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Oklahoma **WHEAT** Commission	795
Department of **WILDLIFE** Conservation	800
WILL Rogers and J.M. Davis Memorials Commission	805

Gubernatorial Approvals

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

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

TITLE 92. OKLAHOMA STATE ATHLETIC COMMISSION
CHAPTER 10. RULES FOR BOXING AND OTHER ACTIVITIES

[OAR Docket #13-1059]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. General Provisions
92:10-1-2 [AMENDED]
92:10-1-6 [AMENDED]
92:10-1-7 [AMENDED]
92:10-1-8 [AMENDED]
Subchapter 3. Boxing and Kickboxing Participants
92:10-3-2 [AMENDED]
92:10-3-5 [AMENDED]
92:10-3-13 [AMENDED]
Subchapter 5. Professional Boxing and Kickboxing Events
92:10-5-2 [AMENDED]
92:10-5-11 [AMENDED]
92:10-5-14 [AMENDED]
92:10-5-15 [AMENDED]
Subchapter 11. Mixed Martial Arts
92:10-11-3 [AMENDED]
GUBERNATORIAL APPROVAL:
April 29, 2013

[OAR Docket #13-1059; filed 6-7-13

TITLE 135. COMMISSION ON CHILDREN AND YOUTH
CHAPTER 10. PROGRAMS, BOARDS, AND COUNCILS: OPERATION AND ADMINISTRATION

[OAR Docket #13-983]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 21. Child Death Review Board
135:10-21-2 [AMENDED]
135:10-21-3 [REVOKED]
GUBERNATORIAL APPROVAL:
May 6, 2013

[OAR Docket #13-983; filed 5-31-13]

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

[OAR Docket #13-966]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Due Process
210:1-5-6. Revocation of certificates [AMENDED]
GUBERNATORIAL APPROVAL:
May 13, 2013

[OAR Docket #13-966; filed 5-30-13]

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

[OAR Docket #13-967]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 13. Student Assessment
210:10-13-16. Student exceptions and exemptions related to graduation requirements for end-of-instruction exams [AMENDED]
GUBERNATORIAL APPROVAL:
May 13, 2013

[OAR Docket #13-967; filed 5-30-13]

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

[OAR Docket #13-968]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 13. Student Assessment
210:10-13-18. Oklahoma School Accountability System [AMENDED]

GUBERNATORIAL APPROVAL:
May 13, 2013

[OAR Docket #13-968; filed 5-30-13]

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

[OAR Docket #13-969]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 13. Student Assessment
210:10-13-22. Implementation of a system of school improvement and accountability
GUBERNATORIAL APPROVAL:
May 13, 2013

[OAR Docket #13-969; filed 5-30-13]

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

[OAR Docket #13-970]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 27. Reading Sufficiency Act
210:15-27-1. ~~Reading Sufficiency Act~~Reading Sufficiency Plans and Summer Academy Reading Programs
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
GUBERNATORIAL APPROVAL:
May 13, 2013

[OAR Docket #13-970; filed 5-30-13]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #13-971]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
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]
GUBERNATORIAL APPROVAL:
May 13, 2013

[OAR Docket #13-971; filed 5-30-13]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #13-971A]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Evaluation: Minimum Criteria for Effective Teaching and Administrative Performance
210:20-3-4. Oklahoma minimum criteria for effective teaching performance [REVOKED]
210:20-3-5. Oklahoma minimum criteria for effective administrative performance [REVOKED]
GUBERNATORIAL APPROVAL:
May 13, 2013

[OAR Docket #13-971A; filed 5-30-13]

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

[OAR Docket #13-972]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 87. Rules for Payment to Charter Schools
210:40-87-6. Charter school surety bonds [NEW]
GUBERNATORIAL APPROVAL:
May 13, 2013

[OAR Docket #13-972; filed 5-30-13]

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

[OAR Docket #13-994]

RULEMAKING ACTION:

Gubernatorial approval of Permanent rules

RULES:

