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

Notices of Rulemaking Intent

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

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

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

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 301. LABORATORY ACCREDITATION

[OAR Docket #13-511]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Quality Assurance/Quality Control
Part 3. Standard Operating Procedures and Methods Manual
252:301-9-37 [AMENDED]

SUMMARY:

The proposed rulemaking amendment would incorporate by reference the most recent EPA required analytical methodologies for drinking water, wastewater and solid waste. If adopted, these changes update the list of approved methods for environmental testing and provide new quality assurance and quality control requirements. The proposed amendment also deletes one redundant reference, and another unneeded reference.

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201 and Article IV., Laboratory Services and Certification, § 2-4-101 *et seq.*

COMMENT PERIOD:

Written comments may be submitted to the contact person from May 1, 2013 through June 1, 2013. Oral comments may be made at the Laboratory Services Advisory Council meeting on June 11, 2013, and at the Environmental Quality Board meeting on November 13, 2013.

PUBLIC HEARINGS:

Before the Laboratory Services Advisory Council at 1:30 p.m. on June 11, 2013, in the multi-purpose room on the 1st floor of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102.

Before the Environmental Quality Board on November 13, 2013 at Muskogee, Oklahoma. The location has not been determined at this time.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by this proposed rule provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional

services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COPIES OF PROPOSED RULE:

Copies of the proposed rule may be obtained from the contact person, reviewed at the DEQ, or viewed online at <http://www.deq.state.ok.us>.

RULE IMPACT STATEMENT:

The Rule Impact Statement will be available on or after April 30, 2013. Copies of the rule impact statement may be obtained from the contact person, reviewed at the DEQ or may be viewed online at <http://www.deq.state.ok.us>.

CONTACT PERSON:

The contact person is David Caldwell. He can be reached at david.caldwell@deq.ok.gov (e-mail), 405-702-1000 (phone), or 405-702-1001 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three working days in advance of the hearing during business hours at 405-702-1000 or by using TDD relay number 1-800-522-8506.

[OAR Docket #13-511; filed 4-5-13]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 302. FIELD LABORATORY ACCREDITATION

[OAR Docket #13-510]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Quality Assurance/Quality Control
Part 3. Standard Operating Procedures and Methods Manual
252:302-9-25 [AMENDED]

SUMMARY:

The proposed rulemaking amends OAC 252:302-9-25 to incorporate by reference 40 CFR 136 as published on July 1, 2012. If adopted, the changes update the list of approved methods for environmental testing, and provide new quality assurance and quality control requirements.

Notices of Rulemaking Intent

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201 and Article IV., Laboratory Services and Certification § 2-4-101 *et seq.*

COMMENT PERIOD:

Written comments may be submitted to the contact person from May 1, 2013 through June 1, 2013. Oral comments may be made at the Laboratory Services Advisory Council meeting on June 11, 2013, and at the Environmental Quality Board meeting on November 13, 2013.

PUBLIC HEARINGS:

Before the Laboratory Services Advisory Council at 1:30 p.m. on June 11, 2013, in the multi-purpose room on the 1st floor of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102.

Before the Environmental Quality Board on November 13, 2013 at Muskogee, Oklahoma. The location has not been determined at this time.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by this proposed rule provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COPY OF PROPOSED RULE:

Copies of the proposed rule may be obtained from the contact person, reviewed at the DEQ, or may be viewed online at <http://www.deq.state.ok.us>.

RULE IMPACT STATEMENT:

The Rule Impact Statement will be available on or after April 30, 2013. Copies of the rule impact statement may be obtained from the contact person, reviewed at the DEQ or viewed online at <http://www.deq.state.ok.us>.

CONTACT PERSON:

The contact person is David Caldwell. He can be reached at david.caldwell@deq.ok.gov (e-mail), 405-702-1000 (phone), or 405-702-1001 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three working days in advance of the hearing during business hours at 405-702-1000 or by using TDD relay number 1-800-522-8506.

[OAR Docket #13-510; filed 4-5-13]

Submissions for Review

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

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

TITLE 75. ATTORNEY GENERAL **CHAPTER 35. OFFICE OF CIVIL RIGHTS** **ENFORCEMENT - ADMINISTRATIVE** **PROCESS**

[OAR Docket #13-499]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

75:35-1-1 [NEW]
75:35-1-2 [NEW]
75:35-1-3 [NEW]
75:35-1-4 [NEW]
75:35-1-5 [NEW]
75:35-1-6 [NEW]
75:35-1-7 [NEW]
75:35-1-8 [NEW]
75:35-1-9 [NEW]
75:35-1-10 [NEW]
75:35-1-11 [NEW]

SUBMITTED TO GOVERNOR:

April 1, 2013

SUBMITTED TO HOUSE:

April 1, 2013

SUBMITTED TO SENATE:

April 1, 2013

[OAR Docket #13-499; filed 4-2-13]

TITLE 210. STATE DEPARTMENT OF **EDUCATION** **CHAPTER 1. STATE BOARD OF** **EDUCATION**

[OAR Docket #13-465]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 5. Due Process
210:1-5-6. Revocation of certificates [AMENDED]

SUBMITTED TO GOVERNOR:

March 28, 2013

SUBMITTED TO HOUSE:

March 28, 2013

SUBMITTED TO SENATE:

March 28, 2013

[OAR Docket #13-465; filed 4-1-13]

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

[OAR Docket #13-458]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 13. Student Assessment
210:10-13-18. Oklahoma School Accountability System
[AMENDED]

SUBMITTED TO GOVERNOR:

March 28, 2013

SUBMITTED TO HOUSE:

March 28, 2013

SUBMITTED TO SENATE:

March 28, 2013

[OAR Docket #13-458; filed 4-1-13]

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

[OAR Docket #13-461]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 13. Student Assessment
210:10-13-22. Implementation of a System of School
Improvement and Accountability [AMENDED]

SUBMITTED TO GOVERNOR:

March 28, 2013

SUBMITTED TO HOUSE:

March 28, 2013

SUBMITTED TO SENATE:

March 28, 2013

[OAR Docket #13-461; filed 4-1-13]

Submissions for Review

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

[OAR Docket #13-464]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 13. Student Assessment
210:10-13-16. Student exceptions and exemptions related
to graduation requirements for end-of-instruction exams

SUBMITTED TO GOVERNOR:

March 28, 2013

SUBMITTED TO HOUSE:

March 28, 2013

SUBMITTED TO SENATE:

March 28, 2013

[OAR Docket #13-464; filed 4-1-13]

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

[OAR Docket #13-459]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 27. Reading Sufficiency Act
210:15-27-1. ~~Reading Sufficiency Act~~ Reading Sufficiency
Plans and Summer Academy Reading Programs
[AMENDED]
210:15-27-2. ~~Alternative standardized reading assessments
and use of student portfolio for good~~ Good cause
exemptions for promotion under the Reading Sufficiency
Act [AMENDED]

SUBMITTED TO GOVERNOR:

March 28, 2013

SUBMITTED TO HOUSE:

March 28, 2013

SUBMITTED TO SENATE:

March 28, 2013

[OAR Docket #13-459; filed 4-1-13]

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

[OAR Docket #13-463]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions [AMENDED]
Subchapter 3. Priority Academic Student Skills
[REVOKED]

SUBMITTED TO GOVERNOR:

March 28, 2013

SUBMITTED TO HOUSE:

March 28, 2013

SUBMITTED TO SENATE:

March 28, 2013

[OAR Docket #13-463; filed 4-1-13]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF

[OAR Docket #13-457]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Evaluation: Minimum Criteria for Effective
Teaching and Administrative Performance
210:20-3-4. Oklahoma minimum criteria for effective
teaching performance [REVOKED]

SUBMITTED TO GOVERNOR:

March 28, 2013

SUBMITTED TO HOUSE:

March 28, 2013

SUBMITTED TO SENATE:

March 28, 2013

[OAR Docket #13-457; filed 4-1-13]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF

[OAR Docket #13-462]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 9. Professional Standards: Teacher Education
and Certification

Part 9. Teacher Certification
210:20-9-98. Administrative requirements of teacher certification [AMENDED]
210:20-9-104. Certification for languages with no subject area examination [AMENDED]

SUBMITTED TO GOVERNOR:

March 28, 2013

SUBMITTED TO HOUSE:

March 28, 2013

SUBMITTED TO SENATE:

March 28, 2013

[OAR Docket #13-462; filed 4-1-13]

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

[OAR Docket #13-460]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 87. Rules for Payment to Charter Schools
210:40-87-6. Charter school insurance and surety bonding [NEW]
210:40-87-7. Statewide Virtual Charter School Board [NEW]

SUBMITTED TO GOVERNOR:

March 28, 2013

SUBMITTED TO HOUSE:

March 28, 2013

SUBMITTED TO SENATE:

March 28, 2013

[OAR Docket #13-460; filed 4-1-13]

**TITLE 230. STATE ELECTION BOARD
CHAPTER 10. THE COUNTY ELECTION BOARD**

[OAR Docket #13-522]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Chapter 10. The County Election Board [AMENDED]

SUBMITTED TO GOVERNOR:

April 1, 2013

SUBMITTED TO HOUSE:

April 1, 2013

SUBMITTED TO SENATE:

April 1, 2013

[OAR Docket #13-522; filed 4-9-13]

**TITLE 230. STATE ELECTION BOARD
CHAPTER 15. VOTER REGISTRATION**

[OAR Docket #13-523]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 3. Voter Outreach
Part 1. Responsibilities for Voter Outreach
230:15-3-10. Press releases [AMENDED]
Part 3. Distribution of Voter Registration Application Forms
230:15-3-23. Voter registration application forms available to individuals [AMENDED]
Subchapter 5. Application for Voter Registration
Part 1. Qualifications for Registration
230:15-5-2. Persons who shall become eligible to register to vote [AMENDED]
230:15-5-5. Persons adjudged incapacitated ineligible to register to vote [REVOKED]
Part 7. Time for Registration
230:15-5-30. Change of political affiliation [AMENDED]
Part 17. Public Records
230:15-5-73. All registration records public [REVOKED]
Part 19. Recognized Political Parties and Political Organizations
230:15-5-77. Recognized political parties [REVOKED]
230:15-5-78. Party ceases to exist [AMENDED]
Part 21. Voter Registration Application by Mail
230:15-5-84. Information required on voter registration application [AMENDED]
Subchapter 9. Receiving and Processing Voter Registration Applications
Part 1. Responsibilities of the State Election Board for Voter Registration
230:15-9-1. Secretary of State Election Board is chief state election official [REVOKED]
230:15-9-4. Evidence of voter registration crimes obtained by State Election Board [REVOKED]
Part 3. County Election Board Responsibility for Processing Voter Registration Applications
230:15-9-13. Evidence of voter registration crimes obtained by County Election Board [REVOKED]
Part 5. Processing Voter Registration Applications
230:15-9-18. Entering applications for voter registration in MESA [AMENDED]
230:15-9-22.1. Processing application for change of political affiliation during prohibited period [AMENDED]

Submissions for Review

230:15-9-25. Processing applications for restricted records status [AMENDED]

Subchapter 11. Voter Registration List Maintenance

Part 1. Cancellation of Voter Registration

230:15-11-1. Reasons for cancellation of registration [REVOKED]

230:15-11-3. Written notice by voter [REVOKED]

230:15-11-6. Cancellation of registration of deceased voter by next of kin [REVOKED]

Part 3. Voter Registration Address Confirmation

230:15-11-20. Processing address confirmation notices returned undelivered by Postal Service [AMENDED]

230:15-11-21. Processing address confirmation cards returned by voter with no change of address [AMENDED]

230:15-11-22. Processing address confirmation return cards with change of address in the county [AMENDED]

230:15-11-23. Processing address confirmation return cards that indicate a name change [AMENDED]

230:15-11-24. Processing address confirmation return cards with change of address outside the county [AMENDED]

230:15-11-25. Processing address confirmation return cards returned by someone other than the voter [AMENDED]

230:15-11-28. Cancellation of inactive voters [AMENDED]

SUBMITTED TO GOVERNOR:

April 1, 2013

SUBMITTED TO HOUSE:

April 1, 2013

SUBMITTED TO SENATE:

April 1, 2013

[OAR Docket #13-523; filed 4-9-13]

TITLE 230. STATE ELECTION BOARD CHAPTER 20. CANDIDATE FILING

[OAR Docket #13-524]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Chapter 20. Candidate Filing [AMENDED]

SUBMITTED TO GOVERNOR:

April 1, 2013

SUBMITTED TO HOUSE:

April 1, 2013

SUBMITTED TO SENATE:

April 1, 2013

[OAR Docket #13-524; filed 4-9-13]

TITLE 230. STATE ELECTION BOARD CHAPTER 25. BALLOT PRINTING

[OAR Docket #13-525]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Chapter 25. Ballot Printing [AMENDED]

SUBMITTED TO GOVERNOR:

April 1, 2013

SUBMITTED TO HOUSE:

April 1, 2013

SUBMITTED TO SENATE:

April 1, 2013

[OAR Docket #13-525; filed 4-9-13]

TITLE 230. STATE ELECTION BOARD CHAPTER 30. ABSENTEE VOTING

[OAR Docket #13-526]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Chapter 30. Absentee Voting [AMENDED]

SUBMITTED TO GOVERNOR:

April 1, 2013

SUBMITTED TO HOUSE:

April 1, 2013

SUBMITTED TO SENATE:

April 1, 2013

[OAR Docket #13-526; filed 4-9-13]

TITLE 230. STATE ELECTION BOARD CHAPTER 35. ELECTION CONDUCT

[OAR Docket #13-527]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Chapter 35. Election Conduct [AMENDED]

SUBMITTED TO GOVERNOR:

April 1, 2013

SUBMITTED TO HOUSE:

April 1, 2013

SUBMITTED TO SENATE:

April 1, 2013

[OAR Docket #13-527; filed 4-9-13]

**TITLE 230. STATE ELECTION BOARD
CHAPTER 40. TYPES OF ELECTIONS**

[OAR Docket #13-528]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Chapter 40. Types of Elections [AMENDED]

SUBMITTED TO GOVERNOR:

April 1, 2013

SUBMITTED TO HOUSE:

April 1, 2013

SUBMITTED TO SENATE:

April 1, 2013

[OAR Docket #13-528; filed 4-9-13]

**TITLE 230. STATE ELECTION BOARD
CHAPTER 45. CONTESTS OF ELECTION**

[OAR Docket #13-529]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Chapter 45. Contests of Election [AMENDED]

SUBMITTED TO GOVERNOR:

April 1, 2013

SUBMITTED TO HOUSE:

April 1, 2013

SUBMITTED TO SENATE:

April 1, 2013

[OAR Docket #13-529; filed 4-9-13]

**TITLE 230. STATE ELECTION BOARD
CHAPTER 50. AUTOMATED SYSTEMS**

[OAR Docket #13-530]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Chapter 50. Automated Systems [AMENDED]

SUBMITTED TO GOVERNOR:

April 1, 2013

SUBMITTED TO HOUSE:

April 1, 2013

SUBMITTED TO SENATE:

April 1, 2013

[OAR Docket #13-530; filed 4-9-13]

**TITLE 260. OFFICE OF STATE
FINANCE OFFICE OF MANAGEMENT
AND ENTERPRISE SERVICES
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #13-474]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

260:1-1-1. Purpose [AMENDED]

260:1-1-2. Chief administrative officer [AMENDED]

260:1-1-3. Availability of records [AMENDED]

260:1-1-4. Organization of the ~~Office~~ of ~~State~~
Finance Office of Management and Enterprise Services
[AMENDED]

260:1-1-5. Appeals [AMENDED]

SUBMITTED TO GOVERNOR:

April 1, 2013

SUBMITTED TO HOUSE:

April 1, 2013

SUBMITTED TO SENATE:

April 1, 2013

[OAR Docket #13-474; filed 4-1-13]

**TITLE 260. OFFICE OF STATE
FINANCE OFFICE OF MANAGEMENT
AND ENTERPRISE SERVICES
CHAPTER 10. PROMPT PAYMENT TO
VENDORS AND EMPLOYEES OF THE
STATE OF OKLAHOMA THROUGH
THE PAYMENT OF INTEREST ON LATE
PAYMENTS**

[OAR Docket #13-475]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

260:10-1-1. Purpose [AMENDED]

260:10-1-2. Definitions [AMENDED]

260:10-1-3. Scope [AMENDED]

Subchapter 3. Vendor and Employee Interest Claim
Procedures

260:10-3-1. Agency Payments [AMENDED]

260:10-3-3. Calculation of interest [AMENDED]

260:10-3-7. Invoices [AMENDED]

SUBMITTED TO GOVERNOR:

April 1, 2013

SUBMITTED TO HOUSE:

April 1, 2013

Submissions for Review

SUBMITTED TO SENATE:

April 1, 2013

[OAR Docket #13-475; filed 4-1-13]

**TITLE 260. OFFICE OF STATE
FINANCE OFFICE OF MANAGEMENT
AND ENTERPRISE SERVICES
CHAPTER 15. ACCESSIBILITY OF
INFORMATION TECHNOLOGY**

[OAR Docket #13-476]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- 260:15-1-1. Purpose [AMENDED]
- 260:15-1-2. Definitions [AMENDED]
- 260:15-1-3. Information technology accessibility standards [AMENDED]
- 260:15-1-5. Accessibility compliance representative [AMENDED]
- 260:15-1-6. Filing a formal complaint [AMENDED]
- 260:15-1-7. Processing a complaint [AMENDED]
- 260:15-1-8. Disagreement with final complaint response [AMENDED]
- 260:15-1-9. Annual complaint report [AMENDED]

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April 1, 2013

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[OAR Docket #13-476; filed 4-1-13]

**TITLE 325. OKLAHOMA HORSE RACING
COMMISSION
CHAPTER 15. LICENSING**

[OAR Docket #13-480]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
- 325:15-1-2 [AMENDED]
- Subchapter 5. Occupation Licensing
- 325:15-5-3 [AMENDED]
- 325:15-5-20 [AMENDED]

SUBMITTED TO GOVERNOR:

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[OAR Docket #13-480; filed 4-2-13]

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

[OAR Docket #13-481]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULE:

325:20-1-22 [AMENDED]

SUBMITTED TO GOVERNOR:

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[OAR Docket #13-481; filed 4-2-13]

**TITLE 325. OKLAHOMA HORSE RACING
COMMISSION
CHAPTER 25. ENTRIES AND
DECLARATIONS**

[OAR Docket #13-482]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

325:25-1-5 [AMENDED]

325:25-1-32 [AMENDED]

SUBMITTED TO GOVERNOR:

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[OAR Docket #13-482; filed 4-2-13]

**TITLE 325. OKLAHOMA HORSE RACING
COMMISSION
CHAPTER 40. VETERINARIAN PRACTICES**

[OAR Docket #13-482A]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- 325:40-1-2 [AMENDED]
- 325:40-1-3 [AMENDED]

SUBMITTED TO GOVERNOR:

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SUBMITTED TO HOUSE:

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SUBMITTED TO SENATE:

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[OAR Docket #13-482A; filed 4-2-13]

**TITLE 325. OKLAHOMA HORSE RACING
COMMISSION
CHAPTER 80. GAMING LICENSING
REQUIREMENTS**

[OAR Docket #13-483]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULE:

Subchapter 15. Requirements for Independent Testing
Laboratory License

- 325:80-15-1 [AMENDED]

SUBMITTED TO GOVERNOR:

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[OAR Docket #13-483; filed 4-2-13]

**TITLE 330. OKLAHOMA HOUSING
FINANCE AGENCY
CHAPTER 30. RESIDENTIAL RENTAL
MULTIFAMILY BOND PROGRAM RULES**

[OAR Docket #13-453]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 2. General Provisions
- 330:30-2-1. [AMENDED]
- 330:30-2-2. [AMENDED]
- 330:30-2-3.1. [AMENDED]
- 330:30-2-4.1. [REVOKED]
- 330:30-2-5.1. [AMENDED]
- 330:30-2-6.1. [AMENDED]
- 330:30-2-7.1. [AMENDED]
- 330:30-2-8.1. [AMENDED]
- 330:30-2-9.1. [AMENDED]
- 330:30-2-10. [AMENDED]

- 330:30-2-11. [AMENDED]
- Subchapter 4. Application and Processing Procedures
- 330:30-4-1.1 [AMENDED]
- 330:30-4-2.1 [AMENDED]
- 330:30-4-3.1. [AMENDED]
- 330:30-4-4.1. [AMENDED]
- Subchapter 8. Fees and Expenses
- 330:30-8-1. [AMENDED]
- 330:30-8-2. [REVOKED]
- 330:30-8-3. [AMENDED]
- 330:30-8-4. [REVOKED]
- 330:30-8-5. [AMENDED]
- 330:30-8-6. [AMENDED]
- 330:30-8-7. [AMENDED]
- Subchapter 12. Compliance and Reporting Requirements
- 330:30-12-2. [AMENDED]
- 330:30-12-3. [AMENDED]
- Subchapter 14. Sale, Transfer/Assumption
- 330:30-14-1. [AMENDED]

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[OAR Docket #13-453; filed 3-29-13]

**TITLE 330. OKLAHOMA HOUSING
FINANCE AGENCY
CHAPTER 36. AFFORDABLE HOUSING
TAX CREDIT PROGRAM**

[OAR Docket #13-454]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
- 330:36-1-1. [AMENDED]
- 330:36-1-3.2. [AMENDED]
- 330:36-1-4. [AMENDED]
- Subchapter 2. Allocation Procedures
- 330:36-2-3. [AMENDED]
- 330:36-2-12. [AMENDED]
- 330:36-2-13. [AMENDED]
- 330:36-2-13.1. [AMENDED]
- Subchapter 4. Development Applications and Selection
- 330:36-4-1.1 [AMENDED]
- 330:36-4-2. [AMENDED]
- 330:36-4-2.1. [AMENDED]
- 330:36-4-3. [AMENDED]
- Subchapter 6. Program Administration
- 330:36-6-1. [AMENDED]
- Subchapter 8. Qualified Contract

Submissions for Review

330:36-8-5. [AMENDED]

330:36-8-11. [AMENDED]

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[OAR Docket #13-454; filed 3-29-13]

**TITLE 330. OKLAHOMA HOUSING
FINANCE AGENCY
CHAPTER 55. HOME INVESTMENT
PARTNERSHIPS PROGRAM RULES**

[OAR Docket #13-455]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

330:55-1-1. [AMENDED]

330:55-1-2. [AMENDED]

330:55-1-3. [AMENDED]

330:55-1-4. [AMENDED]

330:55-1-5. [AMENDED]

330:55-1-6. [AMENDED]

330:55-1-7. [AMENDED]

Subchapter 3. Funds

330:55-3-1. [AMENDED]

330:55-3-2. [AMENDED]

330:55-3-3. [AMENDED]

Subchapter 5. Project Application and Selection

330:55-5-1. [AMENDED]

330:55-5-2. [AMENDED]

330:55-5-6. [NEW]

330:55-5-7. [NEW]

Subchapter 7. Program Administration

355:55-7-1. [AMENDED]

355:55-7-2. [AMENDED]

355:55-7-3. [AMENDED]

355:55-7-4. [AMENDED]

355:55-7-5. [AMENDED]

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**TITLE 330. OKLAHOMA HOUSING
FINANCE AGENCY
CHAPTER 55. HOME INVESTMENT
PARTNERSHIPS PROGRAM RULES**

[OAR Docket #13-456]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 7. Program Administration

330:55-7-6. [NEW]

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**TITLE 360. OKLAHOMA STATE AND
EDUCATION EMPLOYEES GROUP
INSURANCE BOARD OFFICE OF
MANAGEMENT AND ENTERPRISE
SERVICES EMPLOYEES GROUP
INSURANCE DIVISION
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #13-477]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

360:1-1-1.1. [AMENDED]

360:1-1-1.5. [AMENDED]

360:1-1-2. [AMENDED]

360:1-1-2.1. [AMENDED]

360:1-1-2.2. [AMENDED]

360:1-1-3. [AMENDED]

Subchapter 3. The Board

360:1-3-1. [AMENDED]

360:1-3-2. [AMENDED]

360:1-3-6. [AMENDED]

360:1-3-8. [AMENDED]

360:1-3-8.1. [AMENDED]

360:1-3-9. [AMENDED]

360:1-3-12. [AMENDED]

360:1-3-13. [AMENDED]

Subchapter 5. Grievance Panel Authority and Hearing
Procedures

360:1-5-1. [AMENDED]

360:1-5-3. [AMENDED]

360:1-5-4. [AMENDED]

360:1-5-5. [AMENDED]
360:1-5-7. [AMENDED]
Subchapter 7. Declaratory Rulings
360:1-7-1. [AMENDED]
360:1-7-2. [AMENDED]
360:1-7-3. [AMENDED]

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**TITLE 360. OKLAHOMA STATE AND
EDUCATION EMPLOYEES GROUP
INSURANCE BOARD OFFICE OF
MANAGEMENT AND ENTERPRISE
SERVICES EMPLOYEES GROUP
INSURANCE DIVISION**
**CHAPTER 10. STATE AND EDUCATION
EMPLOYEES HEALTH, DENTAL, VISION
AND LIFE PLANS**

[OAR Docket #13-478]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions
360:10-1-2. [AMENDED]
Subchapter 3. Administration of Plans
360:10-3-2.1. [AMENDED]
360:10-3-3. [AMENDED]
360:10-3-3.1. [AMENDED]
360:10-3-3.5. [AMENDED]
360:10-3-4. [AMENDED]
360:10-3-6.1. [AMENDED]
360:10-3-7. [AMENDED]
360:10-3-13. [AMENDED]
360:10-3-17. [AMENDED]
360:10-3-20. [AMENDED]
360:10-3-22. [AMENDED]
360:10-3-23. [AMENDED]
360:10-3-24. [AMENDED]
360:10-3-24.1. [AMENDED]
360:10-3-25. [AMENDED]
360:10-3-26. [AMENDED]
360:10-3-27.1. [AMENDED]
360:10-3-28. [AMENDED]
360:10-3-29.1. [AMENDED]
360:10-3-33. [AMENDED]
Subchapter 5. Coverage and Limitations
Part 1. Policy Provisions
360:10-5-1. [AMENDED]

360:10-5-2. [AMENDED]
360:10-5-3. [AMENDED]
Part 3. The Plans
360:10-5-16. [AMENDED]
360:10-5-17. [AMENDED]
360:10-5-20. [AMENDED]
Part 5. Life Benefits
360:10-5-30. [AMENDED]
360:10-5-33. [AMENDED]
Part 7. Limitations and Exclusions for Life Plans
360:10-5-45. [AMENDED]
Part 9. Dental Benefits, Limitations, and Exclusions
360:10-5-56. [AMENDED]
360:10-5-61. [AMENDED]
Part 11. Medicare Supplement
360:10-5-76. [AMENDED]
360:10-5-79. [AMENDED]
Part 13. Coordination of Health and Dental Benefits
360:10-5-86. [AMENDED]
360:10-5-89. [AMENDED]
360:10-5-90. [AMENDED]
Part 15. Subrogation
360:10-5-360:100. [AMENDED]
Subchapter 7. Termination of Benefits
360:10-7-1. [AMENDED]
Subchapter 9. Cobra Health Insurance Continuation
360:10-9-1. [AMENDED]
360:10-9-2. [AMENDED]

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**TITLE 360. OKLAHOMA STATE AND
EDUCATION EMPLOYEES GROUP
INSURANCE BOARD OFFICE OF
MANAGEMENT AND ENTERPRISE
SERVICES EMPLOYEES GROUP
INSURANCE DIVISION**
CHAPTER 15. THE DISABILITY PLAN

[OAR Docket #13-479]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

360:15-1-2. [AMENDED]
360:15-1-10. [AMENDED]
360:15-1-11. [AMENDED]
360:15-1-12. [AMENDED]
360:15-1-14. [AMENDED]
360:15-1-14.1. [AMENDED]

Submissions for Review

360:15-1-15. [AMENDED]
360:15-1-16. [AMENDED]
360:15-1-17. [AMENDED]
360:15-1-18. [AMENDED]
360:15-1-19. [AMENDED]
360:15-1-20. [AMENDED]
360:15-1-22. [AMENDED]
360:15-1-23. [AMENDED]
360:15-1-31. [AMENDED]

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[OAR Docket #13-479; filed 4-1-13]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #13-443]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 9. Description of Forms and Instructions
365:1-9-18. Bail bond forms [AMENDED]

SUBMITTED TO GOVERNOR:

March 25, 2013

SUBMITTED TO HOUSE OF REPRESENTATIVES:

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SUBMITTED TO SENATE:

March 25, 2013

[OAR Docket #13-443; filed 3-27-13]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 15. PROPERTY AND CASUALTY**

[OAR Docket #13-444]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions
365:15-1-3. Property and casualty form filings
[AMENDED]
365:15-1-3.1. Workers' compensation medical claims small
deductible form [AMENDED]
365:15-1-14. Notice of cancellation or non-renewal
[AMENDED]

365:15-1-24. Appeals of rating classifications [NEW]
Subchapter 9. Medical Professional Liability Rate Setting
365:15-9-10. Property and casualty rate, loss cost and
manual rule filings [AMENDED]

Appendix C. Excess Consent Rate Application
[REVOKED]

Appendix C. Excess Consent Rate Application [NEW]

SUBMITTED TO GOVERNOR:

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[OAR Docket #13-444; filed 3-27-13]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 25. LICENSURE OF
PRODUCERS, ADJUSTERS, BAIL
BONDSMEN, COMPANIES, PREPAID
FUNERAL BENEFITS, CEMETERY
MERCHANDISE TRUSTS, AND VIATICAL
SETTLEMENT PROVIDERS AND BROKERS**

[OAR Docket #13-445]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Producers, Brokers, Limited Lines Producers
and Vehicle Protection Product Warrantors
365:25-3-1. Insurance producers continuing education
[AMENDED]
365:25-3-14. Insurance adjusters continuing education
[AMENDED]
365:25-3-18. Compensation and education for sale of
Medicare Advantage (including private fee for service
plans) or Medicare prescription drug products and plans
[AMENDED]

Subchapter 7. Companies

Part 5. Oklahoma Insurance Holding Company System
Regulatory Act

365:25-7-23. Forms: general requirements [AMENDED]

SUBMITTED TO GOVERNOR:

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[OAR Docket #13-445; filed 3-27-13]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 25. LICENSURE OF
PRODUCERS, ADJUSTERS, BAIL
BONDSMEN, COMPANIES, PREPAID
FUNERAL BENEFITS, CEMETERY
MERCHANDISE TRUSTS, AND VIATICAL
SETTLEMENT PROVIDERS AND BROKERS**

[OAR Docket #13-446]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 5. Bail Bondsmen
 - Part 1. Continuing Education for Bail Bondsmen
 - 365:25-5-3. Education requirements [AMENDED]
 - 365:25-5-4. Application for course approval [AMENDED]
 - 365:25-5-5. Approval or denial of course; certificate of completion [AMENDED]
 - 365:25-5-6. Proof of completion; video courses [AMENDED]
 - 365:25-5-8. Extensions of time [AMENDED]
 - Part 5. General Provisions Pertaining to Bail Bondsmen
 - 365:25-5-33. Change of address requirements [AMENDED]
 - 365:25-5-35. Bondsman license renewal [AMENDED]
 - 365:25-5-38. Ten defendant limit [AMENDED]
 - 365:25-5-41. Special deposit [AMENDED]
 - 365:25-5-47. Financial statement required [NEW]
 - 365:25-5-48. Line of authority fee [NEW]
 - Part 7. Specific Financial Circumstances Warranting Release of Professional Deposit
 - 365:25-5-51. Specific financial circumstances enumerated [AMENDED]

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[OAR Docket #13-446; filed 3-27-13]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 40. HEALTH MAINTENANCE
ORGANIZATIONS (HMO)**

[OAR Docket #13-447]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 3. Financial
 - Part 3. Holding Company System
 - 365:40-3-17. Forms: general requirements [AMENDED]

- Subchapter 5. Life, Accident & Health Division and Consumer Assistance and Claims Division Rules
 - Part 9. HMO Requirements and Prohibitions
 - 365:40-5-43. Premiums/co-payments [AMENDED]

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[OAR Docket #13-447; filed 3-27-13]

**TITLE 530. OFFICE OF PERSONNEL
MANAGEMENT
CHAPTER 10. MERIT SYSTEM OF
PERSONNEL ADMINISTRATION RULES**

[OAR Docket #13-466]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

- Chapter 10. Merit System of Personnel Administration Rules [AMENDED]

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[OAR Docket #13-466; filed 4-1-13]

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

[OAR Docket #13-502]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 7. Collections and Disbursements
 - 550:1-7-5 [AMENDED]

SUBMITTED TO GOVERNOR:

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[OAR Docket #13-502; filed 4-3-13]

Submissions for Review

**TITLE 550. OKLAHOMA POLICE PENSION
AND RETIREMENT SYSTEM
CHAPTER 15. OKLAHOMA POLICE
DEFERRED OPTION PLAN**

[OAR Docket #13-503]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

550:15-1-2. Forward Drop [AMENDED]

550:15-1-3. Back Drop [AMENDED]

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[OAR Docket #13-503; filed 4-3-13]

**TITLE 550. OKLAHOMA POLICE PENSION
AND RETIREMENT SYSTEM
CHAPTER 20. PURCHASE OF
TRANSFERRED CREDITED SERVICE**

[OAR Docket #13-504]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

550:20-1-2. Computation [AMENDED]

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[OAR Docket #13-504; filed 4-3-13]

**TITLE 580. DEPARTMENT OF CENTRAL
SERVICES
CHAPTER 16. CENTRAL PURCHASING**

[OAR Docket #13-467]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Supplier Provisions

580:16-3-21. Supplier's protest [AMENDED]

SUBMITTED TO GOVERNOR:

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[OAR Docket #13-467; filed 4-1-13]

**TITLE 580. DEPARTMENT OF CENTRAL
SERVICES
CHAPTER 20. CONSTRUCTION AND
PROPERTIES**

[OAR Docket #13-468]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 27. Use of Best Value Competitive Proposals to
Award a Contract

580:20-27-7. Vendor selection [NEW]

SUBMITTED TO GOVERNOR:

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March 29, 2013

[OAR Docket #13-468; filed 4-1-13]

**TITLE 580. DEPARTMENT OF CENTRAL
SERVICES
CHAPTER 35. FLEET MANAGEMENT
DIVISION**

[OAR Docket #13-469]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

580:35-1-1. General provisions [AMENDED]

580:35-1-2. Vehicle inventory control [AMENDED]

580:35-1-3. Vehicle management control [AMENDED]

580:35-1-4. Use of state owned and leased vehicles
[AMENDED]

580:35-1-5. Service and rental rates [AMENDED]

580:35-1-6. Daily reservations and monthly assignments
[AMENDED]

580:35-1-7. Gasoline and oil purchases [AMENDED]

580:35-1-8. Wrecker service, on-the-road breakdown and
repairs [AMENDED]

580:35-1-9. Other credit and cash purchases [AMENDED]

580:35-1-10. Care and maintenance of vehicles
[AMENDED]

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[OAR Docket #13-469; filed 4-1-13]

**TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 55. ALTERNATIVE FUELS PROGRAM**

[OAR Docket #13-470]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
- 580:55-1-21. Purpose [AMENDED]
- 580:55-1-23. Definitions [AMENDED]
- Subchapter 5. Testing, Certification and Recertification
- 580:55-5-2. Contents of application [AMENDED]
- 580:55-5-8. Processing and handling of applications and examinations [AMENDED]
- 580:55-5-10. Certificate qualification and transfer or loan of certificate [AMENDED]
- 580:55-5-13. Insurance requirements [AMENDED]
- 580:55-5-14. Guidelines for certificate renewal [AMENDED]
- Subchapter 7. Standards for Alternative Fuels Technicians - Conversion and Compression
- 580:55-7-3. Standards for equipment ~~and fill station~~ installation and inspection [AMENDED]
- 580:55-7-4. Decals and conversion reporting procedure [AMENDED]
- Subchapter 9. Violations
- 580:55-9-1. Alternative Fuels Technician Hearing Board; complaints, investigations, false or fraudulent representation, suspension or revocation of certificate [AMENDED]

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**TITLE 660. DEPARTMENT OF SECURITIES
CHAPTER 2. ORGANIZATION AND PROCEDURES OF DEPARTMENT OF SECURITIES**

[OAR Docket #13-500]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 9. Individual Proceeding Practices and Procedures
- 660:2-9-3. [AMENDED]
- 660:2-9-4. [AMENDED]
- 660:2-9-6. [AMENDED]

SUBMITTED TO GOVERNOR:

April 1, 2013

SUBMITTED TO HOUSE:

April 1, 2013

SUBMITTED TO SENATE:

April 1, 2013

[OAR Docket #13-500; filed 4-2-13]

**TITLE 660. DEPARTMENT OF SECURITIES
CHAPTER 11. OKLAHOMA UNIFORM SECURITIES ACT OF 2004**

[OAR Docket #13-501]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
- 660:11-1-3. [AMENDED]
- Subchapter 5. Broker-Dealers and Agents
- Part 1. General Provisions
- 660:11-5-1. [AMENDED]
- 660:11-5-2. [AMENDED]
- PART 3. Licensing Procedures
- 660:11-5-11. [AMENDED]
- 660:11-5-12. [AMENDED]
- 660:11-5-13. [AMENDED]
- 660:11-5-14. [AMENDED]
- 660:11-5-16. [AMENDED]
- Part 5. Reporting Requirements
- 660:11-5-31. [AMENDED]
- Part 7. Record Keeping and Ethical Standards
- 660:11-5-42. [AMENDED]
- Subchapter 7. Investment Advisers and Investment Adviser Representatives
- Part 1. General Provisions
- 660:11-7-1. [AMENDED]
- Part 3. Licensing Procedures
- 660:11-7-11. [AMENDED]
- 660:11-7-13. [AMENDED]

Submissions for Review

660:11-7-17. [NEW]
Part 5. Reporting requirements
660:11-7-31 [AMENDED]
Part 7. Record Keeping and Ethical Standards
660:11-7-41. [AMENDED]
660:11-7-42. [AMENDED]
660:11-7-43. [AMENDED]
660:11-7-47. [AMENDED]
660:11-7-48. [AMENDED]
Part 9. SEC Covered Investment Advisers
660:11-7-51. [AMENDED]
Subchapter 13. Sales Literature
660:11-13-2. [AMENDED]
660:11-13-3. [AMENDED]
660:11-13-4. [AMENDED]

SUBMITTED TO GOVERNOR:

April 1, 2013

SUBMITTED TO HOUSE:

April 1, 2013

SUBMITTED TO SENATE:

April 1, 2013

[OAR Docket #13-501; filed 4-2-13]

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #13-473]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 5. Practice and Procedure
Part 5. Administrative Proceedings Related To Tax Protests
710:1-5-27 [AMENDED]
710:1-5-36 [AMENDED]
710:1-5-38 [AMENDED]
710:1-5-38.1 [NEW]
Part 10. Business Compliance Proceedings [NEW]
710:1-5-110 [NEW]
710:1-5-111 [NEW]
710:1-5-112 [NEW]
710:1-5-113 [NEW]
710:1-5-114 [NEW]
710:1-5-115 [NEW]
710:1-5-116 [NEW]
710:1-5-117 [NEW]
710:1-5-118 [NEW]
710:1-5-119 [NEW]
710:1-5-120 [NEW]
710:1-5-121 [NEW]

710:1-5-122 [NEW]

710:1-5-123 [NEW]

SUBMITTED TO GOVERNOR:

March 25, 2013

SUBMITTED TO HOUSE:

March 25, 2013

SUBMITTED TO SENATE:

March 25, 2013

[OAR Docket #13-473; filed 4-1-13]

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 65. SALES AND USE TAX**

[OAR Docket #13-472]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 19. Specific Applications and Examples
Part 1. "A"
710:65-19-11 [AMENDED]

SUBMITTED TO GOVERNOR:

March 25, 2013

SUBMITTED TO HOUSE:

March 25, 2013

SUBMITTED TO SENATE:

March 25, 2013

[OAR Docket #13-472; filed 4-1-13]

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 90. WITHHOLDING**

[OAR Docket #13-471]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 3. Returns and Payments
710:90-3-4 [AMENDED]

SUBMITTED TO GOVERNOR:

March 27, 2013

SUBMITTED TO HOUSE:

March 27, 2013

SUBMITTED TO SENATE:

March 27, 2013

[OAR Docket #13-471; filed 4-1-13]

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 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 667. HOSPITAL STANDARDS

[OAR Docket #13-505]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

PROPOSED RULES:

- Subchapter 15. Nursing Service
310:667-15-6 [AMENDED]
- Subchapter 19. Medical records department
310:667-19-2 [AMENDED]
- Subchapter 21. Drug distribution
310:667-21-8 [AMENDED]
- Subchapter 39. Critical access hospital
310:667-39-9 [AMENDED]
- Subchapter 40. Emergency hospital
310:667-40-9 [AMENDED]
310:667-40-11 [AMENDED]

GUBERNATORIAL APPROVAL:

March 25, 2013

[OAR Docket #13-505; filed 4-4-13]

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

[OAR Docket #13-512]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 14. Scheduled or Controlled Dangerous
Substances Classifications or Exclusions
535:1-14-4. Exclusion of Rx Only products not federally
scheduled from Oklahoma Controlled dangerous
substances scheduling

GUBERNATORIAL APPROVAL:

February 18, 2013

[OAR Docket #13-512; filed 4-8-13]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY CHAPTER 13. EMERGENCY / DISASTER PRESCRIPTION DRUG RULES PHARMACY RESPONSE

[OAR Docket #13-513]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- 535:13-1-1. Purpose [AMENDED]
- 535:13-1-3. Declaration of emergency [AMENDED]
- 535:13-1-4. Pharmacy Emergency / Disaster Response
[AMENDED]

GUBERNATORIAL APPROVAL:

February 18, 2013

[OAR Docket #13-513; filed 4-8-13]

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

[OAR Docket #13-514]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 3. Pharmacies
535:15-3-12. Transfer of prescription refill information
[AMENDED]
- Subchapter 10. Good Compounding Practices
Part 1. Good Compounding Practices for Non-Sterile
Products
535:15-10-3. Pharmacist responsibilities [AMENDED]
- Part 3. Good Compounding Practices for Sterile Products
535:15-10-64. Compounding for institution and/or
practitioner administration [AMENDED]
- Subchapter 16. Pharmacy Emergency Medication Kits for
Use in a Facility
535:15-16-4. Policies and procedures for use of emergency
medication kit drugs [AMENDED]

GUBERNATORIAL APPROVAL:

February 18, 2013

[OAR Docket #13-514; filed 4-8-13]

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 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #13-535]

INTENDED RULEMAKING ACTION:

Gubernatorial disapproval of PERMANENT rules.

