appendices, as the minimum standards for commercial fuel gas construction, the IMC®, 2009 edition without appendices, as the minimum standards for commercial mechanical construction, and the IPC®, 2009 edition, without appendices, as the minimum standards for commercial plumbing construction, as modified by the Commission for implementation in the State of Oklahoma.

CONTACT PERSON:

Billy Pope, Chief Executive Officer, OUBCC, 2401 NW 23rd, Suite 2F, Oklahoma City, OK 73107, 405-521-6501

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

SUBCHAPTER 9. NEC® 2011

748:20-9-1. Adoption of National Electrical Code®, 2011 Edition (NEC® 2011)

The Oklahoma Uniform Building Code Commission (the Commission) hereby adopts the National Electrical Code®, 2011 Edition - NFPA 70®, as amended and modified in this subchapter as the minimum code for commercial electrical construction in the State of Oklahoma pursuant to 59 O.S. § 1000.23.

748:20-9-2. Effect of Adoption

The National Electrical Code®, 2011 Edition - NFPA 70® (NEC® 2011), as amended and revised by these rules, is hereby established and adopted as the statewide minimum standard for

commercial electrical construction in Oklahoma pursuant to 59 O.S. § 1000.23, and may only be amended or altered by other jurisdictions pursuant to Oklahoma law and the administrative rules of the Oklahoma Uniform Building Code Commission as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code.

748:20-9-3. NEC® 2011 Informative Annexes

(a) None of the informative annexes of the NEC® 2011 have been adopted by the Commission for inclusion in the minimum standards for commercial electrical construction in the State of Oklahoma.

(b) Informative Annexes A through I are not adopted as the minimum standards for commercial electrical construction within the State of Oklahoma. However, other jurisdictions within this State may adopt any or all of said annexes in accordance with 59 O.S. § 1000.29.

748:20-9-4. NEC® 2011 Provisions Adopted and Modified

All chapters and provisions within chapters, including exceptions, of the NEC® 2011 not specifically addressed within these rules as being modified, deleted, moved or removed are hereby adopted without modification as the minimum standards for commercial electrical construction within the State of Oklahoma pursuant to 59 O.S. § 1000.23. Chapters and provisions within chapters, including exceptions adopted with modifications are specifically addressed in these rules.

748:20-9-5. Participation in Federal Programs and/or Federally Funded or Financed Projects

In order to maximize federal financial aid, assistance, participation, financing and/or funding in any public project(s) and/or federal financial aid, participation, funding for and participation in any federal program(s) by the State of Oklahoma, its agencies, public trusts and instrumentalities, or by any Oklahoma municipalities and other political subdivisions, that receive financial aid, assistance, participation, financing and/or funding for and participate in any federal program(s), the State of Oklahoma, its agencies and instrumentalities, and any Oklahoma municipalities and other political subdivisions, may cooperate with the United States Government and any agency or instrumentality thereof, in the manner authorized and provided by federal law and regulation and in doing so may perform all necessary functions and take all necessary actions for accomplishing such federal purposes and programs, including but not limited to, following and/or complying with federal laws, regulations and/or requirements arising from or related to federal financial aid, assistance, participation, financing and/or funding, in the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, improvement, expansion, operation, maintenance, removal, and demolition of buildings and structures or any appurtenances attached to such buildings or structures, notwithstanding any provisions of any and all uniform building codes and standards

adopted by the Oklahoma Uniform Building Code Commission to the contrary.

748:20-9-6. NEC® 2011 Article 90 Introduction

Article 90 the Oklahoma adopted NEC® 2011, includes the following Preamble at the very beginning of the chapter:

(1) Pursuant to 59 O.S. § 1000.23, the Uniform Building Code Commission has adopted the National Electrical Code®, 2011 Edition (NEC® 2011) as amended and revised by the Commission, as the minimum standards to be used by all entities for commercial electrical construction in jurisdictions throughout the State of Oklahoma. However, the Commission's adoption of Article 90 "Introduction" of the NEC® 2011 is for continuity purposes and the Commission's adoption of Article 90 recognizes the methods of best practice in fully implementing the minimum standards for commercial electrical construction.

(2) All provisions of the adopted NEC® 2011, including Article 90, as amended and revised by the Commission, are hereby established and adopted as the statewide minimum standards for commercial electrical construction in Oklahoma pursuant to 59 O.S. § 1000.23, which may only be amended or altered pursuant to Oklahoma law and the administrative rules of the Oklahoma Uniform Building Code Commission as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code. However, the provisions of Article 90 adopted herein are only intended to be in force and effect to the extent that the respective provisions do not conflict with State law or the lawful exercise of code administration and enforcement jurisdiction by entities empowered to do so pursuant to applicable law.

(3) The Commission's adoption of Article 90 in this manner is made with the recognition that the legal authority granting state and local code administration and enforcement jurisdictions the power and discretion to administer and enforce codes arises from Oklahoma laws governing those jurisdictions. Furthermore, the Commission also recognizes that many state and local code administration and enforcement jurisdictions have already created, or have the lawful authority to create, departments, offices and administrative policies pursuant to various applicable laws and other adopted model codes with "Introduction" provisions similar to Article 90 of the adopted NEC® 2011.

(4) This limited adoption of Article 90 is made in recognition of the authority and discretion possessed by jurisdictions to administer and enforce building codes. Exercising such authority and jurisdiction in a manner inconsistent with Article 90 must be supported by Oklahoma law. Code administration and enforcement jurisdictions shall not use the Commission's limited adoption of Article 90 to circumvent the remainder of the requirements established by the Oklahoma adopted NEC® 2011 and the Commission will strongly oppose any such practice.

SUBCHAPTER 11. IFGC® 2009

748:20-11-1. Adoption of International Fuel Gas Code®, 2009 Edition (IFGC® 2009)

The Oklahoma Uniform Building Code Commission (the Commission) hereby adopts the International Fuel Gas Code®, 2009 Edition as amended and modified in this subchapter as the minimum code for commercial fuel gas construction in the State of Oklahoma pursuant to 59 O.S. 1000.23.

748:20-11-2. Effect of Adoption

The International Fuel Gas Code®, 2009 Edition (IFGC® 2009), as amended and revised by these rules, are hereby established and adopted as the statewide minimum standards for commercial fuel gas construction in Oklahoma pursuant to 59 O.S. § 1000.23, and may only be amended or altered by other jurisdictions pursuant to Oklahoma law and the administrative rules of the Oklahoma Uniform Building Code Commission as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code.

748:20-11-3. IFGC® 2009 Appendices

(a) None of the appendices of the IFGC® 2009 have been adopted by the Commission for inclusion in the minimum standards for commercial fuel gas commercial construction in the State of Oklahoma.

(b) Appendices A through D are not adopted as the minimum standards for commercial fuel gas construction within the State of Oklahoma. However, other jurisdictions within this State may adopt any or all of said appendices in accordance with 59 O.S. § 1000.29.