Subchapter 1. General Provisions
230:10-1-1. Purpose [AMENDED]
Subchapter 3. Election Personnel
Part 1. County Election Board Members and Employees
230:10-3-1. Membership [REVOKED]
230:10-3-2. Appointment of Secretary [REVOKED]
230:10-3-3. Appointment of County Election Board members and alternate members [REVOKED]
230:10-3-4. Organization [REVOKED]
230:10-3-5. Eligibility [REVOKED]
230:10-3-5.1. Disqualification of County Election Board member or Secretary [REVOKED]
230:10-3-6. Creation of vacancies [REVOKED]
230:10-3-7. Filling vacancies [REVOKED]
230:10-3-8. Salary of the Secretary [REVOKED]
230:10-3-9.2. Employment and supervision of County Election Board personnel when office of Secretary is vacant [REVOKED]
230:10-3-10. Compensation ~~of~~claims for the Chairman and Vice Chairman [AMENDED]
230:10-3-11. Employment of the Assistant Secretary [REVOKED]
230:10-3-12. Compensation of the Assistant Secretary [AMENDED]
230:10-3-13. Employment of the Chief Clerk [REVOKED]
230:10-3-14. Compensation of the Chief Clerk [AMENDED]
230:10-3-15. Additional clerical personnel [AMENDED]
230:10-3-16. Compensation of additional personnel [AMENDED]
230:10-3-16.1. Compensation for temporary personnel must be funded [REVOKED]
Part 3. The Precinct Election Board
230:10-3-23. Membership [REVOKED]
230:10-3-24. Appointment of Inspector [REVOKED]
230:10-3-25. Appointment of Judge and Clerk [REVOKED]
230:10-3-26. Retention of lists [AMENDED]
230:10-3-27. Vacancies on the Precinct Election Board [REVOKED]
230:10-3-29. Eligibility [REVOKED]
230:10-3-30. Disqualification of Precinct Election Board member; "consanguinity," "affinity," "third degree" defined [REVOKED]
230:10-3-33. Compensation of Inspector [REVOKED]
230:10-3-34. Compensation of Judges and Clerks [REVOKED]
230:10-3-35. No double compensation [AMENDED]
230:10-3-36. Removal of Inspectors, Judges and Clerks [REVOKED]
230:10-3-38. Record of appointment of Precinct Officials [AMENDED]
Subchapter 5. Election Training
Part 1. The County Election Board
230:10-5-2. Reimbursement for workshops [REVOKED]
230:10-5-7. Inspections [AMENDED]
Part 3. The Precinct Election Board
230:10-5-12. Precinct Official training [AMENDED]
230:10-5-13. Reimbursement for training [AMENDED]
Subchapter 7. General Administration of the County Election Board
Part 1. Meetings of the Board
230:10-7-1-1. Open Meeting Act shall be observed [NEW]
230:10-7-3. Types of meetings; terms defined [REVOKED]
230:10-7-4. Public notice required [REVOKED]
230:10-7-5. Additional public notice for special meetings [REVOKED]
230:10-7-6. Changes in regularly scheduled meetings [REVOKED]
230:10-7-7. Agendas required [REVOKED]
230:10-7-8. Agenda for continued meetings [REVOKED]
230:10-7-9. Meetings must be open [REVOKED]
230:10-7-10. Informal meetings prohibited [REVOKED]
230:10-7-15. Minutes of meetings required [REVOKED]
Part 3. Equipping the Office
230:10-7-23. Legal requirements [REVOKED]
230:10-7-27. Voting devices and ballot boxes [REVOKED]
Part 5. Maintaining the Office
230:10-7-38. Office hours [REVOKED]
230:10-7-39. General duties of the Secretary [REVOKED]
230:10-7-40. Cancellation File [AMENDED]
230:10-7-43. Retention of forms and materials documenting voter registration transactions [AMENDED]
230:10-7-44. Retention of ballots [REVOKED]
230:10-7-47. Election results [AMENDED]
230:10-7-50. Annual reports [AMENDED]
230:10-7-51. Analysis of election [REVOKED]
Part 7. Public Records
230:10-7-58. Open Records Act shall be observed [NEW]
230:10-7-59. Public records [REVOKED]
230:10-7-60. Persons authorized to release records [REVOKED]
230:10-7-62. Fees for reproduction of records [REVOKED]
230:10-7-63. Written schedule of fees [REVOKED]
230:10-7-64. Search fees shall not be charged when in public interest [REVOKED]
230:10-7-65. Fees not to discourage requests [REVOKED]
Part 9. Finances
230:10-7-70. Preparation of the budget [AMENDED]
230:10-7-71. Purchasing supplies [AMENDED]

230:10-7-73. County Board Member Claims [AMENDED]
230:10-7-79. Special Depository Account ledger [AMENDED]
230:10-7-81. Election balance sheet [AMENDED]
230:10-7-82. Expenses paid through Special Depository Account [AMENDED]
230:10-7-84. State Election Board reimbursed for computer supplies [REVOKED]
Part 13. Precincts and Subprecincts
230:10-7-96. Establishment of precincts [REVOKED]
230:10-7-97. Boundary limitations [REVOKED]
230:10-7-99. Precincts within municipalities [AMENDED]
230:10-7-100. Changes in precincts [REVOKED]
230:10-7-103. Subprecincts [REVOKED]
Part 15. Polling Places
230:10-7-108. Number and location of polling places [AMENDED]
230:10-7-110. Boards to provide polling places [REVOKED]
230:10-7-111. Liability [REVOKED]
Part 17. Special Duties of the County Election Board [REVOKED]
230:10-7-119. Verification of audit request petitions [REVOKED]
Part 19. County Election Board Staff Overtime
230:10-7-132. Reimbursing funds to the Personal Services account [AMENDED]

GUBERNATORIAL APPROVAL:
May 15, 2013

[OAR Docket #13-994; filed 6-3-13]

TITLE 230. STATE ELECTION BOARD
CHAPTER 15. VOTER REGISTRATION

[OAR Docket #13-995]

RULEMAKING ACTION:
Gubernatorial approval of Permanent rules

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 [AMENDED]
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 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]
230:15-9-25. Processing applications for restricted records status [AMENDED]
Part 7. Acknowledgment of Voter Registration Applications
230:15-9-31. Rejected applications [AMENDED]
230:15-9-32. Types of rejection notices [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]
230:15-11-29. Identification and notification of voters who may have changed their residence addresses [NEW]

GUBERNATORIAL APPROVAL:
May 15, 2013

[OAR Docket #13-995; filed 6-3-13]

TITLE 230. STATE ELECTION BOARD
CHAPTER 20. CANDIDATE FILING

[OAR Docket #13-996]