PROPOSED RULES:

235:1-1-2 [AMENDED]

GUBERNATORIAL DISAPPROVAL:

Written disapproval received April 5, 2013

[OAR Docket #13-535; filed 4-9-13]

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

[OAR Docket #13-533]

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. Qualification and Requirements for
Licensure

235:10-3-2 [AMENDED]

235:10-3-5 [AMENDED]

Subchapter 7. Licensure Renewal, Revocation, and
Suspension

235:10-7-2 [AMENDED]

Subchapter 11. Minimum Standards of Performance

235:10-11-1 [AMENDED]

GUBERNATORIAL DISAPPROVAL:

Written disapproval received April 5, 2013

[OAR Docket #13-533; filed 4-9-13]

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

[OAR Docket #13-534]

INTENDED RULEMAKING ACTION:

Gubernatorial disapproval of PERMANENT rules.

PROPOSED RULES:

Subchapter 5. Licensing Fees

235:10-5-1 [AMENDED]

GUBERNATORIAL DISAPPROVAL:

Written disapproval received April 5, 2013

[OAR Docket #13-534; filed 4-9-13]

Withdrawn Rules

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

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

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

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

[OAR Docket #13-448]

RULEMAKING ACTION:

Withdrawal of PERMANENT rulemaking

WITHDRAWN RULES:

Subchapter 6. Permanency Planning
Part 5. Permanency Planning Services
340:75-6-31 [AMENDED]

(Reference WF 12-10)

DATES:

Adoption:

March 18, 2013

Submitted to Governor:

March 22, 2013

Submitted to House:

March 22, 2013

Submitted to Senate:

March 22, 2013

Gubernatorial approval:

N/A

Withdrawn:

March 26, 2013

CONTACT PERSON:

Dena Thayer, Programs Administrator at 521-4326

[OAR Docket #13-448; filed 3-27-13]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 25. LICENSURE OF PRODUCERS, ADJUSTERS, BAIL BONDSMEN, COMPANIES, PREPAID FUNERAL BENEFITS, CEMETERY MERCHANDISE TRUSTS, AND VIATICAL SETTLEMENT PROVIDERS AND BROKERS

[OAR Docket #13-520]

RULEMAKING ACTION:

Withdrawal of PERMANENT rulemaking

WITHDRAWN RULES:

Subchapter 5. Bail Bondsmen
Part 5. General Provisions Pertaining to Bail Bondsmen
365:25-5-33. Change of address requirements
[AMENDED]
365:25-5-48. Line of authority fee [NEW]

DATES:

Adoption

March 25, 2013

Submitted to Governor:

March 25, 2013

Submitted to House:

March 25, 2013

Submitted to Senate

March 25, 2013

Withdrawn:

April 8, 2013

[OAR Docket #13-520; filed 4-8-13]

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 150. OKLAHOMA DEPARTMENT OF COMMERCE CHAPTER 140. OKLAHOMA QUICK ACTION CLOSING FUND

[OAR Docket #13-521]

RULEMAKING ACTION:

PERMANENT Final Adoption

RULES:

- 150:140-1-1. Purpose and scope [NEW]
- 150:140-1-2. Definitions [NEW]
- 150:140-1-3. Application process [NEW]
- 150:140-1-4. Award process [NEW]
- 150:140-1-5. Award agreement [NEW]
- 150:140-1-6. Disclosure of payments [NEW]

AUTHORITY:

The legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq., and the Oklahoma Quick Action Closing Fund 62 O.S. § 48.2(F).

DATES:

Comment period:

October 16, 2012 through November 15, 2012

Public hearing:

November 16, 2012

Adoption:

November 19, 2012

Submitted to Governor:

November 19, 2012

Submitted to House:

November 19, 2012

Submitted to Senate:

November 19, 2012

Gubernatorial approval:

December 5, 2012

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2013.

Final adoption:

March 27, 2013

Effective:

May 25, 2013

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

- 150:140-1-1. Purpose and scope [NEW]
- 150:140-1-2. Definitions [NEW]
- 150:140-1-3. Application process [NEW]
- 150:140-1-4. Award process [NEW]
- 150:140-1-5. Award agreement [NEW]
- 150:140-1-6. Disclosure of payments [NEW]

Gubernatorial approval:

October 30, 2012

Register publication:

30 Ok Reg 101

Docket number:

12-980

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

This action is to clarify the existing Oklahoma Quality Jobs Program rules and to incorporate recent legislative changes in the Oklahoma Quality Jobs Program.

CONTACT PERSON:

Donald R. Hackler, Jr. (405) 815-5359

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 25, 2013:

150:140-1-1. Purpose and scope

(a) The purpose of these rules is to implement the Oklahoma Quick Action Closing Fund at the Oklahoma Department of Commerce.

(b) All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Governor for the purposes of economic development and related infrastructure development in instances in which expenditure of such funds would likely be a determining factor in locating a high-impact business project or facility in Oklahoma or in retaining such project or facility within the state. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of State Finance for approval and payment.[62 O.S. § 48.2(B)]

150:140-1-2. Definitions

In addition to those terms defined elsewhere in this chapter, the following words and terms when used in this subchapter shall have the following meaning unless the context clearly indicates otherwise.

"Department" means the Oklahoma Department of Commerce established pursuant to 74 O.S. §§ 5001 et seq. and any successor agencies thereto.

"Director" means the duly appointed and acting Director of the Department or during any period of time that the position of Director is vacant; such term shall refer to the person serving as the acting or interim director.

"Oklahoma Quick Action Closing Fund" means the fund established at the Oklahoma Treasury for the Oklahoma Department of Commerce, for the purposes set forth in 62 O.S. § 48.2.

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150:140-1-3. Application process

(a) For the purpose of evaluating the applications, the Department will require all applicants interested in the Oklahoma Quick Action Closing Fund to submit an application in a form prescribed by departmental guidelines as provided in the application packet. All applications will be required to contain sufficient information to permit the Department to comprehensively review the project proposal and determine if the project will result in a net economic benefit to the State of Oklahoma. The application for the Quick Action Closing Fund will be based upon the statutory mandates set forth in 62 O.S. § 48.2 and to provide the information required in 150:140-1-4.

(1) The Department will make available upon request application forms and application guidelines.

(2) The forms and guidelines will provide information that will assist applicants in their application preparation.

(3) The guidelines and forms set forth shall apply to all applications and awards made in the program year corresponding with the application and application guidelines packet.

(b) In order to qualify for any funds from the Oklahoma Quick Action Closing Fund, the establishment making application shall be engaged in a business activity described by a North American Industry Classification System (NAICS) Code used to define eligibility for incentive payments from the Oklahoma Quality Jobs Program Act as defined in Section 3603 of Title 68 of the Oklahoma Statutes or a business activity described by Section 3603 of Title 68 of the Oklahoma Statutes or be engaged in a "basic industry" used to define eligibility for incentive payments from the 21st Century Quality Jobs Incentive Act as prescribed by Section 3913 of Title 68 of the Oklahoma Statutes.[62 O.S. § 48.2(C)]

(c) The application needs to include a full and complete description of the project which includes the following:

(1) The number of jobs to be created if the project is a new or existing company;

(2) The number of jobs to be retained if the project is an existing company;

(3) The average salary of jobs to be created or retained by the company;

(4) The latest audited financial statements of the company including the credit rating of the company if it has issued publicly held debt;

(5) The total capital investment to be made by the company;

(A) Sources of the capital investment; and

(B) If the investment is secured or if applications/solicitations are pending.

(6) The relative likelihood of other business enterprises locating within the same vicinity or within the state as a result of the company's location or expansion as a result of payments from the Oklahoma Quick Action Closing Fund;

(7) The relative impact on the economy of the area or community in which the company is or will be conducted;

(8) The location of the project;

(9) Any needed infrastructure improvements at the project site for the project to go forward;

(10) All investment, both in kind and monetary, from local governmental units in support of the project;

(11) The history of the company including date and location of establishment, and significant accomplishments of the company; and

(12) North American Industries Classification System ("NAICS") code for qualifying business activity.

150:140-1-4. Award process

(a) The Oklahoma Department of Commerce shall administer the Oklahoma Quick Action Closing Fund, and expenditures from the fund shall be recommended by the Director of the Oklahoma Department of Commerce to the Governor after a thorough evaluation of selected projects or facilities. The Director of the Oklahoma Department of Commerce shall only recommend expenditures that the Director determines are expected to result in a net economic benefit to the state through the following:

(1) The creation of new jobs which offer a basic health benefit plan, as defined in the Oklahoma Quality Jobs Program Act;

(2) The maintenance of existing jobs which are at a risk for termination;

(3) Investment in new real property, plant or equipment or in the improvement or retooling of existing plant or equipment; or

(4) Additional revenues in either ad valorem, income or sales and use taxes. [62 O.S. § 48.2(E)]

(b) The Governor will make the funding decision, after review of the recommendation and evaluation submitted by the Director of the Oklahoma Department of Commerce.

(c) The Governor shall not approve payments from the Oklahoma Quick Action Closing Fund unless the Department of Commerce has conducted a complete analysis of the potential impact of the applicant's business activity which shall include, but not be limited to:

(1) The number of jobs to be created by a new business establishment;

(2) The number of jobs to be retained by an existing business establishment;

(3) The average salary of jobs to be created by a new establishment;

(4) The average salary of jobs to be retained by an existing business establishment;

(5) The total capital investment to be made by the business establishment;

(6) The likelihood of other business establishments locating within the same vicinity or within the state as a result of the business activity to be conducted by the entity to receive payments from the Oklahoma Quick Action Closing Fund;

(7) The impact on the economy of the area or community in which the business activity of the applicant is or will be conducted; and

(8) Such other factors as the Governor and the Department of Commerce determine to be relevant. [62 O.S. § 48.2(D)]

150:140-1-5. Award agreement

(a) Upon approval by the Governor, the Oklahoma Department of Commerce shall enter into an agreement that sets forth the conditions for payment of monies from the Oklahoma Quick Action Closing Fund. The agreement must include:

- (1) The total amount of funds awarded;
- (2) The performance conditions that must be met to obtain the award, including, but not limited to, net new employment in the state, average salary, and total capital investment;
- (3) If appropriate, a baseline of current service and measure of enhanced capability;
- (4) The methodology of validating performance;
- (5) The schedule of payments from the fund, and claw-back provisions for failure to meet performance conditions; and
- (6) A requirement that no monies paid from the Oklahoma Quick Action Closing Fund shall be used by a recipient or any other person or entity for purposes of any political contribution to or on behalf of any candidate or for the support of or opposition to any measure including but not limited to an initiative petition or referendum. [62 O.S. § 48.2(H)]

(b) If any or all of the amount to be awarded is used to build a capital improvement:

- (1) The funds used for the capital improvement shall be deemed to be held in trust for the benefit of the state and shall be considered as a priority claim for purposes of federal bankruptcy law; and
- (2) If the capital improvement is sold, the recipient of the award shall:
 - (A) repay the state the money awarded to pay for the capital improvement, with interest at the rate and according to the other terms provided by the agreement, and
 - (B) share with the state a proportionate amount of any profit realized from the sale. [62 O.S. § 48.2(J)]

(c) If, as of the date certain provided in the agreement, the award recipient has not used monies awarded for the intended purposes, the recipient shall repay that amount and any related interest to the state at the agreed rate and on the agreed terms and any such amounts shall be deemed to be held in trust for the benefit of the state and shall be considered as a priority claim for purposes of federal bankruptcy law. [62 O.S. § 48.2(K)]

150:140-1-6. Disclosure of payments

The Department of Commerce shall make available on its website or other website dedicated for this purpose a complete disclosure of all payments made from the Oklahoma Quick Action Closing Fund. The disclosure shall include a description of the expenditures made by the business establishment with the payments made from the fund. No proprietary information of the business establishment shall be subject to the requirements of this subsection. [62 O.S. § 48.2(I)]

[OAR Docket #13-521; filed 4-8-13]

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

[OAR Docket #13-515]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Records and Inspections
240:1-3-6. Search fees [AMENDED]

AUTHORITY:

40 O.S. Sections 4-302, 4-508; and the Oklahoma Employment Security Commission.

DATES:

Comment period:

November 1, 2012 through December 11, 2012

Public hearing:

None held or requested

Adoption:

December 11, 2012

Submitted to Governor:

December 13, 2012

Submitted to House:

December 13, 2012

Submitted to Senate:

December 13, 2012

Gubernatorial approval:

January 3, 2013

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2013

Final adoption:

March 27, 2013

Effective:

May 15, 2013

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

This rule is being amended to correct typographical errors in the text.

CONTACT PERSON:

Melissa Copenhaver, Rulemaking Liaison, 2401 N. Lincoln Boulevard, 5th Floor, Oklahoma City, Oklahoma 73152. Telephone number 405/557-7146, e-mail address: Melissa.Copenhaver@oesc.state.ok.us .

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 MAY 15, 2013:

SUBCHAPTER 3. RECORDS AND INSPECTIONS

240:1-3-6. Search fees

The search fee shall be applicable to all confidential records requested for ~~commercial~~ commercial purposes, unless it is determined by the Director, in his or her discretion, that the public ~~interest~~ interest is served to such an extent that no charge should be applicable. The search fee will be \$10.00 for each account or claimant record requested. No search fee will

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be charged for the production of ~~non-confidential~~ of non-confidential record.

[OAR Docket #13-515; filed 4-8-13]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 5. EMPLOYMENT SERVICE

[OAR Docket #13-516]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

240:5-1-3. Registration for Work [AMENDED]

Subchapter 3. Internet Use

240:5-3-2. Time limit on Internet use [REVOKED]

240:5-3-3. Internet user prohibitions [AMENDED]

AUTHORITY:

40 O.S. Sections 2-204, 4-302, 4-802; and the Oklahoma Employment Security Commission.

DATES:

Comment period:

November 1, 2012 through December 11, 2012

Public hearing:

None held or requested

Adoption:

December 11, 2012

Submitted to Governor:

December 13, 2012

Submitted to House:

December 13, 2012

Submitted to Senate:

December 13, 2012

Gubernatorial approval:

January 3, 2013

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2013

Final adoption:

March 27, 2013

Effective:

May 15, 2013

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The amendments to these rules will delete a reference to the Oklahoma JobLink and replace it with a generic description so that name changes to the program will not affect the rule. The rule on time limits for Internet use is being revoked because it was determined to be unnecessary. The rule concerning Internet user prohibitions is being amended to delete obsolete provisions and allow for downloading of job application information from employers.

CONTACT PERSON:

Melissa Copenhaver, Rulemaking Liaison, 2401 N. Lincoln Boulevard, 5th Floor, Oklahoma City, Oklahoma 73152. Telephone number 405/557-7146, e-mail address: Melissa.Copenhaver@oesc.state.ok.us.

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 MAY 15, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

240:5-1-3. Registration for work

Any person may register for work through the Oklahoma Employment Service by completing the Employment Service Application on the Commission's website or at a Workforce Center. Once the application form is completed and entered into the ~~Oklahoma JobLink~~ Oklahoma's public labor exchange, the person shall be considered an Employment Service applicant and registered for work in Oklahoma.

SUBCHAPTER 3. INTERNET USE

240:5-3-2. Time limit on Internet use [REVOKED]

~~Each user may use the Internet computer for 30 minutes per day. If there are no other users waiting to access the Internet computer, the user may continue using it past this time limit. If another user requests to access the Internet computer, and the current user has exceeded the 30 minute time limit, then the current user will be given an additional 15 minutes to complete what he or she is working on and will be required to relinquish the computer at that time.~~

240:5-3-3. Internet user prohibitions

Internet users must cooperate with the staff of the Oklahoma Employment Security Commission and follow all instructions regarding the use of the Internet computers. Internet users may not do any of the following:

- (1) Interfere with or disrupt network users, services, or equipment.
- (2) Make any attempt to damage computer equipment or software.
- (3) Make any attempt to alter software configurations.
- (4) Make any attempt to cause degradation of system performance.
- (5) Use any OESC work station for illegal or criminal purposes.
- (6) Access pornographic or gambling sites.
- (7) Violate copyright laws or software licensing agreements while using the Internet computer.
- (8) Engage in any activity which is deliberately malicious, libelous or slanderous.
- (9) Install or download any software.
- ~~(10) Use a locking floppy diskette.~~
- ~~(11) Download information.~~

[OAR Docket #13-516; filed 4-8-13]

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

[OAR Docket #13-517]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
- 240:10-1-2. Definitions [AMENDED]
- 240:10-1-3. Time computation [AMENDED]
- Subchapter 3. Benefits
- Part 5. Eligibility
- 240:10-3-22. ~~Filing Claims~~ claims for benefits [AMENDED]
- 240:10-3-23. Claims for ~~total~~ unemployment benefits-general requirements [AMENDED]
- 240:10-3-25. Payment of claim of deceased worker [REVOKED]
- 240:10-3-28. Application of payments made to repay an overpayment of benefits [AMENDED]
- Part 9. Disqualification
- 240:10-3-43. Performed service and earned remuneration; reemployed and has earned wages [AMENDED]
- Subchapter 5. Contributions
- Part 3. Rates
- 240:10-5-10. Payment of contributions [AMENDED]
- Part 7. Collection of Contributions
- 240:10-5-31. Claims for refund - procedure [AMENDED]
- Part 19. Maintenance and Production of Work Records
- 240:10-5-90. Records [AMENDED]
- 240:10-5-91. Employer's Quarterly Contributions Wage Reports [AMENDED]
- Subchapter 11. Assessment Board Procedure
- Part 1. General Provisions
- 240:10-11-5. Jurisdiction [AMENDED]
- Subchapter 13. Appeal Tribunal Procedure
- Part 3. Appeals to Appeal Tribunal
- 240:10-13-20. Filing an appeal [AMENDED]
- Part 5. Hearings
- 240:10-13-40. Reopen [AMENDED]
- Part 9. Records of Appeal Tribunal
- 240:10-13-70. ~~Transcript~~ Recording of hearings [AMENDED]
- 240:10-13-71. Requests for copies of documents entered into evidence [AMENDED]

AUTHORITY:

40 O.S. §§1-220, 1-224, 2-202, 2-204, 2-411, 2-503, 2-504, 4-302; 40 O. S. §551 et seq., and the Oklahoma Employment Security Commission.

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None

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None

ANALYSIS:

A new definition of "working day" is being added. Typographical errors in the text of some rules are being corrected and obsolete language is being deleted. Reference to the Employment Security Act of 1980 in the rules is being amended to the correct name of the Act. The rule for processing checks that were paid on a claim of a deceased worker is being revoked because it is obsolete since the use of electronic funds transfers became the method of paying benefits. The rule concerning how overpayments are to be repaid

is being amended to include the repayment of the newly established fraud penalties.

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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 MAY 15, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

240:10-1-2. Definitions

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

"Commuting distance" means an automobile driving distance of fifty (50) miles from a claimant's place of residence.

"Full-time work" means employment in thirty-two (32) or more hours of work per week.

"Good cause" means reasons beyond the control of the party seeking relief.

"Independent contractor" means:

(A) Any person who performs services according to their own methods and without control except as to results is an independent contractor, if they are:

- (i) Customarily engaged in an independently-established business; or
- (ii) Performing service outside the usual course of the contractor's business and outside the places of such business.

(B) In order to be considered "without control" the individual providing the service shall:

- (i) Provide their own tools and equipment;
- (ii) Pay their own ordinary and customary business expenses;
- (iii) Risk losing money from the contract;
- (iv) Be free to hire their own assistants; and
- (v) Be responsible for obtaining and maintaining all business, tax registrations and all business occupational licenses required by federal, state, or local laws or ordinances.

(C) A written contract relating to such services shall be considered under 40 O.S. Section 1-210 (14), along with all other pertinent evidence in determining employment status and shall not be accorded any greater weight than any other evidence.

(D) This definition shall not be interpreted or construed as conflicting with Section 3304 (a) (6) (a) of the Federal Unemployment Tax Act.

"Interested Party" means:

(A) In an unemployment claim appeal - the Commission, a claimant who files a claim for unemployment benefits with the Commission, and any

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employer who properly files a written objection to the claim pursuant to 40 O.S. §2-503 (E).

(B) In an unemployment tax protest - the Commission and the employer with an account that is directly affected by a decision made by the Commission or its representative.

(C) In a supplemental unemployment benefit plan appeal - the Commission, the employer that made application for approval of the plan, and the collective bargaining agent of the employees, if any exists.

"Leases" and "Rents" [40:1-210(15)] mean a contract between an owner of a business, building, or property and a leasee, in which:

(A) Space is leased, sublet, or rented for the purpose of operating or conducting a trade or business by the leasee;

(B) The lease or rental fee is set at a fixed amount per month, that remains constant for the term of the lease, sublease, or rental contract; and

(C) Is not based upon a percentage of income or revenue earned in the trade or business.

"Mail", "Mailed", and "Mailing", as used in 40 O.S. §1-224, shall mean the mailing of a document through the United States Postal Service or a private delivery service designated by the United States Secretary of the Treasury pursuant to 26 U.S.C. §7520(f), as a delivery service that may deliver returns, claims, statements, or other documents to the Internal Revenue Service.

"Part-time work" means employment of less than thirty-two (32) hours of work in a week.

"Profiling" means:

(A) A systematic computer generated process that:

(i) Identifies those claimants most likely to exhaust regular compensation and will need job search assistance services to make a successful transition to new employment;

(ii) Refers identified claimants to reemployment services; and

(iii) Collects follow-up information relating to the services received.

(B) Data elements which may be used in the identification process for profiling are:

- (i) Recall status;
- (ii) Union hiring hall agreement;
- (iii) Education;
- (iv) Job tenure;
- (v) Industry;
- (vi) Occupation;
- (vii) Unemployment rate;
- (viii) Number of prior UI claims; and
- (ix) Maximum weekly benefit amount.

(C) Data elements prohibited for usage in profiling are:

- (i) Age;
- (ii) Race or ethnic group;
- (iii) Sex;
- (iv) Color;
- (v) National origin;

(vi) Disability;

(vii) Religion;

(viii) Political affiliation; and

(ix) Citizenship.

"Reasonable cash value" [40:1-218] means an amount estimated and determined by consideration of the position held, type of work performed, duration of the work, and customary compensation of like providers in like industries.

"Reemployment Services" means those services which provide job search assistance and job placement services, which are counseling, testing, and providing occupational and labor market information, assessment, job search workshops, job clubs and referrals to employers, and other similar services.

"Temporary Layoff" means a short term cessation of work or employment in which the employer maintains an attachment to an employee by means of a recall date or, in cases involving a federal agency or federal contractor with employees who have agreed to refrain from seeking employment elsewhere as part of their terms of employment when work is ceased due to the needs of the federal government, and the federal employer or federal contractor maintains an attachment to an employee by means of its contract of employment, then a recall date will not be required.

"Wages"

(A) **"Gratuities or Tips"**. The employer shall include as wages all monies paid as gratuities or tips actually *received by an individual in the course of his work* [40:1-218] or, if actual information is not available, gratuities and tips shall be allocated to the employer in the amount of 8% of gross receipts.

(B) **"Noncash remuneration"**. Noncash remuneration means meals, lodging or any other payment in kind received by a worker from the employing unit in addition to or in lieu of cash payments for services unless such *meals and lodging are furnished on the business premises of the employer for the convenience of the employer*. [40:1-218(4)]

"Wages paid"

(A) The term "wages paid" [40:1-219] shall include both wages actually received by the worker and wages constructively paid. Wages shall be considered constructively paid when they are credited to the account of or set apart for a worker so that they may be drawn upon by the worker at any time although not then actually in the worker's possession. A mere crediting of the wages to the worker's account, without actually making them available to the worker so that they may be drawn upon by him/her at any time, does not constitute constructive payment.

(B) In the case of an employer who terminates his/her coverage as of January 1st of some year, the term "wages paid" shall include all wages earned for all pay periods up to and including the last payroll period ending in that year, at the end of which, the employer's coverage is terminated.

(C) "Wages paid" to the worker are to be reported in the calendar quarter in which they were actually paid.

"Week" For the purpose of paying benefits and for the purpose of this Chapter, a "week" as defined in 40 O.S. §1-220 shall consist of a calendar week which begins at 12:01 A.M. Sunday and ends at midnight the following Saturday.

"Working day" means:

(A) For employers, any day the employer was open and conducting its regular business activities.

(B) For claimants, any day the claimant's employer or former employer scheduled the claimant to work and the claimant was present and working at his or her assigned activities for part or all of the scheduled work hours for that day.

240:10-1-3. Time computation

(a) In computing any period of time prescribed or allowed by the Employment Security Act of 1980, by these rules, or by order of a hearing officer, the day of the act, event, or default from which the designated period of time begins to run shall not be included. All intervening days falling between the beginning and end of the time period shall be counted, including Saturdays, Sundays, holidays and any day the offices of the Oklahoma Employment Security Commission are closed for part or all of the day. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday as defined by the Oklahoma Statutes or any other day when the offices of the Oklahoma Employment Security Commission do not remain open for public business until 4:00 p.m., in which event the period runs until the end of ~~the next~~ the next day which is not a Saturday, a Sunday, or a legal holiday as defined by the Oklahoma Statutes or any other day when the offices of the Oklahoma Employment Security Commission do ~~not remain~~ remain open for public business until 4:00 p.m.

(b) This rule shall not apply to the calculation of the time period set out in rule 240:10-3-23.

SUBCHAPTER 3. BENEFITS

PART 5. ELIGIBILITY

240:10-3-22. Filing claims for benefits

Claims for unemployment insurance benefits are to be filed via Internet or by telecommunication. ~~Initial claims, additional initial claims, and continued claims shall be deemed to cover "total unemployment" or "partial unemployment."~~

240:10-3-23. Claims for total unemployment benefits-general requirements

(a) **Definition.** An individual shall be defined as ~~in "total unemployment"~~ unemployed during a week whenever:

- (1) the individual has been separated from employment with his/her last regular employer; and
- (2) the individual has not during the week performed services in employment for any employer; or

(3) the individual has worked less than full time for some employer and earned less than his/her weekly benefit amount plus \$100.00. [40:1-217]

(b) **Effective date.** The effective date of an initial claim, additional initial claim, or a reopened claim shall be the first day of the calendar week in which the individual first files the initial claim, additional initial claim, or reopened claim.

(c) **Failure to report/good cause.** When the Commission representative determines that a claimant had good cause for failure to report as directed, a claim may be accepted at a later date, not to exceed seven (7) calendar days from the date originally specified for his/her reporting.

(d) **Continued claim.** A claimant who is filing for benefits under the ~~mail claim system~~, the Interactive Voice Response System, or the Internet may file a continued claim provided the claimant files the continued claim within fourteen (14) calendar days from the week ending date of the claim or within fourteen (14) calendar days from the date the continued claim is furnished to the claimant.

(e) **Determination of eligibility for benefits.** The ~~OES Act~~ Employment Security Act of 1980 prescribes the following requirements:

- (1) A Commission representative shall determine claimant's eligibility for benefits.
- (2) A Commission representative shall accept written and verbal statements from the claimant and the employer.
- (3) A Commission representative shall take any action necessary to determine the facts and to determine the rights of both the employer and claimant.
- (4) A Commission representative shall write a determination which must include the following:
 - (A) An explanation of the parties' appeal rights;
 - (B) A summary of pertinent facts;
 - (C) The reasons for allowing or denying benefits; and
 - (D) The conclusion or legal results of the decision.
- (5) Any interested party may appeal a determination. The appeal shall be filed with the Commission. When the appeal is filed, all interested parties shall be notified.

(f) In computing any period of time described in this rule, the day of the event from which the designated period of time begins to run shall not be included. All intervening days falling between the beginning and end of the time period shall be counted, including Saturdays, Sundays, holidays and any day the offices of the Oklahoma Employment Security Commission are closed for part or all of the day. The last day of the period so computed shall be included. Claimants required to make a filing on a day in which the offices of the Commission are not open shall make the filing through the Internet or by telephone through the Interactive Voice Response system. Failure to file for a claim within the time allowed will result in denial of benefits for that week.

240:10-3-25. Payment of claim of deceased worker [REVOKED]

(a) **Survivor's entitlement.** ~~Upon the death of any claimant, if claim for benefits has been filed, processed and determined in favor of claimant, or if a check has been issued~~

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and unpaid to the decedent, such benefits shall be paid to the administrator or executor of the estate of the deceased claimant. In the event that the estate is in probate, such benefits may, by order of the Commission, be paid to any person or persons designated by the Commission in the following order:

- (1) To the surviving spouse.
- (2) If no surviving spouse, to the surviving children in equal shares.
 - (A) If all children are of legal age, and living, to them directly in equal shares. The issues of any deceased child taking share of deceased parent in equal shares.
 - (B) If all surviving children are minors, to the person in custody of said children for the use and benefit of such minor children.
 - (C) If there are surviving children of legal age and also surviving children who are minors, to them in equal shares. Payment for the minor children to be made to the person in custody of said children for the use and benefit of such minor children.
- (3) In case there is no surviving spouse and no surviving children, to the surviving parents in equal shares. If only one survives, to the surviving parent.
- (4) In case there is no surviving spouse, children or parent or parents, then to the brothers and sisters, or to the surviving brother or sister. In the event there be no surviving brother or sister, then to the issue of any deceased brother or sister in equal shares.

(b) **Survivor's responsibility.** Any person claiming benefits which are due and payable to a deceased claimant as herein provided shall make claim for such benefits which claim shall be supported by an affidavit setting forth the relationship of the person claiming such benefits to the deceased claimant and that there are no persons prior in order as set forth in Subsection (a) of this Rule to receive said benefits. Said affidavit shall also set forth that said claimant died intestate, that no administrator or executor has been appointed to administer said estate, and that to the best information and belief of the affiant, at the time of death there were benefit payments due claimant under the provisions of the OES Act. The Commission shall be under no obligation to determine the relationship of the affiant or affiants to the deceased claimant.

(c) **Commission's responsibility.** Upon receipt of such affidavit, the Commission may issue written authorization to such affiant or affiants to endorse and cash all unpaid benefit checks or warrants issued to such deceased claimant, by endorsing thereon claimant's name and the affiant's or affiants' names.

(d) **Survivor's filing requirement.** Any claim for benefit payments due a deceased claimant as herein provided must be filed with the Commission within ninety (90) days following the death of the claimant; provided, however, the Commission in its discretion may extend said period.

(e) **Exceptions to survivor's claim.** Unless within the time prescribed herein a claim is made for benefits due a deceased claimant by one of the parties herein authorized to make such claim, any checks or vouchers issued directly to said claimant but not cashed prior to his/her decease shall be cancelled, and

any additional benefit payments to said deceased claimant for weeks of unemployment prior to his/her death shall be likewise cancelled, and all sums represented by benefits payable to said deceased claimant prior to his/her death shall remain a part of the Unemployment Compensation Fund.

240:10-3-28. Application of payments made to repay an overpayment of benefits

When a person makes a payment to the Commission to repay an indebtedness created by a previous overpayment of unemployment benefits, the payment shall be applied in the following manner:

- (1) First, to any fees that have been charged to the debtor until all fees are paid.
- (2) Second, to accrued penalties until all penalties are paid.
- (3) ~~Second~~Third, to the accrued interest until all interest is paid.
- (~~3~~) ~~Third~~Fourth, to the principal amount of the overpayment.

PART 9. DISQUALIFICATION

240:10-3-43. Performed service and earned remuneration; reemployed and has earned wages

(a) The terms *performed service and earned remuneration* as used in 40 O.S. Section 2-109, and *reemployed and has earned wages* as used in 40 O.S. Sections 2-404, 2-406, and 2-418 shall mean that the individual has performed service in *employment and earned wages for that service and employment*.

(b) Wages (or remuneration) as used and applied in 40 O.S. Sections 2-109, 2-404, 2-406 and 2-418 in conjunction with the term *ten (10) times his weekly benefit amount* shall be those wages that are subject to coverage by the OES Act Employment Security Act of 1980 and subject to Federal Social Security Taxes and/or Federal and State Income Tax laws.

(c) "**Earned remuneration**" means reasonable compensation derived from the providing of a service, declared or undeclared, based upon the average remuneration paid to like service providers in like industries.

SUBCHAPTER 5. CONTRIBUTIONS

PART 3. RATES

240:10-5-10. Payment of contributions

(a) **Date payment due.** Contributions shall become due and be paid on or before the last day of the month following the calendar quarter to which they relate, provided that:

- (1) If, under the provisions of 40 O.S. Section 3-306, the Commission shall declare the period for which any contribution may become due to have terminated for an

employer, and assesses the contributions for such period, such contributions shall immediately become due and be paid by such employer; and

(2) If an employing unit has not previously qualified as an employer under the ~~OES Act~~ Employment Security Act of 1980 and first qualifies as an employer during a calendar year, the employing unit shall pay contributions for all past periods of that year for which said employer is liable for the payment of contributions, on or before the due date for that quarter in which such employing unit becomes an employer subject to the ~~OES Act~~ Employment Security Act of 1980. [40:3-102]

(b) Date of receipt defined.

(1) Payments of contributions received through the mail shall be deemed to have been received as of the date shown by the postmark on the envelope properly addressed to the Commission's office and containing such payment.

(2) Payment of contributions received through an electronic fund transfer system shall ~~be deemed to be~~ deemed to have been received by the Commission on the date on which the electronic payment was authorized for immediate payment to the Oklahoma Employment Security Commission.

(3) All other payments of contributions shall be deemed to have been received on the date on which payments are received by a representative of the Commission.

PART 7. COLLECTION OF CONTRIBUTIONS

240:10-5-31. Claims for refund - procedure

Each employer who files an application for refund under 40 O.S. Section 3-304 shall be notified of the determination made on ~~said~~ the application in writing. Any employer aggrieved by the determination made on ~~said~~ the application for refund may file protest to such determination and request oral hearing thereon. The procedure provided by 40 O.S. Section 3-305 with reference to assessment of contributions shall be applicable to such protests and hearings a request for review and redetermination pursuant to 40 O.S. Section 3-115.

PART 19. MAINTENANCE AND PRODUCTION OF WORK RECORDS

240:10-5-90. Records

Records shall be maintained by employers for a period of four (4) years. For purposes of audits, investigations, verifications, or certifications, each employer shall be required to maintain and produce to a representative of the Commission, the following records:

- (1) Records that show the proprietary interest, type of organization and identity of the employing unit.
- (2) All accounting records, business and personal.
- (3) All bank statements and banking records for all checking and savings accounts, business and personal.
- (4) All federal and state income tax returns, business and personal, including all schedules.

(5) All payroll records including federal Internal Revenue Service forms W-2, W-3, 940, 941, and 1099.

(6) All general ledgers, cash disbursement ledgers or journals, cash receipts journals, check registers, and check stubs for the employer's business.

(7) For each pay period, records that show:

- (A) The beginning and ending dates of such period.
- (B) The total amount of wages paid with respect to all employment.

(8) For each worker, records that show:

- (A) Name.
- (B) Social Security account number.
- (C) Wages for each pay period showing separately:
 - (i) Cash wages.
 - (ii) Reasonable cash value of all remuneration in any medium other than cash (See OAC 240:10-1-2(b), Wages, Noncash remuneration).
 - (iii) Actual or estimated amount of gratuities received from persons other than his/her employing unit (See OAC 240:10-1-2 (a), Wages, Gratuities and tips).
 - (iv) Special payments for services rendered in prior periods, designating the period in which the service was performed.
 - (v) The total amount of wages paid for each pay period.

(9) Records showing the date on which the worker was hired, and the date he/she was separated from employment.

(10) Records showing the circumstances under which the worker was separated from employment shall be maintained with respect to the following:

- (A) If separation from employment was because of lack of work, the records shall so state.
- (B) If separation from employment was voluntary on the part of the worker, the records shall reflect the fact together with any reason(s) given by the worker.
- (C) If separation from employment was a discharge of the worker ~~for other than "lack of work,"~~ due to misconduct, the record shall reflect ~~such~~ the circumstances of the misconduct and the reason given by the employer to the worker for the discharge. ~~It shall also be in sufficient detail to reflect if there was, or was not, any misconduct connected with his/her work.~~
- (D) If the separation from employment was other than those three listed above, the record shall reflect details of such "other reason."

(11) Records showing each day during the pay period that such individual was in employment if the individual was not regularly employed.

(12) Records showing the state or states in which his/her services are performed, and if such services are performed outside of this state, his/her base of operations (or if there is no base of operations, then the place from which his/her services are directed or contracted) and his/her residence (by state). All work records required by the Commission shall be kept safely and readily accessible at the place of business of the person or firm required to keep same.

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Nonresident employing units who customarily maintain work records required by OAC 240:10-5-90 outside the State of Oklahoma shall furnish to the Commission, upon request, certified copies of such records.

(13) For each quarter in the records retention period, a copy of the Employer's Quarterly Contribution and Wage Report, and any amended reports, as filed with the Commission.

(14) Records that will confirm, verify, or supply data that is required in any field on any Commission report form that is required to be filed by an employer or on behalf of an employer.

(15) Any other books, papers, correspondence, memoranda, and any other records deemed necessary for review by a Commission representative.

240:10-5-91. Employer's Quarterly Contribution Wage Reports

(a) **Due date of report.** Each employer shall report both contributions and "wages paid" (as defined in OAC 240:10-1-2) on Form OES-3, Employer's Quarterly Contribution and Wage Report, for each quarterly period in which said employer is subject to the ~~OES Act~~ Employment Security Act of 1980 on or before the last day of the month following the calendar quarter to be reported. However, an employing unit which has not previously qualified as an employer under the ~~OES Act~~ Employment Security Act of 1980 and who first qualifies as an employer during a calendar year shall file Form OES-3, Employer's Quarterly Contribution and Wage Reports, for all past periods of that calendar year on or before the due date for the quarterly report for that quarter in which such employing unit becomes an employer subject to the ~~OES Act~~ Employment Security Act of 1980. [40:4-503]

(b) **Information required.**

(1) All instructions furnished with the official forms must be followed.

(2) All information required on the official forms shall be given.

(c) **Date of filing.** The date of filing of the Employer's Quarterly Contribution and Wage Report shall be determined by the date that an employer's fully completed report form is submitted for filing with the Commission pursuant to 40 O.S. §1-224.

(d) **Report Filing.**

(1) This subsection shall apply to all Employer's Quarterly Contribution and Wage Reports that are due for filing after January 1, 2011.

(2) All employers with an assigned Oklahoma State Unemployment Tax Act (SUTA) account number shall be required to file the Employer's Quarterly Contribution and Wage Report through the employer portal on the Commission Internet website, unless an exception is granted by the Commission.

(3) All third party administrators shall be required to file the Employer's Quarterly Contribution and Wage Report through the employer portal on the Commission

Internet website for clients with an assigned Oklahoma SUTA account number, unless an exception is granted by the Commission.

SUBCHAPTER 11. ASSESSMENT BOARD PROCEDURE

PART 1. GENERAL PROVISIONS

240:10-11-5. Jurisdiction

(a) The Assessment Board shall have jurisdiction to hear the following types of cases:

(1) An appeal to a determination regarding employer liability for unemployment contributions, pursuant to 40 O.S. Sections 1-208 and 1-210.

(2) An appeal to a determination regarding whether a worker is an independent contractor or an employee, pursuant to 40 O.S. Section 210(14).

~~(3) An appeal to a determination regarding the contribution rate of an employer, pursuant to 40 O.S. Section 3-102.~~

~~(4) An appeal to a determination to charge a base period employer, pursuant to 40 O.S. Section 3-106.~~

~~(5) An appeal to a determination of an acquiring employer (successor employer) and predecessor, pursuant to 40 O.S. Section 3-111.~~

~~(6) An appeal to a determination regarding unemployment contribution assessments, pursuant to 40 O.S. Section 3-305.~~

~~(7) An appeal to a determination regarding a request for refund of penalty or interest, or a portion thereof, pursuant to 40 O.S. Section 3-310.~~ An appeal to a determination made pursuant to any provision contained in Article III of the Employment Security Act of 1980, 40 O.S. Sections 3-101, et seq.