748:20-11-4. IFGC® 2009 Provisions Adopted and Modified

All chapters and provisions within chapters, including exceptions, of the IFGC® 2009 not specifically addressed within these rules as being modified, deleted, moved or removed are hereby adopted without modification as the minimum standards for commercial fuel gas construction within the State of Oklahoma pursuant to 59 O.S. § 1000.23. Chapters and provisions within chapters, including exceptions adopted with modifications are specifically addressed in these rules.

748:20-11-5. Participation in Federal Programs and/or Federally Funded or Financed Projects

In order to maximize federal financial aid, assistance, participation, financing and/or funding in any public project(s) and/or federal financial aid, participation, funding for and participation in any federal program(s) by the State of Oklahoma, its agencies, public trusts and instrumentalities, or by any Oklahoma municipalities and other political subdivisions, that receive financial aid, assistance, participation, financing and/or funding for and participate in any federal program(s), the State

Permanent Final Adoptions

of Oklahoma, its agencies and instrumentalities, and any Oklahoma municipalities and other political subdivisions, may cooperate with the United States Government and any agency or instrumentality thereof, in the manner authorized and provided by federal law and regulation and in doing so may perform all necessary functions and take all necessary actions for accomplishing such federal purposes and programs, including but not limited to, following and/or complying with federal laws, regulations and/or requirements arising from or related to federal financial aid, assistance, participation, financing and/or funding, in the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, improvement, expansion, operation, maintenance, removal, and demolition of buildings and structures or any appurtenances attached to such buildings or structures, notwithstanding any provisions of any and all uniform building codes and standards adopted by the Oklahoma Uniform Building Code Commission to the contrary.

748:20-11-6. IFGC® 2009 Chapter 1 Scope and Administration

Chapter 1 the Oklahoma adopted IFGC® 2009, includes the following Preamble at the very beginning of the chapter:

(1) Pursuant to 59 O.S. § 1000.23, the Uniform Building Code Commission has adopted the International Fuel Gas Code®, 2009 Edition (IFGC® 2009) as amended and revised by the Commission, as the minimum standards to be used by all entities for commercial fuel gas construction in jurisdictions throughout the State of Oklahoma. However, the Commission's adoption of Chapter 1 "Scope and Administration" of the IFGC® 2009 is for continuity purposes and the Commission's adoption of Chapter 1 recognizes the methods of best practice in fully implementing the minimum standards for commercial fuel gas construction.

(2) All provisions of the adopted IFGC® 2009, including Chapter 1, as amended and revised by the Commission, are hereby established and adopted as the statewide minimum standards for commercial fuel gas construction in Oklahoma pursuant to 59 O.S. § 1000.23, which may only be amended or altered pursuant to Oklahoma law and the administrative rules of the Oklahoma Uniform Building Code Commission as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code. However, the provisions of Chapter 1 adopted herein are only intended to be in force and effect to the extent that the respective provisions do not conflict with State law or the lawful exercise of code administration and enforcement jurisdiction by entities empowered to do so pursuant to applicable law.

(3) The Commission's adoption of Chapter 1 in this manner is made with the recognition that the legal authority granting state and local code administration and enforcement jurisdictions the power and discretion to administer and enforce codes arises from Oklahoma laws governing those jurisdictions. Furthermore, the Commission also recognizes that many state and local code administration and enforcement jurisdictions have already created,

or have the lawful authority to create, departments, offices and administrative policies pursuant to various applicable laws and other adopted model codes with "Scope and Administration" provisions similar to Chapter 1 of the adopted IFGC® 2009

(4) This limited adoption of Chapter 1 is made in recognition of the authority and discretion possessed by jurisdictions to administer and enforce building codes. Exercising such authority and jurisdiction in a manner inconsistent with Chapter 1 must be supported by Oklahoma law. Code administration and enforcement jurisdictions shall not use the Commission's limited adoption of Chapter 1 to circumvent the remainder of the requirements established by the Oklahoma adopted IFGC® 2009 and the Commission will strongly oppose any such practice.

748:20-11-7. IFGC® Chapter 3 General Regulations

Chapter 3 of the IFGC® 2009 is adopted with the following modifications:

(1) Section 307.2.1 Condensate drains. This section has been added to the code to require condensate drains to be protected from freezing. This section shall read: Where condensing appliances are in locations subject to freezing conditions, the condensate drain line must be protected from freezing in an approved manner and in accordance with manufacturer installation instructions.

(2) Section 308.1 Scope. This section has been modified to include gypsum board as a combustible material. This section has been modified to read: This section shall govern the reduction in required clearances to combustible materials, including gypsum board, and combustible assemblies for chimneys, vents, appliances, devices and equipment. Clearance requirements for air-conditioning equipment and central heating boilers and furnaces shall comply with Section 308.3 and 308.4.

(3) Section 310.1.1 CSST. This section has been modified to add an exception to allow for installation when using new special CSST. This exception shall read: Exception: Special corrugated stainless steel gas products or systems that have been designed, manufactured and listed for installation without direct bonding shall be permitted to be installed in accordance with the manufacturer's installation instructions.

748:20-11-8. IFGC® Chapter 4 Gas Piping Installations

Chapter 4 of the IFGC® 2009 is adopted with the following modifications:

(1) Tables 402.4(6), 402.4(7), 402.4(8), 402.4(9), 402.4(10), 402.4(11), and 402.4(12). These tables have been stricken from the code.

(2) Section 404.8.1 Insulated union on building riser. This section has been added to the code as a means to isolate the gas piping from the grounding. It shall read: All underground gas piping systems shall have an insulated

union installed above ground level before the service enters the building.

(3) Section 404.10. Minimum burial depth. This section has been modified to change the minimum burial depth from 12 inches (305 mm) to 18 inches (457 mm) and to allow for an exception when there is no ability to meet that minimum depth. This section has been modified to read: Underground piping systems shall be installed a minimum depth of 18 inches (457 mm) below grade, except as provided for in Section 404.10.1. Exception: Where a minimum depth of 18 inches (457 mm) of cover cannot be provided, the pipe shall be installed in conduit or bridged (shielded).

(4) Section 404.10.2. Separation of gas piping from other piping systems. This section has been added to the code as a means to prevent damage to other systems that may have been buried in the same ditch. This section shall read: Gas pipe and any other piping systems shall be separated by 18 inches (457 mm) of undisturbed or compacted earth.

(5) Section 404.16 Prohibited devices. This section was modified to add a second exception to allow for new technology to be utilized. The second exception shall read: An approved fitting or device where the gas piping system has been sized to accommodate the pressure drop of the fitting or device.