RULEMAKING ACTION:
Gubernatorial approval of Permanent rules
RULES:
Subchapter 3. Filing for State and County Office
Part 1. When and Where to File
230:20-3-1. Filing period [REVOKED]
Part 3. Qualifications for County Office
230:20-3-10. Qualifications for all county offices [REVOKED]
230:20-3-11. Persons not eligible to be candidates [REVOKED]
230:20-3-12. Additional qualifications for party primaries [REVOKED]
230:20-3-13. Additional qualifications for Independent candidates [REVOKED]
230:20-3-14. Exception to qualifications for party primary [REVOKED]
230:20-3-15. Additional qualifications for County Commissioner [REVOKED]
230:20-3-17. Additional qualifications for County Sheriff [REVOKED]
Part 5. Terms of County Offices
230:20-3-23. Four-year terms [REVOKED]
230:20-3-25. Beginning dates of terms [REVOKED]
Part 7. Procedure for Filing
230:20-3-30. Necessary form [AMENDED]
230:20-3-31. Service to potential candidates [AMENDED]
230:20-3-32. Declarations may be mailed or delivered in person [AMENDED]
230:20-3-33. Filing fees and petitions [AMENDED]
230:20-3-34. Personal checks, cash, money orders not acceptable [AMENDED]
230:20-3-36. Candidate's signature [REVOKED]
230:20-3-37. Checking Declarations [AMENDED]
230:20-3-41. Oklahoma Ethics Commission [REVOKED]
230:20-3-43. Unopposed candidates [REVOKED]
Part 9. Withdrawals of Candidates
230:20-3-47. Withdrawal after filing period [REVOKED]
230:20-3-48. Filing fee forfeited upon withdrawal [REVOKED]
230:20-3-49. Becoming a candidate again [AMENDED]
230:20-3-50. Withdrawals from Runoff Primary [REVOKED]
230:20-3-51. Withdrawals from General Election [REVOKED]
Part 11. Filing Reports to State Election Board
230:20-3-56. Filing reports to State Election Board [REVOKED]
Part 15. Runoff Primary Election
230:20-3-70. Determining candidates for a Runoff Primary Election [REVOKED]
Subchapter 5. Contests of Candidacy
230:20-5-1. Who may file contest; "petitioner" and "contestee" defined [REVOKED]
230:20-5-2. Time for filing contest [REVOKED]
230:20-5-3. Grounds for contest [REVOKED]
230:20-5-4. Deposit required [REVOKED]
230:20-5-5. Date for hearing contest [AMENDED]
230:20-5-8. Striking a candidacy [REVOKED]
230:20-5-9. Declaration may be amended [REVOKED]
230:20-5-10. Contestee may answer [AMENDED]
230:20-5-11. Burden of proof on petitioner [REVOKED]
230:20-5-12. Disposition of deposit [AMENDED]
230:20-5-13. When contestee pays cost [REVOKED]
230:20-5-14. When petitioner pays cost [REVOKED]
230:20-5-15. Filing fee forfeited when candidacy is stricken [REVOKED]
230:20-5-16. Appeals from decision of the Board [REVOKED]
230:20-5-17. Open Meeting Act applies [AMENDED]
GUBERNATORIAL APPROVAL:
May 15, 2013

[OAR Docket #13-996; filed 6-3-13]

TITLE 230. STATE ELECTION BOARD
CHAPTER 25. BALLOT PRINTING

[OAR Docket #13-997]

RULEMAKING ACTION:
Gubernatorial approval of Permanent rules
RULES:
Subchapter 3. Responsibilities for Ballot Printing
230:25-3-1. Ballots printed by State Election Board [REVOKED]
230:25-3-2. Ballots printed by the County Election Board [REVOKED]
230:25-3-3. County Election Board responsibilities for printing ballots [AMENDED]
230:25-3-4. County Election Board certifies names of candidates to State Election Board [REVOKED]
Subchapter 5. Determining Quantities and Methods of Printing Ballots
230:25-5-1. Ballot styles [AMENDED]
230:25-5-3. Quantity of regular ballots [AMENDED]
230:25-5-3.1. Quantity of absentee ballots [AMENDED]
230:25-5-4. Safety stock of ballots [REVOKED]
230:25-5-5. Ballot stubs shall be numbered [AMENDED]
Subchapter 7. Competitive Bidding Process for Ballot Printing
230:25-7-1. Competitive bidding required [REVOKED]
230:25-7-2. Submitting requisitions for advertisement for bids [AMENDED]
230:25-7-3. Specifications for printing and preparing ballots [AMENDED]

230:25-7-4. Contract requirements [AMENDED]
Subchapter 9. Providing Copy to the Printer
230:25-9-3. Preparing materials for printer [REVOKED]
230:25-9-4. Creating ballot print files [NEW]
Subchapter 11. Absentee Ballots
230:25-11-1. Order of names for absentee ballots for Primary [AMENDED]
Subchapter 13. Placing Parties, Candidates on Ballot
230:25-13-1. Separate ballots for parties in Primary and Runoff Primary [AMENDED]
230:25-13-1.1. Separate ~~ballot cards~~ ballots for entities [AMENDED]
230:25-13-1.3. Using color to designate ballots for parties or entities [NEW]
230:25-13-2. Candidate names rotated on regular ballots for Primary and Runoff Primary Elections only [AMENDED]
230:25-13-3. Appearance of candidates' names [REVOKED]
230:25-13-4. Prefixes, suffixes, titles prohibited [REVOKED]
230:25-13-6. Unopposed candidates [REVOKED]
230:25-13-12. Judicial candidates [REVOKED]
Subchapter 15. Sample and Educational Ballots
230:25-15-1. Sample ballots [AMENDED]
Subchapter 17. Proofing of Ballots
230:25-17-1.1. Printer shall provide proof sheets [REVOKED]
230:25-17-2. Proofreading ballots [AMENDED]
230:25-17-3. Examining ~~and proofreading~~ ballots received from the State Election Board [AMENDED]
230:25-17-4. Recording ballot numbers and storing ballots [AMENDED]
Subchapter 19. Demonstration Ballots
230:25-19-1. Purpose [REVOKED]
230:25-19-2. Requests for ballot printing information [REVOKED]
230:25-19-3. Return of printer's questionnaire [REVOKED]
230:25-19-4. Printing demonstration ballots [REVOKED]
230:25-19-5. Evaluation of demonstration ballots [REVOKED]
230:25-19-6. Cost of printing demonstration ballots [REVOKED]
230:25-19-7. List of printers [REVOKED]
Subchapter 21. Printer Certification for Digital Ballot Printing [NEW]
230:25-21-1. Printer certification for digital ballot printing [NEW]
230:25-21-2. Printer certification process [NEW]
230:25-21-3. Review and testing of certification ballots [NEW]
230:25-21-4. On-site certification review [NEW]
230:25-21-5. List of certified printers [NEW]