~~(8) An appeal to a determination to intercept state tax refunds through the Oklahoma Tax Commission, pursuant to 68 O.S. Section 205.2(B).~~

~~(9) An appeal filed by a Workforce Investment Act CLEO, local area fiscal agent, Local Board or OESC's subrecipient, as a result of audit or monitoring findings issued by the Commission pursuant to the Workforce Investment Act, pursuant to 20 C.F.R. Sections 661.120, 667.400, and 667.500.~~

~~(10) An appeal concerning the voluntary election of an employer for coverage pursuant to 40 O.S. §3-203.~~

~~(11) Any other appeal pursuant to 40 O.S. §3-115.~~

~~(12) An appeal of a denial or termination of an eligible training provider filed pursuant to 240:21-3-1 through 240:21-3-6.~~

(b) The Commission, or its appointee, may assign other subjects of appeal to the Assessment Board as it deems appropriate.

SUBCHAPTER 13. APPEAL TRIBUNAL
PROCEDURE

PART 3. APPEALS TO APPEAL TRIBUNAL

240:10-13-20. Filing an appeal

The appeal should be filed with the Commission in any manner set forth in 40 O.S. §Section 1-224 or by telephone through the Commission's interactive voice response system or by speaking with one of the Commission's claim representatives. A Commission representative will then forward the appeal to the Appeal Tribunal.

PART 5. HEARINGS

240:10-13-40. Reopen

(a) If a party does not appear for a scheduled hearing, the party may move to reopen the hearing within ten (10) days after the mailing of the Appeal Tribunal's Order of Decision. The motion shall provide reasoning for failure to appear and will become a part of the record.

(b) The Director of the Appellate Division, or a designee, shall review the Motion to Reopen the Hearing. For the purpose of ruling on the motion only, the Director or designee shall accept the facts offered in the motion as true. If the motion does not demonstrate good cause for failure to appear at the prior hearing, as defined by ~~an~~ OESC Rule 240:10-13-37, the Motion to Reopen the Hearing shall be denied. The Appeal Tribunal shall issue a written order denying the motion with appeal rights to the Board of Review.

(c) If the facts offered in the motion demonstrate good cause or leave a question as to whether good cause exists, the Chief Hearing Officer shall set the case for hearing on the issue of good cause for the non-appearance. All interested parties shall be notified of the hearing to show good cause.

(d) After the hearing provided for subsection (c) above, if the hearing officer finds good cause as the basis for failure to appear at the previously scheduled hearing, the case will proceed to be heard on its merits.

(e) After the hearing provided for subsection (c) above, if the hearing officer does not find good cause for the party's failure to appear at the originally scheduled hearing, a decision will be rendered reinstating the original decision.

(f) If the party who failed to appear at the originally scheduled hearing appears for the new hearing and the party who appeared at the originally scheduled hearing does not appear, testimony and evidence from the party present will be taken, ~~the taping~~ recording made at the original hearing ~~played~~ will be reviewed on the record, and the decision shall be rendered based upon the sworn testimony and other evidence submitted at both the first hearing and the second hearing.

PART 9. RECORDS OF APPEAL TRIBUNAL

240:10-13-70. ~~Transcript~~Recording of hearings

Parties to the appeal may obtain a copy of the cassette tape by mailing a blank tape to the Appeal Tribunal along with a specific request. Any party to a hearing before the Appeal Tribunal may request a copy of the official recording of the Appeal Tribunal hearing. The request shall be in writing and shall identify the hearing by docket number and the date on which the hearing occurred.

240:10-13-71. Requests for copies of documents entered into evidence

~~Request for information from the records of the hearing to be used for an appeal of the unemployment insurance benefits must be made to the Director of the Appeal Tribunal in writing. The request shall clearly list the information being requested and reason therefor. The nonpublic record or any document or copy thereof relating to a hearing in the Appeal Tribunal shall only be furnished to the requester for the purpose of a determination of unemployment benefits, without an order from a court of competent jurisdiction.~~ Any party to an Appeal Tribunal hearing may request a copy of all documents entered into evidence in the hearing. The request shall be in writing and shall identify the hearing by docket number and the date on which the hearing occurred.

[OAR Docket #13-517; filed 4-8-13]

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

[OAR Docket #13-518]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Contributions

Part 3. Rates

240:10-5-11. Subject employer acquiring the experience rating account of another employer [AMENDED]

240:10-5-12. ~~Non-subject~~Non-subject entity acquiring the experience rating account of an employer [AMENDED]

240:10-5-15. Successor acquiring the experience rating account of predecessor [AMENDED]

AUTHORITY:

40 O.S. Section 4-302; and the Oklahoma Employment Security Commission.

DATES:

Comment period:

January 2, 2013 through February 5, 2013

Public hearing:

None held or requested

Adoption:

February 5, 2013

Submitted to Governor:

February 6, 2013

Submitted to House:

February 6, 2013

Submitted to Senate:

February 6, 2013

Gubernatorial approval:

February 18, 2013

Permanent Final Adoptions

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 4, 2013

Final adoption:

April 4, 2013

Effective:

May 15, 2013

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The amendments to these rules are in the form of cleanup. When these rules refer to experience rating accounts, they sometimes used different names such as "compensation experience" and "experience history." Amendments are being made to change all references to "experience rating account." Further, when referring to a contribution rate, sometimes the phrase "experience rating" would be used. Amendments are being made to change all these references to "contribution rate". Finally, the correction to a cite of a statute in the Employment Security Act of 1980 is being corrected in 240:10-5-15 (d).

CONTACT PERSON:

Melissa Copenhaver, Rulemaking Liaison, 2401 N. Lincoln Boulevard, 5th Floor, Oklahoma City, Oklahoma 73152. Telephone number 405/557-7146, e-mail address: Melissa.Copenhaver@oesc.state.ok.us.

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 MAY 15, 2013:

SUBCHAPTER 5. CONTRIBUTIONS

PART 3. RATES

240:10-5-11. Subject employer acquiring the experience rating account of another employer

When any employing unit acquires the experience rating account of one or more employers under the provisions of 40 O.S. Section 3-111 or 3-111.1, and the employing unit was an employer subject to the Employment Security Act of 1980 at the time of the acquisition, the contribution rate for the acquiring employing unit after the acquisition shall be determined as follows:

- (1) The ~~compensation~~ experience rating accounts of the successor employer and the predecessor, or predecessors, shall be consolidated for the experience period immediately preceding the acquisition, and the Benefit Wage Ratio shall be computed on the total experience of all the employers.
- (2) The Benefit Wage Ratio so computed shall be used to determine the successor's contribution rate for the remainder of the calendar year in which the acquisition occurred. The contribution rate so established shall be applicable to the successor employer beginning with the first day of the calendar quarter in which the acquisition occurred.

240:10-5-12. Nonsubject entity acquiring the experience rating account of an employer

(a) **One employer acquired.** When any employing unit acquires the experience rating account of an employer under the provisions of 40 O.S. Section 3-111 or 3-111.1, and the employing unit was not an employer subject to the Employment Security Act of 1980 prior to the acquisition, the employing unit shall acquire the contribution rate of the employer for the entire calendar year in which the acquisition occurred.

(b) **Two or more employers acquired.** When any employing unit acquires the experience rating account of two or more employers under the provisions of 40 O.S. Sections 3-111 or 3-111.1, and the employing unit was not an employer subject to the Employment Security Act of 1980 prior to the acquisition, the contribution rate for the employing unit shall be determined by consolidating the ~~compensation~~ experience rating accounts of the two or more employers acquired for the ~~three calendar years~~ experience period immediately preceding the acquisition, and the Benefit Wage Ratio computed on the total experience of all the employers so acquired. The Benefit Wage Ratio so computed shall be used to determine the successor's contribution rate for the calendar year in which the acquisition occurred.

(c) An employing unit that was not an employer subject to the Employment Security Act of 1980 prior to acquiring the predecessor employer shall not be allowed to acquire the ~~experience history~~ rating account or contribution rate of the predecessor employer if the Commission finds that the employing unit acquired the business solely or primarily for the purpose of obtaining a lower contribution rate.

240:10-5-15. Successor acquiring the experience rating account of predecessor

(a) **Notification to transferring employer.** When any employing unit acquires a portion of the experience rating account of an employer under the provisions of 40 O.S. Section 3-111(B), and makes written application for a transfer as provided by the Act, written notice of the application for partial transfer shall be mailed or delivered to the transferring employer by a duly authorized Commission representative after receipt of the application.

(b) **Protesting partial transfer.** Within twenty (20) days after the date of mailing or delivery of the written notice, the transferring employer may file a written protest to the transfer and request an oral hearing to present evidence in support of the protest. The hearing shall be conducted in the manner prescribed in 40 O.S. Section ~~3-3053-115~~. Pending a final determination of the protest, no transfer of experience rating account shall be made. If it is determined that a transfer of a partial ~~experience history~~ rating account should be made, then the accounts and contributions of the transferring and acquiring employers shall be adjusted in accordance with the transfer.

(c) **Partial transfer to ~~subject~~ non-subject employer.** In the event of a partial transfer of the experience rating account of an employer to an acquiring employing unit, who was not an employer prior to the acquisition, the contribution rate of the acquiring employing unit shall be determined in accordance with the provisions of 40 O.S., Article 3, Part I, based upon the

portion of the experience rating account that was transferred. The portion of the experience rating account that was transferred shall not thereafter be used to compute ~~an experience rating~~ contribution rate for the transferring employer. The contribution rate computed after the transfer shall be applicable to the acquiring employing unit as of the date of the acquisition.

(d) **Partial transfer to ~~nonsubject~~ subject employer.** If the acquiring employing unit was an employer prior to the acquisition and transfer, then the experience rating account that was transferred shall be consolidated with the employer's experience rating account prior to the acquisition, and a contribution rate computed on the combined experience under the provisions of 40 O.S., Article 3, Part I. The contribution rate computed after the transfer shall be applicable to the employer beginning with the first day of the calendar quarter in which the acquisition occurred. The portion of the experience rating account that was transferred shall not be used in computing ~~an experience rating~~ a contribution rate for the transferring employer for any year subsequent to the year in which the transfer was effective.

[OAR Docket #13-518; filed 4-8-13]

**TITLE 240. OKLAHOMA EMPLOYMENT
SECURITY COMMISSION
CHAPTER 21. WORKFORCE INVESTMENT
ACT**

[OAR Docket #13-519]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 9. Audits
- 240:21-9-2. Delinquent audit [AMENDED]
- Subchapter 11. Grievance Procedure
- Part 3. Grievances Filed Directly with the OESC
- 240:21-11-10. Filing [AMENDED]
- 240:21-11-12. Contents of a grievance [AMENDED]
- 240:21-11-13. Referral of a grievance filed with OESC [AMENDED]
- Part 5. Appeals to the OESC from Grievance Decisions of a Local Area
- 240:21-11-21. Appeals with OESC [AMENDED]
- 240:21-11-22. Time limit for filing an appeal with OESC [AMENDED]
- Part 7. Informal and Formal Resolutions of Grievances
- 240:21-11-30. Informal resolution [AMENDED]
- 240:21-11-31. Hearing [AMENDED]

AUTHORITY:

40 O.S. Sections 4-302; and the Oklahoma Employment Security Commission.

DATES:

Comment period:

November 11, 2012 through December 11, 2012

Public hearing:

None held or requested

Adoption:

December 11, 2012

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December 13, 2012

Submitted to Senate:

December 13, 2012

Gubernatorial approval:

January 3, 2013

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Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2013

Final adoption:

March 27, 2013

Effective:

May 15, 2013

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The rules in this chapter are being amended to change the name of the Director of Workforce Integrated Services to the Director of Workforce Services.

CONTACT PERSON:

Melissa Copenhaver, Rulemaking Liaison, 2401 N. Lincoln Boulevard, 5th Floor, Oklahoma City, Oklahoma 73152. Telephone number 405/557-7146. E-Mail address: Melissa.Copenhaver@oesc.state.ok.us .

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 MAY 15, 2013:

SUBCHAPTER 9. AUDITS

240:21-9-2. Delinquent audit

If the audit has not been received within nine (9) months after the end of the grant recipient's fiscal year, the Director of the Internal Audit Division will send a certified letter to the subrecipient advising it that it has fifteen days to provide its reasons for failing to comply with the requirements set forth in Rule 240:21-5-1. If no response is received within fifteen (15) days, or the response received is not adequate, the Director of Workforce Integrated Programs Services will send a certified letter to the subrecipient advising it that its current funding and eligibility for future contracts are suspended.

SUBCHAPTER 11. GRIEVANCE PROCEDURE

PART 3. GRIEVANCES FILED DIRECTLY WITH OESC

240:21-11-10. Filing

A participant or affected party may file a grievance with the Director of Workforce Integrated Programs Services.

240:21-11-12. Contents of a grievance

Each grievance shall be in writing and should:

- (1) Be signed by the grievant or his authorized representative;
- (2) Contain the grievant's name and address (or specify another means of contacting him or her);
- (3) Identify the individual against whom the grievance is filed, if applicable;

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- (4) List the date(s) on which the acts which are the basis of the grievance occurred, or if continuing, when such acts began and describe the continuing nature;
- (5) List the names and addresses of persons who may have knowledge of the facts of the grievance;
- (6) Describe the grievant's allegations in sufficient detail to allow the Director of Workforce ~~Integrated Programs~~ Services to determine whether:
 - (A) The Director of Workforce ~~Integrated Programs~~ Services has jurisdiction over the grievance;
 - (B) The grievance was timely filed; and
 - (C) The grievance has apparent merit, i.e., whether the allegations if true, would violate any Title I of WIA.

240:21-11-13. Referral of a grievance filed with OESC

The Director of Workforce ~~Integrated Programs~~ Services may refer a grievance, originally filed with the OESC, to the local area if there is a likelihood that it could be resolved at that level. If the referred grievance is not resolved within ten (10) days from the date of receipt by the local area, the Director of Workforce ~~Integrated Programs~~ Services will attempt to resolve the issue informally.

PART 5. APPEALS TO THE OESC FROM GRIEVANCE DECISIONS OF A LOCAL AREA

240:21-11-21. Appeals with OESC

An appeal may be filed with the Director of Workforce ~~Integrated Programs~~ Services from a grievance decision issued at the local area level if:

- (1) No decision is reached within 60 days from the date the grievance is received at the local area level; or
- (2) Either party is dissatisfied with the local area hearing decision.

240:21-11-22. Time limit for filing an appeal with OESC

- (a) If the local area does not render a decision within sixty (60) days from the date of receipt of the grievance, an appeal must be filed with the Director of Workforce ~~Integrated Programs~~ Services within 30 days from the expiration of the sixty (60) day time period.
- (b) If the local area renders a decision that a party is dissatisfied with, the appeal must be filed with the Director of Workforce ~~Integrated Programs~~ Services within 30 days of the date the local area mails the decision to the party by certified mail.

PART 7. INFORMAL AND FORMAL RESOLUTIONS OF GRIEVANCES

240:21-11-30. Informal resolution

The Director of Workforce ~~Integrated Programs~~ Services or his or her designee will attempt to resolve any grievance or appeal informally by meeting with the parties in person

or discussing the grievance with the parties by telephone. If the grievance is not resolved informally within fifteen (15) days from the receipt of the grievance or appeal, the Director of Workforce ~~Integrated Programs~~ Services will forward the grievance or appeal to the Assessment Board.

240:21-11-31. Hearing

The Assessment Board will conduct the hearing pursuant to its rules at 240:10-11-20 through 240:10-11-31. The hearing process will be completed within sixty (60) days from the date the grievance was received by the Director of Workforce ~~Integrated Programs~~ Services.

[OAR Docket #13-519; filed 4-8-13]

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

[OAR Docket #13-532]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

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

AUTHORITY:

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

DATES:

Comment period:

September 17 through October 17, 2012

Public hearing:

October 18, 2012, Hazardous Waste Management Advisory Council
November 7, 2012, Environmental Quality Board

Adoption:

November 7, 2012

Submitted to Governor:

November 13, 2012

Submitted to House:

November 13, 2012

Submitted to Senate:

November 13, 2012

Gubernatorial Approval:

December 5, 2012

Legislative Approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2013

Final adoption:

March 27, 2013

Effective:

July 1, 2013

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATION BY REFERENCE:

Incorporated standards:

Title 40 of the Code of Federal Regulations, Parts 124, 260 through 268, 270, 273, and 279 as amended through July 1, 2012.

Incorporating rules:

252:205-3-1

Availability:

From the contact person listed below

ANALYSIS:

The proposed amendment is to incorporate by reference the federal hazardous waste regulations found in 40 CFR Parts 124 and 260-279 revised as of July 1, 2012. New rules include a correction of a typographical error in

the entry "K107" in a table listing hazardous wastes from specific sources at 40 CFR 261.32; and a conforming change at 40 CFR 266.20(b) to clarify that a recycling facility must keep a one-time certification and notification related to recyclable materials being used in a manner constituting disposal.

CONTACT PERSON:

Mike Edwards (405) 702-5226, 707 North Robinson, Oklahoma City, Oklahoma 73102. Mailing address is P.O. Box 1677, Oklahoma City, OK 73101-1677. E-mail address is mike.edwards@deq.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2013:

SUBCHAPTER 3. INCORPORATION BY REFERENCE

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

(a) **Incorporation date.** Except as provided in subsection (b), when reference is made to Title 40 of the Code of Federal Regulations (40 CFR), it shall mean (unless otherwise specified) the Hazardous Waste Regulations, Monday, May 19, 1980, as amended through July 1, ~~2011~~2012.

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

[OAR Docket #13-532; filed 4-9-13]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 303. TNI LABORATORY ACCREDITATION**

[OAR Docket #13-531]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
252:303-1-1 [AMENDED]

AUTHORITY:

Environmental Quality Board, 27A O.S. § 2-2-101; Laboratory Services Advisory Council, 27A O.S. § 2-2-201; Laboratory Services and Certification, 27A O.S. § 2-4-301 *et seq.*

DATES:

Comment period:

June 15, 2012 through July 20, 2012

Public hearing:

Before the Laboratory Services Advisory Council on July 26, 2012.
Before the Environmental Quality Board on November 7, 2012.

Adoption:

November 7, 2012

Submitted to Governor:

November 13, 2012

Submitted to House:

November 13, 2012

Submitted to Senate:

November 13, 2012

Gubernatorial approval:

December 5, 2012

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2013

Final adoption:

March 27, 2013

Effective:

July 1, 2013

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

252:303-1-1 [AMENDED]

Gubernatorial approval:

December 5, 2012

Register publication:

30 Ok Reg 201

Docket number:

12-1086

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The rules proposed in this Chapter provide standards for accreditation of privately and publicly owned laboratories for performance of analyses of water and wastewater, solid and hazardous waste, soil, sludge and petroleum hydrocarbons and apply to laboratories accredited or applying to be accredited by the Department of Environmental Quality (DEQ) consistent with The NELAC Institute (TNI) standards. The implementation date was originally January 2013.

The DEQ has determined that the implementation date of January 2013 should be extended to January 2016 to allow the DEQ to evaluate the enforceability of the TNI rules as adopted by reference and to make adjustments as needed to develop an enforceable laboratory accreditation program. The additional time will also allow laboratories to prepare for compliance with an enforceable laboratory accreditation program, whether continuing with the TNI standards as adopted by reference or developing additional state rules consistent with the TNI accreditation program.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. § 308.1 WITH AN EFFECTIVE DATE OF JULY 1, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

252:303-1-1. Purpose, basis, authority, applicability, and implementation date

(a) The rules in this Chapter provide standards for accreditation of privately and publicly owned laboratories for performance of analyses of water and wastewater, solid and hazardous waste, soil, sludge and petroleum hydrocarbons. This Chapter was promulgated and adopted pursuant to the Oklahoma Environmental Quality Code (Code), 27A O.S. § 2-4-101 *et seq.*, and shall apply to laboratories certified or applying to be accredited by the Department of Environmental Quality consistent with The NELAC Institute (TNI) Standards.

(b) As the Board promulgates new rules, accredited laboratories shall incorporate those procedures for all accredited analytes upon the effective date of the rule.

(c) The implementation date of this Chapter is January 1, ~~2013~~2016.

[OAR Docket #13-531; filed 4-9-13]

Permanent Final Adoptions

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 1. COMMISSION POWERS AND JURISDICTION

[OAR Docket #13-484]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:1-1-14. Location for information or filing with Commission [AMENDED]

325:1-1-21. Meeting notices [AMENDED]

325:1-1-22. Procedure for submitting requests to be placed on Commission agendas [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

DATES:

Comment Period:

November 15, 2012 through January 7, 2013

Public Hearing:

January 7, 2013

Adoption:

January 24, 2013

Submitted to Governor:

January 30, 2013

Submitted to House:

January 30, 2013

Submitted to Senate:

January 30, 2013

Gubernatorial approval:

March 11, 2013

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2013

Final Adoption:

March 28, 2013

Effective:

May 15, 2013

SUPERSEDED EMERGENCY ACTIONS:

Not Applicable

INCORPORATIONS BY REFERENCE:

Not Applicable

ANALYSIS:

The last printing of the Commission's *Rules of Racing* document was completed in August, 1999. In updating the *Rules of Racing* document to include all amendments since the 1999 printing, a scrivener error was found in Rule 325:1-1-14 which needs the appropriate correction as well as the need to update the Commission's home address. For Rule 325:1-1-21, the amendment was proposed to eliminate the former procedure of requiring an annual fee charge of \$18.00 for mailing notices [agendas] of Commission meetings to reflect the current procedures of obtaining meeting notice information [agendas] on the Commission website or requesting notices to be forwarded as e-mail attachments. For Rule 325:1-1-22, amendments were proposed to effect changes made in CY 2001 Commission adoption by both permanent and emergency rulemaking. Unfortunately, Commission Staff in CY 2001 inadvertently erred in not forwarding the materials under permanent rulemaking, resulting in the changes reverting to the former language at the end of the emergency adoption period of July 14, 2012. These changes will make review of rules simpler and faster than the current procedure of referring to two documents: the last printing in August, 1999 of the *Rules of Racing* and then the Cumulative Supplement which includes all rule amendments and new rules added since that 1999 publication.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE AMENDMENTS ARE

CONSIDERED FINALLY ADOPTED AS SET FORTH
IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE
DATE OF MAY 15, 2013:

325:1-1-14. Location for information or filing with Commission Offices

When information is requested or a notice or Petition for Appeal in any matter is required to be filed with the Commission, such notice shall be delivered to an authorized representative of the Commission at the office of the Commission on or before the filing deadline. ~~offices~~ Offices of the Commission are currently located at: Oklahoma Horse Racing Commission, Shepherd Mall, ~~2614 Villa Prom~~, 2401 N.W. 23, Suite 78, Oklahoma City, Oklahoma 73107.

325:1-1-21. Meeting notices

In accordance with the Oklahoma Open Meeting Act, 25 O.S., § 311, notice of the date, time, and place of Commission Meetings will be mailed to each person, newspaper, wire service, radio station, and television station that has filed a written request with the Commission for notice of meetings. Persons or entities filing a written request for notice of meetings ~~will be charged a fee of Eighteen Dollars (\$18.00) per year, and those persons or entities must renew the written request for notice annually~~ may print or download the notice from the Commission website or request to be added to a group e-mail to receive the notice as an e-mail attachment.

325:1-1-22. Procedure for submitting requests to be placed on Commission agenda

Any person or entity requesting to be placed on a Commission Meeting agenda must submit a written request reflecting the specific nature of the request and include the requester's name and address. Such request must be received at the Commission Office pursuant to 325:1-1-14, no later than the deadline date and time for acceptance of agenda requests as prescribed and publicly posted by the Commission. Agenda matters shall be set by the Chair and the Executive Director by mutual agreement. If there is no mutual agreement, then the Chair controls. Any matter which any three or more Commissioners submit a written request reflecting the specific nature of the request, submitted no later than the published deadline date and time, shall be set on the Commission agenda.

[OAR Docket #13-484; filed 4-2-13]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 10. RACING ORGANIZATION

[OAR Docket #13-485]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:10-1-2. Definitions [AMENDED]

325:10-1-11. Horsemen's Bookkeeper [AMENDED]

325:10-1-30. Minimum standards for pari-mutuel racing facility [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

DATES:

Comment Period:

November 15, 2012 through January 7, 2013

Public Hearing:

January 7, 2013

Adoption:

January 24, 2013

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January 30, 2013

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Submitted to Senate:

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Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2013

Final Adoption:

March 28, 2013

Effective:

May 15, 2013

SUPERSEDED EMERGENCY ACTIONS:

Not Applicable

INCORPORATIONS BY REFERENCE:

Not Applicable

ANALYSIS:

The last printing of the Commission's *Rules of Racing* document was completed in August, 1999. In updating the *Rules of Racing* document to include all amendments since the 1999 printing, scrivener errors were found in Rule 325:10-1-2 and Rule 325:10-1-11, so amendments were proposed to make the appropriate corrections. For Rule 325:10-1-30, amendments were proposed to effect changes made in CY 2001 Commission adoption by both permanent and emergency rulemaking. Unfortunately, Commission Staff in CY 2001 inadvertently erred in not forwarding the materials under permanent rulemaking, resulting in the changes reverting to the former language at the end of the emergency adoption period of July 14, 2012.

These changes will make review of rules simpler and faster than the current procedure of referring to two documents: the last printing in August, 1999 of the *Rules of Racing* and then the Cumulative Supplement which includes all rule amendments and new rules added since that 1999 publication.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE AMENDMENTS ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2013:

325:10-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Conditions of a race" means the qualifications which determine the eligibility of a horse to be entered in a race.

"Controlling owner" means a person or family who owns or votes fifty percent (50%) or more of the voting shares of a corporation, partnership, syndicate, or other association or entity or who is the Managing, General, or Limited Partner in a partnership which has been issued a currently valid organization license.

"Day" means a 24-hour period ending at midnight.

"Dark day" means a day during a live race meeting when no pari-mutuel wagering is conducted.

"Horse" means:

any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;

an entire equine male five years of age and older.

"Horse racing facility - major pari-mutuel" means a facility having those physical and locational characteristics in accord with the Oklahoma Horse Racing Act, and which will qualify it for the Breeders' Cup Series and/or other graded stakes races as granted by The North American Graded Stakes Committee.

"Nomination" means the naming of a horse to a certain race or series of races generally accompanied by payment of a prescribed fee.

"Nominator" means the person who nominates a horse as a possible contender in a race.

"Occupation license" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"Organization license" means a state requirement of any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"Owner" means any person who holds in whole or in part, any right, title or interest in a horse or an organization licensee or any person who is a lessee of a horse and has been duly issued a currently-valid Owner license as a person responsible for such horse.

"Post time" means the scheduled time set for the arrival of the horses at the starting gate for the race.

"Program" means the published listing of all contests and contestants for a specific performance.

"Race" means a contest between horses.

"Race day" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"Restricted area" means any area within the enclosure where access is limited to licensee-licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the organization licensee or the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

"Rules" means the rules adopted by the Commission to implement the provisions of the Act.

"Shareholder" means a person who owns some share of ownership, including entitlement to potential profits or losses in a corporation, partnership, syndicate, association or other multiple ownership entity.

Permanent Final Adoptions

"**Steward**" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"**Week**" means a calendar week.

"**Year**" means a calendar year.

325:10-1-11. Horsemen's Bookkeeper

The organization shall employ a Horsemen's Bookkeeper who shall maintain the records and accounts and perform the duties described in this Section and maintain such other records and accounts and perform such other duties as the organization and Commission may prescribe.

(1) The records shall include the name, mailing address, social security number or federal tax identification number, and the state or country of residence of each horse owner, trainer, or jockey participating at the race meeting who has funds due or on deposit in the horseman's account.

(2) The records shall include a file of all required statements of partnerships, syndicates, corporations, assignments of interest, lease agreements, and registrations of authorized agents.

(3) All records of the Horsemen's Bookkeeper shall be kept separate and apart from the records of the organization.

(4) All monies and funds on account with the Horsemen's Bookkeeper shall be maintained:

(A) Separate and apart from monies and funds of the organization;

(B) In a trust account(s) designated as "Horsemen's Trust Account,"; and

(C) In an account(s) fully insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, to mean - in one account insured to the maximum amount insured by the FDIC.

(5) It shall be the duty of the Horsemen's Bookkeeper to receive, maintain, and disburse the purses of each race and all stakes, entrance money, jockey fees, purchase money in claiming races, along with all applicable taxes and other monies that properly come into his/her possession in accordance with the provisions of Commission Rules.

(6) The Horsemen's Bookkeeper may accept monies due belonging to other organizations or recognized meetings, provided prompt return is made to the organization to which the money is due.

(7) It shall be the duty of the Horsemen's Bookkeeper to disburse the purse of each race and all stakes, entrance money, jockey fees, purchase money in claiming races, along with all applicable taxes, upon request, within forty-eight (48) hours of receipt of notification that all tests with respect to such races have cleared the drug testing laboratory(ies) as reported by the Stewards, and provided further that no protest ~~or appeal~~ or appeal has been filed with the Stewards or the Commission, except that minimum jockey mount fees may be disbursed prior to notification that the tests have cleared the testing laboratory(ies).

(8) Absent a prior request, it shall be the duty of the Horsemen's Bookkeeper to disburse monies to the persons entitled to receive same within fifteen (15) days after the last race day of the race meeting, including purses for official races, provided that all tests with respect to such races have cleared the drug testing laboratory(ies) as reported by the Stewards, and provided further that no protest or appeal has been filed with the Stewards or the Commission.

(9) In the event a protest or appeal has been filed with the Stewards or the Commission, the Horsemen's Bookkeeper shall disburse the purse within forty-eight (48) hours of receipt of a dismissal or a final non-appealable order disposing of such protest or appeal.

(10) All records of the Horsemen's Bookkeeper including records of accounts and monies and funds kept on deposit are subject to inspection by the Commission at any time.

(11) The organization licensee is subject to disciplinary action by the Commission for any violations of or non-compliance with the provisions of this Section.

325:10-1-30. Minimum standards for pari-mutuel racing facility

In order for an organization to be granted a license to conduct pari-mutuel racing, the facility shall meet but not be limited to the following minimum requirements:

(1) A track shall include a straightaway course of ~~no less than 440~~ a minimum of 350 yards in length and a minimum of seventy feet (70') in width. The straightaway shall connect with an oval not less than one-half (2) mile in circumference; except that the width may vary according to the number of horses started in a field, but a minimum of thirty feet (30') shall be allowed for the first two (2) horses with an additional five feet (5') for each added starter; ~~except that if the facility was licensed by the Commission prior to adoption of the June 1986 Rules of Racing (Pari Mutuel Edition), then a minimum field of twelve (12) horses may be run in Thoroughbred races or in other breed races as requested by the organization licensee and as specifically approved by the Commission or the Commission Executive Director as may otherwise be requested by the organization licensee and specifically approved by the Commission.~~

(2) The inner and outer rails shall extend the entire length of the straightaway and around the connecting oval; it shall be at least thirty-eight inches (38") and not more than forty-two inches (42") in height, and constructed of material approved by the Commission. Whatever construction material is used must provide for the safety of both horse and rider.

(3) Stabling facilities should be adequate for the number of horses to be on hand for the meet. In no case will a track with less than two hundred (200) stalls be acceptable.

(4) Stands for Stewards and Timers shall be located exactly on the finish line and provide a commanding and uninterrupted view of the entire racing strip.

(5) The paddock shall be spacious enough to provide adequate safety. The jockey's room shall be in or adjacent to the paddock enclosure and shall be equipped with separate but equal complete sanitation facilities including showers for both male and female riders. This area must be fenced to keep out unauthorized persons and provide maximum security and safety. The fence shall be at least four feet (4') high of chain link, V-mesh or similar construction.

(6) A Test Barn with a minimum of two (2) stalls shall be provided for the purpose of collecting urine specimens. The Test Barn and a walking ring large enough to accommodate several horses cooling out at the same time, shall be completely enclosed by a fence at least eight feet (8') high of chain link, V-mesh, similar, or solid construction. There shall be ~~only one entrance~~ maximum of two entrances into the Test Barn enclosure which shall remain locked or guarded at all times. Provisions shall be made in this area for an office to accommodate the needs of the Official Veterinarian and from which s/he can observe the stalls and the entrance into the Test Barn enclosure. The organization shall provide facilities for the immediate cooling and freezing of all urine specimens, and shall make provisions for the specimens to be shipped to the laboratory packed in dry ice.

(7) A grandstand or bleachers shall be provided for the spectators and shall provide for the comfort and safety of the spectators. Facilities must include restrooms and a public water supply.

[OAR Docket #13-485; filed 4-2-13]

**TITLE 325. OKLAHOMA HORSE RACING
COMMISSION
CHAPTER 15. LICENSING**

[OAR Docket #13-486]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
- 325:15-1-2. Definitions [AMENDED]
- Subchapter 5. Occupation Licensing
- 325:15-5-8. Certain prohibited licenses [AMENDED]
- 325:15-5-17. Qualifications for Apprentice Jockey [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

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Not Applicable

INCORPORATIONS BY REFERENCE:

Not Applicable

ANALYSIS:

The last printing of the Commission's *Rules of Racing* document was completed in August, 1999. In updating the *Rules of Racing* document to include all amendments since the 1999 printing, scrivener errors were found in Rule 325:15-1-2 and Rule 325:15-5-8, so amendments were proposed to make the appropriate corrections. For Rule 325:15-5-17, an amendment was proposed to effect changes made in CY 2001 Commission adoption by both permanent and emergency rulemaking. Unfortunately, Commission Staff in CY 2001 inadvertently erred in not forwarding the materials under permanent rulemaking, resulting in the changes reverting to the former language at the end of the emergency adoption period of July 14, 2012.

These changes will make review of rules simpler and faster than the current procedure of referring to two documents: the last printing in August, 1999 of the *Rules of Racing* and then the Cumulative Supplement which includes all rule amendments and new rules added since that 1999 publication.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING RULE AMENDMENTS ARE
CONSIDERED FINALLY ADOPTED AS SET FORTH
IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE
DATE OF MAY 15, 2013:**

SUBCHAPTER 1. GENERAL PROVISIONS

325:15-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Act**" means the Oklahoma Horse Racing Act [3A:200 et seq.]

"**Authorized agent**" means a person licensed by the Commission and appointed by a written notarized affidavit by the Owner in whose behalf the Agent will act. Said affidavit must be on file with the Commission.

"**Commissioner**" means a member of the Oklahoma Horse Racing Commission.

"**Controlling owner**" means a person or family who owns or votes fifty percent (50%) or more of the voting shares of a corporation, partnership, syndicate, or other association or entity or who is the Managing, General, or Limited Partner in a partnership which has been issued a currently valid organization license.

"**Day**" means a 24-hour period ending at midnight.

"**Dark day**" means a day during a live race meeting when no pari-mutuel wagering is conducted.

Permanent Final Adoptions

"Entry" means:

- (A) A horse eligible for and entered in a race.
- (B) Two (2) or more horses entered in the same race which have common ties of ownership, lease, or training.

"Horse" means:

- (A) any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;
- (B) an entire equine male five years of age and older.

"Horse racing facility - major pari-mutuel" means a facility having those physical and locational characteristics in accord with the Oklahoma Horse Racing Act and which will qualify it for the Breeders' Cup Series or other graded stakes races as granted by The North American Graded Stakes Committee, or both.

"Jockey" means a rider licensed to race.

"Jockey Agent" means a licensed, authorized representative of a Jockey.

"Lessee" means a licensed Owner whose interest in a horse is by virtue of a completed Commission-approved lease form attached to the Registration Certificate and on file with the Commission.

"Lessor" means the Owner of a horse that is leased.

"Occupation license" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"Organization license" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"Owner" means any person who holds in whole or in part, any right, title or interest in a horse or an organization licensee or any person who is a lessee of a horse and has been duly issued a currently-valid Owner license as a person responsible for such horse.

"Race" means a contest between horses.

"Race Day" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"Restricted area" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the organization licensee and/or the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

"Rules" means the rules adopted by the Commission to implement the provisions of the Act.

"Scratch time" means the deadline for withdrawal of entries from an overnight race.

"Shareholder" means a person who owns some share of ownership, including entitlement to potential profits or losses in a corporation, partnership, syndicate, association or other multiple ownership entity.

"Stable name" means a name used other than the actual legal name of an Owner or lessee which is registered with the Commission.

"Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Trainer" means a person qualified and licensed by the Commission as a Trainer.

"Week" means a calendar week.

"Year" means a calendar year.

SUBCHAPTER 5. OCCUPATION LICENSING

325:15-5-8. Certain prohibited licenses

Commission-licensed Jockeys, Veterinarians, ~~organizations~~organization's security personnel, and such other licensees designated by the Stewards with approval of the Commission, shall not be licensed in any other capacity. The Commission may refuse to issue a license to a person whose spouse holds a license and which, in the opinion of the Stewards, would create a conflict of interest.

325:15-5-17. Qualifications for Apprentice Jockey

An Apprentice Jockey is a race rider who has ridden less than forty (40) winners since first having been licensed in any racing jurisdiction, and who otherwise meets the license qualifications of a Jockey. An Apprentice may be granted an Apprentice certificate issued by the Stewards and filed with the Commission in lieu of a traditional Apprentice contract. An Apprentice may execute a written contract, if a minor with written consent of his/her parents or guardian, to an Owner or Trainer for a period of not less than three nor more than five (5) years. All contracts and transfers of contracts must be approved by the Stewards and filed with the Commission. A contract employer shall not have any interest in the earnings of an Apprentice Jockey. Racing Officials and their licensed assistants and employees shall not directly or indirectly buy or sell any contract upon any Jockey or Apprentice Jockey for himself or any other person. In all overnight races except overnight stake and/or handicaps run exclusively for Thoroughbreds, an Apprentice Jockey shall ride with a five pound weight allowance beginning with his/her first mount and for one (1) full year from the date of his/her fifth winning mount. If, after riding one (1) full year from the date of his/her fifth winning mount, the Apprentice Jockey has failed to ride a total of forty (40) winners from the date of his/her fifth winning mount, s/he shall continue to ride with a five pound weight allowance for one more year from the date of his/her fifth winning mount, or until s/he has ridden a total of forty (40) winners, whichever comes first. In no event may a weight allowance be claimed for more than two years from the date of the fifth winning mount, unless an extension has been granted. Only Thoroughbred races at authorized race meetings in the United States, Canada, or Mexico which are reported in the DAILY RACING FORM or other recognized racing publications shall be considered in determining eligibility for license as an Apprentice Jockey. If an Apprentice Jockey is unable to

ride for a period of fourteen (14) consecutive days or more after the date of his/her fifth ~~inning~~-winning mount because of service in the Armed Forces of the U.S.A., or because of physical disablement, the Commission may extend the time during which such apprentice weight allowance may be claimed for a period not to exceed the period such Apprentice Jockey was unable to ride.

[OAR Docket #13-486; filed 4-2-13]

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

[OAR Docket #13-487]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- 325:20-1-2. Definitions [AMENDED]
- 325:20-1-4. Responsibility to the Commission [AMENDED]
- 325:20-1-18. Duties of the Clerk of Scales [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

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SUPERSEDED EMERGENCY ACTIONS:

Not Applicable

INCORPORATIONS BY REFERENCE:

Not Applicable

ANALYSIS:

The last printing of the Commission's *Rules of Racing* document was completed in August, 1999. In updating the *Rules of Racing* document to include all amendments since the 1999 printing, scrivener errors were found in Rule 325:20-1-2, Rule 325:20-1-4 and Rule 325:20-1-18, so amendments were proposed to make the appropriate corrections.

These changes will make review of rules simpler and faster than the current procedure of referring to two documents: the last printing in August, 1999 of the *Rules of Racing* and then the Cumulative Supplement which includes all rule amendments and new rules added since that 1999 publication.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE AMENDMENTS ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2013:

325:20-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"Bar shoe" means a shoe with a closed heel protecting the horse's foot with an attached bar [i.e., egg bar, straight bar, heart bar].

"Bends" means a shoe which has had the heel bent downward; also known as "turn downs."

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Day" means a 24-hour period ending at midnight.

"Declaration" means the act of withdrawing an entered horse from a race before the closing of entries.

"Draw" means the process of publicly assigning post positions and selecting contestants in a manner to insure compliance with the conditions of the rules of racing.

"Entry" means:

- (A) A horse eligible for and entered in a race.
- (B) Two (2) or more horses entered in the same race which have common ties of ownership, lease, or training.

"Hind shoes" means shoes worn on the rear feet of the horse.

"Horse" means:

- (A) any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;
- (B) an entire equine male five years of age and older.

"Inquiry" means:

- (A) an investigation by the Stewards of potential interference in a contest prior to declaring the result of said contest official; or
- (B) the Stewards or Commission investigation of a matter alleged to be related to the provisions of the Act or the rules of the Commission.

"Jar caulk" means small cleats inserted into the back end of a horse's shoe; most often used when the track surface becomes muddy, heavy or slick; also known as "mud caulks."

"Jockey" means a rider licensed to race.

"Memphis bar" means a narrow piece of metal welded across the quarters of the horse shoe, used singly, across the toe quarter and on hinds, providing more traction or break over on long footed horses.

"No contest" means a race canceled for any reason by the Stewards.

"Occupation license" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

Permanent Final Adoptions

"**Organization license**" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"**Post position**" means the position in the starting gate assigned to the horse for the start of the race.

"**Post time**" means the scheduled time set for the arrival of the horses at the starting gate for the race.

"**Program**" means the published listing of all contests and contestants for a specific performance.

"**Race**" means a contest between horses.

"**Race day**" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"**Restricted area**" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the organization licensee or the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

"**Rules**" means the rules adopted by the Commission to implement the provisions of the Act.

"**Scratch**" means the act of withdrawing an entered horse from a race after the closing of entries.