(6) The International Code Council Emergency Amendment dated September 27, 2010 has been adopted. This amendment replaces in its entirety Sections 406.7 through Section 406.7.3 of the IFGC®. These sections shall now read:

(A) Section 406.7 Purging: The purging of piping shall be in accordance with Sections 406.7.1 through 406.7.3

(B) Section 406.7.1 Piping systems required to be purged outdoors. The purging of piping systems shall be in accordance with the provisions of Sections 406.7.1.1 through 406.7.1.4 where the piping system meets either of the following:

(i) The design operating gas pressure is greater than 2 psig (13.79 kPa).

(ii) The piping being purged contains one or more sections of pipe or tubing meeting the size and length criteria of Table 406.7.1.1

(C) Section 406.7.1.1 Removal from service. Where existing gas piping is opened, the section that is opened shall be isolated from the gas supply and the line pressure vented in accordance with Section 406.7.1.3. Where gas piping meeting the criteria of Table 406.7.1.1 is removed from service, the residual fuel gas in the piping shall be displaced with an inert gas.

(D) Table 406.7.1.1 Size and length of piping. The following measurements for table 406.7.1.1 were added. Footnote "a" in relation to Nominal Pipe Size (inches) states CSST EHD size of 62 is equivalent to nominal 2-inch pipe or tubing size.

(i) When nominal pipe size (inches) is greater than or equal to 2 $\frac{1}{2}$ but less than 3, the length of piping (feet) is greater than 50.

(ii) When nominal pipe size (inches) is greater than or equal to 3 but less than 4, the length of piping (feet) is greater than 30

(iii) When nominal pipe size (inches) is greater than or equal to 4 but less than 6, the length of piping (feet) is greater than 15.

(iv) When nominal pipe size (inches) is greater than or equal to 6 but less than 8, the length of piping (feet) is greater than 10.

(v) When nominal pipe size (inches) is greater than 8, the length of piping (feet) is any length. For SI: 1 inch is equal to 25.4 mm; 1 foot is equal to 304.8 mm.

(E) Section 406.7.1.2 Placing in operation. Where gas piping contains air and meeting the criteria of Table 406.7.1.1 is placed in operation, the air in the piping shall first be displaced with an inert gas. The inert gas shall then be displaced with fuel gas in accordance with Section 406.7.1.3.

(F) Section 406.7.1.3. Outdoor discharge of purged gases. The open end of a piping system being pressure vented or purged shall discharge directly to an outdoor location. Purging operations shall comply with all of the following requirements:

(i) The point of discharge shall be controlled with a shutoff valve.

(ii) The point of discharge shall be located at least 10 feet (3048 mm) from sources of ignition, at least 10 feet (3048 mm) from building openings and at least 25 feet (7620 mm) from mechanical air intake openings.

(iii) During discharge, the open point of discharge shall be continuously attended and monitored with a combustion gas indicator that complies with Section 406.7.1.4.

(iv) Purging operations introducing fuel gas shall be stopped when 90 percent fuel gas by volume is detected within the pipe.

(v) Persons not involved in the purging operations shall be evacuated from all areas within 10 feet (3048 mm) of point of discharge.

(G) Section 406.7.1.4. Combustion gas indicator. Combustion gas indicators shall be listed and shall be calibrated in accordance with the manufacturer's instructions. Combustion gas indicators shall numerically display a volume scale from zero percent to 100 percent in 1 percent or smaller increments.

(H) Section 406.7.2 Piping systems allowed to be purged indoors or outdoors. The purging of piping systems shall be in accordance with the provisions of Section 406.7.2.1 where the piping system meets both of the following:

(i) The design operating gas pressure is 2 psig (13.79 kPa) or less.

Permanent Final Adoptions

(ii) The piping being purged is constructed entirely from pipe or tubing not meeting the size and length criteria of Table 406.7.1.1

(I) Section 406.7.2.1 Purging Procedure. The piping system shall be purged in accordance with one or more of the following:

(i) The piping shall be purged with fuel gas and shall discharge to the outdoors.

(ii) The piping shall be purged with fuel gas and shall discharge to the indoors or outdoors through an appliance burner not located in a combustion chamber. Such burner shall be provided with a continuous source of ignition.

(iii) The piping shall be purged with fuel gas and shall discharge to the indoors or outdoors through a burner that has a continuous source of ignition and that is designed for such purpose.

(iv) The piping shall be purged with fuel gas that is discharged to the indoor or outdoors, and the point of discharge shall be monitored with a listed combustible gas detector in accordance with Section 406.7.2.2. Purging shall be stopped when fuel gas is detected.

(v) The piping shall be purged by the gas supplier in accordance with written procedures.

(J) Section 406.7.2.2 Combustible gas detector. Combustible gas detectors shall be listed and shall be calibrated or tested in accordance with the manufacturer's instructions. Combustible gas detectors shall be capable of indicating the presence of fuel gas.

(K) Section 406.7.3 Purging appliances and equipment. After the piping system has been placed in operation, appliances and equipment shall be purged before being placed into operation.

(7) Section 410.4 Excess flow valve. This section has been added to allow for new technologies in use in the field. This section shall read: Where automatic excess flow valves are installed, they shall be listed for the application and shall be sized and installed in accordance with the manufacturer's instructions.

748:20-11-9. IFGC® Chapter 6 Specific Appliances

Chapter 6 of the IFGC® 2009 is adopted with the following modifications: Section 621.4 Prohibited locations. This section has been modified to provide definitions for Groups A, E and I. This section has been modified to read: Unvented room heaters shall not be installed within occupancies in Groups A, E, and I. The location of unvented room heaters shall also comply with Section 303.3 (Use Groups A = Assembly, E = Educational and I = Institutional.

SUBCHAPTER 13. IMC® 2009

748:20-13-1. Adoption of International Mechanical Code®, 2009 Edition (IMC® 2009)

The Oklahoma Uniform Building Code Commission (the Commission) hereby adopts the International Mechanical Code®, 2009 Edition as amended and modified in this subchapter as the minimum code for commercial mechanical construction in the State of Oklahoma pursuant to 59 O.S. 1000.23.

748:20-13-2. Effect of Adoption

The International Mechanical Code®, 2009 Edition (IMC® 2009), as amended and revised by these rules, are hereby established and adopted as the statewide minimum standards for commercial mechanical construction in Oklahoma pursuant to 59 O.S. § 1000.23, and may only be amended or altered by other jurisdictions pursuant to Oklahoma law and the administrative rules of the Oklahoma Uniform Building Code Commission as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code.

748:20-13-3. IMC® 2009 Appendices

(a) None of the appendices of the IMC® 2009 have been adopted by the Commission for inclusion in the minimum standards for commercial mechanical construction in the State of Oklahoma.

(b) Appendices A through B are not adopted as the minimum standards for commercial mechanical construction within the State of Oklahoma. However, other jurisdictions within this State may adopt any or all of said appendices in accordance with 59 O.S. § 1000.29.