GUBERNATORIAL APPROVAL:
May 15, 2013

[OAR Docket #13-997; filed 6-3-13]

TITLE 230. STATE ELECTION BOARD
CHAPTER 30. ABSENTEE VOTING

[OAR Docket #13-998]

RULEMAKING ACTION:
Gubernatorial approval of Permanent rules
RULES:
Subchapter 1. General Provisions
230:30-1-2. Definitions [AMENDED]
Subchapter 3. Authorization for Absentee Voting
230:30-3-1. Absentee voting authorized in all elections [REVOKED]
230:30-3-2. Absentee voting required in home rule charter cities [REVOKED]
230:30-3-3. Voters eligible for absentee ballots [REVOKED]
Subchapter 5. Applications for Absentee Ballots
230:30-5-1.1. Applications for absentee ballots [REVOKED]
230:30-5-8.1. Time for absentee ballot applications [REVOKED]
Subchapter 7. Absentee Voting Boards
230:30-7-2. Parties submit lists of names by July 1 [REVOKED]
230:30-7-3. Secretary confined to lists of names [REVOKED]
230:30-7-3.1. Disqualification of Absentee Voting Board member [REVOKED]
230:30-7-4. Appointments shall be made promptly [AMENDED]
230:30-7-5. Compensation for Absentee Voting Board members [REVOKED]
230:30-7-6.1. Training for Absentee Voting Board members [AMENDED]
230:30-7-6.3. Designation of voting devices for in-person absentee voting [AMENDED]
230:30-7-7. Supplies for Absentee Voting Board [AMENDED]
230:30-7-9. Procedure for the nursing home Absentee Voting Board [AMENDED]
230:30-7-11. Procedure for in-person Absentee Voting Board to receive applications and issue ballots [AMENDED]
230:30-7-11.1. Preparation of polling place and voting device for in-person absentee voting [AMENDED]
230:30-7-11.3. Sheriff provides security for ~~memory pack~~ election results storage medium and voted ballots [AMENDED]

230:30-7-13. In-person absentee voting procedure for uniformed services or overseas voter [AMENDED]
230:30-7-14. Verifying voter registration information and status of in-person absentee voters [AMENDED]
230:30-7-14.1. Closing the in-person absentee polling place [AMENDED]
230:30-7-14.2. Secretary's procedure at end of in-person absentee voting day [AMENDED]
Subchapter 9. Processing Applications
230:30-9-5.2. Transmitting absentee ballots to uniformed services voters and overseas voters by electronic mail [AMENDED]
Subchapter 11. Receiving and Processing Absentee Ballots
230:30-11-2. Opening outer envelopes and examining affidavits [REVOKED]
230:30-11-6. Transmitting absentee ballots [REVOKED]
230:30-11-7. Undeliverable absentee ballots returned by postal service to County Election Board [AMENDED]
Subchapter 15. State Write-in Absentee Ballots
230:30-15-1. Voters eligible to use state write-in absentee ballot [REVOKED]
230:30-15-2. Applications for state write-in absentee ballot [REVOKED]
230:30-15-3. Time for state write-in absentee ballot applications [REVOKED]
230:30-15-4. State write-in absentee ballot provided by State Election Board [REVOKED]
230:30-15-5. Processing applications for state write-in absentee ballots [REVOKED]
230:30-15-6. List of candidates [REVOKED]
230:30-15-7. Voters who request both regular and state write-in absentee ballots [REVOKED]
230:30-15-8. Time for return of state write-in absentee ballots [REVOKED]
230:30-15-9. Rules for counting state write-in absentee ballots [REVOKED]
Subchapter 17. Replacement of Lost or Undelivered Absentee Ballots
230:30-17-1. Replacement of lost or undelivered absentee ballots [REVOKED]
230:30-17-2. Applications for replacement absentee ballots [REVOKED]
230:30-17-3. Voter's agent [REVOKED]
230:30-17-4. Transmittal of replacement absentee ballots [REVOKED]
Subchapter 19. Counting the Ballots
Part 1. Counting Absentee Ballots on Election Day
230:30-19-4. Procedure for counting absentee ballots on election day [AMENDED]
230:30-19-5. Procedure for counting mutilated ballots [AMENDED]
230:30-19-6. Marking substitute ballot to count write-in ballots, faxed ballots, and ballots transmitted to voters by electronic mail [AMENDED]
Part 3. Receiving and Counting Overseas Absentee Ballots for Runoff Primary Election after Election Day [REVOKED]
230:30-19-15. Absentee ballots from overseas voters shall be received and counted after election day for Runoff Primary Elections for federal offices [REVOKED]
230:30-19-16. Determining outstanding overseas absentee ballots on Runoff Primary Election night [REVOKED]
230:30-19-17. Receiving, processing, and counting overseas absentee ballots for Runoff Primary Election after election [REVOKED]
Subchapter 21. Recording Absentee Voting
230:30-21-1. List of ~~Absentee Voter Applications~~ absentee voter applications available [AMENDED]
230:30-21-2. Credit for absentee voting [AMENDED]