"**Scratch time**" means the deadline for withdrawal of entries after the closing of entries.

"**Sticker**" means a metal protrusion inserted/attached on one side of the shoe.

"**Swedge**" means a lengthwise indentation in the web of the horse shoe which fills with dirt, giving more traction than the horse shoe alone.

"**Toe grab**" means a metal bar welded lengthwise into the toe of a horse's shoe.

"**Trainer**" means a person qualified and licensed by the Commission as a Trainer.

"**Traction device**" means anything added to a horse shoe to enhance traction, including special nails, heel caulks, toe caulks, grabs, jar caulks, swedges and Memphis bars.

"**Weigh in**" means the presentation of a jockey to the clerk of scales for weighing after a race.

"**Weigh out**" means the presentation of a jockey to the clerk of scales for weighing prior to a race.

"**Year**" means a calendar year.

325:20-1-4. Responsibility to the Commission

The Racing Officials are strictly responsible to the Commission for the performance of their respective duties, and they shall promptly report to the Commission or its Stewards any violation of the rules and regulations of the Commission coming to their attention or of which they have knowledge. Any Racing Official who fails to exercise due diligence in the performance of his/her duties shall be relieved of his/her duties by the Stewards and the matter referred to the Commission.

325:20-1-18. Duties of the Clerk of Scales

The Clerk of Scales is responsible for the presence of all Jockeys in the Jockey's room at the appointed time and to verify that all jockeys have a current Oklahoma Jockey's license. The Clerk of Scales shall verify the correct weight of each Jockey at the time of weighing out and when weighing in, and shall report any discrepancies to the Stewards immediately. In addition, s/he shall be responsible for the security of the Jockey's room and the conduct of the Jockeys and their attendants. He or she shall promptly report to the Stewards any alleged infraction of the Act or rules of this Title with respect to weight, weighing, riding equipment, or conduct. He or she shall be responsible for accounting of all data ~~require~~required on the scale sheet and submit that data to the Horsemen's Bookkeeper at the end of each race day. He or she shall maintain the record of applicable winning races on all Apprentice Certificates at the meeting; and at the close of the meeting, or on the departure of the Apprentice Jockeys, the Apprentice Certificates shall be released to them.

[OAR Docket #13-487; filed 4-2-13]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 25. ENTRIES AND DECLARATIONS

[OAR Docket #13-488]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:25-1-2. ~~Definitions~~Definitions [AMENDED]

325:25-1-11. Age restrictions [AMENDED]

325:25-1-23. Nomination payment races [AMENDED]

325:25-1-30.1. Naming/engaging of riders [NEW]

325:25-1-32. Coggins test [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

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Gubernatorial approval:

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Not Applicable

INCORPORATIONS BY REFERENCE:

Not Applicable

ANALYSIS:

The last printing of the Commission's Rules of Racing document was completed in August, 1999. In updating the Rules of Racing document to include all amendments since the 1999 printing, scrivener errors were found in Rule 325:25-1-2 and Rule 325:25-1-23, so amendments were proposed to make the appropriate corrections. Rule 325:25-1-23, updated since the 1999 printing, has an error in the amendment that needs to be corrected. For Rule 325:25-1-11, amendments were proposed to effect changes made in CY 2001 Commission adoption by both permanent and emergency rulemaking. Unfortunately, Commission Staff in CY 2001 inadvertently erred in not forwarding the materials under permanent rulemaking, resulting in the changes reverting to the former language at the end of the emergency adoption period of July 14, 2012. This same error affected a new rule, Rule 325:25-1-30.1, adopted in CY 2001, so it has been resubmitted as a new rule.

These changes will make review of rules simpler and faster than the current procedure of referring to two documents: the last printing in August, 1999 of the Rules of Racing and then the Cumulative Supplement which includes all rule amendments and new rules added since that 1999 publication.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE AMENDMENTS ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2013:

325:25-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"Accredited Oklahoma-Bred horse" means a horse that is eligible pursuant to the Act and Commission rules and whose registration in the Oklahoma-Bred Program has been completed by the official Registering Agency.

"Added money" means the amount exclusive of trophy added into a stakes by the organization licensee, of by sponsors, state-bred programs, or other funds added to those monies gathered by nomination, entry, sustaining and other fees coming from the horsemen.

"Age" means that the age of a horse is reckoned as beginning on the first day of January in the year in which the horse is foaled.

"Also eligible" means:

(A) A number of eligible horses, properly entered, which were not drawn for inclusion in a race, but which become eligible according to preference or lot if an entry is scratched from a race prior to scratch time.

(B) In a trial race, the next preferred contestant that is eligible to participate when an entry is scratched, pursuant to the written conditions of the race.

"Assistant trainer" means a person qualified and licensed by the Commission as an Assistant Trainer.

"Authorized agent" means a person licensed by the Commission and appointed by a written notarized affidavit by

the Owner in whose behalf the Agent will act. Said affidavit must be on file with the Commission.

"Closing" means the time published by the organization licensee after which nominations or entries will not be accepted for a race.

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Conditions of a race" means the qualifications which determine the eligibility of a horse to be entered in a race.

"Coupled entry" means two or more contestants in a race that are treated as a single betting interest for pari-mutuel wagering purposes (also see "Entry").

"Day" means a 24-hour period ending at midnight.

"Declaration" means the act of withdrawing an entered horse from a race before the closing of entries.

"Draw" means the process of publicly assigning post positions and selecting contestants in a manner to insure compliance with the conditions of the rules of racing.

"Entry" means:

- (A) A horse eligible for and entered in a race.
(B) Two (2) or more horses entered in the same race which have common ties of ownership, lease, or training (also see "Coupled Entry").

"Field" means all horses competing in a race.

"Horse" means:

- (A) any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;
(B) an entire equine male five years of age and older.

"Lessee" means a licensed Owner whose interest in a horse is by virtue of a completed Commission-approved lease form attached to the Registration Certificate and on file with the Commission.

"Lessor" means the Owner of a horse that is leased.

"Maiden" means a horse which has never won an official or recognized race as defined in defined in breed registry rules. A maiden which has been disqualified after finishing first is still a maiden.

"Mutuel field" means two or more contestants treated as a single betting interest for pari-mutuel wagering purposes because the number of betting interests exceeds the number that can be handled individually by the pari-mutuel system.

"Nomination" means the naming of a horse to a certain race or series of races generally accompanied by payment of a prescribed fee.

"Nominator" means the person who nominates a horse as a possible contender in a race.

"Occupation license" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"Occupation licensee" means any person who has obtained an occupation license.

"Organization license" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"Owner" means any person who holds, in whole or in part, any right, title or interest in a horse or an organization

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licensee or any person who is a lessee of a horse and has been duly issued a currently-valid Owner license as a person responsible for such horse.

"Post position" means the position in the starting gate assigned to the horse for the start of the race.

"Post time" means the scheduled time set for the arrival of the horses at the starting gate for the race.

"Program" means the published listing of all contests and contestants for a specific performance.

"Race" means a contest between horses.

"Race day" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"Races" mean:

(A) **Allowance.** An overnight race for which eligibility and weight to be carried is determined according to specified conditions which include age, sex, earnings, number of wins, and distance of race.

(B) **Claiming.** A race in which any horse starting may be claimed and purchased for a designated amount in conformance with the rules in this Title.

(C) **Exhibition.** A race on which no wagering is permitted.

(D) **Handicap.** A race in which the weights to be carried by the horses are assigned by the Racing Secretary.

(E) **Invitational.** A race in which the competing horses are selected by inviting their Owners to enter specific horses.

(F) **Maiden.** A race restricted to non-winners.

(G) **Match.** A race contested between two or more horses under conditions agreed to by their Owners.

(H) **Nomination.** A race in which the subscription to a payment schedule nominates and sustains the eligibility of a particular horse. Nominations must close at least seventy-two (72) hours before the first post time of the day the race is originally scheduled to be run.

(I) **Oklahoma-Bred.** A race for which entry may be restricted to accredited Oklahoma-Bred registered horses.

(J) **Overnight (Purse).** A race for which entries close at a time set by the Racing Secretary.

(K) **Progeny.** A race restricted to the offspring of a specific stallion or stallions.

(L) **Schooling.** A preparatory race for entry qualification in official races which conforms to requirements adopted by the Commission.

(M) **Stakes.** A race which is eligible for stakes or "black-type" recognition by the particular breed registry.

(N) **Trial.** A race ~~of~~ a series of races in which horses participate for the purpose of determining eligibility for a subsequent contest.

(O) **Walkover.** A race in which only one horse starts or in which all the starters are owned by the same interest. To claim the purse, a horse must start and go the distance of the race.

"Restricted area" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the organization licensee or the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

"Rules" means the rules adopted by the Commission to implement the provisions of the Act.

"Scratch" means the act of withdrawing an entered horse from a race after the closing of entries.

"Scratch time" means the deadline for withdrawal of entries from a scheduled race.

"Starter" means a horse whose stall door of the starting gate opens in front of such horse at the time the Starter (the Official) dispatches the horses.

"Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Subscription" means the act of nominating a horse to a nomination race.

"Trainer" means a person qualified and licensed by the Commission as a Trainer.

"Week" means a calendar week.

"Weight for age" means a race in which a fixed scale is used to assign the weight to be carried by individual horses according to age, sex, distance of the race, and season of the year.

"Year" means a calendar year.

325:25-1-11. Age restrictions

~~No maiden six (6) years or older shall~~ A maiden of any age may be permitted to compete in a race with the pari-mutuel system of wagering ~~and in schooling races held in conjunction with a pari-mutuel race meeting.~~ A horse must have attained January 1 of its two-year-old year to be eligible to occupy a stall during any licensed race meeting.

325:25-1-23. Nomination payment races

(a) It is the organization's responsibility, as licensee, to ensure the payment of all purse monies and to submit requested information to the Commission although some entity or person other than the organization may be the race sponsor.

(b) The organization shall provide the Commission with a copy of written race conditions and executed contracts between the organization and race sponsors, including escrow provisions made by the organization or between the organization and race sponsor on behalf of the nominators, utilizing an FDIC or FSLIC financial institution(s) to maintain the escrow account(s) for all nomination payment races run at the organization's race meeting(s). The organization shall provide the Commission with a list(s) by race name and dates of trials/finals of any race for which nomination payments will be accepted at a race meeting. Adjacent to each race name shall be stated:

(1) that the track receives the race and nomination payment monies, or

(2) the identity of the association and person who receives nominations and sustaining payment monies for referenced races.

(c) Prior to the closing of nominations, the organization shall file with the Commission a copy of the nomination blank and all written advertisements for races to be run during a race meeting. Any added or supplemental purse money advertised or otherwise stated in written race conditions shall be deposited in the escrow account no later than the deadline date for the first eligibility payment for that race. Any added or supplemental purse money must be clearly identified as such in race conditions, in nomination lists, and in escrow reports. The written conditions of the race must clearly state to whom interest earned on nomination/sustaining payments received from horsemen or added money is retained or paid. All amounts or percentages to be deducted from nomination or sustaining payments or from added money must be disclosed to the horsemen in the written race conditions. For all nomination races the organization shall furnish the Commission and the Owners of horses previously made eligible by compliance with the conditions of such race, with a list of all horses nomination distinguishing those horses which remain eligible. The list shall be distributed within fifteen (15) days after the due date of each nomination and sustaining payment and shall include name of race; name of horse; name of Owner; itemization of payments and gross purse to date, including any added monies, applicable interest, and supplementary payments.

(d) Periodically, within fifteen (15) days after each eligibility or payment date and the date horses pass the entry box, the organization shall provide a written escrow report to the Commission reflecting verifications for each nomination payment race from the financial institution(s) where escrow accounts are maintained. The escrow report shall include the financial institution representative; names of nominators; total number of entries; names of horses remaining eligible; names of horses dropped; an itemization of amount of payments and added money received including totals; amount of interest accrued to date; amounts and dates of each withdrawal, if any; each deduction from monies received, e.g., uncollected checks, advertising, promotion, administrative costs; and the stated purpose of each withdrawal or deduction.

(e) Additionally, within fifteen (15) days after the official running of the nomination payment race or upon any refund or payment distributable pursuant to race conditions or Commission rules, the organization shall provide to the Commission the final escrow report for each race including itemization as required above in periodic reports and final certification by the escrow institution(s) that checks were made payable to the purse winners at the addresses specified in the final escrow report according to the official order of finish or other determination made by the Stewards, the Commission, or a court of law.

325:25-1-30.1. Naming/engaging of riders

Riders must be named at the time of entry, or in no case later than scratch time (if applicable). Before naming a rider, the trainer, or owner, or person authorized to name a rider, must first engage the services of that rider for a particular race.

325:25-1-32. Coggins test

No horse shall be allowed to race in Oklahoma unless it has had a Coggins test taken within 12 months of the date of the race in question with a negative result. Record of the negative test shall be attached to registration papers of the horse. The trainer of the horse is responsible for insuring that a negative Coggins test result is in the ~~racin~~Racing~~secretary's~~ Secretary's office as required by this rule.

[OAR Docket #13-488; filed 4-2-13]

**TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 30. CLAIMING RACES**

[OAR Docket #13-489]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:30-1-2. Definitions [AMENDED]

325:30-1-5. Prohibited actions with respect to claim [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

DATES:

Comment Period:

November 15, 2012 through January 7, 2013

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Submitted to Governor:

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Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2013

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March 28, 2013

Effective:

May 15, 2013

SUPERSEDED EMERGENCY ACTIONS:

Not Applicable

INCORPORATIONS BY REFERENCE:

Not Applicable

ANALYSIS:

The last printing of the Commission's *Rules of Racing* document was completed in August, 1999. In updating the *Rules of Racing* document to include all amendments since the 1999 printing, scrivener errors were found in Rule 325:30-1-2 and Rule 325:30-1-5, so amendments were proposed to make the appropriate corrections.

These changes will make review of rules simpler and faster than the current procedure of referring to two documents: the last printing in August, 1999 of the *Rules of Racing* and then the Cumulative Supplement which includes all rule amendments and new rules added since that 1999 publication.

CONTACT PERSON:

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING RULE AMENDMENTS ARE**

Permanent Final Adoptions

CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2013:

325:30-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"Age" means that the age of a horse is reckoned as beginning on the first day of January in the year in which the horse is foaled.

"Assistant trainer" means a person qualified and licensed by the Commission as an Assistant Trainer.

"Authorized agent" means a person licensed by the Commission and appointed by a written notarized affidavit by the Owner in whose behalf the Agent will act. Said affidavit must be on file with the Commission.

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Day" means a 24-hour period ending at midnight.

"Field" means all horses competing in a race.

"Horse" means:

- (A) any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;
- (B) an entire equine male five years of age and older.

"Lessee" means a licensed Owner whose interest in a horse is by virtue of a completed Commission-approved lease form attached to the Registration Certificate and on file with the Commission.

"Lessor" means the Owner of a horse that is leased.

"Occupation license" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"Organization license" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"Owner" means any person who holds, in whole or in part, any right, title or interest in a horse or an organization licensee or any person who is a lessee of a horse and has been duly issued a currently-valid Owner license as a person responsible for such horse.

"Race" means a contest between horses.

"Race day" means a day during a race meeting when pari-mutuel wagering is conducted on live racing conducted at that racetrack.

"Rules" means the rules adopted by the Commission to implement the provisions of the Act.

"Stable name" means a name used other than the actual legal name of an Owner or lessee which is registered with the Commission.

"Starter" means a horse whose stall door of the starting gate opens in front of such horse at the time the Starter (the Official) dispatches the horses.

"Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Trainer" means a person qualified and licensed by the Commission as a Trainer.

"Year" means a calendar year.

325:30-1-5. Prohibited actions with respect to claim

No person shall:

(1) Enter into or offer to enter into any agreement to claim any horse unless all parties to the agreement are eligible to claim.

(2) Claim his/her own horse or cause his/her own horse to be claimed directly or indirectly for his/her own account.

(3) Attempt to prevent or prevent any racing interest from running a horse in any race for which it is entered or from claiming any horse in any claiming race.

(4) Make any agreement with any other person or racing interest for the protection of each other's horses in any claiming race.

(5) Make any loan agreement for the purpose of obtaining funds for the claim of any horse when a condition of such agreement is a lien on the horse to be claimed.

(6) Except with permission of the Stewards, remove any horse which has been entered in a claiming race from the grounds of the organization where it is entered to race, or fail or refuse to comply with any rule or any condition of the meeting for the purpose of avoiding or preventing a claim for such horse.

(7) Claim more than one (1) horse for the account of any racing interest from ~~any~~ one claiming race, nor, if an Authorized Agent representing more than one (1) racing interest, file more than two (2) separate claims on behalf of any of the racing interests s/he may represent.

(8) Offer any monetary or other reward to any Pony Rider, Exercise Person, Groom, stable employee or other licensee for information relative to the physical condition or merit of a horse, or provide information relative to the physical condition or merit of a horse from the time such horse is entered in a claiming race until the expiration of time to make a claim on such horse in that claiming race.

[OAR Docket #13-489; filed 4-2-13]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 35. GENERAL CONDUCT

[OAR Docket #13-490]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:35-1-2. Definitions [AMENDED]

325:35-1-13. Possession of contraband [AMENDED]

325:35-1-34. Election of horsemen's representative organizations and agreements [AMENDED]

325:35-1-37. Agreements to be filed [AMENDED]

325:35-1-38. Prohibited provisions of horsemen's agreements [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

DATES:

Comment Period:

November 15, 2012 through January 7, 2013

Public Hearing:

January 7, 2013

Adoption:

January 24, 2013

Submitted to Governor:

January 30, 2013

Submitted to House:

January 30, 2013

Submitted to Senate:

January 30, 2013

Gubernatorial approval:

February 18, 2013

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2013

Final Adoption:

March 28, 2013

Effective:

May 15, 2013

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

325:35-1-13. Possession of contraband [AMENDED]

Gubernatorial approval:

April 19, 2012

Register publication:

29 Ok Reg 724

Docket number:

12-582

INCORPORATIONS BY REFERENCE:

Not Applicable

ANALYSIS:

The last printing of the Commission's *Rules of Racing* document was completed in August, 1999. In updating the *Rules of Racing* document to include all amendments since the 1999 printing, scrivener errors were found in Rules 325:35-1-2, 325:35-1-37 and Rule 325:35-1-38, so amendments were proposed to make the appropriate corrections. For Rule 325:35-1-34, amendments were proposed to effect changes made in CY 2001 Commission adoption by both permanent and emergency rulemaking. Unfortunately, Commission Staff in CY 2001 inadvertently erred in not forwarding the materials under permanent rulemaking, resulting in the changes reverting to the former language at the end of the emergency adoption period of July 14, 2012.

For Rule 325:35-1-13, the Commission's Ad Hoc Committee on Medications presented proposed rule amendments to address the improper use of Clenbuterol, used for treating horses affected with airway obstruction, since it was also being used for its anabolic effect of increasing muscle mass which increased its usage after anabolic steroids were banned in 2008. In the September, 2011 issue of the *Journal of American Veterinary Medicine*, the researchers found that abuse through overdose and the use of compounds of the therapeutic medication Clenbuterol have profound negative effects on the health of horses, which include muscle tremors evident over the entire body, an unwillingness to bear weight on all limbs, much sweating and tachycardia (increased heart rate), and neurologic abnormalities including loss of coordinated motor activities, which can and have led to the death of horses. Further, the overdose of Clenbuterol in broodmares and stallions has the potential to affect their reproductive ability.

The Ad Hoc Committee on Medications recommended that the proposed rule amendments be adopted under both emergency and permanent rulemaking processes so that the amendments would take effect on an emergency basis upon gubernatorial approval through July 14, 2013 while the proposed rule amendments would go through the permanent rulemaking process with a possible May or June, 2013 effective date. The Commission adopted proposed rule amendments on an emergency basis to restrict the non-FDA-approved forms of Clenbuterol. Specifically, the rule amendment addressed the contraband already in effect, reflecting that possession of adulterated forms of Clenbuterol at the racetrack, in a form other than the FDA

approved Ventipulmin Syrup or Aeropulmin Syrup, would be prohibited. The amendment took effect on April 19, 2012 with the Governor's signature to be effective through July 14, 2013.

For Rules 325:35-1-34, 325:35-1-37 and 325:35-1-38, these changes will make review of rules simpler and faster than the current procedure of referring to two documents: the last printing in August, 1999 of the *Rules of Racing* and then the Cumulative Supplement which includes all rule amendments and new rules added since that 1999 publication. The Commission also wants to make the proposed amendments to Rule 325:35-1-13 take effect permanently.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE AMENDMENTS ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2013:

325:35-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"Assistant trainer" means a person qualified and licensed by the Commission as an Assistant Trainer.

"Authorized agent" means a person licensed by the Commission and appointed by a written notarized affidavit by the Owner in whose behalf the Agent will act. Said affidavit must be on file with the Commission.

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Conditions of a race" means the qualifications which determine the eligibility of a horse to be entered in a race.

"Day" means a 24-hour period ending at midnight.

"Drug (medication)" means a substance foreign to the normal physiology of the horse.

"Entry" means:

- (A) A horse eligible for and entered in a race.
- (B) Two (2) or more horses entered in the same race which have common ties of ownership, lease, or training.

"Horse" means:

- (A) any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;
- (B) an entire equine male five years of age and older.

"Jockey" means a rider licensed to race.

"Lessee" means a licensed Owner whose interest in a horse is by virtue of a completed Commission-approved lease form attached to the Registration Certificate and on file with the Commission.

"Lessor" means the Owner of a horse that is leased.

"Medication" means a substance other than food intended to affect the structure or any function of the body of a human or a horse.

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"Occupation license" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"Organization license" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"Owner" means any person who holds, in whole or in part, any right, title or interest in a horse or an organization licensee or any person who is a lessee of a horse and has been duly issued a currently-valid Owner license as a person responsible for such horse.

"Race" means a contest between horses.

"Race day" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"Restricted area" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the organization licensee or the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

"Rules" means the rules adopted by the Commission to implement the provisions of the Act.

"Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Trainer" means a person qualified and licensed by the Commission as a Trainer.

"Week" means a calendar week.

"Year" means a calendar year.

325:35-1-13. Possession of contraband

No person other than a Veterinarian licensed by the Commission shall have in his/her possession within the enclosure any prohibited substance, drug or medication, any injectable substance, or any hypodermic syringe or hypodermic needle or similar instrument which may be used for injection. Nor shall any person have in his/her possession within the enclosure the drug Clenbuterol other than in a form approved by the FDA, which approval currently allows the use of Clenbuterol under two brand names, Ventipulmin Syrup and Aeropulmin Syrup. Possession within the enclosure of any form of Clenbuterol other than the Ventipulmin Syrup and Aeropulmin Syrup, in their original container, the container in which the drug was distributed by its manufacturer, is prohibited. No person shall have in his/her possession within the enclosure any device which can be used for the purpose of stimulating or depressing the horse or affecting its speed at any time other than the ordinary whip or twitch approved by the Stewards. The Stewards may permit the possession of drugs or appliances by a licensee for personal medical needs under such condition as the Stewards may impose.

325:35-1-34. Election of horsemen's representative organizations and agreements

(a) The Commission of this state recognizes the necessity of horse Owners and Trainers to negotiate and to covenant with Organization Licensees as to the conditions for each race meeting, the distribution of commissions and purses not governed by statutory distribution formulae, simulcast transmission and reception, off-track wagering, all matters relating to welfare, benefits and prerogatives of the parties to the agreement, and any other matter required as a matter of law or necessity. To fulfill its duties to the public in authorizing the conduct of an uninterrupted, orderly race meeting during the licensed term of such race meetings, the Commission shall recognize the Organization elected by horsemen that was, in 2003, providing representation for participating Thoroughbred horsemen at meets restricted to Thoroughbred horses as the official representative of all Thoroughbreds participating in live race meets conducted by organization licensee. The organization elected by horsemen that was, in 2003, providing representation for the breeds participating in mixed-breed racing shall be recognized by the Commission as the official representative for all non-Thoroughbreds participating in live race meets conducted by organization licensee. In the event that more than fifty percent (50%) of the total participating horsemen for a single breed opt to be excluded from representation by the recognized organizations, the Commission may determine that an election be held among all participating horsemen of that breed(s) to designate an alternate representative organization.

(b) Such an election shall be held so that an alternate organization can be elected to represent Thoroughbred Owners and Trainers throughout the State or represent Quarter Horse, Paint and Appaloosa Owners and Trainers throughout the State.

(c) The Horsemen's Organizations elected at a bona fide election shall be recognized by the Commission as the organization empowered exclusively to contract with an Organization Licensee as to all issues pertaining to the conduct of races for the breed or breeds represented. No person shall serve as an officer or director of an acknowledged Horsemen's Organization, other than in an honorary capacity, at the same time such person serves as an officer or director of an Organization Licensee or as an officer or director of an entity which is a principal shareholder of any Organization Licensee.

(d) The procedure for the election shall be as follows:

(1) Within thirty (30) days after the Commission determines that more than 50% of the participating Owners and Trainers represented by either of the Horsemen's Organizations have opted out of participation, any eligible bona fide Horsemen's Organization or association, hereinafter the "Horsemen's Organization," desiring to be put on the election ballot shall make that intent known, in writing, to the Commission and to each Organization Licensee. If only one bona fide Horsemen's Organization has filed for any representative position, the Commission shall declare that Horsemen's Organization as the winner and there will be no election held with regard to that position.

(2) Those persons eligible to vote in any election shall include Commission-licensed Owners, Trainers and Owner-Trainers that participated in starting a horse

at a race meeting within 365 days of the Commission's determination that an election is to be held. In the case of partnerships, corporations, syndicates or other multiple ownerships, each such entity shall have only one vote regardless of the number of licensed Owners, partners or syndicate members making up such partnership, corporation or syndicate. However, any licensed Owners who start a horse in their own name, separate from the partnership, corporation or syndicate, shall be entitled to their own votes.

(3) Each Horsemen's Organization which files an intent to become the Horsemen's Representative shall post a deposit as determined by the Commission for each election the Horsemen's Organization chooses to enter. Any proportionate cost of conducting the election will be established by the Oklahoma Horse Racing Commission and must be paid by each organization before its name can appear on the ballot(s). The money must be forwarded in the form of cash, check or money order and shall be held in a special account (the "Special Account") with the Horsemen's Bookkeeper at a racetrack designated by the Commission to be used exclusively for administering and conducting that particular Horsemen's Representative election and will be administered by an independent party. The ballot preparation, addressing, stamping, mailing, actual counting of the ballots, certification of results, and the administration of the Special Account will be conducted by an independent party (the "Independent Party") having no interest in the outcome of the election. The Commission shall select the Independent Party to conduct the duties required under this section.

(4) All racetracks shall furnish the Racing Commission with names and addresses of each eligible Owner, Owner-Trainer and Trainer. The lists from racetracks shall be combined by the Independent Party conducting the election to prevent duplication in preparation of a single ballot for each eligible voting entity. A copy of the combined list will be provided to the Commission and to each of the bona fide organizations seeking election. Any organization seeking to challenge the validity of the list must do so within five (5) days of being provided with the list prepared by the Independent Party. Whenever possible, voting shall occur during a race meeting.

(5) Ballots shall be prepared using a form not readily susceptible to falsification with said ballots being sequentially numbered. A log shall be maintained as to the eligible Owners, Owner-Trainers and Trainers with each such eligible Owner, Owner-Trainer and Trainer being assigned a sequentially numbered ballot. Each ballot shall require the voter to list the name of at least one horse started by that voting entity during the specified 365 day period. Only one ballot shall be issued to a person regardless of how many horses started or separate capacities held by that person.

(6) All ballots will be mailed at the same time with the Independent Party's name and address being listed as the return address for all ballots. All ballots must be returned

by mail directly to that Independent Party or they will be declared invalid.

(7) The ballots will be prepared for mailing and mailed to all eligible Owners and Trainers ~~by a time set by the Commission~~ within twenty (20) days after the deadline for Horsemen's Organizations to declare their intent to be put on the ballot.

(8) Twenty (20) calendar days after the date of mailing of the ballots, the ballots returned will be opened and counted. The procedure for opening and counting will be as follows: The Independent Party will open, count and tabulate the ballots. Each organization on the ballot for an election may designate a representative to be present at the opening, counting and tabulation of the ballots. The Independent Party will certify the results to the Commission. All Independent Party's costs of this procedure will be paid for from the Special Account funds.

(9) The winner of the election will be determined by majority of all eligible votes received by Independent Party by the twentieth day after mailing of ballots. In the event no Horsemen's Organization receives more than fifty percent (50%) of the eligible votes received in the election for Horsemen's Representative, then there shall be a run-off election (the "run-off") between the two Horsemen's Organizations receiving the highest number of votes. In the event of a tie in the run-off, then the run-off process will be repeated until one Horsemen's Organization receives a majority of the eligible votes received.

(10) In preparation for each run-off, the Horsemen's Organizations participating therein are each required to post an additional deposit in an amount determined by the Commission to cover the anticipated cost of that run-off ("run-off deposit"). There will be an additional run-off deposit for each run-off conducted. The run-off deposit will be placed in the Special Account and administered in a like manner by the Independent Party to cover the costs of the run-off.

(11) At the conclusion of the election(s), an accounting of the available monies on deposit will be made and all expenses of the election(s) will be paid, including reasonable reimbursement for Commission administrative expenses related directly to the election(s), if required by the Commission.

(12) If there was no run-off, then each Horsemen's Organization participating will be assessed its proportionate share of the expenses if the deposits were inadequate. If funds from the deposits are left, they will be refunded proportionately. If after a run-off there are insufficient funds to cover the expenses, then each Horsemen's Organization is required to pay additional money into the fund to cover its proportionate share.

(13) In the event the deposits exceed the expenses after the primary and any run-offs, then the expenses of each election will be separately tabulated and the deposits will be refunded proportionately to the Horsemen's Organizations participating in each respective election.

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(14) All Horsemen's Organizations duly elected shall represent their respective breed(s) until replaced by an election conducted in accordance with Title 3A, Section 267, and this Rule.

325:35-1-37. Agreements to be filed

(a) Each Organization Licensee shall file a copy of its ~~agreement with agreement~~ with the Horsemen's Organization representing the horse Owners and Trainers at the race meeting. In the event the Organization Licensee is unable to obtain and file such an agreement with its application due to the lack of initiative or impasse between parties or due to other reasons, the Commission may, upon notice to the prospective parties to the agreement, conduct a hearing with regard to the conditions of the race meeting and take such actions as it may deem appropriate to ensure continuity of the racing program, including the recognition of the terms of the previous Horsemen's Representative agreement as the terms that will govern the relations between the Organization Licensee and the elected representative until such time the Commission approves an agreement submitted by the parties. The Horsemen's Organization shall provide a copy of the agreement for the conduct of the race meeting to any person requesting same. The Organization Licensee shall cause to be posted on the bulletin board of the Organization Licensee a notice of the location where a copy of the agreement may be obtained.

(b) A Financial Statement, including benevolence activity, shall be filed with the Commission by each elected horsemen's representative organization no later than sixty (60) days after the end of each calendar year for which the organization was the official horsemen's representative.

325:35-1-38. Prohibited provisions of horsemen's agreements

(a) No agreement between the Organization Licensee and the horsemen shall include therein any provision which is in conflict with the Oklahoma Horse Racing Act, the State-Tribal Gaming Act, the *Rules of Racing* of the Commission, the Interstate Horse Racing Act or any other laws or which usurps the authority of the Commission, including but not limited to:

(1)

(1) Any provision which specifies the type of pari-mutuel wagering to be conducted by the Organization Licensee or the number of multiple wager (exotic) pari-mutuel pools to be conducted; or

(2) Any provision which may serve to exclude participation at the race meeting by any individual holding a valid license issued by the Commission.

(b) Nothing herein shall be deemed as an abridgement of the provision of Commission Rule 325:15-5-6 and Commission Rule 325:35-1-29.

[OAR Docket #13-490; filed 4-2-13]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 40. VETERINARIAN PRACTICES

[OAR Docket #13-491]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:40-1-2. Definitions [AMENDED]

325:40-1-8. Postmortem examination [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

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Not Applicable

INCORPORATIONS BY REFERENCE:

Not Applicable

ANALYSIS:

The last printing of the Commission's *Rules of Racing* document was completed in August, 1999. In updating the *Rules of Racing* document to include all amendments since the 1999 printing, scrivener errors were found in Rule 325:30-1-2 and Rule 325:30-1-5, so amendments were proposed to make the appropriate corrections.

These changes will make review of rules simpler and faster than the current procedure of referring to two documents: the last printing in August, 1999 of the *Rules of Racing* and then the Cumulative Supplement which includes all rule amendments and new rules added since that 1999 publication.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE AMENDMENTS ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2013:

325:40-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"Certified Veterinary Technician" means a person who is certified as an Animal Technician or Veterinarian Technician by the Oklahoma Board of Veterinary Medical Examiners- and licensed by the Commission as a Certified Veterinary Technician. A licensed Certified Veterinary Technician must perform all work on the racetrack enclosure under the direct supervision of a Veterinarian licensed in Oklahoma, except that a Certified Veterinary Technician shall not be permitted to administer medication to any entered horse.

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Controlled substance" means any substance included in the five classification schedules of the Oklahoma Uniform Controlled Dangerous Substances Act.

"Day" means a 24-hour period ending at midnight.

"Drug (medication)" means a substance foreign to the normal physiology of the horse.

"Foreign substances" means all substances except those which exist naturally in the untreated horse at normal physiological concentration and shall include but not be limited to all narcotics, stimulants, or depressants.

"Horse" means:

(A) any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;

(B) an entire equine male five years of age and older.

"Medication" means a substance other than food intended to affect the structure or any function of the body of a human or a horse.

"Occupation license" means a state requirement for any person acting in any capacity pursuant to the provisions of the Act.

"Official Veterinarian" means a person qualified and licensed by the Commission as Official Veterinarian.

"Organization license" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"Owner" means any person who holds, in whole or in part, any right, title or interest in a horse or an organization licensee or any person who is a lessee of a horse and has been duly issued a currently-valid Owner license as a person responsible for such horse.

"Race" means a contest between horses.

"Race day" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"Racing Veterinarian" means a person qualified and licensed by the Commission as Racing Veterinarian.

"Restricted area" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the organization licensee or the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

"Rules" means the rules adopted by the Commission to implement the provisions of the Act.

"Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Trainer" means a person qualified and licensed by the Commission as a Trainer.

"Veterinarian" means a person licensed to practice veterinary medicine by the State of Oklahoma and licensed as a Veterinarian by the Commission.

"Week" means a calendar week.

"Year" means a calendar year.

325:40-1-8. Postmortem examination

Every horse, which dies or suffers a breakdown on the racetrack in training or in competition within any enclosure licensed by the Commission and is destroyed, shall undergo, at a time and place acceptable to the Official Veterinarian, a postmortem examination to the extent reasonably necessary to determine the injury or sickness which resulted in euthanasia or natural death. Any other horse which expires within any enclosure may be required by the Official Veterinarian to undergo a postmortem examination.

[OAR Docket #13-491; filed 4-2-13]

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

[OAR Docket #13-492]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:45-1-2. Definitions [AMENDED]

325:45-1-20. Split samples [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

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INCORPORATIONS BY REFERENCE:

Not Applicable

ANALYSIS:

The last printing of the Commission's *Rules of Racing* document was completed in August, 1999. In updating the *Rules of Racing* document to include all amendments since the 1999 printing, scrivener errors were found in Rule 325:45-1-2 and Rule 325:45-1-20, so amendments were proposed to make the appropriate corrections.

These changes will make review of rules simpler and faster than the current procedure of referring to two documents: the last printing in August, 1999 of the *Rules of Racing* and then the Cumulative Supplement which includes all rule amendments and new rules added since that 1999 publication.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE AMENDMENTS ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2013:

325:45-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"Assistant trainer" means a person qualified and licensed by the Commission as an Assistant Trainer.

"Authorized agent" means a person licensed by the Commission and appointed by a written notarized affidavit by the Owner in whose behalf the Agent will act. Said affidavit must be on file with the Commission.

"Bleeder" means a horse which during or following exercise or the race is observed to be shedding blood from one or both nostrils, or the mouth, or hemorrhaging in the lumen of the respiratory tract.

"Bleeder list" means a tabulation of all bleeders which tabulation shall be maintained by the Commission.

"Commission-Sanctioned Thresholds" mean threshold levels identified pursuant to a directive promulgated by the Commission as authorized by Oklahoma Statute Title 3A, Section 205.2(H) based upon scientific research and industry established standards which studies have shown have no pharmacological effect on the performance of the horse. Said directive shall be conspicuously posted within the enclosure by the Official Veterinarian.

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Conditions of a race" means the qualifications which determine the eligibility of a horse to be entered in a race.

"Controlled substance" means any substance included in the five classification schedules of the Oklahoma Uniform Controlled Dangerous Substances Act.

"Day" means a 24-hour period ending beginning at midnight.

"Drug (medication)" means a substance foreign to the normal physiology of the horse.

"Foreign substances" means all substances except those which exist naturally in the untreated horse at normal physiological concentration and shall include but not be limited to all narcotics, stimulants, or depressants.

"Horse" means:

(A) any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;

(B) an entire equine male five years of age and older.

"Medication" means a substance other than food intended to affect the structure or any function of the body of a human or a horse.

"Occupation license" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"Official Veterinarian" means a person qualified and licensed by the Commission as Official Veterinarian.

"Organization license" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"Owner" means any person who holds, in whole or in part, any right, title or interest in a horse or an organization licensee or any person who is a lessee of a horse and has been duly issued a currently-valid Owner license as a person responsible for such horse.

"Prima Facie evidence" means evidence that, until its effect is overcome by another evidence, will suffice as proof of fact in issue.

"Primary Laboratory" means the laboratory approved by the Commission to be used for analysis of urine, blood or other specimens.

"Program" means the published listing of all contests and contestants for a specific performance.

"Race" means a contest between horses.

"Race day" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"Racing Veterinarian" means a person qualified and licensed by the Commission as Racing Veterinarian.

"Referee Laboratory" means a Commission-approved laboratory which accepts referee/split samples previously reported positive for prohibited substances or drugs by the Primary Laboratory.

"Restricted area" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the organization licensee or the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

"Rules" means the rules adopted by the Commission to implement the provisions of the Act.

"Salix list" means a tabulation of all horses which are authorized by the Official Veterinarian for race day use of Salix (furosemide).

"Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Substantial evidence" means evidence which a reasonable person would accept as sufficient to support a particular conclusion and consists of more than a mere scintilla of evidence but may be less than a preponderance of the evidence.

"Trainer" means a person qualified and licensed by the Commission as a Trainer.

"Veterinarian" means a person licensed to practice veterinary medicine by the State of Oklahoma and licensed as a veterinarian by the Commission.

"Week" means a seven (7) day period.

"Year" means a 365 day period.

325:45-1-20. Split samples

As determined by the Official Veterinarian, when sample quantity permits, each test sample shall be divided into two (2) portions so that one (1) portion shall be used for the initial testing for substances in the sample. Urine and blood samples shall be collected unless otherwise provided by rule. Both the Trainer and Owner shall be notified in writing of positive lab report of the horse. If the duly notified Trainer and/or Owner so requests in writing to the Stewards within forty-eight (48) hours of notice of a positive lab report on the test sample of his/her horse, the split sample shall be sent for further testing to a drug testing laboratory approved by the Commission. Nothing in this Section shall prevent the Commission or Executive Director from ordering first use of both sample portions for testing purposes. The results of said split sampling may not prevent the disqualification of the horse pursuant to the provisions of 325:45-1-15 and 325:45-1-4. All costs for the transportation, shipment and testing of the split sample shall be the financial responsibility of the requesting person, and payment shall be paid by the requesting person through the Horsemen's Bookkeeper or otherwise at the time of packaging. The Official Veterinarian shall have overall responsibility for the freezing, storage, and safeguarding of the split sample. Failure of an Owner and/or Trainer to make a written request of the Stewards for split sample testing within 48 hours or failure to make payment as required by this rule constitutes a waiver of any and all rights to have the split sample tested. If the split sample is not confirmed as positive, the Owner or Trainer will be reimbursed the cost of testing by the Commission.

[OAR Docket #13-492; filed 4-2-13]

**TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 50. HUMAN SUBSTANCE ABUSE TESTING**

[OAR Docket #13-493]

RULEMAKING ACTION:
PERMANENT final adoption

RULE:
325:50-1-2. Definitions [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

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INCORPORATIONS BY REFERENCE:

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ANALYSIS:

The last printing of the Commission's *Rules of Racing* document was completed in August, 1999. In updating the *Rules of Racing* document to include all amendments since the 1999 printing, scrivener errors were found in Rule 325:50-1-2, so amendments were proposed to make the appropriate corrections.

These changes will make review of rules simpler and faster than the current procedure of referring to two documents: the last printing in August, 1999 of the *Rules of Racing* and then the Cumulative Supplement which includes all rule amendments and new rules added since that 1999 publication.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE AMENDMENT IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2013:

325:50-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise

"Act" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Controlled substance" means any substance included in the five schedules of the Oklahoma Uniform Controlled Dangerous Substances Act.

"Day" means a 24-hour period ending at midnight.

"Medication" means any substance other than food intended to affect the structure or any function of the body of a human or a horse.

"Month" means a calendar month.

Permanent Final Adoptions

"Occupation license" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"Organization license" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"Probable cause testing" means a strategy for testing for controlled dangerous substances or alcohol, or any other drug, based on a Commission official's having good reason to believe that an Occupation Licensee who may affect the outcome of race results is possessing or using any controlled dangerous substance or any other drug in violation of any federal or state law. Such human substance abuse testing and the laboratories performing such tests must meet the nationally recognized standards specified in the Mandatory Guidelines for Federal Workplace Drug Testing Programs adopted by the U.S. Department of Health and Human Services.