748:20-13-4. IMC® 2009 Provisions Adopted and Modified

All chapters and provisions within chapters, including exceptions, of the IMC® 2009 not specifically addressed within these rules as being modified, deleted, moved or removed are hereby adopted without modification as the minimum standards for commercial mechanical construction within the State of Oklahoma pursuant to 59 O.S. § 1000.23. Chapters and provisions within chapters, including exceptions adopted with modifications are specifically addressed in these rules.

748:20-13-5. Participation in Federal Programs and/or Federally Funded or Financed Projects

In order to maximize federal financial aid, assistance, participation, financing and/or funding in any public project(s) and/or federal financial aid, participation, funding for and participation in any federal program(s) by the State of Oklahoma, its agencies, public trusts and instrumentalities, or by any Oklahoma municipalities and other political subdivisions, that receive financial aid, assistance, participation, financing and/or funding for and participate in any federal program(s), the State of Oklahoma, its agencies and instrumentalities, and any Oklahoma municipalities and other political subdivisions, may cooperate with the United States Government and any agency or

instrumentality thereof, in the manner authorized and provided by federal law and regulation and in doing so may perform all necessary functions and take all necessary actions for accomplishing such federal purposes and programs, including but not limited to, following and/or complying with federal laws, regulations and/or requirements arising from or related to federal financial aid, assistance, participation, financing and/or funding, in the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, improvement, expansion, operation, maintenance, removal, and demolition of buildings and structures or any appurtenances attached to such buildings or structures, notwithstanding any provisions of any and all uniform building codes and standards adopted by the Oklahoma Uniform Building Code Commission to the contrary.

748:20-13-6. IMC® 2009 Chapter 1 Scope and Administration

Chapter 1 the Oklahoma adopted IMC® 2009, includes the following Preamble at the very beginning of the chapter:

(1) Pursuant to 59 O.S. § 1000.23, the Uniform Building Code Commission has adopted the International Mechanical Code®, 2009 Edition (IMC® 2009) as amended and revised by the Commission, as the minimum standards to be used by all entities for commercial mechanical construction in jurisdictions throughout the State of Oklahoma. However, the Commission's adoption of Chapter 1 "Scope and Administration" of the IMC® 2009 is for continuity purposes and the Commission's adoption of Chapter 1 recognizes the methods of best practice in fully implementing the minimum standards for commercial mechanical construction.

(2) All provisions of the adopted IMC® 2009, including Chapter 1, as amended and revised by the Commission, are hereby established and adopted as the statewide minimum standards for commercial mechanical construction in Oklahoma pursuant to 59 O.S. § 1000.23, which may only be amended or altered pursuant to Oklahoma law and the administrative rules of the Oklahoma Uniform Building Code Commission as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code. However, the provisions of Chapter 1 adopted herein are only intended to be in force and effect to the extent that the respective provisions do not conflict with State law or the lawful exercise of code administration and enforcement jurisdiction by entities empowered to do so pursuant to applicable law.

(3) The Commission's adoption of Chapter 1 in this manner is made with the recognition that the legal authority granting state and local code administration and enforcement jurisdictions the power and discretion to administer and enforce codes arises from Oklahoma laws governing those jurisdictions. Furthermore, the Commission also recognizes that many state and local code administration and enforcement jurisdictions have already created, or have the lawful authority to create, departments, offices and administrative policies pursuant to various applicable laws and other adopted model codes with "Scope

and Administration" provisions similar to Chapter 1 of the adopted IMC® 2009

(4) This limited adoption of Chapter 1 is made in recognition of the authority and discretion possessed by jurisdictions to administer and enforce building codes. Exercising such authority and jurisdiction in a manner inconsistent with Chapter 1 must be supported by Oklahoma law. Code administration and enforcement jurisdictions shall not use the Commission's limited adoption of Chapter 1 to circumvent the remainder of the requirements established by the Oklahoma adopted IMC® 2009 and the Commission will strongly oppose any such practice.

748:20-13-7. IMC 2009® Chapter 2 Definitions

Chapter 2 of the IMC® 2009 is adopted with the following changes: The definition of a Commercial Cooking Appliance has been modified to further define a commercial cooking appliance. The definition has been modified to read: Appliances used in a commercial food service establishment for heating or cooking food and which produce grease vapors, steam, fumes, smoke or odors that are required to be removed through a local ventilation system. Such appliances include deep fat fryers; upright broilers; griddles; broilers; steam-jacketed kettles; hot-top ranges; under-fired broilers (charbroilers); ovens; barbecues; rotisseries; and similar appliances. For the purpose of this definition, a food service establishment shall include any building or a portion thereof used for the preparation and serving of food that is not a kitchen in a single-family dwelling unit or apartment.

748:20-13-8. IMC 2009® Chapter 3 General Regulations

Chapter 3 of the IMC® 2009 is adopted with the following modifications:

(1) Section 301.12 Wind resistance. This section has been modified to allow design and installation of equipment and appliances that are exposed to wind to be built in accordance with SMACNA HVAC Duct Construction Standards - Metal or Flexible or other approved methods. This section has been modified to read: Mechanical equipment, appliances and supports that are exposed to wind shall be designed and installed to resist the wind pressures determined in accordance with the International Building Code, SMACNA HVAC Duct Construction Standards - Metal and Flexible, or other approved methods.

(2) Section 304.11 Guards. This section has been modified to require guards around components requiring routine service and unprotected skylight openings. This section has been modified to read: Guards or parapet walls shall be provided where appliances, equipment, fans (or other components that require routine service) or roof hatches are located within 10 feet (3048 mm) of a roof edge or open side of a walking surface and such edge or open side is located more than 30 inches (762 mm) above the adjacent surface or grade below. The guards or parapet walls shall extend not less than 30 inches (762

Permanent Final Adoptions

mm) beyond each end of such appliances, equipment, fans, components, and roof hatch openings; and the top of the guard or parapet wall shall be located not less than 42 inches (1067 mm) above the adjacent surface. Guards shall be constructed to prevent the passage of a 21-inch diameter (533 mm) sphere and shall comply with the loading requirements for guards as specified in the International Building Code®. Guards shall also be provided where appliances, equipment, fans (or other components that require routine service) are located within 10 feet (3048 mm) of a roof hatch or unprotected skylight. Skylights shall be considered protected if the level of the lowest edge of the skylight is on a raised curb 42 inches (1067 mm) above the roof level, or if the skylight is protected by some other approved means to prevent personnel from falling through the opening.

748:20-13-9. IMC 2009® Chapter 5 Exhaust Systems

Chapter 5 of the IMC® 2009 has been adopted with the following modifications:

(1) Section 507.1 General. This section has been modified to add Section 507.9 to exception number one. This section shall now read: Commercial kitchen exhaust hoods shall comply with the requirements of this section. Hoods shall be Type I or II and shall be designed to capture and confine cooking vapors and residues. Commercial kitchen exhaust hood systems shall operate during the cooking operation. Exceptions:

(A) Factory-built commercial exhaust hoods which are tested in accordance with UL 710 listed, labeled and installed in accordance with Section 304.1 shall not be required to comply with Sections 507.4, 507.7, 507.9, 507.11, 507.12, 507.13, 507.14 and 507.15.