GUBERNATORIAL APPROVAL:
May 15, 2013

[OAR Docket #13-998; filed 6-3-13]

TITLE 230. STATE ELECTION BOARD
CHAPTER 35. ELECTION CONDUCT

[OAR Docket #13-999]

RULEMAKING ACTION:
Gubernatorial approval

RULES:
Subchapter 1. General Provisions
230:35-1-2. Definitions [AMENDED]
Subchapter 3. County Election Board Responsibilities
Part 1. Before the Filing Period
230:35-3-2. Orders for election supplies required by May 1 [REVOKED]
230:35-3-2.1. Election supplies provided by the State Election Board [NEW]
230:35-3-3. Assembling precinct supplies [AMENDED]
230:35-3-6. Ballot quantity reports [REVOKED]
230:35-3-7. Ballot numbers on Precinct Check List [REVOKED]
Part 3. Ballots
230:35-3-17. Ballots to be examined [AMENDED]
230:35-3-18. Recording ballot numbers and storing state ballots [AMENDED]
230:35-3-20. County Election Board certifies names [REVOKED]
Part 5. Precinct Official Payroll
230:35-3-31.1. Secretary shall determine mileage for Precinct Officials [AMENDED]
230:35-3-33. Funds for Precinct Official compensation [AMENDED]
230:35-3-41. Itemized claim for election expenses [AMENDED]
230:35-3-49. Audit of the Special Depository Account [AMENDED]

Part 9. Distributing Supplies and Ballots
230:35-3-68. Assembly line distribution of supplies to Inspectors [AMENDED]
230:35-3-68.1. Issuing voting devices and voting device materials [AMENDED]
230:35-3-68.2. Special ballot box preparation instructions when heavy voter turnout is anticipated [AMENDED]
230:35-3-70. Pollsters [REVOKED]
230:35-3-71. Voting device not issued to precinct polling place [AMENDED]
Part 11. Election Day
230:35-3-75. Precinct procedures in ~~MANUAL~~ The Manual for Precinct Election Officials section of Precinct Official Notebook [AMENDED]
230:35-3-76. Familiarity with procedure necessary [AMENDED]
Part 13. After the Polls Close
230:35-3-83. Smooth flow of returns necessary [AMENDED]
230:35-3-84. Assembly line required for receiving returns and materials from Inspectors [AMENDED]
230:35-3-84.1. Determining number of signatures on Provisional Ballot Rosters [AMENDED]
230:35-3-85.1. Election night recounts [AMENDED]
230:35-3-85.2. Addressing voting device printer failure, election results storage device failure, and/or backup memory device failure [NEW]
230:35-3-85.3. Removing election results storage device from voting device [NEW]
230:35-3-85.4. Obtaining and securing cast vote records for ATI ballots [NEW]
230:35-3-86. Sheriff to provide security for voted ballots [REVOKED]
230:35-3-87. Accumulating and ~~producing~~ verifying election results [AMENDED]
Part 15. Certification of Results
230:35-3-91. Certifying county election results [AMENDED]
230:35-3-91.1. Certificates of Election for unopposed candidates [AMENDED]
230:35-3-92. Tie votes [REVOKED]
230:35-3-93. Credit for voting [AMENDED]
Part 17. Disposition of Materials
230:35-3-98. Disposing of ballots [AMENDED]
230:35-3-100. Disposing of ~~Totals Printouts~~ Tally Reports [AMENDED]
230:35-3-101. Processing ~~FORMS FOR USE BY PRECINCT OFFICIALS booklets~~ forms used on election day by Precinct Officials [AMENDED]
230:35-3-103. Disposing of supplies [AMENDED]
Part 19. Verifying and Counting Provisional Ballots
230:35-3-126. Criteria for verification of provisional ballot affidavit information [AMENDED]
230:35-3-128. Provisional ballot verification procedure for voter without proof of identity [AMENDED]
230:35-3-130. Provisional ballot verification procedure for voter who disagrees with school district, technology center district, or municipal assignment [AMENDED]
230:35-3-131. Opening provisional ballot affidavit envelopes and counting provisional ballots [AMENDED]
230:35-3-132. Obtaining provisional ballot results [AMENDED]
Part 21. Proof of Identity
230:35-3-140. Proof of identity required for voting [AMENDED]
230:35-3-141. Documents that may be used for proof of identity [AMENDED]
Subchapter 5. Instructions for Precinct Election Officials
Part 1. Precinct Election Board
230:35-5-1. Purpose [AMENDED]
230:35-5-2. Publication of ~~THE MANUAL FOR PRECINCT ELECTION OFFICIALS~~ The Manual for Precinct Election Officials [AMENDED]
230:35-5-8. Authority of Inspector [AMENDED]
Part 3. Preparations for Election Day
230:35-5-17. Receiving supplies and ballots [AMENDED]
230:35-5-17.1. ~~Voting device and ballot~~ Ballot box, voting booths, and signs [AMENDED]
Part 5. Preparations on Election Day
230:35-5-28. Preparation of polling place [AMENDED]
230:35-5-29. Location and materials for Judge [AMENDED]
230:35-5-31. Location and materials for Inspector [AMENDED]
230:35-5-32. Preparation of voting device [AMENDED]
230:35-5-32.1. Special instructions for preparing ballot box when heavy voter turnout is expected [REVOKED]
Part 7. General Guidelines
230:35-5-36. Primary function [AMENDED]
230:35-5-37. No member may leave polling place [AMENDED]
230:35-5-38. Election results reported to news media [AMENDED]
230:35-5-39. Violations of the law [AMENDED]
230:35-5-40. Problems [AMENDED]
230:35-5-41. Inspector's Notes to Secretary [AMENDED]
Part 9. Opening the Polls
230:35-5-47. Before processing first voter [AMENDED]
Part 11. Processing the Voter
230:35-5-53. Order of voting [REVOKED]
230:35-5-54. Time limit [AMENDED]
230:35-5-55. Routine for Judge [AMENDED]
230:35-5-56. Routine for Clerk [AMENDED]
230:35-5-57. Routine for Inspector [AMENDED]
230:35-5-58. Additional duties of Inspector [AMENDED]
230:35-5-59. Voter assistance [AMENDED]
Part 15. After the Polls Close
230:35-5-70. Closing the polls [AMENDED]
230:35-5-75.1. Obtaining ~~Totals Printout~~ Detail Report and Tally Report [AMENDED]