"Prima Facie evidence" means evidence that, until its effect is overcome by another evidence, will suffice as proof of fact in issue.

"Race" means a contest between horses.

"Race day" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"Restricted area" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the organization licensee or the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

"Rules" means the rules adopted by the Commission to implement the provisions of the Act.

"Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Substantial evidence" means evidence which a reasoning mind would accept as sufficient to support a particular conclusion and consists of more than a mere scintilla of evidence but may be somewhat less than a preponderance.

"Week" means a calendar week.

"Year" means a calendar year.

[OAR Docket #13-493; filed 4-2-13]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 55. FIRE PREVENTION AND SECURITY

[OAR Docket #13-494]

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325:55-1-2. Definitions [AMENDED]

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These changes will make review of rules simpler and faster than the current procedure of referring to two documents: the last printing in August, 1999 of the *Rules of Racing* and then the Cumulative Supplement which includes all rule amendments and new rules added since that 1999 publication.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE AMENDMENT IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2013:

325:55-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Day" means a 24-hour period ending at midnight.

"Occupation license" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"Organization license" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"Restricted area" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but

not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the organization licensee or the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

"**Rules**" means the rules adopted by the Commission to implement the provisions of the Act.

"**Steward**" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"**Year**" means calendar year.

[OAR Docket #13-494; filed 4-2-13]

**TITLE 325. OKLAHOMA HORSE RACING
COMMISSION
CHAPTER 60. RUNNING THE RACE**

[OAR Docket #13-495]

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RULE:

325:60-1-2. Definitions [AMENDED]

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75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

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INCORPORATIONS BY REFERENCE:

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ANALYSIS:

The last printing of the Commission's *Rules of Racing* document was completed in August, 1999. In updating the *Rules of Racing* document to include all amendments since the 1999 printing, scrivener errors were found in Rule 325:60-1-2, so amendments were proposed to make the appropriate corrections.

These changes will make review of rules simpler and faster than the current procedure of referring to two documents: the last printing in August, 1999 of the *Rules of Racing* and then the Cumulative Supplement which includes all rule amendments and new rules added since that 1999 publication.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE AMENDMENT IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2013:

325:60-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Act**" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"**Assistant trainer**" means a person qualified as and licensed by the Commission as an Assistant Trainer.

"**Authorized agent**" means a person licensed by the Commission and appointed by a written notarized affidavit by the Owner in whose behalf the Agent will act. Said affidavit must be on file with the Commission.

"**Bleeder**" means a horse which during or following exercise or the race is observed to be shedding blood from one or both nostrils, or the mouth, or hemorrhaging in the lumen of the respiratory tract.

"**Commissioner**" means a member of the Oklahoma Horse Racing Commission.

"**Day**" means a 24-hour period ending at midnight.

"**Field**" means all horses competing in a race.

"**Foul**" means an action by any horse or Jockey that hinders or interferes with another horse or Jockey during the running of a race.

"**Horse**" means:

(A) any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;

(B) an entire equine male five years of age and older.

"**Inquiry**" means:

(A) an investigation by the Stewards of potential interference in a contest prior to declaring the result of said contest official; or

(B) the Stewards or Commission investigation of a matter alleged to be related to the provisions of the Act or the rules of the Commission.

"**Jockey**" means a rider licensed to race.

"**Objection**" means:

(A) A written complaint made to the Stewards concerning a horse entered in a race and filed not later than two hours prior to the scheduled post time for the first race on the day which the questioned horse is entered.

(B) A verbal claim of foul in a race lodged by the horse's Jockey, Trainer, Owner, or the Owner's licensed Authorized Agent before the race is declared official.

"**Occupation license**" means a state requirement for any person acting in any capacity pursuant to the provisions of the Act.

Permanent Final Adoptions

"**Official order of finish**" means the order of finish of the horses in a contest as declared official by the Stewards.

"**Organization license**" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"**Owner**" means any person who holds, in whole or in part, any right, title or interest in a horse or an organization licensee or any person who is a lessee of a horse and has been duly issued a currently-valid Owner license as a person responsible for such horse.

"**Post position**" means the position in the starting gate assigned to the horse for the start of the race.

"**Post time**" means the scheduled time set for the arrival of the horses at the starting gate for the race.

"**Race**" means a contest between horses.

"**Race day**" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"**Races**" mean:

(A) **Allowance.** An overnight race for which eligibility and weight to be carried is determined according to specified conditions which include age, sex, earnings, number of wins, and distance of race.

(B) **Claiming.** A race in which any horse starting may be claimed and purchased for a designated amount in conformance with the rules in this Title.

(C) **Exhibition.** A race on which no wagering is permitted.

(D) **Handicap.** A race in which the weights to be carried by the horses are assigned by the Racing Secretary.

(E) **Invitational.** A race in which the competing horses are selected by inviting their Owners to enter specific horses.

(F) **Maiden.** A race restricted for non-winners.

(G) **Match.** A race contested between two or more horses under conditions agreed to by their Owners.

(H) **Nomination.** A race in which the subscription to a payment schedule nominates and sustains the eligibility of a particular horse. Nominations must close at least seventy-two (72) hours before the first post time of the day the race is originally scheduled to be run.

(I) **Oklahoma-Bred.** A race for which entry may be restricted to accredited Oklahoma-Bred registered horses.

(J) **Overnight (Purse).** A race for which entries close at a time set by the Racing Secretary.

(K) **Progeny.** A race restricted to the offspring of a specific stallion or stallions.

(L) **Schooling.** A preparatory race for entry qualification in official races which conforms to requirements adopted by the Commission.

(M) **Stakes.** A race which is eligible for stakes or "black-type" recognition by the particular breed registry.

(N) **Trial.** A race ~~of~~ for a series of races in which horses participate for the purpose of determining eligibility for a subsequent contest.

(O) **Walkover.** A race in which only one horse starts or in which all the starters are owned by the same interest. To claim the purse, a horse must start and go the distance of the race.

"**Restricted area**" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by the organization licensee or the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

"**Rules**" means the rules adopted by the Commission to implement the provisions of the Act.

"**Starter**" means a horse whose stall door of the starting gate opens in front of such horse at the time the Starter (the Official) dispatches the horses.

"**Steward**" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"**Trainer**" means a person qualified and licensed by the Commission as a Trainer.

"**Weigh in**" means the presentation of a jockey to the clerk of scales for weighing after a race.

"**Weigh out**" means the presentation of a jockey to the clerk of scales for weighing prior to a race.

[OAR Docket #13-495; filed 4-2-13]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 65. PARI-MUTUEL WAGERING

[OAR Docket #13-496]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

325:65-1-31.1. Definitions [AMENDED]

325:65-1-34. Pari-mutuel tickets; validity [AMENDED]

325:65-1-35. Pari-mutuel ticket sales; payments and claims; purchasing restrictions [AMENDED]

325:65-1-40. Display of betting information [AMENDED]

325:65-1-43. Coupled entries and mutuel fields [AMENDED]

325:65-1-44. Pools dependent upon betting interests [AMENDED]

325:65-1-50. Emergency situations [AMENDED]

Subchapter 7. Interjurisdiction Common Pool Wagering

325:65-7-3. Host jurisdiction participation in merged pools [AMENDED]

Subchapter 9. Calculation of Payoffs and Distribution of Pools

325:65-9-4. Show pools [AMENDED]

325:65-9-5. Double pools [AMENDED]

325:65-9-6. Win Three pools [AMENDED]

325:65-9-7. Pick (n) pools [AMENDED]

325:65-9-8. Place Pick (n) pools [AMENDED]

325:65-9-10. Quinella Double pools [AMENDED]

325:65-9-18. Exacta (n) pools [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

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Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2013

Final Adoption:

March 28, 2013

Effective:

May 15, 2013

SUPERSEDED EMERGENCY ACTIONS:

Not Applicable

INCORPORATIONS BY REFERENCE:

Not Applicable

ANALYSIS:

The last printing of the Commission's *Rules of Racing* document was completed in August, 1999. In updating the *Rules of Racing* document to include all amendments since the 1999 printing, scrivener errors were found in all the listed rules [except Rule 325:65-1-34 and Rule 325:65-1-44], so amendments were proposed to make the appropriate corrections.

For Rule 325:65-1-44, amendments were proposed to effect changes made in CY 2001 Commission adoption by both permanent and emergency rulemaking. Unfortunately, Commission Staff in CY 2001 inadvertently erred in not forwarding the materials under permanent rulemaking, resulting in the changes reverting to the former language at the end of the emergency adoption period of July 14, 2012.

For Rule 325:65-1-34, Mr. Neal Leader, Senior Assistant Attorney General and Commission Counsel, proposes amendments regarding the time limit of 60 days after the wager was made for payment of a winning pari-mutuel ticket. This amendment also aligns the language with a 2001 statutory change in Section 208.1 of Title 3A, Oklahoma Horse Racing Act, and the other rules in Chapter 65, Pari-Mutuel Wagering.

These changes will make review of rules simpler and faster than the current procedure of referring to two documents: the last printing in August, 1999 of the *Rules of Racing* and then the Cumulative Supplement which includes all rule amendments and new rules added since that 1999 publication.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE AMENDMENTS ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

325:65-1-31.1. Definitions

In addition to the definitions provided in Section 200.1 Title 3A of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Act**" means the Oklahoma Horse Racing Act [3A O.S. 200, et seq.].

"**Betting interest**" means one or more horses in a pari-mutuel contest which are identified by a single program number for wagering purposes.

"**Breakage**" means the net pool minus payout.

"**Carryover**" means non-distributed pool monies which are retained and added to a corresponding pool in accordance with these rules.

"**Commissioner**" means a member of the Oklahoma Horse Racing Commission.

"**Complaint**" means a written allegation of a violation of statute or these rules.

"**Contest**" means a competitive racing event on which pari-mutuel wagering is conducted.

"**Contestant**" means an individual participant in a contest.

"**Coupled entry**" means two or more contestants in a contest that are treated as a single betting interest for pari-mutuel wagering purposes (also see "Entry").

"**Dark day**" means a day during a live race meeting when no pari-mutuel wagering is conducted.

"**Day**" means a 24-hour period ending at midnight.

"**Dead heat**" means the finish of a race in which the noses of two or more horses reach the finish line at the same time.

"**Entry**" means:

- (A) a horse eligible for and entered in a race
- (B) Two or more horses, entered in the same race, which have common ties of ownership, lease or training (see "Coupled Entry").

"**Expired ticket**" means an outstanding ticket which was not presented for redemption within the required time period for which it was issued.

"**Field**" means all horses competing in a race.

"**Guest organization licensee**" means an association which offers licensed pari-mutuel wagering on contests conducted by another organization licensee which is the host in either the same jurisdiction or another jurisdiction.

"**Handle**" means the total amount of all pari-mutuel wagering sales excluding refunds and cancellations.

"**Host organization licensee**" means the association conducting a licensed pari-mutuel meeting from which authorized contests or entire performances are simulcast.

"**Inquiry**" means:

- (A) an investigation by the Stewards of potential interference in a contest prior to declaring the result of said contest official; or
- (B) the Stewards or Commission investigation of a matter alleged to be related to the provisions of the Act or the rules of the Commission.

"**Mutuel field**" means two or more contestants treated as a single betting interest for pari-mutuel wagering purposes because the number of betting interests exceeds the number that can be handled individually by the pari-mutuel system.

"**Net pool**" means the amount of gross ticket sales less refundable wagers and statutory commissions.

"**No contest**" means a race canceled for any reason by the stewards.

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"Occupation license" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"Official order of finish" means the order of finish of the horses in a contest as declared official by the ~~stewards~~ Stewards.

"Organization licensee" means any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"Outstanding ticket" means a winning or refundable pari-mutuel ticket which was not cashed during the performance for which it was issued; also known as "Outs."

"Pari-mutuel system" means the manual, electro-mechanical or computerized system and all software (including the totalizator, account betting system and off-site betting equipment) that is used to record bets and transmit wagering data.

"Pari-mutuel wagering" means a form of wagering on the outcome of a contest in which all wagers are pooled and held by an organization licensee for distribution of the total amount, less the deductions authorized by law, to holders of tickets on the winning horses.

"Payout" means the amount of money payable to winning wagers.

"Performance" means a schedule of races run consecutively as one program.

"Post position" means the position in the starting gate assigned to the horse for the start of the race.

"Post time" means the scheduled time set for the arrival of the horses at the starting gate for the race.

"Profit" means the net pool after deduction of the amount bet on the winners.

"Profit split" means a division of profit among separate winning betting interests or winning betting combinations resulting in two or more payout prices.

"Program" means the published listing of all contests and contestants for a specific performance.

"Race" means a contest between horses.

"Race day" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"Restricted area" means any area within the enclosure where access is limited to licensees whose occupation requires access. Those areas which are restricted shall include but not be limited to the barn area, paddock, test barn, Stewards' tower, racecourse, mutuel line and money rooms, or any other area designated restricted by either the organization licensee or the Commission, or both. Signs giving notice of restricted access shall be prominently displayed at all entry points.

"Result" means that part of the official order of finish used to determine the pari-mutuel payout of pools for each individual contest.

"Rules" means the rules adopted by the Commission to implement the provisions of the Act.

"Scratch" means the act of withdrawing an entered horse from a contest after the closing of entries.

"Simulcast" means the live audio and visual transmission of a contest to another location for pari-mutuel wagering purposes.

"Simulcast day" means a day on which pari-mutuel wagering is conducted only on simulcast racing.

"Single price pool" means an equal distribution of profit to winning betting interests or winning betting combinations through a single payout price.

"Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Takeout" means the total amount of money, excluding breakage, withheld from each pari-mutuel pool, as authorized by statute or rule.

"Unclaimed ticket" means:

(A) a winning or refundable pari-mutuel ticket which was not cashed during the performance for which it was issued; or

(B) Proceeds which shall be remitted by the Organization Licensee to the Commission for deposit in the Oklahoma Breeding Development Fund Special Account in accordance with provisions of statute and as prescribed by the Commission.

"Winner" means the horse whose nose reaches the finish line first or is placed first as a result of a disqualification by the stewards.

"Year" means a calendar year.

325:65-1-34. Pari-Mutuel tickets; validity

A pari-mutuel ticket is evidence of a contribution to the pari-mutuel pool operated by the organization licensee and is evidence of the obligation of the organization licensee to pay to the holder thereof such portion of the distributable amount of the pari-mutuel pool as is represented by such valid pari-mutuel ticket. The organization licensee shall cash all valid winning tickets when such are presented for payment ~~during the course of the meeting where sold, and for a specified period after the last day of the meeting~~ no later than sixty (60) days after the wager was made.

(1) To be deemed a valid pari-mutuel ticket, such ticket shall have been issued by a pari-mutuel ticket machine operated by the organization licensee and recorded as a ticket entitled to a share of the pari-mutuel pool, and contain imprinted information as to:

(A) the name of the organization licensee operating the meeting.

(B) a unique identifying number or code.

(C) identification of the terminal at which the ticket was issued.

(D) a designation of the performance for which the wagering transaction was issued.

(E) the contest number for which the pool is conducted.

(F) the type or types of wagers represented

(G) the number or numbers representing the betting interests for which the wager is recorded.

(H) the amount or amounts of the contributions to the pari-mutuel pool or pools for which the ticket is evidence.

(2) No pari-mutuel ticket recorded or reported as previously paid, canceled, or non-existent shall be deemed a valid pari-mutuel ticket by the organization licensee. The

organization licensee may withhold payment and refuse to cash any pari-mutuel ticket deemed not valid, except as provided in 325:65-1-35(e).

325:65-1-35. Pari-mutuel ticket sales; payments and claims; purchasing restrictions

- (a) Pari-mutuel tickets shall not be sold by anyone other than an organization licensed to conduct pari-mutuel wagering.
- (b) No pari-mutuel ticket may be sold on a contest for which wagering has already been closed and no organization licensee shall be responsible for ticket sales entered into but not completed by issuance of a ticket before the totalisator is closed for wagering on such contest.
- (c) Claims pertaining to a mistake on an issued ticket, or a mistake involving failure to issue a ticket, must be made by the bettor prior to leaving the seller's window. Cancellation or exchange of tickets issued shall not be permitted after a patron has left a seller's window except in accordance with written policies established by the organization licensee and approved by the Commission.
- (d) Payment on winning pari-mutuel wagers shall be made on the basis of the order of finish as purposely posted and declared "official." Any subsequent change in the order of finish or award of purse money as may result from a subsequent ruling by the ~~stewards~~ Stewards or Commission shall in no way affect the pari-mutuel payoff. If an error in the posted order of finish or payoff figures is discovered, the official order of finish or payoff prices may be corrected and an announcement concerning the change shall be made to the public.
- (e) The organization licensee shall not satisfy claims on lost, mutilated, or altered pari-mutuel tickets without authorization of the Commission.
- (f) The organization licensee shall have no obligation to enter a wager into a betting pool if unable to do so due to equipment failure.
- (g) The organization licensee shall not accept mailed or telephoned wagers, except as provided by law and the rules of this Chapter, nor knowingly accept any wagers made by or for a person who is prohibited from participating in pari-mutuel wagering.
- (h) No minor shall purchase or cash any pari-mutuel ticket. No employee of the organization shall knowingly sell to or cash for a minor any pari-mutuel ticket.
- (i) No racing official or assistant racing official, mutuel department employee, general manager, valet, jockey room custodian, official camera operator, assistant starter, receiving or detention barn staff member, security personnel, track superintendent or track maintenance department employee, member or employee of the Commission shall wager on the result of a race. No employee of the organization shall knowingly sell to or cash any pari-mutuel ticket for any of the categories of license listed in this subsection.
- (j) No jockey shall make any wager, or have any wager made in his/her behalf, in any race in which s/he participates, except through the owner or trainer and on the horse which s/he rides. Any owner or trainer wagering for such jockey shall maintain a record of all such wagers and all other presents or other gratuities s/he has given any jockey. Such records will be

furnished to the Stewards or the Commission or its investigators upon demand.

325:65-1-40. Display of betting information

- (a) Approximate odds for Win pool betting shall be posted on display devices within view of the wagering public and updated at intervals of not more than ninety (90) seconds.
- (b) The probable payoff or amounts wagered, in total and on each betting interest, for other pools ~~may be~~ may be displayed to the wagering public at intervals and in a manner approved by the Commission.
- (c) Official results and payoffs must be displayed upon each contest being declared official.

325:65-1-43. Coupled entries and mutuel fields

- (a) Contestants coupled in wagering as a coupled entry or mutuel field shall be considered part of a single betting interest for the purpose of price calculations and distribution of pools. Should any contestant in a coupled entry or mutuel field be officially withdrawn or scratched, the remaining contestants in that coupled entry or mutuel field shall remain valid betting interests and no refunds will be granted. If all contestants within a coupled entry or mutuel field are scratched, then tickets on such betting interests shall be refunded, notwithstanding other provisions of this Chapter.
- (b) For the purpose of price calculations only, coupled entries and mutuel fields shall be calculated as a single finisher, using the finishing position of the leading contestant in that coupled entry or mutuel field to ~~determine~~ determine order of placing. This Section shall apply to all circumstances, including situations involving a dead heat, except as otherwise provided in this Title.

325:65-1-44. Pools dependent upon betting interests

- Unless the Commission otherwise provides, at the time the pools are opened for wagering, the organization licensee:
- (1) may offer win, place, and show wagering on all contests with six (6) or more betting interests.
 - (2) may be allowed to prohibit show wagering on any contest with five (5) or fewer betting interests scheduled to start.
 - (3) may be allowed to prohibit place wagering on any contest with four (4) or fewer betting interests scheduled to start.
 - (4) may be allowed to prohibit Quinella wagering on any contest with three (3) or fewer betting interests scheduled to start.
 - (5) may be allowed to prohibit Quinella Double wagering on any contests with three (3) or fewer betting interests scheduled to start.
 - (6) may be allowed to prohibit Exacta wagering on any contest with three (3) or fewer betting interests scheduled to start.
 - (7) may be allowed to prohibit Trifecta wagering on any contest with six (6) or ~~fewer~~ more betting interests scheduled to start.

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- (8) may be allowed to prohibit Superfecta wagering on any contest with seven (7) or fewer betting interests scheduled to start.
- (9) may be allowed to prohibit Twin Quinella wagering on any contests with three (3) or fewer betting interests scheduled to start.
- (10) shall prohibit Twin Trifecta wagering on any contests with seven (7) or fewer betting interests scheduled to start.
- (11) shall prohibit Tri-Superfecta wagering on any contests with seven (7) or fewer betting interests scheduled to start.
- (12) shall prohibit Twin Superfecta wagering on any contests with seven (7) or fewer betting interests scheduled to start.
- (13) may be allowed to prohibit Show Quinella wagering on any contest with four (4) or fewer betting interests scheduled to start.
- (14) may be allowed to prohibit Exacta (n) wagering on any contest with three (3) or fewer betting interests scheduled to start.

325:65-1-50. Emergency situations

Chapter, the pari-mutuel manager representing the ~~organization licensee~~ Organization Licensee shall report the problem to the ~~stewards~~ Stewards; and the ~~organization licensee~~ Organization Licensee and the ~~stewards~~ Stewards shall render a full report to the Commission within forty-eight (48) hours. The pari-mutuel manager and the representatives of any totalisator company or service providing pari-mutuel equipment or service at any race meeting shall cooperate fully in any investigation by the Commission or in any proceedings before the Commission relating to any pari-mutuel operations.

SUBCHAPTER 7. INTERJURISDICTION COMMON POOL WAGERING

325:65-7-3. Host jurisdiction participation in merged pools

- (a) With the prior approval of the Commission, an organization licensed to conduct pari-mutuel wagering may determine that one or more of its contests be utilized for pari-mutuel wagering at guest facilities in other jurisdictions, and may also determine that pari-mutuel pools in guest jurisdictions be combined with corresponding wagering pools established by it as the host track or comparable wagering pools established by two or more jurisdictions.
- (b) Where takeout rates in the merged pool are not identical, the net price calculation shall be the method by which the differing takeout rates are applied.
- (c) Rules of racing established for races held in this ~~Jurisdiction~~ jurisdiction shall also apply to interjurisdiction common pools unless the Commission shall have specifically otherwise determined.
- (d) The Commission shall approve agreements made between the organization licensee and other participants in

interjurisdiction common pools governing the distribution of breakage between the jurisdictions.

- (e) Any contract for interjurisdiction common pools entered into by the organization licensee shall contain a provision to the effect that if, for any reason, it becomes impossible to successfully merge the bets placed in another jurisdiction into the interjurisdiction common pool formed by the organization licensee, or if, for any reason, the ~~Commission's~~ Commission's or the organization licensee's representative determines that attempting to effect transfer of pool data from the guest jurisdiction may endanger the organization licensee's wagering pool, the organization licensee shall have no liability for any measures taken which may result in the guest's wagers not being accepted into the pool.

SUBCHAPTER 9. CALCULATION OF PAYOFFS AND DISTRIBUTION OF POOLS

325:65-9-4. Show Pools

- (a) The amounts wagered to Show on the first three betting interests to finish are deducted from the net pool, the balance remaining being the profit; the profit is divided into three equal portions, one being assigned to each winning betting interest and divided by the amount wagered to Show on that betting interest, the resulting quotient being the profit per dollar wagered to Show on that betting interest.
- (b) The net Show pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:
 - (1) If contestants of a coupled entry or mutuel field finished in the first three places, as a single price pool to those who selected the coupled entry or mutuel field; otherwise
 - (2) If contestants of a coupled entry or mutuel field finished as two of the first three finishers, the profit is divided with two-thirds (2/3) distributed to those who selected the coupled entry or mutuel field and one-third (1/3) distributed to those who selected the other betting interest included within the first three finishers; otherwise
 - (3) As a profit split to those whose selection is included within the first three finishers; but if there are no such wagers on one of those three finishers, then
 - (4) As a profit split to those who selected one of the two covered betting interests included within the first three finishers; but if there are no such wagers on two of those three finishers, then
 - (5) As a single price pool to those who selected the one covered betting interest included within the first three finishers; but if there are no such wagers, then
 - (6) As a single price pool to those who selected the fourth-place finisher; but if there are no such wagers, then
 - (7) The entire pool shall be refunded on Show wagers for that contest.
- (c) If there is a dead heat for first involving:
 - (1) two contestants representing the same betting interest, the profit is divided with two-thirds (2/3) distributed to those who selected the first-place finishers and one-third

- (1/3) distributed to those who selected the betting interest finishing third.
- (2) three contestants representing a single betting interest, the Show pool shall be distributed as a single price pool.
- (3) contestants representing two or more betting interests, the Show pool shall be distributed as a profit split.
- (d) If there is a dead heat or second involving:
 - (1) contestants representing the same betting interest, the profit is divided with one-third (1/3) distributed to those who selected the betting interest finishing first and two-thirds (2/3) distributed to those who selected the second-place finishers.
 - (2) contestants representing two betting interests, the Show pool shall be distributed as a profit split.
 - (3) contestants representing three betting interests, the Show pool is divided with one-third (1/3) of the profit distributed to Show wagers on the betting interest finishing first and the remainder is distributed equally amongst Show wagers on those betting interests involved in the dead heat for second.
- (e) If there is a dead heat for third involving:
 - (1) contestants representing the same betting interest, the Show pool shall be distributed as if no dead heat occurred.
 - (2) contestants representing two or more betting interests, the Show pool is divided with two-thirds (2/3) of the profit distributed to Show wagers on the betting interests finishing first and second and the remainder is distributed equally amongst Show wagers on those betting interests involved in the dead heat for third.
- (f) The following is an example of a standard price calculation for a Show pool:

SHOW POOL

(Standard Price Calculation)

- (1) Sum of Wagers on All Betting Interests = \$194,230.00
- (2) Refunds = \$1,317.00
- (3) Gross Pool: Sum of Wagers on All Betting Interests - Refunds = \$192,913.00
- (4) Percent Takeout = 18%
- (5) Takeout: Gross Pool x Percent Takeout = \$34,724.34
- (6) Net Pool: Gross Pool - Takeout = \$158,188.66
- (7) Gross Amount Bet on 1st Place finisher = \$23,872.00
- (8) Gross Amount Bet on 2nd Place finisher = \$12,500.00
- (9) Gross Amount Bet on 3rd Place finisher = \$4,408.00
- (10) Profit: Net Pool - Gross Amount Bet on 1st Place finisher - Gross Amount Bet on 2nd Place finisher - Gross Amount Bet on 3rd Place finisher = \$117,408.66
- (11) Show Profit: Profit / 3 = \$39,136.22
- (12) Profit Per Dollar for 1st place: Show Profit/Gross Amount Bet on 1st place finisher = \$1.6394194
- (13) \$1 Unbroken Price for 1st place: Profit Per Dollar for 1st place + \$ 1 = ~~\$2.6394194~~ \$2.6394194

- (14) Profit Per Dollar for 2nd place: Show Profit/Gross Amount Bet on 2nd place finisher = \$3.1308976
- (15) \$1 Unbroken Price for 2nd place: Profit Per Dollar for 2nd place + \$1 = ~~\$4.1308976~~ \$4.1308976
- (16) Profit Per Dollar for 3rd place: Show Profit/Gross Amount Bet on 3rd place finisher = \$8.8784528
- (17) \$1 Unbroken Price for 3rd place: Profit Per Dollar for 3rd place + \$1 = ~~\$9.8784528~~ \$9.8784528

(g) The following is an example of a net price calculation for a Show pool with a single takeout rate and single betting source:

SHOW POOL

Single Takeout Rate & Single Betting Source (Net Price Calculation)

- (1) Sum of Wagers on All Betting Interests = \$194,230.00
- (2) Refunds = \$1,317.00
- (3) Gross Pool: Sum of Wagers on All Betting Interests - Refunds = \$192,913.00
- (4) Percent Takeout = 18%
- (5) Takeout: Gross Pool x Percent Takeout = \$34,724.34
- (6) Total Net Pool: Gross Pool - Takeout = \$158,188.66
- (7) Gross Amount Bet on 1st Place finisher = \$23,872.00
- (8) Net Amount Bet on 1st Place finisher = \$19,575.04
- (9) Gross Amount Bet on 2nd Place finisher = \$12,500.00
- (10) Net Amount Bet on 2nd Place finisher = \$10,250.00
- (11) Gross Amount Bet on 3rd Place finisher = \$4,408.00
- (12) Net Amount Bet on 3rd Place finisher = \$3,614.56
- (13) Total Net Bet on Winners: Net Amount Bet on 1st place finisher + Net Amount Bet on 2nd place finisher + Net Amount Bet on 3rd place finisher = \$33,439.60
- (14) Total Profit: Total Net Pool - Total Net Bet on Winners = \$124,749.06
- (15) Show Profit: Total Profit/3 = \$41,583.02
- (16) Profit Per Dollar for 1st place: Show Profit/Net Amount Bet on 1st place finisher = \$2.1242879
- (17) \$1 Unbroken Base Price for 1st place: Profit Per Dollar for 1st place + \$1 = 3.1242879
- (18) \$1 Unbroken Price for 1st place: \$1 Unbroken Base Price for 1st place x (1 - percent takeout) = ~~\$2.5619161~~ \$2.5619161
- (19) Profit Per Dollar for 2nd place: Show Profit/Net Amount Bet on 2nd place finisher = \$4.056880
- (20) \$1 Unbroken Base Price for 2nd place: Profit Per Dollar for 2nd place + \$1 = \$5.0568800
- (21) \$1 Unbroken Price for 2nd place: \$1 Unbroken Base Price for 2nd place x (1 - percent takeout) = ~~\$4.1466416~~ \$4.1466416
- (22) Profit Per Dollar for 3rd place: Show Profit/Net Amount Bet on 3rd place finisher = \$11.504310
- (23) \$1 Unbroken Base Price for 3rd place: Profit Per Dollar for 3rd place + \$1 = \$12.504310

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(24) \$1 Unbroken Price for 3rd place: \$1 Unbroken Base Price for 3rd place x (1 - percent takeout) = ~~\$10.253534~~\$10.253534

325:65-9-5. Double Pools

(a) The Double requires selection of the first-place finisher in each of two specified contests.

(b) The net Double pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) As a single price pool to those whose selection finished first in each of the two contests; but if there are no such wagers, then

(2) As a profit split to those who selected the first-place finisher in either of the two contests; but if there are no such wagers, then

(3) As a single price pool to those who selected the one covered first-place finisher in either contest; but if there are no such wagers, then

(4) As a single price pool to those whose selection finished second in each of the two contests; but if there are no such wagers, then

(5) The entire pool shall be refunded on Double wagers for those contests.

(c) If there is a dead heat for first in either of the two contests involving:

(1) contestants representing the same betting interest, the Double pool shall be distributed as if no dead heat occurred.

(2) contestants representing two or more betting interests, the Double pool shall be distributed as a profit split if there is more than one covered winning combination.

(d) Should a betting interest in the first-half of the Double be scratched prior to the first Double contest being declared official, all money wagered on combinations including the scratched betting interest shall be deducted from the Double pool and refunded.

(e) Should a betting interest in the second-half of the Double be scratched prior to the close of wagering on the first Double contest, all money wagered on combinations including the scratched betting interest shall be deducted from the Double pool and refunded.

(f) Should a betting interest in the second-half of the Double be scratched after the close of wagering on the first Double contest, all wagers combining the winner of the first contest with the scratched betting interest in the second contest shall be allocated a consolation payoff. In calculating the consolation payoff the net Double pool shall be divided by the total amount wagered on the winner of the first contest and an unbroken consolation price obtained. The broken consolation price is multiplied by the dollar value of wagers on the winner of the first contest combined with the scratched betting interest to obtain the consolation payoff. Breakage is not declared in this calculation. The consolation payoff is deducted from the net Double pool before calculation and distribution of the winning Double payoff. Dead heats including separate betting interests in the first contest shall result in a consolation payoff calculated as a profit split.

(g) If either of the Double contests are canceled prior to the first Double contest, or the first Double contest is declared "no contest," the entire Double pool shall be refunded on Double wagers for those contests.

(h) If the second Double contest is canceled or declared "no contest" after the conclusion of the first Double contest, the net Double pool shall be distributed as a single price pool to wagers selecting the winner of the first Double contest. In the event of a dead heat involving separate betting interests, the net Double pool shall be distributed as a profit split.

(i) The following is an example of a standard price calculation for a Double pool:

~~DOUBLE POOL~~

~~(Standard Price Calculation)~~

~~(1) Sum of Wagers on All Betting Interests = \$194,230.00~~

~~(2) Refunds = \$1,317.00~~

~~(3) Gross Pool: Sum of Wagers on All Betting Interests - Refunds = \$192,913.00~~

~~(4) Percent Takeout = 18%~~

~~(5) Takeout: Gross Pool x Percent Takeout = \$34,724.34~~

~~(6) Net Pool: Gross Pool - Takeout = \$158,188.66~~

~~(7) Gross Amount Bet on Winning Combination = \$23,872.00~~

~~(8) Profit: Net Pool - Gross Amount Bet on Winning Combination = \$134,316.66~~

~~(9) Profit Per Dollar: Profit/Gross Amount Bet on Winning Combination = 5.6265357~~

~~(10) \$1 Unbroken Price: Profit Per Dollar + \$1 = ~~\$6.6265357~~\$6.6265357~~

(j) The following is an example of consolation pricing for a Double pool:

~~CONSOLATION PRICING~~

~~DOUBLE POOL~~

~~(1) Sum of Wagers on All Betting Interests = \$194,230.00~~

~~(2) Refunds = \$1,317.00~~

~~(3) Gross Pool: Sum of Wagers on All Betting Interests - Refunds = \$192,913.00~~

~~(4) Percent Takeout = 18%~~

~~(5) Takeout: Gross Pool x Percent Takeout = \$34,724.34~~

~~(6) Net Pool: Gross Pool - Takeout = \$158,188.66~~

~~(7) Consolation Pool: Sum Total Amount Bet on winner of the first contest with all second contest betting interests = \$43,321.00~~

~~(8) \$1 Consolation Unbroken Consolation Price: Net Pool/Consolation Pool = \$3.6515468~~

~~(9) \$1 Consolation Broken Price = ~~\$3.65~~\$3.65~~

~~(10) Amount Bet on winner of the first contest with scratched betting interests = \$1,234.00~~

~~(11) Consolation Liability: \$1 Consolation Broken Price x (Amount Bet on the winner of the first contest with scratched betting interests) = \$4,504.10~~

~~(12) Adjusted Net Pool: Net Pool - Consolation Liability = \$153,684.56~~

(13) Gross Amount Bet on the Winning Combination = \$23,872.00

(14) Profit: Adjusted Net Pool - Gross Amount Bet on the Winning Combination = \$129,812.56

(15) Profit Per Dollar: Profit/Gross Amount Bet on the Winning Combination = \$5.4378586

(16) \$1 Unbroken Price: Profit Per Dollar + \$1 = ~~\$6.4378586~~\$6.4378586

325:65-9-6. Win Three pools

(a) The Win Three requires selection of the first-place finisher in each of three specified contests.

(b) The net Win Three pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(1) As a single price pool to those whose selection finished first in each of the three contests; but if there are no such wagers, then

(2) As a single price pool to those who selected the first-place finisher in any two of the three contests; but if there are no such wagers, then

(3) As a single price pool to those who selected the first-place finisher in any one of the three contests; but if there are no such wagers, then

(4) The entire pool shall be refunded on Win Three wagers for those contests.

(c) If there is a dead heat for first in any of the three contests involving:

(1) contestants representing the same betting interest, the Win Three pool shall be distributed as if no dead heat occurred.

(2) contestants representing two or more betting interests, the Win Three pool shall be distributed as follows:

(A) as a profit split to those whose selections finished first in each of the three contests; but if there are no such wagers, then

(B) as a single price pool to those who selected the first place finisher in any two of the three contests; but if there are no such wagers, then

(C) as a single price pool to those who selected the first place finisher in any one of the three contests; but if there are no such wagers, then

(D) the entire Win Three pool shall be refunded.

(d) Should a betting interest in any of the three Win Three contests be scratched, the actual favorite, as evidenced by total amounts wagered in the Win pool at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

(e) If all three Win Three contests are canceled or declared "no contest," the entire pool shall be refunded on Win Three wagers for those contests.

(f) If one or two of the Win Three contests are canceled or declared "~~no contest, w~~" "no contest." the Win Three pool will remain valid and shall be distributed in accordance with (b) of this Section.

(g) If the Win Three pool is distributed according to subparagraphs (c)(2)(B) or (c)(2)(C) an announcement shall be made to the public as to the possible winning Win Three combinations.

325:65-9-7. Pick (n) Pools

(a) The Pick (n) requires selection of the first-place finisher in each of a designated number of contests. The organization licensee must obtain written approval from the Commission concerning the scheduling of Pick (n) contests, the designation of one of the methods prescribed in (b) of this Section, and the amount of any cap to be set on the carryover. Any changes to the approved Pick (n) format require prior approval from the Commission.

(b) The Pick (n) pool shall be apportioned under one of the following methods:

(1) Method 1, Pick (n) with Carryover: The net Pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests; and the remainder shall be added to the carryover.

(2) Method 2, Pick (n) with Minor Pool and Carryover: The major share of the net Pick (n) pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Pick (n) contests, the minor share of the net Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests; and the major share shall be added to the carryover.

(3) Method 3, Pick (n) with No Minor Pool and No Carryover: The net Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

(4) Method 4, Pick (n) with Minor Pool and No Carryover: The major share of the net Pick (n) pool shall be distributed to those who selected the first place finisher in the greatest number of Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of Pick (n) contests, the minor

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share of the net Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests. If the greatest number of first-place finishers selected is one (1), the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

(5) Method 5, Pick (n) with Minor Pool and No Carryover: The major share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all Pick (n) contests, the entire net Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests. If there are no wagers selecting the first-place finisher in a second greatest number of Pick (n) contests, the minor share of the net Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the Pick (n) contests. If there are no winning wagers, the pool is refunded.

(6) Method 6, Pick (n) with Minor Pool, Jackpot Pool, Major Carryover and Jackpot Carryover: Predetermined percentages of the net Pick (n) pool shall be set aside as a Major pool, Minor pool and Jackpot pool. The Major share of the net Pick (n) pool and the Major carryover, if any, shall be distributed to those who selected the first place finisher of each of the Pick (n) contests, based on the official order of finish. If there are no tickets selecting the first-place finisher in each of the Pick (n) contests, the Major net pool shall be added to the Major carryover. If there is only one single ticket selecting the first-place finisher of each of the Pick (n) contests, based on the official order of finish, the Jackpot share of the net Pick (n) pool and the Jackpot carryover, if any, shall be distributed to the holder of that single ticket, along with the Major net pool and the Major carryover, if any. If more than one ticket selects the first-place finisher of each of the Pick (n) contests the Jackpot net pool shall be added to the Jackpot carryover. The Minor share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher of the second greatest number of Pick (n) contests, based on the official order of finish. If there are no wagers selecting the first-place finisher of all Pick (n) contests, the Minor net pool of the Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher of the greatest number of Pick (n) contests.

(7) Method 7, Pick (n) with No Minor Pool and Carryover: The net Pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the Pick (n) contests, based on the official order of finish. If there are no such wagers, the net Pick (n) pool shall be added to the carryover.

(c) If there is a dead heat for first in any of the Pick (n) contests involving:

(1) contestants representing the same betting interest, the Pick (n) pool shall be distributed as if no dead heat occurred.

(2) contestants representing two or more betting interests, the Pick (n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

(d) Should a betting interest in any of the Pick (n) contests be scratched, the actual favorite, as evidenced by total amounts wagered in the Win pool at the host organization licensee for the contest at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

(e) The Pick (n) pool shall be canceled, and all Pick (n) wagers for the individual performance shall be refunded if:

(1) all three contests included as part of a Pick 3 are canceled or declared "no contest."

(2) at least three contests included as part of a Pick 4, Pick 5 or Pick 6 are canceled or declared "no contest."

(3) at least four contests included as part of a Pick 7, Pick 8 or Pick 9 are canceled or declared "no contest."

(4) at least five contests included as part of a Pick 10 are canceled or declared "no contest."

(f) If at least one contest included as part of a Pick (n) is canceled or declared "no contest," but not more than the number specified in (e) of this Section, the net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of Pick (n) contests for that performance. Such distribution shall include the portion ordinarily retained for the Pick (n) carryover but not the carryover from previous performances.

(g) The Pick (n) carryover may be capped at a designated level approved by the Commission so that if, at the close of any performance, the amount in the Pick (n) carryover equals or exceeds the designated cap, the Pick (n) carryover will be frozen until it is won or distributed under other provisions of this Section. After the Pick (n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the Pick (n) carryover, shall be distributed to those whose selection finished first in the greatest number of Pick (n) contests for that performance.