(B) Factory-built commercial cooking recirculating systems which are tested in accordance with UL 710B, listed, labeled, and installed in accordance with Section 304.1 shall not be required to comply with Sections 507.4, 507.5, 507.7, 507.12, 507.13, 507.14, and 507.15. Spaces in which such systems are located shall be considered to be kitchens and shall be ventilated in accordance with Table 403.3. For the purpose of determining the floor area required to be ventilated, each individual appliance shall be considered as occupying not less than 100 square feet (9.3 meters squared).

(C) Net exhaust volumes for hoods shall be permitted to be reduced during part-load cooking conditions, where engineered or listed multispeed or variable-speed controls automatically operate the exhaust system to maintain capture and removal of cooking effluents as required by this section. Reduced volumes shall not be below that required to maintain capture and removal of effluents from the idle cooking appliances that are operating in standby mode.

(2) Section 507.2.1 Type I hoods. This section has been modified to add an exception for installation of Type II hoods when specific conditions are met. This section has been modified to read: Type I hoods shall be installed

where cooking appliances produce grease or smoke. Type I hoods shall be installed over medium-duty, heavy-duty, and extra-heavy-duty cooking appliances. Type I hoods shall be installed over light-duty cooking appliances that produce grease or smoke. Exception: Type II hoods shall be permitted to be installed over medium-duty cooking appliances, ranges and ovens that the code official has determined will not produce appreciable amounts of grease and/or smoke. Where cooking appliances, ranges and/or ovens have been approved by the code official for installation under a Type II hood, a sign shall be placed on the wall in close proximity to the hood that reads, "Absolutely No Frying or Grease-Type Cooking Permitted."

748:20-13-10. IMC® 2009 Chapter 6 Duct Systems

Chapter 6 of the IMC® 2009 has been adopted with the following modifications:

(1) Section 603.4 Metallic ducts. The exception to this section has been stricken.

(2) Section 604.1 General. This section was modified to add a requirement to duct insulation to conform to SMACNA HVAC Duct Construction Standards - Metal and Flexible. This section has been modified to read: Duct insulation shall conform to the requirements of Sections 604.2 through 604.13, the International Energy Conservation Code and SMACNA HVAC Duct Construction Standards - Metal and Flexible.

SUBCHAPTER 15. IPC® 2009

748:20-15-1. Adoption of International Plumbing Code®, 2009 Edition (IPC® 2009)

The Oklahoma Uniform Building Code Commission (the Commission) hereby adopts the International Plumbing Code®, 2009 Edition as amended and modified in this subchapter as the minimum code for commercial plumbing construction in the State of Oklahoma pursuant to 59 O.S. 1000.23.

748:20-15-2. Effect of Adoption

The International Plumbing Code®, 2009 Edition (IPC® 2009), as amended and revised by these rules, are hereby established and adopted as the statewide minimum standards for commercial plumbing construction in Oklahoma pursuant to 59 O.S. § 1000.23, and may only be amended or altered by other jurisdictions pursuant to Oklahoma law and the administrative rules of the Oklahoma Uniform Building Code Commission as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code.

748:20-15-3. IPC® 2009 Appendices

(a) None of the appendices of the IPC® 2009 have been adopted by the Commission for inclusion in the minimum standards for commercial plumbing construction in the State of Oklahoma.

(b) Appendices A through G are not adopted as the minimum standards for commercial plumbing construction within the State of Oklahoma. However, other jurisdictions within this State may adopt any or all of said appendices in accordance with 59 O.S. § 1000.29.

748:20-15-4. IPC® 2009 Provisions Adopted and Modified

All chapters and provisions within chapters, including exceptions, of the IPC® 2009 not specifically addressed within these rules as being modified, deleted, moved or removed are hereby adopted without modification as the minimum standards for commercial plumbing construction within the State of Oklahoma pursuant to 59 O.S. § 1000.23. Chapters and provisions within chapters, including exceptions adopted with modifications are specifically addressed in these rules.

748:20-15-5. Participation in Federal Programs and/or Federally Funded or Financed Projects

In order to maximize federal financial aid, assistance, participation, financing and/or funding in any public project(s) and/or federal financial aid, participation, funding for and participation in any federal program(s) by the State of Oklahoma, its agencies, public trusts and instrumentalities, or by any Oklahoma municipalities and other political subdivisions, that receive financial aid, assistance, participation, financing and/or funding for and participate in any federal program(s), the State of Oklahoma, its agencies and instrumentalities, and any Oklahoma municipalities and other political subdivisions, may cooperate with the United States Government and any agency or instrumentality thereof, in the manner authorized and provided by federal law and regulation and in doing so may perform all necessary functions and take all necessary actions for accomplishing such federal purposes and programs, including but not limited to, following and/or complying with federal laws, regulations and/or requirements arising from or related to federal financial aid, assistance, participation, financing and/or funding, in the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, improvement, expansion, operation, maintenance, removal, and demolition of buildings and structures or any appurtenances attached to such buildings or structures, notwithstanding any provisions of any and all uniform building codes and standards adopted by the Oklahoma Uniform Building Code Commission to the contrary.

748:20-15-6. IPC® 2009 Chapter 1 Scope and Administration

Chapter 1 of the Oklahoma adopted IPC® 2009, includes the following Preamble at the very beginning of the chapter:

(1) Pursuant to 59 O.S. § 1000.23, the Uniform Building Code Commission has adopted the International Plumbing Code®, 2009 Edition (IPC® 2009) as amended and revised by the Commission, as the minimum standards to be used by all entities for commercial plumbing

construction in jurisdictions throughout the State of Oklahoma. However, the Commission's adoption of Chapter 1 "Scope and Administration" of the IPC® 2009 is for continuity purposes and the Commission's adoption of Chapter 1 recognizes the methods of best practice in fully implementing the minimum standards for commercial plumbing construction.

(2) All provisions of the adopted IPC® 2009, including Chapter 1, as amended and revised by the Commission, are hereby established and adopted as the statewide minimum standards for commercial plumbing construction in Oklahoma pursuant to 59 O.S. § 1000.23, which may only be amended or altered pursuant to Oklahoma law and the administrative rules of the Oklahoma Uniform Building Code Commission as set forth in Title 748, Chapter 15 of the Oklahoma Administrative Code. However, the provisions of Chapter 1 adopted herein are only intended to be in force and effect to the extent that the respective provisions do not conflict with State law or the lawful exercise of code administration and enforcement jurisdiction by entities empowered to do so pursuant to applicable law.