230:35-5-75.2. Securing the voting device [AMENDED]
230:35-5-75.3. Completing election night tasks [AMENDED]
230:35-5-76. Repacking supplies [AMENDED]
230:35-5-79. Inspector returns to the County Election Board office [AMENDED]
230:35-5-81. Inspector shall not leave [AMENDED]
Part 19. Precinct Problem Solver
230:35-5-105. Publication of ~~PRECINCT PROBLEM SOLVER~~ Precinct Problem Solver [AMENDED]
Part 21. Voters Listed in Precinct Registry Who Have Problems with Eligibility
230:35-5-113.2. Determining voter's school district or municipality [AMENDED]
Part 23. Voter Assistance
230:35-5-119. Assistance outside the polling place for physically disabled or infirm voter [AMENDED]
230:35-5-120.1. Assistance inside the polling place for blind or visually disabled voters, physically disabled voters, or illiterate voters [AMENDED]
Part 25. Special Services
230:35-5-127. Spoiled ballots [AMENDED]
230:35-5-129. Cancellation of registration of deceased voter [AMENDED]
Part 27. Watchers and Pollsters
230:35-5-134. Watchers [AMENDED]
230:35-5-136. Pollsters [AMENDED]
Part 29. Violations of the Law
230:35-5-141. Electioneering prohibited [REVOKED]
230:35-5-142. Disclosure of vote prohibited [REVOKED]
230:35-5-143. Intoxicating liquor prohibited [REVOKED]
230:35-5-144. Voting ballots issued [REVOKED]
230:35-5-145. Persons authorized inside election enclosure [REVOKED]
230:35-5-146. Action when laws are violated [AMENDED]
Part 31. Malfunction of Voting Device
230:35-5-150. Publication of VOTING DEVICE HANDBOOK FOR PRECINCT OFFICIALS [REVOKED]
230:35-5-151. Voting device stops accepting ballots [REVOKED]
230:35-5-153. Emergency compartment of ballot box [REVOKED]
230:35-5-154. Removing ballots from emergency compartment [REVOKED]
Part 33. Operation of Voting Device
230:35-5-159. Voting device messages [REVOKED]
230:35-5-160. Responding to voting device messages [REVOKED]
230:35-5-161. Ballots returned by voting devices [REVOKED]
230:35-5-162. Override button [REVOKED]
Part 34. Provisional Voting Procedures
230:35-5-172. Voter with no proof of identity [AMENDED]
230:35-5-174. Voter disputes school district, technology center district, or municipal assignment in Precinct Registry [AMENDED]
230:35-5-176. Filling out a Provisional Ballot Voucher [AMENDED]
230:35-5-177. Provisional voting procedure [AMENDED]
230:35-5-177.1. Provisional voting procedure for voter using the ATI [NEW]
Subchapter 9. Hava Requirements
Part 3. Provisional Voting
230:35-9-7. Voters who may cast a provisional ballot [AMENDED]
Part 5. Voter Identification
230:35-9-16. Some voters required to present identification when voting for first time in election for federal office [REVOKED]
Subchapter 11. Election Law Violations [REVOKED]
230:35-11-1. Purpose [REVOKED]
230-35-11-2. Misdemeanors [REVOKED]
230:35-11-3. Failure to perform duty [REVOKED]
230:35-11-4. Expenditure of public funds [REVOKED]
230:35-11-5. Electioneering prohibited [REVOKED]
230:35-11-6. Intoxicating liquors [REVOKED]
230:35-11-7. Interference with voter or conduct of election [REVOKED]
230:35-11-8. Disclosure by voter [REVOKED]
230:35-11-9. Disclosure by election official [REVOKED]
230:35-11-10. Disclosure of count [REVOKED]
230:35-11-11. Felonies [REVOKED]
230:35-11-12. Illegal printing or possession of certain voting materials [REVOKED]
230:35-11-13. Voting illegally [REVOKED]
230:35-11-14. Unauthorized persons transporting ballots [REVOKED]
230:35-11-15. False applications for absentee ballots [REVOKED]
230:35-11-16. False swearing [REVOKED]
230:35-11-17. Unauthorized registration of voters [REVOKED]
230:35-11-18. False notarization [REVOKED]
230:35-11-19. Fraud [REVOKED]
230:35-11-20. Bribes to influence votes [REVOKED]
230:35-11-21. Bribe for withdrawal of candidacy [REVOKED]
230:35-11-22. Coercion prohibited [REVOKED]

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

[OAR Docket #13-1000]