(h) A written request for permission to distribute the Pick (n) carryover on a specific performance may be submitted to the Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(i) Should the Pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the Pick (n) contests, the entire pool shall be distributed as a single

price pool to those whose selection finished first in the greatest number of Pick (n) contests. The Pick (n) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

- (1) Upon written approval from the Commission as provided in (h) of this Section.
- (2) Upon written approval from the Commission when there is a change in the carryover cap, a change from one type of Pick (n) wagering to another, or when the Pick (n) is discontinued.
- (3) On the closing performance of the meet or split meet.
- (j) If, for any reason, the Pick (n) carryover must be held over to the corresponding Pick (n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the Commission. The Pick (n) carryover plus accrued interest shall then be added to the net Pick (n) pool of the following meet on a date and performance so designated by the Commission.
- (k) With the written approval of the Commission, the organization licensee may contribute to the Pick (n) carryover a sum of money up to the amount of any designated cap.
- (l) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data.
- (m) The organization licensee may suspend previously-approved Pick (n) wagering with the prior approval of the Commission. Any carryover shall be held until the suspended Pick (n) wagering is reinstated. An organization licensee may request approval of a Pick (n) wager or separate wagering pool for specific performances.
- (n) The following is an example of a net price calculation for a Pick 7 pool with multiple takeout rates and multiple betting sources [net price calculation]:

PICK 7 POOL

Multiple Takeout Rates & Multiple Betting Sources (Net Price Calculation)

	Percent	Gross	Gross Amt.	Net	Net Amt.
	Takeout	Pool	Bet on Win	Pool	Bet on Win
Source 1:	16%	\$ 190,000.00	\$ 44.00	\$ 159,600.00	\$ 36.96
Source 2:	18.5%	\$ 10,000.00	\$ 18.00	\$ 8,150.00	\$ 14.67
Source 3:	21%	\$ 525,730.00	\$ 124.00	\$ 415,326.70	\$ 97.96
TOTALS:		\$ 725,730.00	\$ 186.00	\$ 583,076.70	\$ 149.59

- (1) Source 1:
 - (A) Percent Takeout - 16%
 - (B) Gross Pool - \$190,000.00
 - (C) Gross Amt. Bet on Win - \$44.00
 - (D) Net Pool - \$159,600.00
 - (E) Net Amt. Bet on Win - \$36.96
- (2) Source 2:
 - (A) Percent Takeout - 18.5%
 - (B) Gross Pool - \$10,000.00
 - (C) Gross Amt. Bet on Win - \$18.00
 - (D) Net Pool - \$8,150.00
 - (E) Net Amt. Bet on Win - \$14.67

- (3) Source 3:
 - (A) Percent Takeout - 21%
 - (B) Gross Pool - \$525,730.00
 - (C) Gross Amt. Bet on Win - \$124.00
 - (D) Net Pool - \$415,326.70
 - (E) Net Amt. Bet on Win - \$97.96
- (4) Totals of 3 Sources:
 - (A) Gross Pool - \$725,730.00
 - (B) Gross Amt. Bet on Win - \$186.00
 - (C) Net Pool - \$583,076.70
 - (D) Net Amt. Bet on Win - \$149.59
- (5) Total Profit: Total Net Pool - Total Net Bet on the Winning Combination = \$ 582,927.11
- (6) Profit Per Dollar: Total Profit/Total Net Bet on the Winning Combination = \$3,896.8321
- (7) \$1 Unbroken Base Price: Profit Per Dollar + \$1 = \$3,897.8321
- (8) \$1 Unbroken Price for Source 1: \$1 Unbroken Base Price x (1 - Percent Takeout) = ~~\$3,274.1789~~ \$3,274.1789
- (9) \$1 Unbroken Price for Source 2: \$1 Unbroken Base Price x (1 - Percent Takeout) = ~~\$3,176.7331~~ \$3,176.7331
- (10) \$1 Unbroken Price for Source 3: \$1 Unbroken Base Price x (1 - Percent Takeout) = ~~\$3,079.2873~~ \$3,079.2873

325:65-9-8. Place Pick (n) pools

- (a) The Place Pick (n) requires selection of the first or second-place finisher in each of a designated number of contests. The organization licensee must obtain written approval from the Commission concerning the scheduling of Place Pick (n) contests, the designation of one of the methods prescribed in (b) of this Section, the distinctive name identifying the pool and the amount of any cap to be set on the carryover. Any changes to the approved Place Pick (n) format require prior approval from the Commission.
- (b) The Place Pick (n) pool shall be apportioned under one of the following methods:
 - (1) added to the carryover. Method 1, Place Pick (n) with Carryover: The net Place Pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first- or second-place finisher in each of the Place Pick (n) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first or second-place finisher in the greatest number of Place Pick (n) contests; and the remainder shall be added to the carryover.
 - (2) Method 2, Place Pick (n) with Minor Pool and Carryover: The major share of the net Place Pick (n) pool and the carryover, if any, shall be distributed to those who selected the first- or second-place finisher in each of the Place Pick (n) contests, based upon the official order of finish. The minor share of the net Place Pick (n) pool shall be distributed to those who selected the first or second-place finisher in the second greatest number of Place Pick (n) contests, based up on the official order of finish. If there are no wagers selecting the first or second-place finisher of all Place Pick (n) contests, the minor share of the net Place Pick (n) pool shall be distributed as a single

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price pool to those who selected the first- or second-place finisher in the greatest number of Place Pick (n) contests; and the major share shall be

(3) Method 3, Place Pick (n) with No Minor Pool and No Carryover: The net Place Pick (n) pool shall be distributed as a single price pool to those who selected the first- or second-place finisher in the greatest number of Place Pick (n) contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

(4) Method 4, Place Pick (n) with Minor Pool and No Carryover: The major share of the net Place Pick (n) pool shall be distributed to those who selected the first- or second-place finisher in the greatest number of Place Pick (n) contests, based upon the official order of finish. The minor share of the net Place Pick (n) pool shall be distributed to those who selected the first- or second-place finisher in the second greatest number of Place Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first- or second-place finisher in a second greatest number of Place Pick (n) contests, the minor share of the net Place Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first or second-place finisher in the greatest number of Place Pick (n) contests. If the greatest number of first- or second- place finishers selected is one (1), the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

(5) Method 5, Place Pick (n) with Minor Pool and No Carryover: The major share of net Place Pick (n) pool shall be distributed to those who selected the first- or second-place finisher in each of the Place Pick (n) contests, based upon the official order of finish. The minor share of the net Place Pick (n) pool shall be distributed to those who selected the first- or second-place finisher in the second greatest number of Place Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first- or second- place finisher in all Place Pick (n) contests, the entire net Place Pick (n) pool shall be distributed as a single price pool to those who selected the first- or second-place finisher in the greatest number of Place Pick (n) contests. If there are no wagers selecting the first- or second-place finisher in a second greatest number of Place Pick (n) contests, the minor share of the net Place Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first- or second-place finisher in each of the Place Pick (n) contests. If there are no winning wagers, the pool is refunded.

(c) If there is a dead heat for first in any of the Place Pick (n) contests involving:

(1) contestants representing the same betting interest, the Place Pick (n) pool shall be distributed as if no dead heat occurred.

(2) contestants representing two or more betting interests, the Place Pick (n) pool shall be distributed as a single

price pool with a winning wager including each betting interest participating in the dead heat.

(d) If there is a dead heat for second in any of the Place Pick (n) contests involving:

(1) contestants representing the same betting interest, the Place Pick (n) pool shall be distributed as if no dead heat occurred.

(2) contestants representing two or more betting interests, the Place Pick (n) pool shall be distributed as a single price pool with a winning wager including the betting interest which finished first or any betting interest involved in the dead heat for second.

(e) Should a betting interest in any of the Place Pick (n) contests be scratched, the actual favorite, as evidenced by total amounts wagered in the Win pool at the host organization licensee for the contest at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

(f) The Place Pick (n) pool shall be canceled and all Place Pick (n) wagers for the individual performance shall be refunded if:

(1) at least two contests included as part of a Place Pick 3 are canceled or declared "no contest."

(2) at least three contests included as part of a Place Pick 4, Place Pick 5 or Place Pick 6 are canceled or declared "no contest."

(3) at least four contests included, as part of a Place Pick 7, Place Pick 8 or Place Pick 9 are canceled or declared "no contest."

(4) at least five contests included as part of a Place Pick 10 are canceled or declared "no contest."

(g) If at least one contest included as part of a Place Pick (n) is canceled or declared "no contest," but not more than the number specified in (f) of this Section, the net pool shall be distributed as a single price pool to those whose selection finished first or second in the greatest number of Place Pick (n) contests for that performance. Such distribution shall include the portion ordinarily retained for the Place Pick (n) carryover but not the carryover from previous performances.

(h) The Place Pick (n) carryover may be capped at a designated level approved by the Commission so that if, at the close of any performance, the amount in the Place Pick (n) carryover equals or exceeds the designated cap, the Place Pick (n) carryover will be frozen until it is won or distributed under other provisions of this Section. After the Place Pick (n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the Place Pick (n) carryover, shall be distributed to those whose selection finished first or second in the greatest number of Place Pick (n) contests for that performance.

(i) A written request for permission to distribute the Place Pick (n) carryover on a specific performance may be submitted

to the Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.

(j) Should the Place Pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first or second-place finisher in each of the Place Pick (n) contests, the entire pool shall be distributed as a single price pool to those whose selection finished first or second in the greatest number of Place Pick (n) contests. The Place Pick (n) carryover shall be designated for distribution on a specified date and performance under any of the following circumstances:

- (1) Upon written approval from the Commission as provided in (i) of this Section.
- (2) Upon written approval from the Commission when there is a change in the carryover cap, a change from one type of Place Pick (n) wagering to another, or when the Place Pick (n) is discontinued.
- (3) On the closing performance of the meet or split meet.

(k) If, for any reason, the Place Pick (n) carryover must be held over to the corresponding Place Pick (n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the Commission. The Place Pick (n) carryover plus accrued interest shall then be added to the net Place Pick (n) pool of the following meet on a date and performance so designated by the Commission.

(l) With the written approval of the Commission, the organization licensee may contribute to the Place Pick (n) carryover a sum of money up to the amount of any designated cap.

(m) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data.

(n) The organization licensee may suspend previously-approved Place Pick (n) wagering with the prior approval of the Commission. Any carryover shall be held until the suspended Place Pick (n) wagering is reinstated. An organization licensee may request approval of a Place Pick (n) wager or separate wagering pool for specific performances.

325:65-9-10. Quinella Double pools

(a) The Quinella Double requires selection of the first two finishers, irrespective of order, in each of two specified contests.

(b) The net Quinella Double pool shall be distributed to winning wagers in the following precedence, based up on the official order of finish:

- (1) If a coupled entry or mutuel field finishes as the first two contestants in either contest, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest, as well as the first two finishers in the alternate Quinella Double contest; otherwise

(2) As a single price pool to those who selected the first two finishers in each of the two Quinella Double contests; but if there are no such wagers, then

(3) As a profit split to those who selected the first two finishers in either of the two Quinella Double contests; but if there are no such wagers on one of those contests, then

(4) As a single price pool to those who selected the first two finishers in the one covered Quinella Double contest; but if there were no such wagers, then

(5) The entire pool shall be refunded on Quinella Double wagers for those contests.

(c) If there is a dead heat for first in either of the two Quinella Double contests involving:

(1) contestants representing the same betting interest, the Quinella Double pool shall be distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest.

(2) contestants representing two betting interests, the Quinella Double pool shall be distributed as if no dead heat occurred.

(3) contestants representing three or more betting interests, the Quinella Double pool shall be distributed as a profit split.

(d) If there is a dead heat for second in either of the Quinella Double contests involving contestants representing the same betting interest, the Quinella Double pool shall be distributed as if no dead heat occurred.

(e) If there is a dead heat for second in either of the Quinella Double contests involving contestants representing two or more betting interests, the Quinella Double pool shall be distributed as profit split.

(f) Should a betting interest in the first-half of the Quinella Double be scratched prior to the first Quinella Double contest being declared official, all money wagered on combinations including the scratched betting interest shall be deducted from the Quinella Double pool and refunded.

(g) Should a betting interest in the second-half of the Quinella Double be scratched prior to the close of wagering on the first Quinella Double contest, all money wagered on combinations including the scratched betting interest shall be deducted from the Quinella Double pool and refunded.

(h) Should a betting interest in the second-half of the Quinella Double be scratched after the close of wagering on the first Quinella Double contest, all wagers combining the winning combination in the first contest with a combination including the scratched betting interest in the second contest shall be allocated a consolation payoff. In calculating the consolation payoff the net Quinella Double pool shall be divided by the total amount wagered on the winning combination in the first contest and an unbroken consolation price obtained. The broken consolation price is multiplied by the dollar value of wagers on the winning combination in the first contest combined with a combination including the scratched betting interest in the second contest to obtain the consolation payoff. Breakage is not declared in this calculation. The consolation payoff is deducted from the net Quinella Double pool before calculation and distribution of the winning Quinella Double

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payoff. In the event of a dead heat involving separate betting interests, the net Quinella Double pool shall be distributed as a profit split.

(i) If either of the Quinella Double contests is canceled prior to the first Quinella Double contest, or the first Quinella Double contest is declared "no contest," the entire Quinella Double pool shall be refunded on Quinella Double wagers for those contests.

(j) If the second Quinella Double contest is canceled or declared "no contest" after the conclusion of the first Quinella Double contest, the net Quinella Double pool shall be distributed as a single price pool to wagers selecting the winning combination in the first Quinella Double contest. If there are no wagers selecting the winning combination in the first Quinella Double contest, the entire Quinella Double pool shall be refunded on Quinella Double wagers for those contests.

325:65-9-18. Exacta (n) pools

(a) The Exacta (n) requires selection of the first two finishers, in their exact order, in each of a designated number of contests. The organization licensee must obtain written approval from the Commission concerning the scheduling of Exacta (n) contests, the designation of one of the methods prescribed in Part 4, and the amount of any cap to be set on the carryover. Any changes to the approved Exacta (n) format require prior approval from the Commission.

(b) The Exacta (n) pool shall be apportioned under one of the following methods:

(1) Method 1, Exacta (n) With No Minor Pool and No Carryover: The net Exacta (n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the Exacta (n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in each of the Exacta (n) contests, the net Exacta (n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in the greatest number of Exacta (n) contests. If there are no winning wagers, the entire pool shall be refunded on Exacta (n) wagers for those contests.

(2) Method 2, Exacta (n) With No Minor Pool and Carryover Instead of a Refund: The net Exacta (n) pool and the carryover, if any, shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the Exacta (n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in each of the Exacta (n) contests, the net Exacta (n) pool and the carryover shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in the greatest number of Exacta (n) contests. If there are no winning wagers, the net Exacta (n) pool shall be added to the carryover.

(3) Method 3, Exacta (n) With No Minor Pool and Carryover: The net Exacta (n) pool and the carryover, if any, shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the Exacta (n) contests, based upon the official

order of finish. If there are no winning wagers, the net Exacta (n) pool shall be added to the carryover.

(4) Method 4, Exacta (n) With Minor Pool and No Carryover: The major share of the net Exacta (n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the Exacta (n) contests, based upon the official order of finish. The minor share of the net Exacta (n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in the second greatest number of Exacta (n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in each of the Exacta (n) contests, the major share of the net Exacta (n) pool shall be combined with the minor share for distribution as a single price pool to those who selected the first and second place finishers, in exact order, in the greatest number of Exacta (n) contests. If there are no wagers selecting the first and second place finishers, in exact order, in a second greatest number of Exacta (n) contests, the minor share of the net Exacta (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first and second place finishers, in exact order, in each of the Exacta (n) contests. If there are no winning wagers, the pool shall be refunded on Exacta (n) wagers for those contests.

(5) Method 5, Exacta (n) With Minor Pool and Carryover: The major share of the net Exacta (n) pool and the carryover, if any shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the Exacta (n) contests, based upon the official order of finish. The minor share of the net Exacta (n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in the second greatest number of Exacta (n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in each of the Exacta (n) contests, the minor share of the net Exacta (n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in the greatest number of Exacta (n) contests, and the major share shall be added to the carryover. If there are no wagers selecting the first and second place finishers, in exact order, in a second greatest number of Exacta (n) contests, the minor share of the net Exacta (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first and second place finishers, in exact order, in each of the Exacta (n) contests, or if there are no such winning wagers, added to the carryover.

(6) Method 6, Exacta (n) With Minor Pool Based Upon Any One Exacta and No Carryover: The major share of the net Exacta (n) pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the Exacta (n) contests based upon the official order of finish. The minor share of the net Exacta (n) pool shall be distributed as a single price pool to those (including recipients of the major share of

the net Exacta (n) pool) who selected the first and second place finishers, in exact order, in at least one of the Exacta (n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order in each of the Exacta (n) contests, the major share of the net Exacta (n) pool shall be combined with the minor share for distribution as a single price pool to those who selected the first and second place finishers, in exact order, in at least one of the Exacta (n) contests. If there are no winning wagers, the pool is refunded.

(7) Method 7, Exacta (n) with Minor Pool Based Upon Any One Exacta, and Carryover: The major share of the net Exacta (n) pool and the carryover, if any, shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the Exacta (n) contests, based upon the official order of finish. The minor share of the net Exacta (n) pool shall be distributed as a single price pool to those (including recipients of the major share of the net Exacta (n) pool) who selected the first and second place finishers, in exact order, in at least one of the Exacta (n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in each of the Exacta (n) contests, the major share shall be added to the carryover if there are no wagers selecting the first and second place finishers, in exact order in any of the Exacta (n) contests, the minor share of the net Exacta (n) pool shall also be added to the carryover.

(8) Method 8, Exacta (n) with Minor Pool Based Upon Individual Exactas, and No Carryover:

(A) The major share of the net Exacta (n) Pool shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the Exacta (n) contests, based upon the official order of finish. The minor share of the net Exacta (n) pool shall be distributed as a single price pool based upon the sum of the dollar value of wagers for each of the Exacta (n) contests considered separately, in which the first and second place finishers, in exact order, were correctly selected, based on the official order of finish. The minor share of the net Exacta (n) pool shall be distributed as a single price pool to those (including recipients of the major share of the net Exacta (n) pool) who selected the first and second place finishers, in exact order, in one or more of the Exacta (n) contests. Each recipient of a minor share shall receive an amount equal to the single price times the number of Exacta (n) contests in which the recipient correctly selected the winning combination.

(B) If there are no wagers selecting the first and second place finishers, in exact order, in all Exacta (n) contests, the major share shall be combined with the minor share and the entire net Exacta (n) pool shall be distributed in accordance with the rules in the preceding paragraph for distributing the minor share of the net Exacta (n) pool. If there are no winning wagers, the pool shall be refunded.

(9) Method 9, Exacta (n) with Minor Pool Based Upon Individual Exactas, and Carryover:

(A) The major share of the net Exacta (n) Pool and the carryover, if any, shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the Exacta (n) contests, based upon the official order of finish. The minor share of the net Exacta (n) pool shall be distributed as a single price pool based upon the sum of the dollar value of wagers, for each of the Exacta (n) contests considered separately, in which the first and second place finishers, in exact order, were correctly selected, based on the official order of finish. The minor share of the net Exacta (n) pool (including recipients of the major share of the net Exacta (n) pool) who selected the first and second place finishers, in exact order, in one or more of the Exacta (n) contests. Each recipient of a minor share shall receive an amount equal to the single price times the number of Exacta (n) contests in which the recipient correctly selected the winning combination.

(B) If there are no wagers selecting the first and second place finishers, in exact order, in all Exacta (n) contests, the minor share shall be distributed in accordance with the rules in the preceding paragraph for distributing the minor share of the net Exacta (n) pool, and the major share shall be added to the carryover; except that if there are no winning wagers in either the major or the minor pool, today's pool shall be refunded and the carryover shall be carried over.

(10) Method 10, Exacta (n) With Minor Pool Based Upon Individual Exactas, and Carryover; 100% Carryover if no Winning Wagers:

(A) The major share of the net Exacta (n) pool and the carryover, if any, shall be distributed as a single price pool to those who selected the first and second place finishers, in exact order, in each of the Exacta (n) contests based upon the official order of finish. The minor share of the net Exacta (n) pool shall be distributed as a single price pool based upon the sum of the dollar value of wagers, for each of the Exacta (n) contests considered separately, in which the first and second place finishers, in exact order, were correctly selected, based upon the official order of finish. The minor share of the net Exacta (n) pool shall be distributed as a single price pool to those (including recipients of the major share of the net Exacta (n) pool) who selected the first and second place finishers, in exact order, in one or more of the Exacta (n) contests. Each recipient of a minor share shall receive an amount equal to the single price times the number of Exacta (n) contests in which the recipient correctly selected the winning combination.

(B) If there are no wagers selecting the first and second place finishers, in exact order, in all Exacta (n) contests, the minor share shall be distributed in accordance with the rules in the preceding paragraph for distributing the minor share of the net Exacta (n) pool,

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and the major share shall be added to the carryover.

If there are no winning wagers, the minor share shall also be added to the carryover.

(c) **Dead heats.** In the event of a dead heat in any of the Exacta (n) contests, the net Exacta (n) shall be distributed to winning wagers in the following precedence, based upon the official order of finish, for each exacta contest within the Exacta (n) wager:

(1) If there is a dead heat for first in any of the Exacta (n) contests involving contestants representing the same betting interest, the Exacta (n) pool shall be distributed as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest.

(2) If there is a dead heat for first in any of the Exacta (n) contests involving contestants representing two or more betting interests, the Exacta (n) pool shall be distributed as a single price pool with a winning wager including each betting interest involved in the dead heat.

(3) If there is a dead heat for second in any of the Exacta (n) contests involving contestants representing the same betting interest, the Exacta (n) pool shall be distributed as if no dead heat occurred.

If there is a dead heat for second in any of the Exacta (n) contests involving contestants representing two or more betting interests, the Exacta (n) pool shall be distributed as a single price pool with a winning wager including the betting interest which finished first together with any betting interest involved in the dead heat for second.

(d) **Scratches.**

(1) Should a betting interest in any contest of the Exacta (n) be scratched or excused from the contest prior to the first Exacta (n) contest being declared official, all money wagered on combinations including the scratched betting interest shall be deducted from the Exacta (n) pool and refunded.

(2) Should a betting interest in any contest of the Exacta (n) be scratched or excused from the contest after the first Exacta (n) contest has been declared official, all money wagered on combinations including this betting interest shall remain in the Exacta (n) pool and the ticket holder may still collect the monetary value of any distribution evidenced by the ticket containing the scratched betting interest.

(3) If, due to a late scratch, the number of betting interests in a contest of the Exacta (n) is reduced to fewer than two, for purposes of the Exacta (n) such contest shall be declared "no contest" and the Exacta (n) pool shall be subject to the rules set forth as in (e) of this Section.

(e) **Canceled contests.**

(1) If any of the Exacta (n) contests are canceled or declared "no contest" prior to the first Exacta (n) contest being declared official, the entire Exacta (n) pool shall be refunded on Exacta (n) wagers for those contests.

(2) If all remaining Exacta (n) contests are canceled or declared "no contest" after the first Exacta (n) contest is declared official, the net Exacta (n) pool shall be

distributed as a single price pool to wagers selecting the winning combination in the first Exacta (n) contest, but not the Exacta (n) carryover. However, if there are no wagers selecting the winning combination in the first Exacta (n) contest, the entire Exacta (n) pool shall be refunded on Exacta (n) wagers for those contests.

(3) If any of the remaining Exacta (n) contests are canceled or declared "no contest" after the first Exacta (n) is declared official, the net Exacta (n) pool shall be distributed in accordance with rules governing distribution of the minor share where there is no winner of the major share.

(f) **Mandatory distribution.**

(1) A written request for permission to distribute the Exacta (n) carryover on a specific performance may be submitted to the Commission. The request shall contain justification for the mandatory distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. The organization licensee must notify the Commission at least 10 days prior to implementation. If the Exacta (n) pool cannot be distributed during a designated performance, the mandatory distribution shall resume on the next scheduled mandatory distribution performance.

(2) If the Exacta (n) carryover is designated for distribution on a specified date and performance, the following precedence shall be followed in determining winning tickets for the net Exacta (n) pool and the carryover pool:

(A) As a single price pool to those who selected the first and second place finishers, in exact order, in each of the Exacta (n) contests, based upon the official order of finish. If there are no wagers selecting the first and second place finishers, in exact order, in all Exacta (n) contests, then

(B) As a single price pool to those who selected the first and second place finishers, in exact order, in at least one of the Exacta (n) contests, based upon the official order of finish.

(C) If there are no wagers which correctly selected the first and second place finishers, in exact order, in at least one of the Exacta (n) contests, based upon the official order of finish, then all Exacta (n) tickets shall become winners and receive 100% of that day's net Exacta (n) pool and the Exacta (n) carryover pool as a single price pool.

(3) If, for any reason, the Exacta (n) carryover must be held over to the corresponding Exacta (n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the Commission. The Exacta (n) carryover plus accrued interest shall then be added to the net Exacta (n) pool of the following meet on a date and performance so designated by the Commission.

[OAR Docket #13-496; filed 4-2-13]

**TITLE 325. OKLAHOMA HORSE RACING
COMMISSION
CHAPTER 70. OBJECTIONS AND
PROTESTS; HEARINGS AND APPEALS**

[OAR Docket #13-497]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:70-1-2. Definitions [AMENDED]

325:70-1-23. Appeal from decision of the Stewards [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

DATES:

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November 15, 2012 through January 7, 2013

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Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2013

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SUPERSEDED EMERGENCY ACTIONS:

Not Applicable

INCORPORATIONS BY REFERENCE:

Not Applicable

ANALYSIS:

The last printing of the Commission's *Rules of Racing* document was completed in August, 1999. In updating the *Rules of Racing* document to include all amendments since the 1999 printing, a scrivener error was found in Rule 325:70-1-2 which needs the appropriate correction. For Rule 325:70-1-23, Commission Staff proposes to change the number of appeal copies from seven to three since internal distribution is now routinely provided through an e-mail attachment from a scanned document.

These changes will make review of rules simpler and faster than the current procedure of referring to two documents: the last printing in August, 1999 of the *Rules of Racing* and then the Cumulative Supplement which includes all rule amendments and new rules added since that 1999 publication.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING RULE AMENDMENTS ARE
CONSIDERED FINALLY ADOPTED AS SET FORTH
IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE
DATE OF MAY 15, 2013:**

325:70-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words

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

"Act" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"Authorized agent" means a person licensed by the Commission and appointed by a written notarized affidavit by the Owner in whose behalf the Agent will act. Said affidavit must be on file with the Commission.

"Commissioner" means a member of the Oklahoma Horse Racing Commission.

"Conditions of a race" means the qualifications which determine the eligibility of a horse to be entered in a race.

"Day" means a 24-hour period ending at midnight.

"Entry" means:

- (A) A horse made eligible to run in a race.
- (B) Two (2) or more horses entered in the same race which have common ties of ownership, lease, or training.

"Foul" means an action by any horse or Jockey that hinders or interferes with another horse or Jockey during the running of a race.

"Horse" means:

- (A) any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;
- (B) an entire equine male five years of age and older.

"Inquiry" means:

- (A) an investigation by the Stewards of potential interference in a contest prior to declaring the result of said contest official; or
- (B) the Stewards or Commission investigation of a matter alleged to be related to the provisions of the Act or the rules of the Commission.

"Jockey" means a rider licensed to race.

"Jockey Agent" means a licensed, authorized representative of a Jockey.

"Month" means a calendar month.

"Objection" means:

- (A) A written complaint made to the Stewards concerning a horse entered in a race and filed not later than two hours prior to the scheduled post time for the first race on the day which the questioned horse is entered.
- (B) A verbal claim of foul in a race lodged by the horse's Jockey, Trainer, Owner, or the Owner's licensed Authorized Agent before the race is declared official.

"Occupation license" means a state requirement for any person acting in any capacity pursuant to the provisions of the Act.

"Organization license" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the ~~act~~Act and the rules of the Commission.

"Owner" means any person who holds, in whole or in part, any right, title or interest in a horse or an organization licensee or any person who is a lessee of a horse and has been

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duly issued a currently-valid Owner license as a person responsible for such horse.

"Post time" means the advertised time set for the arrival of the horses at the starting gate for the race.

"Prima Facie evidence" means evidence that, until its effect is overcome by another evidence, will suffice as proof of fact in issue.

"Protest" means a written complaint, signed by the protester, made to the Stewards within forty-eight (48) hours after the running of the race, alleging that a horse was ineligible to race, except as provided in 325:70-1-10 of these rules.

"Race day" means a day during a race meeting when pari-mutuel wagering occurs on live races conducted at that racetrack.

"Race" means a contest between two horses.

"Rules" means the rules adopted by the Commission to implement the provisions of the Act.

"Scratch" means the act of withdrawing an entered horse from a race after the closing of overnight entries.

"Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Substantial evidence" means evidence which a reasoning mind would accept as sufficient to support a particular conclusion and consists of more than a mere scintilla of evidence but may be somewhat less than a preponderance.

"Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Trainer" means a person qualified and licensed by the Commission as a Trainer.

"Week" means a period of seven (7) days beginning at 12:01 a.m. Monday during which races are conducted.

"Year" means a calendar year.

325:70-1-23. Appeal from decision of the Stewards

(a) The Commission shall review hearings of any case referred to the Commission by the Stewards or appealed to the Commission from the decisions of the Stewards except as otherwise provided in this Chapter. Upon every appealable decision of the Stewards, the person subject to the decision or order shall be made aware of his/her right to an appeal before the Commission and the necessary procedures thereof. Appeals shall be made no later than 5:00 p.m. on the third calendar day, excluding intermediate Saturdays and Sundays and legal holidays as defined by the Oklahoma Statutes or any other day when the Commission office does not remain open for public business until 5:00 p.m. from the date of the rendering of the decision of the Stewards, excluding the date the decision was rendered, unless the Commission for good cause extends the time for filing not to exceed 30 days from said rendering date, and shall be filed with the Office of the Commission as specified in 325:1-1-14. When the applicant is notified by mail of the Stewards' decision, three (3) days shall be added to the time within which the application for temporary stay order must be filed. Action on such a hearing request must commence by the Commission within 30 days of the filing of the appeal. An appeal shall not affect a decision of the Stewards until the appeal has been sustained or dismissed or a stay order issued.

(b) After the date for an appeal hearing has been set, a party to the hearing may request a hearing continuance if such request is received in writing by the Commission no later than three (3) days prior to the scheduled date of hearing and as otherwise specified in 325:1-1-14. The request for continuance may be granted or denied by the Executive Director after his/her consultation with three Commissioners; however, such continuance shall only be considered by the Commission upon a showing of serious circumstances; which in the opinion of the Commission would justify the granting of a continuance.

(c) The form in Appendix A of this Chapter shall be used when filing an appeal petition with the Commission. The petition should be typed or printed on 8-1/2" x 11" paper with the original and ~~seven~~three copies being filed.

[OAR Docket #13-497; filed 4-2-13]

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

[OAR Docket #13-498]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:75-1-2. Definitions [AMENDED]

325:75-1-3. Definition of accredited Oklahoma-Bred Thoroughbred [AMENDED]

325:75-1-3.1. Definition of accredited Oklahoma-Bred Quarter Horse, Paint or Appaloosa [AMENDED]

325:75-1-11. Oklahoma-Bred racing program [AMENDED]

325:75-1-12.1. Application requirements, categories and fees for Thoroughbreds, beginning with an effective date of January 1, 2010 [AMENDED]

325:75-1-15. Distribution of funds for Oklahoma-Bred pari-mutuel races [AMENDED]

325:75-1-21. Expenditure of Oklahoma Breeding Development Fund Special Account Monies for the purpose of caring for retired and unwanted Oklahoma-Bred racing stock [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

DATES:

Comment Period:

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Gubernatorial approval:

February 18, 2013

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 28, 2013

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May 15, 2013

SUPERSEDED EMERGENCY ACTIONS:

Not Applicable

INCORPORATIONS BY REFERENCE:

Not Applicable

ANALYSIS:

The last printing of the Commission's *Rules of Racing* document was completed in August, 1999. In updating the *Rules of Racing* document to include all amendments since the 1999 printing, scrivener errors were found in Rules 325:75-1-2, 325:75-1-3, 325:75-1-3.1, 325:75-1-11, 325:75-1-12.1, 325:75-1-15 and 325:75-1-21 which need the appropriate corrections.

These changes will make review of rules simpler and faster than the current procedure of referring to two documents: the last printing in August, 1999 of the *Rules of Racing* and then the Cumulative Supplement which includes all rule amendments and new rules added since that 1999 publication.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE AMENDMENTS ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 15, 2013:

325:75-1-2. Definitions

In addition to the definitions provided in Section 200.1 of Title 3A, of the Oklahoma Statutes, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Act**" means the Oklahoma Horse Racing Act [3A:200 et seq.].

"**Accredit**" means to certify as meeting the standard of eligibility for participation as a broodmare, stallion or racing stock in the Oklahoma-Bred Program.

"**Accreditation**" means the process of verifying and certifying the eligibility of a broodmare, stallion or racing stock for participation in the Oklahoma-Bred Program and adding its name to the official registry.

"**Accredited Oklahoma-Bred horse**" means a broodmare, stallion or racing stock that is eligible pursuant to the Act and Commission rules and whose enrollment in the Oklahoma-Bred Program has been completed by the official Registering Agency.

"**Added money**" means the amount exclusive of trophy added into a stakes by the organization licensee, or by sponsors, state-bred programs, or other funds added to those monies gathered by nomination, entry, sustaining and other fees coming from the horsemen.

"**Adoption Program**" means a program in which race horses are rehabilitated and/or retrained for other uses, such as, but not limited to, polo, dressage, hunter/jumper and pleasure riding, the goal and purpose of which is the adoption of the race horse after rehabilitation and/or retraining.

"**Age**" means that the age of a horse is recognized as beginning on the first day of January in the year in which the horse is foaled.

"**Authorized agent**" means a person licensed by the Commission and appointed by a written notarized affidavit by the Owner in whose behalf the Agent will act. Said affidavit must be on file with the Commission.

"**Breakage**" means the net pool minus payout.

"**Breeder**" means the owner of a horse's dam at the time of foaling for Thoroughbreds, and means the owner of a horse's dam at time of conception for non-Thoroughbreds.

"**Commissioner**" means a member of the Oklahoma Horse Racing Commission.

"**Conditions of a race**" means the qualifications which determine the eligibility of a horse to be entered in a race.

"**Day**" means a 24-hour period ending at midnight.

"**Dual breed registered horse**" means an accredited Oklahoma-Bred horse that has filed with the Registering Agency Registration Certificates from more than one breed national registry. A dual breed registered horse may be eligible for dual breed Oklahoma-Bred awards.

"**Eligible**" means a broodmare, stallion, or racing stock horse that can satisfy all of the requirements for participation in the Oklahoma-Bred Program.

"**Enroll**" means to enter the name of an eligible broodmare, stallion, or racing stock horse on the official roll, register, or record as a qualified participant in the Oklahoma-Bred Program.

"**Hardship Application**" means that a horse owner is eligible to complete a Hardship Application if the horse in question is a mare that is accredited as Racing Stock in the Oklahoma-Bred Program, with the proper Oklahoma-Bred stamp, but was not accredited as a Broodmare in the Oklahoma-Bred Program prior to producing a foal.

"**Horse**" means:

(A) any equine including and designated as mare, filly, stallion, colt, ridgeling, or gelding registered for racing;

(B) an entire equine male five years of age and older.

"**Lessee**" means a licensed Owner whose interest in a horse is by virtue of a completed Commission-approved lease form attached to the Registration Certificate and on file with the Commission.

"**Lessor**" means the Owner of a horse that is leased.

"**Nomination**" means the naming of a horse to a certain race or series of races generally accompanied by payment of a prescribed fee.

"**Nominator**" means the person who nominates a horse as a possible contender in a race.

"**Occupation license**" means a state requirement for any person acting in any capacity pursuant to provisions of the Act.

"**Organization license**" means a state requirement for any person desiring to conduct a race meeting in Oklahoma within the minimum standards as required by the Act and the rules of the Commission.

"**Owner**" means any person who holds, in whole or in part, any right, title or interest in a horse or an organization licensee or any person who is a lessee of a horse and has been duly issued a currently-valid Owner license as a person responsible for such horse.

"**Pension Program**" means a program for the care and "pasturing" of retired or unwanted horses who, because of their health or condition, are incapable of being rehabilitated/retrained and adopted.

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"Race" means a contest between horses.

"Race day" means a day during a race meeting when pari-mutuel racing occurs on live races conducted at that racetrack.

"Races" mean:

(A) **Allowance.** An overnight race for which eligibility and weight to be carried is determined according to specified conditions which include age, sex, earnings, number of wins, and distance of race.

(B) **Claiming.** A race in which any horse starting may be claimed and purchased for a designated amount in conformance with the rules in this Title.

(C) **Exhibition.** A race on which no wagering is permitted.

(D) **Handicap.** A race in which the weights to be carried by the horses are assigned by the Racing Secretary or handicapper for the purpose of equalizing the chances of winning for all horses entered.

(E) **Invitational.** A race in which the competing horses are selected by inviting their Owners to enter specific horses.

(F) **Maiden.** A race restricted to non-winners.

(G) **Match.** A race contested between two or more horses under conditions agreed to by their Owners.

(H) **Nomination.** A race in which the subscription to a payment schedule nominates and sustains the eligibility of a particular horse. Nominations must close at least seventy-two (72) hours before the first post time of the day the race is originally scheduled to be run.

(I) **Oklahoma-Bred.** A race for which entry may be restricted to accredited Oklahoma-Bred registered horses.

(J) **Overnight (Purse).** A race for which entries close at a time set by the Racing Secretary.

(K) **Progeny.** A race restricted to the offering of a specific stallion or stallions.

(L) **Schooling.** A preparatory race for entry qualification in official races which conforms to requirements adopted by the Commission.

(M) **Stakes.** A race which is eligible for stakes or "black-type" recognition by the particular breed registry.

(N) **Trial.** A race ~~of~~ a series of races in which horses participate for the purpose of determining eligibility for a subsequent contest.

(O) **Walkover.** A race in which only one horse starts or in which all the starts are owned by the same interest. To claim the purse, a horse must start and go the distance of the race.

"Register" means the official record of names of broodmares, stallions, or racing stock horses that have been approved for participation in the Oklahoma-Bred Program.

"Registration" means placing the name of approved broodmares, stallions, or racing stock horses in the official record of horses approved to participate in the Oklahoma-Bred Program.

"Registration Certificate" means the official document from the breed-specific national registry, providing the horse's

name, foal date, age, color, sex, pedigree and breeder and confirming the horse's registration with the appropriate national breed registry.

"Rules" means the rules adopted by the Commission to implement the provisions of the Act.

"Steward" means a duly appointed Racing Official with powers and duties specified by statutes or rules.

"Trainer" means a person qualified and licensed by the Commission as a Trainer.

"Unclaimed ticket" means:

(A) a winning or refundable pari-mutuel ticket which was not cashed during the performance for which it was issued; or

(B) Proceeds which shall be remitted by the Organization Licensee to the Commission for deposit in the Oklahoma Breeding Development Fund Special Account in accordance with provisions of statute and as prescribed by the Commission.

"Week" means a period of seven (7) days beginning at 12:01 a.m. Monday during which races are conducted.

"Year" means a calendar year.

325:75-1-3. Definition of accredited Oklahoma-Bred Thoroughbred

As used in this Chapter, an accredited Oklahoma-Bred Thoroughbred horse shall mean a Thoroughbred horse which meets the requirements below:

(1) **Stallion.** An accredited Oklahoma-Bred stallion is one that is domiciled in Oklahoma, stands for service in Oklahoma, and is enrolled in the Oklahoma-Bred stallion registry. An Oklahoma-Bred Stallion that is accredited as racing stock is not accredited as breeding stock in the registry unless the required application is filed and fee paid to Registering Agency. For resulting foals to be eligible for accreditation as Oklahoma-Bred racing stock, the stallion must be accredited in the Oklahoma-Bred stallion registry prior to the service that produces the resulting foal. Except for those foals eligible for accreditation that are sired by non-accredited stallions, any foals conceived prior to the stallion being accredited in the Oklahoma-Bred stallion registry will not be eligible for accreditation. Eligibility for participation in the Oklahoma-Bred Program begins when the application for the stallion registry is submitted, at which time the stallion must be domiciled in Oklahoma, and such application is in substantial compliance with the requirements of the registry. The stallion's application must be filed with the Oklahoma-Bred ~~registering agency~~ Registering Agency by February 1 of that breeding season. Late applications will be accepted after February 1 and through June 30 of that season. A stallion's accreditation shall not be forfeited if the stallion leaves Oklahoma for an indefinite period of time for racing, medical treatment, performance, or approved departure for breeding purposes in another hemisphere. An Oklahoma-Bred stallion may leave Oklahoma for the purpose of being offered in a recognized sale consignment. In the case of a sale consignment, an accredited stallion returned to Oklahoma to resume his domicile within 30 days after the sale date

is not required to become re-accredited. Foals conceived after sale date will be ineligible if the stallion fails to resume domicile within thirty (30) days. Should the stallion not meet the return period from the sale, the stallion must be re-accredited upon resuming his domicile in order to be eligible for breeder awards from foals conceived after the date of departure. The burden of proof relating to such race, performance, medical treatment, sale consignment or breeding shall be on the owner of record who shall produce such evidence to the Oklahoma-Bred Registering Agency.

(A) **Stallions Leaving Oklahoma for Breeding Purposes in Another Hemisphere:** Approved departure for breeding purposes shall be granted by the ~~registering agency~~ Registering Agency upon written notification by the stallion owner or manager as to the destination of the stallion, the anticipated date the stallion will be leaving and the anticipated date of return to Oklahoma. The stallion must re-establish his domicile in Oklahoma prior to servicing any mare for which subsequent foals conceived by service from that stallion are to be eligible for accreditation. The owner or manager of the stallion must provide written notice of the exact date of stallion's return and re-established domicile location in Oklahoma and the effective date for the stallion's eligibility to earn awards will be the date of return if notice is provided within 30 days of that date, or upon receipt of notice if longer than 30 days after the return of the Stallion.