(3) The Commission's adoption of Chapter 1 in this manner is made with the recognition that the legal authority granting state and local code administration and enforcement jurisdictions the power and discretion to administer and enforce codes arises from Oklahoma laws governing those jurisdictions. Furthermore, the Commission also recognizes that many state and local code administration and enforcement jurisdictions have already created, or have the lawful authority to create, departments, offices and administrative policies pursuant to various applicable laws and other adopted model codes with "Scope and Administration" provisions similar to Chapter 1 of the adopted IPC® 2009

(4) This limited adoption of Chapter 1 is made in recognition of the authority and discretion possessed by jurisdictions to administer and enforce building codes. Exercising such authority and jurisdiction in a manner inconsistent with Chapter 1 must be supported by Oklahoma law. Code administration and enforcement jurisdictions shall not use the Commission's limited adoption of Chapter 1 to circumvent the remainder of the requirements established by the Oklahoma adopted IPC® 2009 and the Commission will strongly oppose any such practice.

748:20-15-7. IPC 2009® Chapter 2 Definitions

Chapter 2 of the IPC® 2009 is adopted with the following modifications: The definition of a Grease Interceptor has been modified to delete the original definition and add definitions for hydromechanical and gravity grease interceptors. This section has been modified to read:

(1) Hydromechanical. Plumbing appurtenances that are installed in the sanitary drainage system to intercept free-floating fats, oils, and grease from waste water discharge. Continuous separation is accomplished by air entrainment, buoyancy and interior baffling.

Permanent Final Adoptions

(2) Gravity. Plumbing appurtenances of not less than 500 gallons (1893 L) capacity that are installed in the sanitary drainage system to intercept free-floating fats, oils and grease from waste water discharge. Separation is accomplished by gravity during a retention time of not less than 30 minutes.

748:20-15-8. IPC® 2009 Chapter 3 General Regulations

Chapter 3 of the IPC® 2009 is adopted with the following modifications:

(1) Section 305.6.1 Sewer depth. This section has been modified to include a depth for the septic tank connection unless otherwise approved by the authority having jurisdiction. This section has been modified to read: Building sewers that connect to private sewage disposal systems shall be a minimum of 12 inches (305 mm) or as approved by the authority having jurisdiction below finished grade at the point of septic tank connection. Building sewers shall be a minimum of 12 inches (305 mm) below grade.

(2) Section 312.1 Required tests. This section has been modified to allow the authority having jurisdiction to determine if the tests will be done using water or air and if a final test of the entire system will be required. This section has been modified to read: The permit holder shall make the applicable tests prescribed in Sections 312.2 through 312.10 to determine compliance with the provisions of this code. The permit holder shall give reasonable advance notice to the code official when the plumbing work is ready for tests. The equipment, material, power and labor necessary for the inspection and test shall be furnished by the permit holder and the permit holder shall be responsible for determining that the work will withstand the test pressure prescribed in the following tests. All plumbing system piping shall be tested with either water or, for piping systems other than plastic, by air as approved. After the plumbing fixtures have been set and their traps filled with water, the entire drainage system shall be submitted to final tests when required by the authority having jurisdiction. The code official shall require the removal of any cleanouts if necessary to ascertain whether the pressure has reached all parts of the system.

(3) Section 312.2 Drainage and vent water test. This section has been modified to allow the authority having jurisdiction to specify the test may be done with less than a 10 foot (3048 mm) head of water. This section has been modified to read: A water test shall be applied to the drainage system either in its entirety or in sections. If applied to the entire system, all openings in the piping shall be tightly closed, except the highest opening, and the system shall be filled with water to the point of overflow. If the system is tested in sections, each opening shall be tightly plugged except the highest openings of the section under test, and each section shall be filled with water, but no section shall be tested with less than a 10-foot (3048 mm) head of water or as required. In testing successive sections, at least the upper 10 feet (3048 mm) of the next preceding section shall be tested so that no joint or pipe in

the building, except the uppermost 10 feet (3048 mm) of the system, shall have been submitted to a test of less than a 10-foot (3048 mm) head of water or as required. This pressure shall be held for at least 15 minutes. The system shall then be tight at all points.

(4) Section 312.3 Drainage air test. This section has been modified to remove the words "and vent" to the section title.

(5) Section 312.4 Drainage and vent final test. This section has been modified to allow the authority having jurisdiction to determine if the test is required. It has been modified to read: The final test of the completed drainage and vent systems where required shall be visual and in sufficient detail to determine compliance with the provisions of this code. Where a smoke test is utilized, it shall be made by filling all traps with water and then introducing into the entire system a pungent, thick smoke produced by one or more smoke machines. When the smoke appears to stack openings on the roof, the stack openings shall be closed a pressure equivalent to a 1-inch water column (248.8 Pa) shall be held for a test period of not less than 15 minutes.

(6) Section 312.5 Water supply system test. This section has been modified to allow the authority having jurisdiction to determine another approved system for testing. This section has been modified to read: Upon completion of a section of or the entire water supply system, or portion completed, shall be tested and proved tight under a water pressure not less than the working pressure of the system; or, for piping systems other than plastic or as approved, by an air test of not less than 50 psi (344 kPa). This pressure shall be held for at least 15 minutes. The water utilized for tests shall be obtained from a potable source of supply. The required tests shall be performed in accordance with this section and Section 107.

(7) 312.6 Gravity sewer test. This section has been modified to allow the authority having jurisdiction to determine if this test is required. This section has been modified to read: Where required, gravity sewer tests shall consist of plugging the end of the building sewer at the point of connection with the public sewer, filling the building sewer with water, testing with not less than a 10-foot (3048 mm) head of water and maintaining such pressure for 15 minutes.

(8) 312.9 Shower liner test. This section has been modified to allow the authority having jurisdiction to determine if this test is required. This section has been modified to read: Where shower floors and receptors are made water-tight by the application of materials required by Section 417.5.2, the completed liner installation, where required by the authority having jurisdiction, shall be tested. The pipe from the shower drain shall be plugged water tight for the test. The floor and receptor area shall be filled with potable water to a depth of not less than 2 inches (51 mm) measured at the threshold. Where a threshold of at least 2 inches (51 mm) high does not exist, a temporary threshold shall be constructed to retain the test water in the lined floor or receptor area to a level not less than 2

inches (51 mm) deep measured at the threshold. The water shall be retained for a test period of not less than 15 minutes, and there shall not be evidence of leakage.

(9) Section 314.1 General. This section has been modified to delete the original section and add a requirement to reference the International Mechanical Code for work with condensate disposal. This section has been modified to read: Condensate disposal shall be in accordance with the International Mechanical Code.

(10) Section 314.2 Evaporators and cooling coils. This section has been stricken from the code.

(11) Section 314.2.1 Condensate disposal. This section has been stricken from the code.

(12) Section 314.2.2 Drain pipe materials and sizes. This section has been stricken from the code.

(13) Table 314.2.2 Condensate drain sizing. This table has been stricken from the code.

(14) Section 314.2.3 Auxiliary and secondary drain system. This section has been stricken from the code.