RULEMAKING ACTION:
Gubernatorial approval of Permanent rules
RULES:
Subchapter 3. Special Elections
Part 1. Calling Special Elections
230:40-3-1. Who may call special election [AMENDED]
230:40-3-1.1. Times for special elections [REVOKED]
Part 3. Vacancies
230:40-3-7. Vacancies in Congress [REVOKED]
230:40-3-8. Vacancies in the Legislature [REVOKED]
230:40-3-9. Vacancies for County Commissioner [REVOKED]
230:40-3-10. Vacancies in other county offices [REVOKED]
230:40-3-11. Irrevocable resignation of incumbent [REVOKED]
Part 5. Special County Elections
230:40-3-15. Dates cannot conflict [REVOKED]
230:40-3-16. Special elections for county questions [REVOKED]
Part 7. Statistical Reports
230:40-3-23. Report on Analysis of Special Elections [REVOKED]
Part 9. Substitute Nominees
230:40-3-29. Death prior to General Election [REVOKED]
230:40-3-30. Notification of State Election Board [REVOKED]
230:40-3-31. Death after Runoff Primary Election [REVOKED]
230:40-3-32. Death of unopposed candidate [REVOKED]
Part 11. Special Judicial Elections [REVOKED]
230:40-3-37. Death of a judicial candidate prior to Primary Election [REVOKED]
230:40-3-38. Death of a judicial candidate prior to General Election [REVOKED]
Subchapter 5. Municipal Elections
Part 1. Cities with Home Rule Charters
230:40-5-1. Charter may provide election procedures [REVOKED]
230:40-5-2. Copy of charter required [REVOKED]
230:40-5-3. Home rule charter cities may follow state law [REVOKED]
230:40-5-4. Absentee voting required in home rule charter cities [REVOKED]
230:40-5-4.1. Provisional voting required in home rule charter cities [REVOKED]
230:40-5-5. Statutory election dates required for home rule charter cities [REVOKED]
Part 3. Nonpartisan Municipal Elections
230:40-5-9. Municipal elections shall be nonpartisan [REVOKED]
230:40-5-10. Partisan elections authorized by ordinance [REVOKED]
230:40-5-11. Ordinance must be attached to resolution [REVOKED]
Part 5. Statutory Municipalities
230:40-5-16. Statutory municipalities [REVOKED]
230:40-5-18. Notice of elections [REVOKED]
230:40-5-20. General laws apply [REVOKED]
Part 7. Town Meetings
230:40-5-25. Town meetings required [REVOKED]
230:40-5-26. Ordinance required to hold elections [REVOKED]
230:40-5-27. Election laws apply [REVOKED]
230:40-5-28. Ordinance requiring election repealed [REVOKED]
230:40-5-29. Town meetings not required in municipalities with home rule charters [REVOKED]
Part 9. Procedures
230:40-5-34. Conduct of municipal elections [REVOKED]
230:40-5-35. Filing period for regular elections [REVOKED]
230:40-5-36. No filing fees [REVOKED]
230:40-5-37. Filing to be with Secretary [REVOKED]
230:40-5-38. Persons eligible to be candidates in nonpartisan elections [REVOKED]
230:40-5-39. Persons eligible to be candidates in partisan elections [REVOKED]
230:40-5-40. Persons not eligible to be candidates [REVOKED]
230:40-5-41. Date for nonpartisan municipal election [REVOKED]
230:40-5-42. Dates of partisan municipal Primary and General Elections [REVOKED]
230:40-5-43. No Runoff Primary [REVOKED]
230:40-5-44. Certification [REVOKED]
230:40-5-45. Eligible voters [REVOKED]
230:40-5-47. Dates cannot conflict [REVOKED]
Part 11. Ballot Printing
230:40-5-53. Order of names [REVOKED]
Part 13. Expenses
230:40-5-58. Expenses [REVOKED]
230:40-5-59. Pre-Election Expense Claim [REVOKED]
230:40-5-60. Claim for balance of election expenses [REVOKED]
Part 15. Municipalities in More than One County
230:40-5-65. Municipalities in more than one county [AMENDED]
Part 17. Special Elections
230:40-5-77. Special elections for municipal offices [REVOKED]
230:40-5-78. Special election for municipal questions [REVOKED]
Part 19. Statistical Reports
230:40-5-84. Analysis of Municipal Election reports [REVOKED]