(B) **Re-Accreditation of Stallions:** If a stallion leaves the State of Oklahoma for any reason other than breeding, sale consignment, performance, or medical treatment and terminates his domicile, that stallion will not be eligible to sire subsequent foals eligible for accreditation as racing stock in the Oklahoma-Bred Program. If the stallion returns to Oklahoma to re-establish his domicile, pays the appropriate fees and meets all other qualifying requirements, the stallion may become re-accredited in the Oklahoma-Bred stallion registry. If a stallion stands for service outside of Oklahoma during the calendar year in which a foal(s) was conceived, any foal conceived after accreditation or re-accreditation in the Oklahoma-Bred stallion registry and while the accredited stallion was standing in Oklahoma and which otherwise may be accredited in the Oklahoma-Bred Program upon presentation of acceptable documentation reflecting that the service producing the foal occurred while the accredited stallion was standing in Oklahoma. The stallion shall be eligible for stallion awards only from those breedings that occurred while the accredited stallion was physically domiciled in Oklahoma. The Registering Agency may require an affidavit for any breeding season during which the stallion is standing as an accredited Oklahoma-Bred stallion. Failure to provide the required documentation for any year shall result in the stallion owner being ineligible for stallion awards for all foals resulting from that breeding season unless the required documentation is

received by the Registering Agency within thirty (30) days after written request. Further, foals conceived during that breeding season shall be ineligible for accreditation unless the required affidavit is received by the Registering Agency not later than thirty (30) days after written request. An accredited stallion who terminates his domicile in Oklahoma and later returns to Oklahoma to resume his domicile, prior to breeding, but fails to reaccredit in the Oklahoma-Bred stallion registry, may qualify for a hardship reaccreditation. In addition to the regular application fee, the applicant shall be charged an additional \$200.00 fee. All other qualifications and requirements of the Oklahoma-Bred stallion registry must be met as well. The Registering Agency may require proof that all requirements for accreditation have been met. Any foal by the stallion seeking reaccreditation that would otherwise be eligible for accreditation as racing stock in the Oklahoma-Bred Program will be eligible for accreditation upon hardship re-accreditation in the Oklahoma-Bred stallion registry. Acceptance of a foal application under these circumstances, by the official Registering Agency, is subject to the stallion being enrolled under a hardship reaccreditation application in the Oklahoma-Bred stallion registry within sixty (60) days from receipt of notice by the stallion owner that the stallion was not reaccredited in the Oklahoma-Bred stallion registry prior to breeding. The fee to enroll the racing stock in the Oklahoma-Bred Program will be based upon the age of the foal on the date the Registering Agency receives the racing stock application. Failure to enroll a stallion under a hardship application within sixty (60) days from receipt of notice that the stallion was not reaccredited prior to breeding will result in the rejection of any pending racing stock applications for foals by the stallion. The owner of an accredited Oklahoma-Bred stallion (for the purpose of qualifying for stallion awards) is the owner or lessee of record at the time the offspring is conceived.

(2) **Broodmare.** An accredited Oklahoma-Bred broodmare is one that is domiciled in Oklahoma and is enrolled in the Oklahoma-Bred broodmare registry. An Oklahoma-Bred mare that is accredited as racing stock is not accredited as breeding stock in the registry unless the required application is filed and fee paid to Registering Agency. Eligibility for participation in the Oklahoma-Bred Program begins when the application for the broodmare registry is submitted, at which time the broodmare must be domiciled in Oklahoma, and such application is in substantial compliance with the requirements of the registry. The broodmare's application must be filed with the Oklahoma-Bred Registering Agency by December 31 of the year prior to foaling. Late applications will be accepted after December 31, but must be prior to foaling. Hardship applications are accepted at any time. A broodmare's accreditation shall not be forfeited

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if the broodmare leaves Oklahoma for an indefinite period of time for racing, medical treatment, performance, or approved departure for breeding purposes in another hemisphere. An Oklahoma-Bred broodmare may leave Oklahoma for the purpose of being offered in a recognized sale consignment. In the case of sale consignment, an accredited broodmare returned to Oklahoma to resume her domicile within 30 days after the sale date is not required to become re-accredited. The burden of proof relating to such race, performance, medical treatment, sale consignment or breeding shall be on the owner of record who shall produce such evidence to the Oklahoma-Bred Registering Agency.

(A) **Broodmares Serviced by Out-of-State Stallions:** An accredited Oklahoma-Bred broodmare may be shipped out of Oklahoma to be serviced by a non-accredited stallion, provided she is returned to Oklahoma to resume her domicile not later than August 15 of the calendar year in which she is serviced. Failure of the accredited broodmare to return to Oklahoma to resume her domicile not later than August 15 shall have two results: First, the broodmare loses her accreditation in the program; Second, the resultant foal is ineligible for accreditation in the Oklahoma-Bred Program, unless the broodmare resumes her domicile in Oklahoma and files for re-accreditation prior to the birth of the foal. In order for the broodmare to produce successive foals eligible for accreditation in the Oklahoma-Bred Program, beginning with foals born in 2011, she must produce a foal in Oklahoma in alternating years by an accredited stallion standing in Oklahoma.

(B) **Thoroughbred Broodmares Serviced by Non-Thoroughbred Stallions:** An accredited Oklahoma-Bred Thoroughbred broodmare that is serviced by a Non-Thoroughbred stallion shall be subject to the same regulations as Quarter Horse, Paint, or Appaloosa broodmares with regard to its accreditation and eligibility to produce accredited Oklahoma-Bred racing stock so long as the mare is serviced by a Quarter Horse, Paint, or Appaloosa stallion.

(C) **Reaccreditation Rule:** If a broodmare leaves the State of Oklahoma for any reason other than breeding, performance, sale consignment or medical treatment, the broodmare is deemed terminated and loses broodmare accreditation in the Oklahoma-Bred Program. Such broodmare will not be eligible to produce subsequent foals eligible for accreditation as racing stock in the Oklahoma-Bred Program. If the broodmare returns to Oklahoma to re-establish her domicile, pays the appropriate fees and meets all other qualifying requirements, the broodmare may become re-accredited in the Oklahoma-Bred broodmare registry provided, however, a broodmare re-accredited in consecutive years shall not be eligible to produce accredited foals born in the second or subsequent, consecutive year of back to back re-accreditation, unless the application for re-accreditation includes a

valid transfer of ownership between individuals that are not related by blood or marriage, or that share the same physical address. In the event a reaccredited broodmare produces successive foals by non-accredited Oklahoma-Bred stallions, the broodmare owner will not receive any breeder awards for the second foal. The Registering Agency may request a copy of the foal report submitted to the official breed registry for any accredited Oklahoma-Bred broodmare. An accredited broodmare who terminates her domicile in Oklahoma and later returns to Oklahoma to resume her domicile, prior to foaling, but fails to reaccredit in the Oklahoma-Bred broodmare registry, may qualify for a hardship re-accreditation. In addition to the regular application fee, the applicant shall be charged an additional \$200.00 fee. All other qualifications and requirements of the Oklahoma-Bred broodmare registry must be met as well. The Registering Agency may require proof that all requirements for accreditation have been met. Any foal out of the broodmare seeking re-accreditation that would otherwise be eligible for accreditation as racing stock in the Oklahoma-Bred Program will be eligible for accreditation upon hardship re-accreditation in the Oklahoma-Bred broodmare registry provided however, a broodmare re-accredited in consecutive years shall not be eligible to produce accredited foals born in the second or subsequent, consecutive year of back to back re-accreditation, unless the application for re-accreditation includes a valid transfer of ownership between individuals that are not related by blood or marriage, or that share the same physical address. Acceptance of a foal application under these circumstances, by the official Registering Agency, is subject to the broodmare being enrolled under a hardship re-accreditation application in the Oklahoma-Bred broodmare registry within sixty (60) days from receipt of notice by the broodmare owner that the broodmare was not reaccredited in the Oklahoma-Bred broodmare registry prior to foaling. The fee to enroll the racing stock in the Oklahoma-Bred Program will be based upon the age of the foal on the date the Registering Agency receives the racing stock application. Failure to enroll a broodmare under a hardship application within sixty (60) days from receipt of notice that the broodmare was not reaccredited prior to foaling will result in the rejection of any pending racing stock applications for foals out of that mare.

(D) Oklahoma broodmares are classified annually as one of the following and are eligible for awards from Oklahoma-Bred funds as defined, and must meet all other eligibility requirements:

- (i) Category A - Accredited Oklahoma-Bred Broodmare who is bred to an accredited Oklahoma-Bred Stallion receives 100% of the available broodmare awards for that foal [Oklahoma conceived and foaled].

(ii) Category B - Accredited Oklahoma-Bred Broodmare who is bred to a non-Oklahoma-Bred accredited Stallion receives 50% of the available broodmare awards for that foal [Oklahoma foaled].

(iii) Category C - A broodmare who is accredited for the first time in the Oklahoma-Bred Program, whether or not bred to an accredited Oklahoma-Bred Stallion, receives 100% of the available breeders awards for her first foal. [Re-accredited broodmares do not qualify for Category C.] All subsequent awards for the broodmare will be based upon the first two foal options listed above.

(E) For Purposes of Qualifying for Broodmare Awards: the owner of an accredited Oklahoma-Bred Thoroughbred broodmare is the owner or lessee of record at the time of foaling.

(3) **Hardship application.** Notwithstanding other provisions of this Section, a mare accredited in the Oklahoma-Bred Program as a racing stock (with the proper Oklahoma-Bred stamp) but which has not been accredited in the Oklahoma-Bred broodmare registry prior to producing a foal that would otherwise be eligible for accreditation in the Oklahoma-Bred Program may be accredited in the Oklahoma-Bred broodmare registry. In addition to the regular application fee, the applicant shall be charged an additional \$200.00 fee. All other qualifications and requirements of the Oklahoma-Bred broodmare registry must be met as well. The Registering Agency may require proof that all requirements for accreditation have been met. Any foal out of the broodmare that would otherwise be eligible for accreditation as racing stock in the Oklahoma-Bred Program will be eligible for accreditation upon enrollment in the Oklahoma-Bred broodmare registry. Acceptance of a foal application under these circumstances by the official Registering Agency is subject to the broodmare being enrolled under a hardship application in the Oklahoma-Bred broodmare registry within sixty (60) days from receipt of notice by the broodmare owner that the broodmare was not accredited in the Oklahoma-Bred broodmare registry. The fee to enroll the racing stock in the Oklahoma-Bred Program will be based upon the age of the foal on the date the Oklahoma-Bred Registering Agency received the racing stock application. Failure to enroll a broodmare under a hardship application within sixty (60) days from receipt of notice from the official Registering Agency that the broodmare was accredited in the Oklahoma-Bred racing stock registry and not in the Oklahoma-Bred broodmare registry, will result in the rejection of any pending racing stock applications for foals out of that mare.

(4) **Racing stock.** An accredited Oklahoma-Bred racehorse is one that foaled in Oklahoma, and meets the following requirements:

(A) Beginning with the foal crop of 2001 there will be two (2) classifications of Thoroughbred foals eligible for accreditation in the Oklahoma-Bred Program. The category for those foals out of an accredited Oklahoma-Bred broodmare and by an accredited

Oklahoma-Bred Stallion shall be classified as Oklahoma-Bred Conceived and Foaled. The second category for foals out of an accredited Oklahoma-Bred broodmare and by a non-accredited stallion shall be classified as Oklahoma-Bred Foaled. A foal out of an accredited Oklahoma-Bred broodmare and by a non-accredited stallion may receive accreditation in the Oklahoma-Bred racing stock registry provided all other requirements are met. In such an event, to be eligible for accreditation, the next foal out of said broodmare presented for accreditation must be by an accredited Oklahoma-Bred stallion and meet all other requirements. Further, in no event can a broodmare produce accredited Oklahoma-Bred foals in succession that are by non-accredited stallions. Except for the initial foal accredited in the Oklahoma-Bred Program, all accredited foals sired by non-accredited stallions must be preceded [by year of birth] in the registry by an accredited foal sired by an accredited stallion. Re-accreditation shall not preclude the listed rule. Provided all other requirements are met, both classifications are eligible for accreditation and may compete in Oklahoma-Bred races.

(B) An Oklahoma-Bred that is accredited as racing stock is not accredited as breeding stock in the registry. The owner of an accredited Oklahoma-Bred racehorse (for the purpose of qualifying for added purse supplements) is the owner or lessee of record at the time of the race.

(5) **Late applications.**

(A) **Broodmare.** A broodmare may be accredited in the Oklahoma-Bred broodmare registry after December 31 of the year prior to foaling if the application for accreditation is submitted to the Oklahoma-Bred Registering Agency prior to foaling; and the broodmare is otherwise in substantial compliance with the requirements of the registry. Domicile must be established in Oklahoma when the broodmare's application is filed with the Oklahoma-Bred Registering Agency.

(B) **Stallion.** A stallion may be accredited in the Oklahoma-Bred stallion registry after February 1 and by June 30 and complete the current breeding season if the stallion is otherwise in substantial compliance with the requirements of the registry. Domicile must be established in Oklahoma when the stallion's application is filed with the Oklahoma-Bred Registering Agency.

(C) **Fee.** The fee to accredit a broodmare or stallion under a late application is twice the regular fee. The fee will not be refunded if the Registering Agency rejects the application but will be applied to accreditation of the horse for the next ensuing year.

(6) **Domicile exception.** An Oklahoma-Bred broodmare or stallion may leave Oklahoma for an indefinite period of time for race, performance or for medical treatment. The broodmare or stallion may leave Oklahoma for the purpose of being offered in a recognized sale consignment, and, if returned within thirty (30) days of sale

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date, is not required to become re-accredited. Should the broodmare or stallion not meet the return period from the sale, it must be re-accredited. The burden of proof shall be on the owner to notify the Registering Agency of the intent to leave the state for any of the above reasons. The Registering Agency may further require verification of participation, treatment or consignment to ~~an~~ a sale. Further, the owner must report to the Oklahoma-Bred Registering Agency the date the broodmare or stallion returned to Oklahoma.

325:75-1-3.1. Definition of accredited Oklahoma-Bred Quarter Horse, Paint or Appaloosa

As used in this Chapter, an accredited Oklahoma-Bred Appaloosa, Quarter Horse, or Paint horse is a horse which meets the requirements below:

(1) **Stallion.** An accredited Oklahoma-Bred stallion is one that is domiciled in Oklahoma, stands for service in Oklahoma, and is enrolled in the Oklahoma-Bred stallion registry. An Oklahoma-Bred Stallion that is accredited as racing stock is not accredited as breeding stock in the registry unless the required application is filed and fee paid to Registering Agency. For resulting foals to be eligible for accreditation as Oklahoma-Bred racing stock, the stallion must be accredited in the Oklahoma-Bred Program stallion registry prior to the service that produces the resulting foal. Except for those foals eligible for accreditation that are sired by non-accredited stallions, any foals conceived prior to the stallion being accredited in the Oklahoma-Bred Program stallion registry will not be eligible for accreditation. Eligibility for participation in the Oklahoma-Bred Program begins when the application for the stallion registry is submitted, at which time the stallion must be domiciled in Oklahoma, and such application is in substantial compliance with the requirements of the registry. The stallion's application must be filed with the Oklahoma-Bred ~~registering agency~~ Registering Agency by February 1 of that breeding season. Late applications will be accepted after February 1 and through June 30 of that season. A stallion's accreditation shall not be forfeited if the stallion leaves Oklahoma for an indefinite period of time for racing, medical treatment, performance, or approved departure for breeding purposes in another hemisphere. An Oklahoma-Bred stallion may leave Oklahoma for the purpose of being offered in a recognized sale consignment. In the case of sale consignment, an accredited stallion returned to Oklahoma to resume his domicile within 30 days after the sale date is not required to become re-accredited. Any foals conceived after date of departure and prior to sale date shall be eligible for accreditation if the stallion does not return within thirty (30) days. Foals conceived after sale date will be ineligible if the stallion fails to resume domicile within thirty (30) days. Should the stallion not meet the return period from the auction or sale, the stallion must be re-accredited upon resuming his domicile in order to be eligible for breeder awards conceived after the date of departure. The burden of proof relating to such race, performance, medical treatment, sale

consignment or breeding shall be on the owner of record who shall produce such evidence to the Oklahoma-Bred Registering Agency.

(A) **Stallions leaving Oklahoma for breeding purposes in another hemisphere:** Approved departure for breeding purposes shall be granted by the ~~registering agency~~ Registering Agency upon written notification by the stallion owner or manager as to the destination of the stallion, the anticipated date the stallion will be leaving and the anticipated date of return to Oklahoma. The stallion must re-establish his domicile in Oklahoma prior to servicing any mare for which subsequent foals conceived by service from that stallion are to be eligible for accreditation. The owner or manager of the stallion must provide written notice of the exact date of stallion's return and re-established domicile location in Oklahoma and the effective date for the stallion's eligibility to earn awards will be the date of return if notice is provided within 30 days of that date, or upon receipt of notice if longer than 30 days after the return of the Stallion.

(B) **Use of preserved semen to service broodmares:** So long as an accredited Quarter Horse, Paint, Appaloosa or Thoroughbred stallion is in compliance with the accreditation requirements for the Oklahoma-Bred Program, the stallion may service mares through the use of semen preserved in accordance with the rules adopted by the appropriate national breed registry for that breed of stallion. Additionally, if an accredited stallion dies or becomes physically incapable of servicing mares while in compliance with the accreditation requirements of the Oklahoma-Bred Program, semen preserved in accordance with the rules adopted by the appropriate national breed registry for that breed of stallion may be used to service mares with the resulting foals eligible for accreditation as racing stock so long as all other conditions of eligibility are met for those resulting foals.

(C) **Re-accreditation of stallions:** If a stallion leaves the State of Oklahoma for any reason other than breeding, sale consignment, performance, or medical treatment and terminates his domicile, that stallion will not be eligible to sire subsequent foals eligible for accreditation as racing stock in the Oklahoma-Bred Program. If the stallion returns to Oklahoma to re-establish his domicile, pays the appropriate fees and meets all other qualifying requirements, the stallion may become re-accredited in the Oklahoma-Bred stallion registry. If a stallion stands for service outside of Oklahoma during the calendar year in which a foal(s) was conceived, any foal conceived after accreditation or re-accreditation of the stallion in the Oklahoma-Bred stallion registry and while the accredited stallion was standing in Oklahoma and which otherwise may be accredited in the Oklahoma-Bred Program upon presentation of acceptable documentation reflecting that the service producing the foal

occurred while the accredited stallion was standing in Oklahoma. The stallion shall be eligible for stallion awards only from those breedings that occurred while the accredited stallion was physically domiciled in Oklahoma. The Registering Agency may require an affidavit for any breeding season during which the stallion is standing as an accredited Oklahoma-Bred stallion. Failure to provide the required documentation for any year shall result in the stallion owner being ineligible for stallion awards for all foals resulting from that breeding season unless the required documentation is received by the Registering Agency within thirty (30) days after written request. Further, foals conceived during that breeding season shall be ineligible for accreditation unless the required affidavit is received by the Registering Agency not later than thirty (30) days after written request. An accredited stallion who terminates his domicile in Oklahoma and later returns to Oklahoma to resume his domicile, prior to breeding, but fails to reaccredit in the Oklahoma-Bred stallion registry, may qualify for a hardship reaccreditation. In addition to the regular application fee, the applicant shall be charged an additional \$200.00 fee. All other qualifications and requirements of the Oklahoma-Bred stallion registry must be met as well. The Registering Agency may require proof that all requirements for accreditation have been met. Any foal by the stallion seeking reaccreditation that would otherwise be eligible for accreditation as racing stock in the Oklahoma-Bred Program will be eligible for accreditation upon hardship re-accreditation in the Oklahoma-Bred stallion registry. Acceptance of a foal application under these circumstances, by the official Registering Agency, is subject to the stallion being enrolled under a hardship reaccreditation application in the Oklahoma-Bred stallion registry within sixty (60) days from receipt of notice by the stallion owner that the stallion was not reaccredited in the Oklahoma-Bred stallion registry prior to breeding. The fee to enroll the racing stock in the Oklahoma-Bred Program will be based upon the age of the foal on the date the Registering Agency receives the racing stock application. Failure to enroll a stallion under a hardship application within sixty (60) days from receipt of notice that the stallion was not reaccredited prior to breeding will result in the rejection of any pending racing stock applications for foals by the stallion. The owner of an accredited Oklahoma-Bred stallion (for the purpose of qualifying for stallion awards) is the owner or lessee of record at the time the offspring is conceived.

(2) **Broodmare.** An accredited Oklahoma-Bred Quarter Horse, Paint, or Appaloosa broodmare is one that is domiciled in Oklahoma and is enrolled in the Oklahoma-Bred broodmare registry. An Oklahoma-Bred mare that is accredited as racing stock is not accredited as breeding stock in the registry unless the required application is filed and fee paid to Registering Agency. Eligibility for

participation in the Oklahoma-Bred Program begins when the application for the broodmare registry is submitted, at which time the broodmare must be domiciled in Oklahoma, and such application is in substantial compliance with the requirements of the registry. The broodmare's application must be filed with the Oklahoma-Bred Registering Agency by December 31 of the year prior to foaling. Late applications will be accepted after December 31, but must be prior to foaling. Hardship applications are accepted at any time. A broodmare's accreditation shall not be forfeited if the broodmare leaves Oklahoma for an indefinite period of time for racing, medical treatment, performance, or approved departure for breeding purposes in another hemisphere. An Oklahoma-Bred broodmare may leave Oklahoma for the purpose of being offered in a recognized sale consignment. In the case of sale consignment, an accredited broodmare returned to Oklahoma to resume her domicile within 30 days after sale date is not required to become re-accredited. The burden of proof relating to such race, performance, medical treatment, sale consignment or breeding shall be on the owner of record who shall produce such evidence to the Oklahoma-Bred Registering Agency.

(A) **Broodmares serviced out-of-state:** An accredited Oklahoma-Bred broodmare may be shipped out of Oklahoma to be serviced by a non-accredited stallion, provided she is returned to Oklahoma to resume her domicile not later than August 15 of the calendar year in which she is serviced. Failure of the accredited broodmare to return to Oklahoma to resume her domicile not later than August 15 shall have two results: First, the broodmare loses her accreditation in the program; Second, the resultant foal is ineligible for accreditation in the Oklahoma-Bred Program unless the broodmare resumes her domicile in Oklahoma and files for re-accreditation prior to the birth of the foal.

(B) **Multiple foals by accredited broodmares:** An accredited broodmare shall be eligible to produce multiple foals eligible for accreditation as Oklahoma-Bred racing stock and shall be eligible to receive breeders awards so long as the multiple foals are produced in accordance with guidelines or requirements adopted or approved by the national breed registry for the breed of foal being produced, and the resulting foals are eligible for registration with the appropriate national breed registry.

(C) **For purposes of qualifying for broodmare awards:** The owner of an accredited Oklahoma-Bred broodmare bred to a Quarter Horse, Paint, or Appaloosa stallion is the owner or lessee of record at the time of conception. No accredited Oklahoma-Bred broodmare shall be permitted to earn broodmare awards from the accreditation of Oklahoma-Bred racing stock foals by non-accredited Oklahoma-Bred stallions if the broodmare has consecutive years with service only by non-accredited stallions.

(D) **Re-accreditation rule:** If a broodmare leaves the State of Oklahoma for any reason other than breeding, sale consignment, performance, or medical treatment, the broodmare is deemed terminated and loses broodmare accreditation in the Oklahoma-Bred Program. Such that broodmare will not be eligible to produce subsequent foals eligible for accreditation as racing stock in the Oklahoma-Bred Program. If the broodmare returns to Oklahoma to re-establish her domicile, pays the appropriate fees and meets all other qualifying requirements, the broodmare may become re-accredited in the Oklahoma-Bred broodmare registry provided however, a broodmare re-accredited in consecutive years shall not be eligible to produce accredited foals born in the second or subsequent, consecutive year of back to back re-accreditation, unless the application for re-accreditation includes a valid transfer of ownership between individuals that are not related by blood or marriage, or that share the same physical address. In the event a re-accredited broodmare produces successive foals by non-accredited Oklahoma-Bred stallions, the broodmare owner will not receive any breeder awards for the second foal. The Registering Agency may request a copy of the foal report submitted to the official breed registry for any accredited Oklahoma-Bred broodmare. An accredited broodmare who terminates her domicile in Oklahoma and later returns to Oklahoma to resume her domicile, prior to foaling, but fails to reaccredit in the Oklahoma-Bred broodmare registry, may qualify for a hardship re-accreditation provided however, a broodmare re-accredited in consecutive years shall not be eligible to produce accredited foals born in the second or subsequent, consecutive year of back to back re-accreditation, unless the application for re-accreditation includes a valid transfer of ownership between individuals that are not related by blood or marriage, or that share the same physical address. In addition to the regular application fee, the applicant for a hardship re-accreditation shall be charged an additional \$200.00 fee. All other qualifications and requirements of the Oklahoma-Bred broodmare registry must be met as well. The Registering Agency may require proof that all requirements for accreditation have been met. Any foal out of the broodmare seeking re-accreditation that would otherwise be eligible for accreditation as racing stock in the Oklahoma-Bred Program will be eligible for accreditation upon hardship re-accreditation in the Oklahoma-Bred broodmare registry. Acceptance of a foal application under these circumstances, by the official Registering Agency, is subject to the broodmare being enrolled under a hardship re-accreditation application in the Oklahoma-Bred broodmare registry within sixty (60) days from receipt of notice by the broodmare owner that the broodmare was not reaccredited in the Oklahoma-Bred broodmare registry prior to foaling. The fee to enroll the racing stock in the Oklahoma-Bred

Program will be based upon the age of the foal on the date the Registering Agency receives the racing stock application. Failure to enroll a broodmare under a hardship application within sixty (60) days from receipt of notice that the broodmare was not reaccredited prior to foaling will result in the rejection of any pending racing stock applications for foals out of that mare.

(3) **Hardship application.** Notwithstanding other provisions of this Section, a mare accredited in the Oklahoma-Bred Program as a racing stock (with the proper Oklahoma-Bred stamp) but which has not been accredited in the Oklahoma-Bred broodmare registry prior to producing a foal that would otherwise be eligible for accreditation in the Oklahoma-Bred Program may be accredited in the Oklahoma-Bred broodmare registry. In addition to the regular application fee, the applicant shall be charged an additional \$200.00 fee. All other qualifications and requirements of the Oklahoma-Bred broodmare registry must be met as well. The Registering Agency may require proof that all requirements for accreditation have been met. Any foal out of the broodmare that would otherwise be eligible for accreditation as racing stock in the Oklahoma-Bred Program will be eligible for accreditation upon enrollment in the Oklahoma-Bred broodmare registry. Acceptance of a foal application under these circumstances by the official Registering Agency is subject to the broodmare being enrolled under a hardship application in the Oklahoma-Bred broodmare registry within sixty (60) days from receipt of notice by the broodmare owner that the broodmare was not accredited in the Oklahoma-Bred broodmare registry. The fee to enroll the racing stock in the Oklahoma-Bred Program will be based upon the age of the foal on the date the Oklahoma-Bred Registering Agency received the racing stock application. Failure to enroll a broodmare under a hardship application within sixty (60) days from receipt of notice from the official Registering Agency that the broodmare was accredited in the Oklahoma-Bred racing stock registry and not in the Oklahoma-Bred broodmare registry, will result in the rejection of any pending racing stock applications for foals out of that mare.

(4) **Racing stock.** An accredited Oklahoma-Bred Quarter Horse, Paint, or Appaloosa racehorse is a horse foaled in Oklahoma that meets one of the following requirements:

(A) The racehorse is a Quarter Horse, Paint, or Appaloosa horse registered by the appropriate national breed registry(s) and is by an accredited Oklahoma-Bred stallion and out of an accredited Oklahoma-Bred broodmare; or

(B) The racehorse is a foal out of an accredited Oklahoma-Bred broodmare and by a non-accredited stallion; and

(C) In no event can an accredited broodmare produce accredited Oklahoma-Bred Racing Stock foals in successive years that are by non-accredited stallions; however, multiple foals out of an accredited

Oklahoma-Bred broodmare and by both accredited Oklahoma-Bred stallions and non-accredited stallions in the same calendar year shall be eligible. With regard to multiple embryos, if the appropriate national breed registry permits registration of multiple foals from the same broodmare in a single year, all foals conceived and foaled by that broodmare or her recipients shall be eligible for accreditation in the Oklahoma-Bred Program if the other requirements of the program are met or

(D) Except for the initial foal accredited in the Oklahoma-Bred Program, all foals to be accredited in the Oklahoma-Bred Program sired by non-accredited stallions must be preceded (by year of birth) in the registry by either an Oklahoma-Bred accredited foal sired by an accredited stallion, or by affidavit or other documentation accepted by the Registering Agency that verifies the broodmare was bred to an accredited stallion and subsequently produced a foal that died after the broodmare was bred back to an out-of-state stallion but prior to registering that live foal; or produced a foal carried by a recipient mare which was stillborn or died prior to being registered but after the accredited broodmare was bred to an out-of-state stallion in the subsequent year. In such case, if the broodmare is permitted to produce accredited foals by non-accredited stallions in two consecutive years, that broodmare must for the next subsequent year be bred to an accredited stallion and produce a foal which is accredited for subsequent foals to be eligible for accreditation. An Oklahoma-Bred that is accredited as racing stock is not accredited as breeding stock in the registry. The owner of an accredited Oklahoma-Bred racehorse (for the purpose of qualifying for added purse supplements) is the owner or lessee of record at the time of the race.

(5) **Late applications.**

(A) **Broodmare.** A broodmare may be accredited in the Oklahoma-Bred broodmare registry after December 31 of the year prior to foaling if the application and fee are submitted to the Oklahoma-Bred Registering Agency prior to foaling; and the broodmare is otherwise in substantial compliance with the requirements of the registry. Domicile must be established when the broodmare's application is filed with the Oklahoma-Bred Registering Agency.

(B) **Stallion.** A stallion may be accredited in the Oklahoma-Bred stallion registry after February 1 and by June 30 and complete the current breeding season if the stallion is otherwise in substantial compliance with the requirements of the registry. Domicile must be established when the stallion's application is filed with the Oklahoma-Bred Registering Agency.

(C) **Fee.** The fee to accredit a broodmare or stallion under a late application is twice the regular fee. The fee will not be refunded if the Registering Agency rejects the application but will be applied to accreditation of the horse for the next ensuing year.

(6) **Domicile exception.** An Oklahoma-Bred broodmare or stallion may leave Oklahoma for an indefinite period of time for race, performance purposes or for medical treatment. The broodmare or stallion may leave Oklahoma for the purpose of being offered in a recognized sale consignment, and, if returned within thirty (30) days of sale date, is not required to become re-accredited. Should the broodmare or stallion not meet the return period from the sale, it must be re-accredited. The burden of proof shall be on the owner to notify the Registering Agency of the intent to leave the state for any of the above reasons. The Registering Agency may further require verification of participation, treatment or consignment to a sale. Further, the owner must report to the Oklahoma-Bred Registering Agency the date the broodmare or stallion returned to Oklahoma.

325:75-1-11. Oklahoma-Bred racing program

Any organization licensed by the Commission to conduct a race meeting with ~~pari-mutuel~~ pari-mutuel wagering shall provide an Oklahoma-Bred Racing Program and publish such conditions in the Condition Book prior to the commencement of the race meeting. Prior to publication and distribution of the Condition Book, the Commission shall review and approve the Oklahoma-Bred Racing Program. Any changes thereto shall be filed with the Commission, and none shall substantially deviate from the conditions previously published unless approved by the Commission. [3A:208.3; see also 3A:203.7 and 3A:204]

325:75-1-12.1. Application requirements, categories and fees for Thoroughbreds, beginning with an effective date of January 1, 2010

(a) Except as provided in 325:75-1-3(5)(C), all broodmares must be accredited in the broodmare registry prior to foaling and Oklahoma-Bred eligible foal. All stallions must be accredited in the stallion registry prior to conceiving an Oklahoma-Bred eligible foal. Racing stock may apply for the racing stock registry by December 31 of the year of the horse's birth with a fee of \$50.00. Other racing stock may apply by December 31 of the horse's yearling year with a fee of \$150.00. The horse may apply by December 31 of its two-year old year for \$450.00. After that date, a three-year or older foal may apply for a fee of \$1,000.00. Broodmares may apply for the broodmare registry by December 31 of the year prior to foaling for a fee of \$75.00. Broodmares applying under late application but prior to foaling must pay a fee of \$150.00. Broodmares applying under hardship applications must pay a fee of \$200.00 plus application fee. Stallions may apply for the stallion registry by February 1 of that breeding season with a fee of \$225.00. Stallions applying after February 1 and by June 30 of that breeding season must pay a fee of \$400.00. Further, the stallion must pay a yearly re-certification fee. If paid prior to February 1, the fee is \$25.00; after February 1 but before June 30, the fee is \$50.00. If the yearly fee is paid after June 30, the yearly fee is \$400.00.

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(b) The breeder or owner of an Oklahoma-Bred horse shall pay the fee required for applying in the following categories:

- (1) Stallion Application by February 1 of breeding year - \$225.00
 - (2) Stallion Application after February 1 but before June 30 of the breeding year - \$400.00
 - (3) Stallion Reaccreditation Application by February 1 of breeding year - \$225.00
 - (4) Stallion Reaccreditation Application after February 1 but before June 30 of breeding year - \$400.00
 - (5) Stallion Reaccreditation Hardship Application - \$200.00 plus the application fee
 - (6) Yearly Recertification of Stallion in Registry by February 1 of breeding year - \$25.00
 - (7) Yearly Recertification of Stallion in Registry after February 1 but before June 30 of breeding year - \$50.00
 - (8) Yearly Recertification of Stallion in Registry after June 30 of breeding year - \$400.00
 - (9) Broodmare Application by December 31 of Year prior to foaling - \$75.00
 - (10) Broodmare Application after December 31 and prior to foaling - \$150.00
 - (11) Broodmare Reaccreditation Application by December 31 prior to foaling - \$75.00
 - (12) Broodmare Reaccreditation Application after December 31 and prior to foaling - \$150.00
 - (13) Broodmare Hardship Application - \$200.00 plus application fee
 - (14) Foal Application in Year of Birth by December 31 - \$50.00
 - (15) Foal Application in Yearling Year by December 31 - \$150.00
 - (16) Foal Application in Two-Year-Old Year by December 31 - \$450.00
 - (17) Foal Application in Three-Year-Old Year by December 31 - \$750.00
 - (18) Foal Application after December 31 of Three-Year-Old Year - \$1,000
 - (19) Transfer fee - \$25.00
- (c) Paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12) and (13) of (b) of this Section are registries for breeding purposes only. Paragraphs (14), (15), (16), (17), (18) and (19) of (b) of this Section are for racing purposes only.
- (d) Proceeds from the fees listed above are to be distributed in the following manner:
- (1) 85% placed into the Oklahoma-Bred Fund for Thoroughbreds. Should the Legislature in the future authorize the Oklahoma Breeding Development Fund Special Account monies to be used for the care of retired and unwanted Oklahoma-Bred accredited horses, then 50% of such fees shall be placed in the Fund to be administered by the Commission for the care of retired and unwanted accredited Oklahoma-Bred Thoroughbred horses, and 35% placed in the Oklahoma-Bred Fund for Thoroughbreds, and
 - (2) 15% to the Oklahoma Horse Racing Commission to:

(A) Assist in funding to oversee the Fund in (c) (2), to cover related costs to administering the Oklahoma-Bred Program for Thoroughbreds, and

(B) Improve and increase the number of inspections for compliance for Thoroughbred broodmares, stallions and foals to be eligible for the Oklahoma-Bred Program.

325:75-1-15. Distribution of funds for Oklahoma-Bred pari-mutuel races

(a) The distribution of monies from the Oklahoma Breeding Development Fund Special Account for any race meeting except as provided in (b) and (c) of this Section shall be as follows:

(1) Fifty percent (50%) to purse supplements for owners of winning accredited Oklahoma-Bred horses in certain races, as established in 325:75-1-14;

(2) Thirty-four percent (34%) to the Breeders of winning accredited Oklahoma-Bred horses for Broodmare Awards, except for an accredited Thoroughbred classified as Oklahoma—foaled, will receive one-half ($\frac{1}{2}$) of this designated award. The remaining or undistributed monies will be held in trust for Stallion Owners to be awarded in the following manner: At the conclusion of the calendar year, the top ten accredited Thoroughbred stallions will be determined and ranked by the amount of the Oklahoma-Bred money earned, and those stallions will receive a Stallion Bonus Award from the undistributed trust based on the stallion's percentage of earnings of the top ten accredited Thoroughbred stallions' total earnings.

(3) Sixteen percent (16%) to the owners of the sires of winning accredited Oklahoma-Bred horses for Stallion Awards.

(b) At any mixed breed race meeting, no less than ten percent (10%) of the Oklahoma Breeding Development Fund Special Account generated at said race meeting shall be available for distribution as authorized in (a) or (b) of this Section for stakes races and/or feature races as authorized by the Commission in 325:75-1-14 at the track where such funds were generated. Any distribution contemplated herein shall be made available on a pro rata basis using a per breed ratio based upon the number of races per breed specified in the current Organization License for the race track. The distribution of breakage and unclaimed ticket proceeds generated outside of race meetings and designated for use as purse supplements or awards at a race track each year shall be divided between race meetings and among participants in any Mixed Breed Race Meeting on the same basis, by using a per breed ratio based upon the number of races per breed specified in the race track's current Organization License Order.

(c) At any straight Thoroughbred race meeting, no less than ten percent (10%) of the Oklahoma Breeding Development Fund Special Account generated at said race meeting shall be made available for distribution as authorized in (c) of this Section for stakes races and/or feature races as authorized by the Commission in 325:75-1-14 at the track where such funds were generated.

(d) Excepting feature races as authorized by the Commission in 325:75-1-14, the official order-of-finish distribution amounts authorized in (a), (b), and (c) of this Section shall be as follows:

- (1) Fifty percent (50%) total to the winning accredited Oklahoma-Bred horse and the accredited Oklahoma-Bred broodmare and sire of such horse, if any as prescribed in subsections (a), (b), and (c) of this section;
- (2) Thirty percent (30%) total to the place accredited Oklahoma-Bred horse and the accredited Oklahoma-Bred broodmare and sire of such horse, if any as prescribed in subsections (a), (b), and (c) of this section; and
- (3) Twenty percent (20%) total to the show accredited Oklahoma-Bred horse and the accredited Oklahoma-Bred broodmare and sire of such horse, if any as prescribed in subsections (a), (b), and (c) of this section.

(e) The official order of finish distribution amounts authorized by the Commission for feature races, if any, as established in 325:75-1-14, shall be determined by the Commission.

(f) As approved by the Commission, fifteen percent (15%) of the unclaimed ticket proceeds shall be available to the Commission for distribution for equine research.

325:75-1-21. Expenditure of Oklahoma Breeding Development Fund Special Account Monies for the purpose of caring for retired and unwanted Oklahoma-Bred racing stock

The use of monies from the Oklahoma Breeding Development Fund Special Account for the purpose of caring for retired and unwanted Oklahoma-Bred racing stock shall be subject to the following procedures and requirements:

- (1) To be eligible to receive monies from the Oklahoma Breeding Development Fund Special Account for the purpose of caring for retired and unwanted Oklahoma-Bred racing stock, a non-profit entity must:
 - (A) Be exempt from taxation under the United States Internal Revenue Code, 26 U.S.C. § 501(c),
 - (B) The official horsemen's representative organization for a participating breed must request that the non-profit entity receive monies from the Special Account for the purpose of caring for retired and unwanted Oklahoma-Bred racing stock, and
 - (C) The non-profit must have a program developed for the care of retired and/or unwanted horses which meets the program requirements specified in this Rule.
- (2) Two general types of care programs may receive funding for the purpose of caring for retired or unwanted Oklahoma-Bred racing stock:
 - (A) Adoption Programs under which Oklahoma-Bred race horses are rehabilitated and/or rehabilitated and retrained for other uses, such as, but not limited to, polo, dressage, hunter/jumper, and pleasure riding. The purpose and goal of such programs is the adoption of the horse by third parties after rehabilitated and/or retraining; and

(B) Pension Programs, for the care and "pasturing" of retired or unwanted race horses who, because of their health or condition, are incapable of being rehabilitated/retrained and adopted.

(C) Such programs may be operated by the eligible non-profit entity itself and/or through the use of subcontractors.