(15) Section 314.2.3.1 Water-level monitoring devices. This section has been stricken from the code.

(16) Section 314.2.3.2 Appliance, equipment and insulation in pans. This section has been stricken from the code.

(17) Section 314.2.4 Traps. This section has been stricken from the code.

748:20-15-9. IPC® 2009 Chapter 4 Fixtures, Faucets and Fixture Fittings

Chapter 4 of the IPC® 2009 is adopted with the following modifications:

(1) Table 403.1 Minimum number of required plumbing fixtures. This table has been modified to include a footnote "g" in the Other column of the table at the end of the service sink requirement to number 2 (classification of business), and number 6 (classification of mercantile). The footnote "g" shall read: For business and mercantile occupancies with an occupant load of 15 or fewer, service sinks shall not be required.

(2) Section 403.2 Separate facilities. This section was modified to change the maximum occupant load in exception three from 50 to 100. This section shall now read: Where plumbing fixtures are required, separate facilities shall be provided for each sex. Exception:

(A) Separate facilities shall not be required for dwelling units and sleeping units.

(B) Separate facilities shall not be required in structures or tenant spaces with a total occupancy load, including both employees and customers, of 15 or less.

(C) Separate facilities shall not be required in mercantile occupancies in which the maximum occupant load is 100 or less.

(3) Section 403.3.1.1 Toilet room ingress and egress. This section was added to the code to restrict toilet rooms from opening directly into a room used for the preparation of food for service to the public. This section shall read: Toilet rooms shall not open directly into a room used for the preparation of food for service to the public.

(4) Section 405.8 Slip joint connections. This section has been modified to allow installation of slip joints anywhere between the fixture and trap outlet. It has been modified to read: Slip joints shall be made with an approved elastomeric gasket and shall be installed from fixture outlet to trap outlet seal. Fixtures with concealed slip-joint connections shall be provided with an access panel or utility space at least 12 inches (305 mm) in its smallest dimension or other approved arrangement so as to provide access to the slip joint connections for inspection and repair.

(5) Section 417.5.2.6 Liquid type, trowel applied, load bearing, bonded water proof materials. This section has been added to allow for new technology in the market. This section shall read: Liquid type, trowel applied, load bearing, bonded waterproof materials shall meet the requirements of ANSI A118.10 and shall be applied in accordance with the manufacturer's installation instructions.

748:20-15-10. IPC® 2009 Chapter 5 Water Heaters

Chapter 5 of the IPC® 2009 is adopted with the following modifications:

(1) Section 504.4.1 Installation. This section has been modified to provide for pressure relief on storage tanks that have an ability to heat water. This section has been modified to read: Such valves shall be installed in the shell of the water heater tank. Temperature relief valves shall be so located in the tank as to be actuated by the water in the top 6 inches (152 mm) of the tank served. For installations with separate storage tanks, the approved, self-closing (levered) pressure relief valve and the temperature relief valve or combination thereof conforming to ANSI Z21.22 valves shall be installed on both the storage water heater and storage tank. There shall not be a check valve or shutoff valve between a relief valve and the heater or tank served.

(2) Section 504.6 Requirements for discharge piping. This section has been modified to include an additional requirement where discharging to outdoor areas subject to freezing. This section has been modified to read: The discharge piping serving a pressure relief valve, temperature relief valve or combination thereof shall:

(A) Not be directly connected to the drainage system.

(B) Discharge through an air gap located in the same room as the water heater.

(C) Not be smaller than the diameter of the outlet of the valve served and shall discharge full size to the air gap.

(D) Serve a single relief device and shall not connect to piping serving any other relief device or equipment.

(E) Discharge to the floor, to the pan serving the water heater or storage tank, to a waste receptor or to the outdoors.

(F) Discharge in a manner that does not cause personal injury or structural damage.

(G) Discharge to a termination point that is readily observable by the building occupants.

Permanent Final Adoptions

- (H) Not be trapped.
- (I) Be installed so as to flow by gravity.
- (J) Not terminate more than 6 inches (152 mm) above the floor or waste receptor.
- (K) Not have a threaded connection at the end of such piping.
- (L) Not have valves or tee fittings.
- (M) Be constructed of those materials listed in Section 605.4 or materials tested, rated and approved for such use in accordance with ASME A112.4.1
- (N) Where discharging to the outdoors in areas subject to freezing, discharge piping shall be first piped to an indirect waste receptor through an air gap located in a conditioned area.

748:20-15-11. IPC® 2009 Chapter 6 Water Supply and Distribution

Chapter 6 of the IPC® 2009 is adopted with the following modifications:

- (1) Section 605.3 Water service pipe. This section has been modified to require piping materials not third-party certified for water distribution to terminate a minimum of 30 inches outside the structure. This section has been modified to read: Water service pipe shall conform to NSF 61 and shall conform to one of the standards listed Table 605.3. All water service pipe or tubing, installed underground and outside of the structure, shall have a minimum working pressure rating of 160 pounds per square inch (1100 kPa) at 73.4 degrees Fahrenheit (23 degrees Celsius). Where the water pressure exceeds 160 pounds per square inch, (1100 kPa), piping materials shall have a minimum rated working pressure equal to the highest available pressure. Water service piping materials not third-party certified for water distribution shall terminate a minimum of 30 inches (762 mm) outside the structure at or before the full open valve located at the entrance to the structure. All ductile iron water service piping shall be cement mortar lined in accordance with AWWA C104.
- (2) Section 606.1 Location of full-open valves. This section has been modified to delete a requirement to install full open-valves on the discharge side of every water meter. This section has been modified to read: Full open-valves shall be installed in the following locations:
 - (A) On the building water service pipe from the public water supply near the curb.
 - (B) On the water distribution supply pipe at the entrance into the structure.
 - (C) On the base of every water riser pipe in occupancies other than multiple-family residential occupancies that are two stories or less in height and in one-and two-family residential occupancies.
 - (D) On the top of every water down-feed pipe in occupancies other than one- and two-family residential occupancies.
 - (E) On the entrance to every water supply pipe to a dwelling unit, except where supplying a single fixture equipped with individual stops.

(F) On the water supply pipe to a gravity or pressurized water tank.

(G) On the water supply pipe to every water heater.

- (3) Section 607.1.1 Temperature limiting means. This section was added to restrict a thermostat control for a water heater to serve as the temperature limiting means for the purpose of complying with the requirements of the code for maximum allowable hot or tempered water delivery temperatures at fixtures. This section shall read: A thermostat control for a water heater shall not serve as the temperature-limiting means for the purposes of complying with the requirements of this code for maximum allowable hot or tempered water delivery temperatures at fixtures.
- (4) Section 608.16.5 Connections to lawn irrigation systems. This section has been modified to add a spill resistant backflow preventer as an option for protection. This section has been modified to read: The potable water supply to lawn irrigation systems shall be protected against backflow by an atmospheric-type vacuum breaker, a pressure-type vacuum breaker, a spill resistant backflow preventer or a reduced pressure principle backflow preventer. A valve shall not be installed downstream from an atmospheric vacuum breaker. Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow preventer.