(3) Whether conducted by an eligible non-profit entity itself or through the use of subcontractors, to be eligible, a care program must comply with the following requirements:

- (A) The program must enable horses to have access to clean, palatable, safe water and be able to drink their fill at least twice a day;
- (B) The program is to maintain all horses in a body condition score of three (3) or more using the body condition scoring system developed by Dr. Don Henneke at Texas A&M University. In establishing this criteria, the Commission recognizes that horses gaining weight and being fed adequately, highly conditioned performance horses and horses with certain chronic health conditions may be in lower body condition scores and still be acceptably nourished, and that horses with more than twenty (20) years of age may not maintain their body condition well, even with special food;
- (C) The program shall permit horses to have free access to natural or constructed shelter that is well-ventilated with adequate space and free of hazards. Stables horses should be allowed exercise daily;
- (D) The program should ensure that horses are free of significant health problems or should be receiving appropriate health care to prevent unnecessary discomfort and promote prompt return to well-being;
- (E) The program must ensure that horses receive adequate hoof care to allow horses to stand in a normal posture and move at all gates without discomfort. In adopting this criterion, the Commission recognizes that some health and hoof problems [such as Heaves or Founder] in horses, particularly those that are long standing, may not be resolved, but this should be determined by a veterinarian;
- (F) The non-profit entity and subcontractor participating in the program must agree to and allow random, unannounced inspections of their care operations and facilities by the Commission's Law Enforcement Division;
- (G) Non-profit entities and subcontractors participating in the program must agree to and actually file quarterly reports with the Commission on a form provided by the Commission. The reports will include, but are not limited to, an indication of the total number of horses being cared for at the facility during the quarter, the number of eligible Oklahoma-Bred horses being cared for, and horse mortality rate during the quarter and the number of adoptions during the quarter, and

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- (H) No horse in the non-profit entity's program shall be sent to slaughter.
- (4) To be eligible to participate in the program, racing stock must meet the following requirements:
- (A) The horse must be of a participating breed;
 - (B) The horse must be registered in the Oklahoma-Bred Program;
 - (C) The horse's last race or last workout cannot have occurred more than twelve (12) months prior to its entering into care in a program receiving funding under this Rule;
 - (D) Ownership of the horse and its registration papers must be turned over to and become the property of the non-profit entity or its designated subcontractor;
 - (E) The horse shall never be raced again, and
 - (F) Horses of an owner who has not placed a retired or unwanted horse in an Adoption Program or Pension Program receiving funding authorized in accordance with this Rule will have priority over horses seeking to be placed in such an Adoption or Pension Program whose owners have already placed two (2) or more horses in such an Adoption Program or Pension Program.
- (5) The following procedures will be used by the Commission in awarding monies from the Oklahoma Breeding Development Fund Special Account for the purpose of caring for retired and unwanted Oklahoma-Bred racing stock:
- (A) No non-profit entity will be eligible to receive monies from the Oklahoma Breeding Development Fund Special Account for the purpose of caring for retired and unwanted Oklahoma-Bred racing stock during any calendar year unless the official horsemen's representative organization for a participating breed requests that the entity receive such from the Special Account during the calendar year. Requests by the official horsemen's representative organization must be made on an annual basis and no matter when made will only make the non-profit entity eligible during the calendar year in question, assuming all other requirements are met by the non-profit entity.
 - (B) The Commission's Executive Director shall determine whether a non-profit entity and its program are eligible to receive funding for the purpose of caring for retired and unwanted horses. Further, the Executive Director shall determine the amount of funds that each eligible and participating entity shall receive, based upon the number of eligible Oklahoma-Bred horses being cared for or to be cared for by the non-profit entity and how much funding is available, using the following funding parameters:
 - (i) No more than fifty percent (50%) of funds made available in the Oklahoma Breeding Development Fund Special Account for the purpose of caring for retired or unwanted Oklahoma-Bred racing stock can be used to care for pensioned

horses, horses that because of their health or condition are not being rehabilitated and/or retrained for adoption;

- (ii) Funding for horses in an Adoption Program, between \$200-\$250 per month, per horse, or an amount within a range established annually by the Commission's Executive Director;
 - (iii) Funding for horses in a Pension Program, between \$150-\$200 per month, per horse, or an amount within a range established annually by the Commission's Executive Director.
- (C) Of the funding made available to a non-profit entity for the purpose of providing care to retired and unwanted horses, the non-profit entity may use up to fifteen percent (15%) of those funds for administrative expenses, which are any expenses not related to directly providing of care to horses in the program.
- (D) Before a non-profit entity can receive funding for the care of a horse, whether in an Adoption Program or Pension Program, the horse's eligibility to participate in the program must be established in the following manner: The non-profit entity shall file with the Commission's Oklahoma-Bred Registry Department: (1) an ownership transfer application which transfers ownership of the horse to the non-profit entity or a subcontractor designated by the non-profit entity, together with (2) the horse's original registration papers, (3) documentation showing the horse's last race and/or last workout, and (4) a request that the horse be qualified as retired or unwanted racing stock within its care for the purpose of receiving Oklahoma Breeding Development Fund Special Account monies.
- (E) In addition to transferring the ownership based upon the application filed, the Registering Department will also notify both the Commission's Executive Director and the non-profit entity making the application whether the horse is an Oklahoma-Bred racing stock horse and whether the horse is eligible under this Rule.
- (F) A non-profit entity must notify the Commission's Executive Director within two (2) weeks on an eligible horse's leaving the non-profit's Adoption or Pension Program by virtue of death, adoption or any other reason.

[OAR Docket #13-498; filed 4-2-13]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL CHAPTER 10. REQUIREMENTS FOR REGISTRATION

[OAR Docket #13-449]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:

475:10-1-10. Application notices for registration and re-registration [AMENDED]

AUTHORITY:

The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, 63 O.S. §2-301, 63 O.S. §2-309H.

DATES:

Comment period:

December 3, 2012 through January 2, 2013

Public hearing:

None held or requested

Adoption:

January 3, 2013

Submitted to Governor:

January 3, 2013

Submitted to House:

January 3, 2013

Submitted to Senate:

January 3, 2013

Gubernatorial approval:

January 14, 2013

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2013

Final adoption:

March 27, 2013

Effective:

May 13, 2013

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The change to rule 475:10-1-10 corrects spelling and grammar errors.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2013:

475:10-1-10. Application notices for registration and re-registration

(a) Any person required to be registered under Title 63 may obtain the appropriate registration application notice by contacting the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

(b) Any person desiring to professionally handle controlled dangerous substances for the purpose of canine drug detector handling and or training, manufacturing, distributing, conducting scientific research, or performing analytical laboratory services by scientific analysis of controlled dangerous substances listed in the Uniform Controlled Dangerous Substances Act, Schedules I through V, shall apply for registration as follows:

(1) Application for registration as a canine drug detector handler and or trainer, researcher or analytical laboratory shall be ~~required-registered~~ with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control as an individual.

(2) Two (2) copies of the proposed operational protocol shall be attached to the application notice.

(3) A detailed description, diagram, and/or photographs of all security measures proposed for the safe storage of all controlled dangerous substances shall be attached to the application notice.

(c) Any place or person licensed by their appropriate State of Oklahoma licensing board who desires to professional handle controlled dangerous substances in their practice of medicine, retail pharmacy, hospital, teaching institution, or institutional drug department shall apply for registration.

(d) Renewal notices will be mailed as applicable to each registered person approximately ninety (90) days before the expiration date of October 31 of each year; if any registered person does not receive such notice within thirty (30) days prior to the expiration date of his/her registration, he/she must give notice of such omission and request such notice either by personal contact with, or in writing to, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. It shall be the registrant's responsibility to maintain a valid registration.

(e) Each application shall include all information called for in the notice, unless the item is not applicable, in which case this fact shall be indicated, and the application notice with comments shall be required to be returned to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. The address of the registrant shall include the mailing address and physical directions to the registrant's location [if different from the mailing address-]. A post office box will ~~not~~ be considered a sufficient mailing address.

(f) Each application, attachment or other document filed as a part of any application shall be signed by the applicant or by an officer or official of the applicant. Those applications with questions left unanswered or without proper signature will not be accepted.

[OAR Docket #13-449; filed 3-28-13]

**TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 30. LABELING REQUIREMENTS**

[OAR Docket #13-450]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

475:30-1-4. Manner of issuance of prescriptions [AMENDED]

475:30-1-6. Requirements of prescriptions for controlled dangerous substances listed in Schedule II [AMENDED]

AUTHORITY:

The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, 63 O.S. §2-301, §2-309H.

DATES:

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Permanent Final Adoptions

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The change to rule 475:30-1-4 includes Schedule V prescriptions in the list of prescriptions allowed to be sent to the pharmacy by fax, and the change to rule 475:30-1-6 corrects a spelling error.

CONTACT PERSON:

Marie Schuble, Staff Attorney, Oklahoma Bureau of Narcotics and Dangerous Drugs Control, 440 NE 39th Street, Oklahoma City, OK 73105, 405-521-2885, mschuble@obn.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2013:

475:30-1-4. Manner of issuance of prescriptions

(a) The practitioner shall sign a written prescription in the same manner as he/she would sign a check or legal document and shall also type, stamp or print the practitioner's name on the face of each prescription. Where an oral order is not permitted, prescriptions shall be written with ink. All written prescriptions shall be manually signed by the practitioner. The prescriptions may be prepared by an agent for the signature of a practitioner, but the prescribing practitioner is responsible in the event the prescription does not conform in all essential respects to the Uniform Controlled Dangerous Substances Act and this Chapter.

(b) A resident or staff practitioner, an intern of a teaching hospital, or a limited institutional practitioner of a federal, state or local government hospital or institution, exempted from registration or registered in fee-exempt status with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, shall include on all prescriptions issued by him/her the hospital or institutional Federal Drug Enforcement Administration registration number with the special internal code number assigned by the hospital or other institution; or include on all prescriptions he/she issues his/her personal Federal Drug Enforcement Administration registration number. Such prescriptions issued by interns of a teaching hospital, if for outpatients, must be countersigned by a practitioner licensed by the practitioner's appropriate State of Oklahoma licensing board.

(c) A practitioner must state on a written prescription for any controlled dangerous substance the name, address and Federal Drug Enforcement Administration registration number of the practitioner; the date of delivery of the prescription; the name, dosage and strength per dosage unit of the controlled dangerous substance; the name and address of the patient, or if

it is a veterinary prescription, the species of the animal and the name and address of the owner; the directions for use and any cautionary statements required; and if allowable, the number of times to be refilled.

(1) The face of a prescription must not be materially altered; if an error is made in filling out the prescription, a new prescription must be written by the prescribing practitioner.

(A) A pharmacist may add to the prescription the patient's address or age, the prescribing practitioner's federal DEA number, or the generic drug name if used.

(B) After confirming with the prescribing practitioner, the pharmacist may add information indicating the strength, whether tablet or capsule form, and whether it is compounded if such additions would not materially alter the prescription.

(C) If omitted, the directions (Sig) or the quantity, may be added by the pharmacist after confirming with the prescribing practitioner.

(D) Documentation of contacting the prescribing practitioner will be noted on the back of the prescription regarding (B) and (C) above.

(2) A written prescription for a controlled dangerous substance in Schedule II becomes invalid thirty (30) days after the date of issuance, with day one (1) of the thirty (30) day period being the first day after the date of issuance.

(3) Each scheduled drug shall be written on a single prescription form, and no other prescriptions (controlled or non-controlled) shall be written on the same prescription form.

(d) Upon receiving an oral prescription, the pharmacist must reduce the oral prescription to the form specified in (c) of this Section, including the typewritten name of the prescribing practitioner. The pharmacist filling any prescription for any controlled dangerous substance must enter the date of filling and handwrite the initials of the pharmacist on the prescription. If the practitioner is not known to the pharmacist, he/she must make a reasonable effort to determine that the oral authorization came from a registered practitioner.

(e) Upon receiving an oral prescription, the pharmacist may use a computer printout label if the label meets all requirements for a prescription as set out by the Uniform Controlled Dangerous Substances Act and this Chapter. On computer labeling for oral prescriptions, it is not necessary that the Drug Enforcement Administration registration number be on the label used as an oral prescription, but it must be recorded on the document prepared by the pharmacist.

(f) Written prescriptions may be transmitted by a practitioner to a dispensing pharmacy by facsimile. In such cases, the prescribing practitioner shall print "FAXED" on the face of the prescription, and the facsimile received must be on non-fading standard paper. Thermographic paper is not acceptable for any prescriptions for drugs in any Schedule.

(1) For drugs in Schedules III ~~and~~ IV, and V, a facsimile of a written, signed prescription transmitted directly by the prescribing practitioner to the pharmacy can serve as an original prescription.

(2) For drugs in Schedule II, the original written prescription must still be presented and verified against the facsimile at the time the substance is actually dispensed and the original document must be properly annotated and retained for filing subject to the exceptions listed in (3) below.

(3) Exception to (2): A facsimile copy of a prescription for a Schedule II drug when sent by facsimile by the prescribing practitioner:

- (A) To a Home Infusion Pharmacy.
- (B) When the prescription is for a patient in a Long Term Care Facility.
- (C) When the prescription is for a patient in a Hospice program certified by Medicare under Title XVIII or licensed by the state.
- (D) If the facsimile is sent from a LTCF or hospice instead of the prescribing practitioner's office, the original must be presented at the time any CDS is dispensed.

(g) The pharmacist still bears the responsibility for ensuring that prescriptions for controlled substances have been issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his/her professional practice. This responsibility applies equally to an order transmitted by facsimile. Measures to be considered in authenticating prescriptions sent by facsimile equipment would include maintenance of a practitioner's facsimile number reference file, verification of the telephone number of the originating facsimile equipment and/or telephone verification with the practitioner's office that the prescription was both written by the practitioner and transmitted by the practitioner or the practitioner's agent.

(h) Electronic prescriptions are permitted as provided by 21 CFR §§ 1311 et. seq.

475:30-1-6. Requirements of prescriptions for controlled dangerous substances listed in Schedule II

(a) A pharmacy may dispense directly a controlled dangerous substance listed in Schedule II which is a prescription drug as determined under the Uniform Controlled Dangerous Substances Act, only pursuant to a written prescription or as otherwise provided for in this Title.

(b) A registered individual practitioner may administer or dispense directly a controlled dangerous substance listed in Schedule II in the course of his/her professional practice without a prescription, subject to 475:30-1-5.

(c) An institutional physician limited in practice by the individual's appropriate Oklahoma state licensing board, other than those registered in a fee-exempt status with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, may administer or dispense directly (but not prescribe) a controlled dangerous substance listed in Schedule II, only pursuant to a written prescription signed by the "Limited Institutional Practitioner's" supervising chief medical practitioner or to

an order for medication made by an individual supervising chief medical practitioner which is dispensed for immediate administration to the ultimate user.

(d) In case of an emergency situation, as defined by the Oklahoma State Board of Pharmacy pursuant to Title 63 Okl.St. Ann. §2-309, and Title 21 Code of Federal Regulations, §1306.11, the pharmacist of a registered or otherwise authorized pharmacy may dispense a controlled dangerous substance listed in Schedule II upon receiving oral authorization of a prescribing registered individual; PROVIDED that:

(1) The quantity prescribed and dispensed is limited to the amount adequate to treat the patient during the emergency period (dispensing beyond the emergency period must be pursuant to a written prescription signed by the prescribing registered individual practitioner).

(2) The prescription shall be immediately reduced to writing by the pharmacist and shall contain all information required in Title 63 Okl.St. Ann. §2-309 and OAC 475, except for the signature of the prescribing registered individual practitioner.

(3) If the prescribing registered individual practitioner is not known to the pharmacist, he/she must make a reasonable effort to determine that oral authorization came from a registered individual practitioner, which may include a callback to the prescribing registered individual practitioner, using his/her phone number as listed in the telephone directory and/or good faith effort to ~~insure~~ ensure his/her identity.

(4) In emergency situations, reasonable effort must be made to determine the identity of the person picking up the prescription if that person is not known to the pharmacist.

(5) Within seventy-two (72) hours after authorizing an emergency oral prescription, the prescribing registered individual practitioner shall cause a written prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist. In addition to conforming to the requirements of Title 63 Okl.St. Ann. §2-309(F), the prescription shall have written on its face "Authorization for Emergency Dispensing", and the date of the oral order. The written prescription may be delivered to the pharmacist in person or by mail, but if delivered by mail, it must be postmarked within the 72-hour period. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency prescription which had earlier been reduced to writing. The pharmacy shall notify the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control if the prescribing registered individual practitioner fails to deliver to him/her a written prescription; failure of the pharmacy to do so shall void the authority conferred by this paragraph to dispense without a written prescription of a prescribing registered individual practitioner.

[OAR Docket #13-450; filed 3-28-13]

Permanent Final Adoptions

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL CHAPTER 50. ANIMAL CONTROL OFFICERS

[OAR Docket #13-451]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

475:50-1-1. Purpose [AMENDED]

475:50-1-2. Qualifications for Registration/ Required Training [AMENDED]

AUTHORITY:

The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, 63 O.S.§§ 2-301 and 2-309H.

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n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The change to rule 475:50-1-1 adds a section number that was left out. The change to rule 475:50-1-2 corrects a word.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2013:

475:50-1-1. Purpose

(a) The purpose of this section of Title 475 is to make it possible for animal control officers to register with the Oklahoma Bureau of Narcotics and Dangerous Drugs Control (OBNDCC), pursuant to Oklahoma State Statute, Title 63, § 2-302. This legislation was enacted to allow professional animal control officers who are employed by cities, counties, or the state, within Oklahoma, to be able to obtain, possess, and administer controlled dangerous substances that are consistent with a formulary established by OBNDCC, in the performance

of their official duties as animal control officers, including, but not limited to, the tranquilization, sedation, and humane euthanasia of animals.

(b) The term "animal control officer" includes animal control officers and their supervisors or managers who, through their supervisory or managerial duties, are responsible for the supervision and/or management of the officer and the shelter or field services program in which the officer is employed.

475:50-1-2. Qualifications for Registration/ Required Training

Only animal control officers who are employed by a government entity (i.e., city, county, state, or federal) may apply for OBNDCC registration. Furthermore, as a necessary condition for registration, officers will have completed a 16-hour certification course, meeting the curriculum established by OBNDCC and taught by instructors meeting the standards that are acceptable to OBNDCC. This training will include, among other things, the following:

- (1) Rules and regulations covering animal control officers pertaining to controlled drugs;
- (2) Guarding against the diversion of controlled substances;
- (3) The ~~Oklahoma~~Uniform Controlled Dangerous Substances Act (Title 63 Oklahoma Statutes);
- (4) Rules for storing and transporting controlled dangerous substances;
- (5) The pharmacology of, safe and humane administration of, and proper storage of controlled dangerous substances for animal sedation, tranquilization, and humane euthanasia;
- (6) The proper disposal of euthanized animals;
- (7) Other topics as required by OBNDCC or DEA.

[OAR Docket #13-451; filed 3-28-13]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL CHAPTER 55. PSEUDOEPHEDRINE CONTROL

[OAR Docket #13-452]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

475:55-1-2. Characteristics of exempt pseudoephedrine products [REVOKED]

475:55-1-5. Electronic Reporting [AMENDED]

475:55-1-10. Prescriptions [AMENDED]

AUTHORITY:

The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, 63 O.S.§§ 2-301, 2-309H.

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ANALYSIS:

The revocation of rule 475:55-1-2 takes out language regarding exempt pseudoephedrine products that are no longer exempt according to 63 O.S. §2-212, which was amended last legislative session in HB 2941. The change to rule 475:55-1-5 updates the quantity limits of purchasing pseudoephedrine products to match 63 O.S. §2-212, which was amended last legislative session in HB 2941; and the changes to the rule update the language regarding how to report when the electronic log is unavailable to match the language in 63 O.S. §2-341, which was added to the Oklahoma Statutes by HB 2941. The changes to rule 475:55-1-10 takes out a specific number and instead references to the applicable statute.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 13, 2013:

475:55-1-2. Characteristics of exempt pseudoephedrine products [REVOKED]

(a) ~~All products that are either: (1) soft gelatin liquid filled capsules; or, (2) liquid preparations, are exempt from Schedule V. Conversely, all solid dosage forms of medications, including powders, that contain any quantity of pseudoephedrine are classified as Schedule V controlled dangerous substances and are subject to the rules of this section.~~

(b) ~~The term "gel capsule," as specified in O.S. Title 63, means any soft gelatin liquid filled capsule that contains a liquid suspension, which, in the case of pseudoephedrine, is suspended in a matrix of glycerin, polyethylene glycol, and propylene glycol, along with other liquid substances. Regardless of the product manufacturers' labeling, a gelatin covered solid does not constitute a "gel capsule" under this provision.~~

(c) ~~The term "active ingredient," as specified in O.S. Title 63, shall include the matrix of glycerin, polyethylene glycol, and propylene glycol that is found in liquid capsules.~~

(d) ~~Nothing in this section shall exempt from Schedule V status any liquid preparation that is found in an illegal laboratory, is associated with an illegal laboratory, or is in any form other than that manufactured and sold by a registered manufacturer for medicinal purposes.~~

475:55-1-5. Electronic Reporting

Pharmacists or other authorized persons who sell Schedule V pseudoephedrine products shall exercise reasonable care in assuring that the purchaser has not exceeded the ~~nine (9) three and six-tenths (3.6) gram limit per day, the seven and two tenths (7.2) gram limit for a thirty (30) day period or the sixty (60) gram limit for a twelve (12) month period.~~ The pharmacist or other authorized person must utilize the real-time electronic pseudoephedrine tracking system as set forth pursuant to 63 O.S. §2-341 and the Methamphetamine Registry as set forth pursuant to 63 O.S. §2-701, ~~which are established and maintained by the Oklahoma Bureau of Narcotics and Dangerous Drugs Control.~~ The following provisions are necessary for compliance with this system:

- (1) All pseudoephedrine transactions regulated by Oklahoma law must be approved through submitting the request to the electronic log and Methamphetamine Registry;
- (2) Pseudoephedrine products regulated by Oklahoma law will only be sold to customers who present a valid form of identification;
- (3) The customer information must be the same as that on the presented identification, and shall include the following information (fields that are required for submitting information as required by Oklahoma law):
 - (A) Pharmacy identification;
 - (B) Identification number;
 - (C) Last name;
 - (D) First name;
 - (E) Purchase quantity (in grams);
 - (F) Initials of the pharmacist or other authorized person conducting the transaction;
 - (G) Product name;
 - (H) Form of pseudoephedrine if it is liquid or gel-caps;
 - (I) Customer's street address;
 - (J) Customer's current city, state, and zip code; and
 - (K) Date of birth.

~~(4) If the electronic log is unavailable (time out of thirty (30) seconds or more) because of a failure on the Oklahoma Bureau of Narcotics and Dangerous Drugs Control network, the pharmacist or other authorized person may continue with the transactions until the system is available; if the electronic log is unavailable because of a failure attributable to systems other than the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, all transactions must be recorded manually and entered into the electronic logbook by the registrant as soon as is practicable after the problem is resolved.~~

~~(5) If at any time a pharmacist or other authorized person discovers that the electronic log is unavailable or that the information submitted to the electronic log is inaccurate, the authorized person may continue regulated transactions for twenty-four (24) hours, provided that all sales are manually recorded. The authorized person shall suspend all sales if the reporting problem is not corrected within twenty-four (24) hours of discovery. Regulated sales may be resumed only when the reporting problem~~

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is corrected and all manually recorded sales are correctly submitted to the electronic log.

475:55-1-10. Prescriptions

The ~~nine (9) gram per month~~ threshold limits set forth in Oklahoma Statutes, Title 63 §2-212 shall not apply to Schedule V pseudoephedrine products that are dispensed pursuant to a valid prescription.

[OAR Docket #13-452; filed 3-28-13]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 10. PUBLIC EMPLOYEES RETIREMENT SYSTEM

[OAR Docket #13-506]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 2. Definitions

590:10-2-2. Normal retirement age [NEW]

Subchapter 5. Contributions and Compensation

590:10-5-9. Changes to contribution rates; deadline for notifying System [NEW]

Subchapter 7. Retirement Benefits

590:10-7-9. Fractional year computations [AMENDED]

590:10-7-14.1. Seasonal or temporary employment; calculation of 1,000 hours [NEW]

Subchapter 17. Step-Up Election and Benefits

590:10-17-2. Eligibility for Step-Up [AMENDED]

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S., §§ 902, 913, 913.4, 920A, 920B

DATES:

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N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

A new rule is added at 590:10-2-2 defining normal retirement age. The rule sets forth the statutory eligibility requirements for retirement. This amendment was required by the Internal Revenue Service for plan qualification and to comply with the Internal Revenue Code.

A new rule is added at 590:10-5-9 setting forth a long-standing agency policy of requiring local participating employers to submit to OPERS changes to contribution rates by June 30 of each year for the next fiscal year.

The amendment to 590:10-7-9 prohibits rounding of service years for members who join the System after November 1, 2012, and for elected officials first elected or appointed on or after November 1, 2011. This amendment complies with newly enacted provisions of Enrolled House Bill 2321 (2012) amending 74 O.S. §§913 and 913.4.

A new rule is added at 590:10-7-14.1 and defines seasonal or temporary employment for purposes of determining eligible employees in the System. The rule also sets forth how the System calculates and determines the 1,000 hour threshold necessary to be an eligible member.

The amendment to 590:10-17-2 incorporates new law which permits elected officials elected or appointed on or after November 1, 2011, to participate in the Step-Up program. The amendment complies with newly enacted provisions of Enrolled House Bill 2322 (2012) amending 74 O.S. §913.4.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2013:

SUBCHAPTER 2. DEFINITIONS

590:10-2-2. Normal retirement age

(a) In addition to any other vesting provided under state law, and except as provided in 51 O.S. §24.1, a member's normal retirement benefit is nonforfeitable upon the attainment of the following normal retirement ages and the completion of the specified years of service:

(1) For a member who is a state, county, and local agency employee, joining before November 1, 2011, age sixty-two (62), with a minimum of six (6) years of full-time-equivalent employment if actively employed by a participating employer on their 62nd birthday, otherwise a member must have eight (8) years of service.

(2) For a member who is a state, county, and local agency employee, joining on or after November 1, 2011, age sixty-five (65), with a minimum of six (6) years of full-time-equivalent employment if actively employed by a participating employer on their 65th birthday, otherwise a member must have eight (8) years of service.

(3) For a member who is a legislative session employee, joining before November 1, 2011, age sixty-two (62), with a minimum of three (3) or more years of full-time-equivalent employment if actively employed by a participating employer on their 62nd birthday, otherwise a legislative session employee must have four (4) years of service.

(4) For a member who is a legislative session employee, joining on or after November 1, 2011, age sixty-five (65), with a minimum of three (3) or more years of full-time-equivalent employment if actively employed by a participating employer on their 65th birthday, otherwise a legislative session employee must have four (4) years of service.

(5) For an elected official elected or appointed before November 1, 2011, age sixty (60) with a minimum of six (6) years of participating service.

(6) For an elected official elected or appointed on or after November 1, 2011, age sixty-five (65) with a minimum of eight (8) years of participating service, or age sixty-two (62) with a minimum of ten (10) years of participating service.

(b) A member is also vested in full retirement benefits under the following conditions:

(1) Except as otherwise provided in this subsection, for a member who is a state employee (including a legislative session employee), county employee, and local agency employee, joining before July 1, 1992, when the sum of the member's age and years of credited service equals or exceeds 80 (Rule of 80), and for any person who became a member after June 30 1992, when the sum of the member's age and years of credited service equals or exceeds 90 (Rule of 90). For a member joining on and after November 1, 2011, the Rule of 90 is only applicable if the member has reached age 60.

(2) Notwithstanding (b)(1) above, for an elected official elected or appointed before November 1, 2011, the Rule of 80 is applicable.

(3) Notwithstanding (b)(1) above, for an elected official elected or appointed on or after November 1, 2011, the Rule of 80 is not applicable.

(c) A hazardous duty employee is treated as a state, county, or local employee for purposes of this section. In addition, a hazardous duty employee is also vested in a full retirement benefit upon the completion of twenty (20) years of service.

SUBCHAPTER 5. CONTRIBUTIONS AND COMPENSATION

590:10-5-9. Changes to contribution rates; deadline for notifying System

Any county, county hospital, city or town, conservation district, circuit engineering district or any public or private trust in which a county, city or town participates and is the primary beneficiary, which is a participating employer and which is permitted pursuant to 74 O.S. §920A to modify the amount of contributions paid by the employer and employee shall make such modification and notify the System no later than June 30 of each year for a July 1 effective date. Any contribution modification adopted, approved or received after June 30 shall not be effective until July 1 of the following fiscal year.

SUBCHAPTER 7. RETIREMENT BENEFITS

590:10-7-9. Fractional year computations

(a) Rounding of fractional year. Pursuant to 74 O.S. §913(C), a fractional year of six (6) months or more shall be considered as one (1) year and less than six (6) months shall be disregarded. This round-up provision may be used one time

for credited service of a member to establish the benefit of the member. This rule is necessary to prevent the gain or loss of service credit to a member. In no event shall the rounding up provisions apply if it would result in any member receiving an additional year or years that the member would not otherwise be entitled to receive.

(b) Rounding for members joining on or after November 1, 2012. Notwithstanding the provisions of subsection (a) of this section, for members who join the System on or after November 1, 2012, rounding of fractional years shall not be permitted. The number of years of credited service shall be based on the actual years and months of credited service without rounding up or down. Unused sick leave, as provided for in 74 O.S. §913(B)(7)(a), shall be credited at the same rate but not used to round up to another year. Any additional months of unused sick leave credit shall be added to other service credit without any rounding.

(bc) Correctional and probation and parole officers. Pursuant to 74 O.S. §915(A), the computation of retirement benefits of Department of Corrections Correctional and Probation and Parole Officers is 2.25% for certain credit prior to July 1, 1990, and 2.5% for certain credit after July 1, 1990, and 2% for all other credit.

(1) Such members may retire with fractional years of service credit in the 2.25% and the 2.5% categories and the statutes only provide for computation at these rates on full years of service. Due to the fact that only the total credited service can be rounded up, some members may face losing a year of service credit when the fractional years of credit are disregarded.

(2) To prevent such a loss of service credit, the fractional portions of years in the 2.25% and the 2.5% categories will be added to the years of credit used in the 2% category and rounded up therein, if applicable. If a member still loses a year of service credit after adding the fractional years to the 2% category, the fractional years may be added to the 2.25% category and rounded up therein, if applicable.

(ed) Hazardous Duty Members. Hazardous Duty Members who elect to participate or are required to participate at the higher employee contribution rate will receive retirement benefits at the 2.5% category only on full years of service as Hazardous Duty Members for which the higher contributions have been paid. The fractional portions of years in the 2.5% category will be added to any other service credit, calculated in the 2% category and rounded up therein, if applicable, for the computation of the retirement benefit.

(de) Elected officials.

(1) If first elected or appointed prior to November 1, 2011, elected officials who do not participate in an elected status for at least six (6) full years will receive retirement benefits on the years and months of elected service instead of full years. The benefit shall be calculated using the computation factor corresponding to the contribution rate the official paid during those years and months of elected service and on the highest annual salary earned as an elected official. Non-elected service credit will be calculated using the applicable computation factor. The elected

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and non-elected service shall be added to determine the total credited service. If this total results in a fractional year of six (6) months or more, it shall be considered as one year, and less than six (6) months shall be disregarded. The years and months of elected service shall then be deducted from the total credited service and the remaining balance of service shall be calculated using the applicable non-elected service computation factor.

(2) If first elected or appointed on or after November 1, 2011, elected officials who do not participate in an elected status for at least eight (8) full years will receive retirement benefits on the years and months of elected service instead of full years. The contribution rate for such officials shall be as specified in 74 O.S. §919.1(1)(a) and the amount of the benefit shall be based on the provisions of 74 O.S. §915(A)(1).

(ef) **Elected officials participating at more than one rate.** Elected officials who participate at more than one contribution rate during their elected service will receive retirement benefits calculated using (1) the computation factor assigned for each contribution rate paid and (2) the highest annual salary for which that particular contribution rate was paid for each full year of elected service credit. Fractional years of elected service credit will be added to the years of elected service for which the highest contribution rate was paid and rounded up therein, if applicable, for the computation of the retirement benefit.

(g) **Rounding for elected officials joining System on or after November 1, 2011.** Elected officials who are first elected or appointed on or after November 1, 2011, rounding of fractional years shall not be permitted. The number of years of credited service shall be based on the actual years and months of credited service without rounding up or down.

590:10-7-14.1. Seasonal or temporary employment; calculation of 1,000 hours

(a) **Definition.** Seasonal or temporary employment shall mean employment that is limited in term, where the employee is only expected to remain in the position for a certain period of time. The employment can be seasonal or until the specific job or duty is completed. Employees who are hired in a job or position, that is non-seasonal with full-time work load and undefined duration or that requires more than 1,000 hours per year, whether designated as seasonal, temporary, probationary, provisional, or some other label, must be enrolled and participate in the System on the date of the hire and not at the end of a temporary, probationary, provisional, or some other labeled period. Employees hired purely for seasonal or temporary duties are excluded from participation in the System pursuant to 74 O.S. §902(14).

(b) **Failure to enroll employees.** Participating employers who fail to enroll employees when required by law shall be subject to the provisions of 74 O.S. §917(7) and any other provision of law which may be applicable.

(c) **Calculation of 1,000 hours.** In determining the eligibility of an employee in relation to the requirement of at least 1,000 hours of employment per year pursuant to 74 O.S. §902(14), the System shall calculate the hours using a rolling

year or a rolling 12 consecutive months. If an employee has at least 1,000 hours of work during any consecutive 12 month period, the employee shall meet the hours of work eligibility requirement. The determination or calculation of 1,000 hours shall not be based on a calendar year, fiscal year, or from the date of employment.

SUBCHAPTER 17. STEP-UP ELECTION AND BENEFITS

590:10-17-2. Eligibility for Step-Up

All state, county and local government employees who are active participants, including retired members who have returned to work, are eligible to make the Step-Up election, with the exception of ~~elected officials~~ and hazardous duty employees as provided in 590:10-1-15 of these rules (such as correctional officers, probation and parole officers, fugitive apprehension agents and Military Department firefighters) and elected officials elected or appointed before November 1, 2011. Elected officials who are first elected or appointed on or after November 1, 2011, shall be eligible to make the Step-Up election.

[OAR Docket #13-506; filed 4-5-13]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 15. UNIFORM RETIREMENT SYSTEM FOR JUSTICES AND JUDGES

[OAR Docket #13-507]

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RULES:

Subchapter 1. General Provisions

590:15-1-22. Health insurance contribution [NEW]

590:15-1-23. Normal retirement age [NEW]

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees; 20 O.S., §§ 1101.1, 1102, 1108

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ANALYSIS:

New rule 590:15-1-22 sets forth the requirements for payment of the health insurance contribution to retirees in the URSJJ. This rule is necessary to keep the health insurance contributions and plan assets of the URSJJ separate from OPERS as required for governmental retirement plan under the Internal Revenue Code. The amendment was required by the IRS for plan qualification.

New rule 590:15-1-23 defines normal retirement age by setting forth the statutory eligibility requirements for retirement. This amendment was required by the Internal Revenue Service for plan qualification and to comply with the Internal Revenue Code.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

590:15-1-22. Health insurance contribution

(a) The Oklahoma Public Employees Retirement System as administrator of the Uniform Retirement System for Justices and Judges shall contribute the amount required by law towards the cost of health insurance coverage under the State and Education Employees Group Insurance Plan or other eligible group insurance plans only for retired members who actually receive a monthly retirement benefit for that month. This contribution shall not be made for beneficiaries, survivors or directly to the retired member.

(b) For eligible group health insurance plans other than the State and Education Employees Group Insurance Plan, the System will contribute the amount required by law after the group insurance plan has made application to the System and completed any necessary and required forms and/or agreements. The group insurance plan must be in compliance with Oklahoma law and offer insurance to all of the covered participating employer's employees, former employees who are vested and former employees who retired from that covered employer. The insurance plan shall provide a certification monthly detailing each covered retired member in the form and manner required by the System. The subsidy shall be paid in arrears for each eligible retired member.

(c) Pursuant to the federal Internal Revenue Code Section 401(h) and Treasury Regulation §1.401-14, the Retirement Medical Benefit Fund shall be maintained as a sub-account of the State Judicial Retirement Fund. From the Retirement Medical Benefit Fund, OPERS shall remit the amount specified in 74 O.S. Section 1316.2 for health insurance premiums.

(d) All contributions to the Retirement Medical Benefit Fund shall be reasonable and ascertainable.

(e) Contributions to the Retirement Medical Benefit Fund must be subordinate to the contributions to the State Judicial Retirement Fund for retirement benefits. At no time shall the aggregate actual contributions to the Retirement Medical Benefit Fund (when added to actual contributions for life insurance protection under the plan, if any) be in excess of twenty-five percent (25%) of the total aggregate actual contributions made to the State Judicial Retirement Fund (not including contributions to fund past service credits). The Board shall annually determine whether the twenty-five (25%) test has been met. If at any time the Retirement Medical Benefit Fund contributions (plus any life insurance contributions) would exceed the twenty-five percent (25%) test, the excess amount of contributions shall be transferred to the State Judicial Retirement Fund for retirement benefits.

(f) Forfeitures in the Retirement Medical Benefit Fund shall not be allocated to individual accounts under the fund, but shall be used for account expenses.

(g) At no time prior to the satisfaction of all liabilities under the Retirement Medical Benefit Fund or termination of the fund shall any assets in the fund be used for, or diverted to, any purpose other than the providing of payment of the URSJJ's portion of the monthly retiree health insurance premium benefit described by Title 74 O.S. Section 1316.2 and the payment of administrative expenses. Assets in the Retirement Medical Benefit Fund may not be used for retirement or disability benefits or any other purposes for which other assets held in the State Judicial Retirement Fund are used.

(h) The provisions of section 401(h)(5) of the Internal Revenue Code of 1986, as amended from time to time, shall apply upon the satisfaction of all liabilities under law and the State Judicial Retirement Fund.

590:15-1-23. Normal retirement age

(a) In addition to any other vesting provided under state law, and except as provided in 51 O.S. Section 24.1, a member's normal retirement benefit is nonforfeitable upon the attainment of the following normal retirement ages and the completion of the specified years of service:

(1) For a judge whose initial service as a member began prior to January 1, 2012, age sixty-five (65) upon completion of at least eight (8) years of service, or age sixty (60) upon completion of at least ten (10) years of service.

(2) For a judge whose initial service as a member began on or after January 1, 2012, age sixty-seven (67) upon the completion of at least eight (8) years of service, or age sixty-two (62) upon completion of at least ten (10) years of service.

(b) A member joining before January 1, 2012, is also vested in full retirement benefits upon when the sum of the member's age and years of credited service equals or exceeds 80 (Rule of 80). This provision is not applicable to those members joining on or after January 1, 2012.

[OAR Docket #13-507; filed 4-5-13]

Permanent Final Adoptions

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 25. DEFERRED COMPENSATION

[OAR Docket #13-508]

RULEMAKING ACTION:

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RULES:

Subchapter 9. Benefits

590:25-9-21. Discontinuance of 2009 required minimum distribution
[NEW]

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees; 74
O.S. §1701

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ANALYSIS:

New rule 590:25-9-21 sets forth the requirements relating to the waiver of the 2009 required minimum distributions as set forth in the federal Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA") and as described in IRS Notice 2009-82. This federal waiver was enacted in late 2008 and allowed beneficiaries to waive 2009 required minimum distributions from qualified retirement plans. Retirement plans were given time to adopt amendments to incorporate the federal provisions. This amendment was required by the Internal Revenue Service for plan qualification and is necessary to comply with the Internal Revenue Code.

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING RULES ARE CONSIDERED
FINALLY ADOPTED AS SET FORTH IN 75 O.S.,
SECTION 308.1(A), WITH AN EFFECTIVE DATE
OF MAY 11, 2013:**

SUBCHAPTER 9. BENEFITS

590:25-9-21. Discontinuance of 2009 required minimum distributions

(a) Notwithstanding the provisions of 590:25-9-1 through 25-9-5 of these rules, a participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Section 401(a)(9)(H) of the Internal Revenue Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant, the joint lives (or joint life expectancy) of the participant and the participant's designated beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will receive those distributions for 2009 unless the participant or beneficiary chooses not to receive such distributions. Participants and beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence. In addition, notwithstanding 590:25-9-17 of these rules, and solely for the purposes of applying the direct rollover provisions of the plan, certain additional distributions in 2009 will be treated as eligible rollover distributions.

(b) For purposes of the direct rollover provisions of the plan, both 2009 RMDs and Extended RMDs will be eligible rollover distributions without regard to IRS Section 401(a)(9)(H).

[OAR Docket #13-508; filed 4-5-13]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 35. DEFERRED SAVINGS INCENTIVE PLAN

[OAR Docket #13-509]

RULEMAKING ACTION:

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RULES:

Subchapter 13. Benefits and Distributions

590:35-13-12. Discontinuance of 2009 required minimum distributions
[NEW]

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O.S. §1707

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ANALYSIS:
New rule 590:35-13-12 sets forth the requirements relating to the waiver of the 2009 required minimum distributions as set forth in the federal Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA") and as described in IRS Notice 2009-82. This federal waiver was enacted in late 2008 and allowed beneficiaries to waive 2009 required minimum distributions from qualified retirement plans. Retirement plans were given time to adopt amendments to incorporate the federal provisions. This amendment was required by the Internal Revenue Service for plan qualification and is necessary to comply with the Internal Revenue Code.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 11, 2013:

SUBCHAPTER 13. BENEFITS AND DISTRIBUTIONS

590:35-13-12. Discontinuance of 2009 required minimum distributions

(a) Notwithstanding the provisions of 590:35-13-10 of the plan, a participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Section 401(a)(9)(H) of the Internal Revenue Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant, the joint lives (or joint life expectancy) of the participant and the participant's designated beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will receive those distributions for 2009 unless the participant or beneficiary chooses not to receive such distributions. Participants and beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence. In addition, notwithstanding 590:35-13-9 of the plan, and solely for the purposes of applying the direct rollover provisions of the plan, certain additional distributions in 2009 will be treated as eligible rollover distributions.

(b) For purposes of the direct rollover provisions of the plan, both 2009 RMDs and Extended RMDs will be eligible rollover distributions without regard to IRS Section 401(a)(9)(H).

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