748:20-15-12. IPC® 2009 Chapter 7 Sanitary Drainage

Chapter 7 of the IPC® 2009 is adopted with the following modifications:

- (1) Section 707.1 Prohibited joints. This section has been modified to include an exception for saddle-type fittings to be used for connecting a building sewer to a public sewer. This section has been modified to read: The following types of joints and connections shall be prohibited:
 - (A) Cement or concrete joints.
 - (B) Mastic or hot-pour bituminous joints.
 - (C) Joints made with fittings not approved for the specific installation.
 - (D) Joints between different diameter pipes and made with elastomeric rolling O-rings.
 - (E) Solvent-cement joints between different types of plastic pipe.
 - (F) Saddle type fittings. Exception: Saddle-type fittings may be used to connect the building sewer to a public sewer.
- (2) Section 715.1 Sewage backflow. This section has been modified by striking the requirements of plumbing fixtures having flood level rims above the elevation of the next upstream manhole cover in the public sewer system. It has been modified to read: Where plumbing fixtures are installed on a floor with a finished floor elevation below the elevation of the manhole cover of the next upstream manhole in the public sewer, the fixtures shall be protected by a backwater valve installed in the building drain or horizontal branch servicing such fixtures.

748:20-15-13. IPC® 2009 Chapter 8 Indirect/Special Waste

Chapter 8 of the IPC® 2009 is adopted with the following modification: Section 802.1.8 Food utensils, dishes, pots and pans sinks. This section was modified to remove the option for a direct connection to the drainage system. This section has been modified to read: Sinks used for the washing, rinsing or sanitizing of utensils, dishes, pots, pans or serveware used in the preparation, serving or eating of food shall discharge indirectly through an air gap or an air break to the drainage system.

748:20-15-14. IPC® 2009 Chapter 9 Vents

Chapter 9 of the IPC® 2009 is adopted with the following modification: Section 904.1 Roof extension. This section has been modified to specify the number of inches where the open vent pipes that extend through the roof shall be terminated. This section has been modified to read: All open vent pipes that extend through a roof shall be terminated at least 6 inches (152 mm) above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least 7 feet (2134 mm) above the roof.

748:20-15-15. IPC® 2009 Chapter 10 Traps, Interceptors, and Separators

Chapter 10 of the IPC® 2009 is adopted with the following modifications:

(1) Section 1002.4 Trap seals. This section has been modified to allow for new technology to be utilized for installation when approved by the authority having jurisdiction. This section has been modified to read: Each fixture trap shall have a liquid seal of not less than 2 inches (51 mm) and not more than 4 inches (102 mm), or deeper for special designs relating to accessible fixtures. Where a trap seal is subject to loss by evaporation, a trap seal primer valve or other approved trap seal device shall be installed. Trap seal primer valves shall connect to the trap at a point above the level of the trap seal. A trap seal primer valve shall conform to ASSE 1018 or ASSE 1044.

(2) Section 1003.3.1 Grease interceptors and automatic grease removal devices required. This section has been modified to allow for installation of grease interceptors on or above the floor when there is a lack of space or other constraints that prevent the installation of a replacement grease interceptor. This section has been modified to read: A grease interceptor or automatic grease removal device shall be required to receive the drainage from fixtures and equipment with grease-laden waste located in food preparation areas, such as in restaurants, hotel kitchens, hospitals, school kitchens, bars, factory cafeterias and clubs. Fixtures and equipment shall include pot sinks, prerinse sinks; soup kettles or similar devices; wok stations; floor drains or sinks into which kettles are drained; automatic hood washing units and dishwashers without prerinse sinks. Grease interceptors and automatic grease removal devices shall receive waste

only from fixtures and equipment that allow fats, oils or grease to be discharged. Where lack of space or other constraints prevent the installation or replacement of a grease interceptor, one or more grease interceptors shall be permitted to be installed on or above the floor.

(3) Section 1003.3.4 Hydromechanical grease interceptors and automatic grease removal devices. This section has been modified to reference only hydromechanical grease interceptors provide standards for hydromechanical grease interceptors and removes the exception to locate grease interceptors over 500 gallons outdoors. This section has been modified to read: Hydromechanical grease interceptors and automatic grease removal devices shall be sized in accordance with ASME A112.14.3 Appendix A, or ASME A112.14.4, CSA B481.3, or PDI G101. Hydromechanical grease interceptors and automatic grease removal devices shall be designed and tested in accordance with ASME 112.14.3 or ASME 112.14.4, CSA B481.1, PDI G101 or PDI G102. Hydromechanical grease interceptors and automatic grease removal devices shall be installed in accordance with the manufacturer's instructions. Where manufacturer's instructions are not provided, hydromechanical grease interceptors and grease removal devices shall be installed in compliance with ASME A112.14.3, ASME A112.14.4, CSA B481.3 or PDI G101. This section shall not apply to gravity grease interceptors.

748:20-15-16. IPC® 2009 Chapter 11 Storm Drainage

Chapter 11 of the IPC® 2009 is adopted with the following modification: Section 1107.3 Sizing of secondary drains. This section has been modified to include the use of scuppers or increase the sizing of secondary drains to accommodate rainfalls of 10.2 inches per hour for a 5-minute duration and includes minimum design loads. This section has been modified to read: Secondary (emergency) roof drain systems or scuppers shall be sized in accordance with Section 1106 based on a rainfall rate of 10.2 inches per hour for a 5-minute duration. In sizing secondary roof drain systems using Tables 1106.2, 1106.3 and 1106.6, the Horizontally Projected Roof Area shall be determined by dividing the Horizontally Projected Roof Area for 1-inch rain fall per hour rate by 10.2 inches per hour. Secondary roof scuppers shall be designed in accordance with ASCE/SEI 7-05 Minimum Design Loads for Buildings and Other Structures, Chapter 8 C8-RAIN LOADS published by the American Society of Civil Engineers and Structural Engineering Institute. Scuppers shall be sized to prevent the depth of ponding water from exceeding that for which the roof was designed as determined by Section 1101.7. Scuppers shall not have an opening dimension of less than 4 inches (102 mm). The flow through the primary system shall not be considered when sizing the secondary roof drain system or scuppers.

[OAR Docket #12-784; filed 6-6-12]

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2012-17.

EXECUTIVE ORDER 2012-17

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to 25 O.S. § 90.19, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Tuesday, June 5, 2012, to honor Hospitalman Eric D. Warren, an Oklahoma soldier, who died on May 26, 2012, at the age of 26 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 4th day of June, 2012.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Michelle R. Day
Assistant Secretary of State

[OAR Docket #12-780; filed 6-4-12]