230:40-5-85. Information on municipal candidate elections [REVOKED]
Subchapter 7. School Elections
Part 1. Dates and Notice for Annual School Elections
230:40-7-1. Annual School Elections [REVOKED]
230:40-7-2. Annual School Runoff Election [REVOKED]
230:40-7-3. Resolution required [REVOKED]
230:40-7-4. Posting copy of legal notice of school election at County Election Board office [REVOKED]
Part 3. Board Districts
230:40-7-8. Purpose of board districts [REVOKED]
230:40-7-9. Establishment of board districts [REVOKED]
230:40-7-10. Exceptions to establishment of board districts [REVOKED]
Part 5. Filing Period
230:40-7-17. Qualifications [REVOKED]
230:40-7-18. Persons not eligible to be candidates [REVOKED]
230:40-7-20. Withdrawals [REVOKED]
230:40-7-21. Contests of candidacy [REVOKED]
Part 7. Ballot Printing
230:40-7-28. Ballot quantities [REVOKED]
230:40-7-29. Mill levy ballots [REVOKED]
Part 9. Procedures
230:40-7-34. General laws apply [REVOKED]
230:40-7-35. Precincts in school elections [AMENDED]
230:40-7-35.1. Procedure for closing the polling place for a split precinct in which 100 or fewer voters are registered in school district or technology center district [AMENDED]
230:40-7-36. Precinct Officials [REVOKED]
230:40-7-37. Precinct Registries [REVOKED]
230:40-7-38. Eligible voters [REVOKED]
230:40-7-39. Absentee voting [REVOKED]
230:40-7-39.1. Provisional voting [REVOKED]
230:40-7-40. Forms provided by the County Election Board [REVOKED]
230:40-7-41. Assembling and storing school election supplies [REVOKED]
230:40-7-42. Certification [AMENDED]
Part 11. Special Elections
230:40-7-47. Notice of special election [REVOKED]
230:40-7-48.1. Dates for special school elections [REVOKED]
Part 13. Expenses
230:40-7-56. Costs to be divided [REVOKED]
230:40-7-57. Claims for Precinct Official and Absentee Voting Board member compensation [REVOKED]
230:40-7-58. Claim for balance of election expenses [REVOKED]
230:40-7-59. Funds deposited in Special Depository Account [REVOKED]
Part 17. Annexation Elections
230:40-7-69. Annexation elections [REVOKED]
230:40-7-72. Annexations without election [REVOKED]
Part 21. Filling Vacancies
230:40-7-91. Methods of filling vacancies [REVOKED]
230:40-7-92. Elections to fill vacancies [REVOKED]
Part 23. Multi-county School Districts
230:40-7-97.1. Elections for technology center districts serving 70 or more school districts [REVOKED]
230:40-7-99. Designation of County Election Boards [AMENDED]
230:40-7-100. Receipt of resolutions [AMENDED]
230:40-7-101. Filing [AMENDED]
230:40-7-102. Notification of affected County Election ~~Board~~Boards [AMENDED]
230:40-7-103. Ballots and related materials [REVOKED]
230:40-7-106. Board meetings shall be scheduled [AMENDED]
230:40-7-107. Reporting results to ~~parent~~ control (parent) County Election Board [AMENDED]
230:40-7-109. Certification by ~~parent~~ control(parent) County Election Board [AMENDED]
230:40-7-110. Expenses [AMENDED]
230:40-7-111. Reimbursement from Board of Education [AMENDED]
230:40-7-112. Reimbursement to affected counties [AMENDED]
Part 25. Statistical Reports
230:40-7-118. Report on Analysis of Annual School Elections or of special elections [REVOKED]

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

[OAR Docket #13-1001]

RULEMAKING ACTION:
Gubernatorial approval of Permanent rules

RULES:
Subchapter 3. Recounts
Part 1. Recounts for County Office
230:45-3-1. Filing for recount; petition, deposit required [REVOKED]
230:45-3-2. Procedure for Secretary [AMENDED]
230:45-3-3. Written order required [REVOKED]
230:45-3-4. Service of notice [REVOKED]
230:45-3-5. Sheriff to provide security for ballots [REVOKED]
230:45-3-6. District Judge's duties [REVOKED]
230:45-3-7. County Election Board assumes jurisdiction [REVOKED]
230:45-3-8. Candidate may appoint agent [REVOKED]
230:45-3-9. Conducting the recount [REVOKED]
230:45-3-10. All ballots must be counted [REVOKED]
230:45-3-11. Stopping the recount [REVOKED]

230:45-3-11.1. Securing the ballots [REVOKED]
230:45-3-12. When the recount is finished [AMENDED]
230:45-3-12.1. Recount results in tie [REVOKED]
230:45-3-14. Expenses of recount [REVOKED]
Part 5. Recounts for Multi-county Elections
230:45-3-27. Filing for recount in multi-county election [AMENDED]
230:45-3-28. Recounting responsibility delegated [AMENDED]
Part 7. Recounts for Question Elections
230:45-3-33. Recounts for question elections [REVOKED]
230:45-3-35. Petition required [AMENDED]
230:45-3-36.1. Petitions verified [AMENDED]
230:45-3-37. Deposits required [REVOKED]
230:45-3-38. Petitioner may commission agent and Watcher [REVOKED]
Part 9. Recounts with Electronic Voting Devices
230:45-3-48. Voting devices shall be tested [REVOKED]
230:45-3-50. Voting devices, ballot boxes and ~~memory packs~~ ballots delivered to Courtroom [AMENDED]
230:45-3-51. Operation of voting device during an electronic recount [AMENDED]
230:45-3-53. Instructions for electronic recount [AMENDED]
Subchapter 5. Instructions for Counters for Manual Recount
Part 1. General Guidelines
230:45-5-1. Location and materials for Counters [AMENDED]
230:45-5-4. Watchers [REVOKED]
Part 3. Procedure for Counting
230:45-5-11. Preparing to count [AMENDED]
230:45-5-12. Instructions for counting [AMENDED]
230:45-5-12.1. Breaks in counting [AMENDED]
Part 5. Rules for Counting
230:45-5-19. Counters shall observe rules [AMENDED]
230:45-5-20. Examples of counting ballots [REVOKED]
Appendix A. Correctly Marked Ballot [REVOKED]
Appendix B. Straight Party [REVOKED]
Appendix C. Ballot Marked Outside Voting Target, Example 1 [REVOKED]
Appendix D. Writing on Ballot [REVOKED]
Appendix E. Split Ticket [REVOKED]
Appendix F. Ballot Marked Outside Voting Target, Example 2 [REVOKED]
Appendix G. Unusual Marking Inside Voting Target [REVOKED]

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TITLE 230. STATE ELECTION BOARD
CHAPTER 50. AUTOMATED SYSTEMS

[OAR Docket #13-1002]

RULEMAKING ACTION:
Gubernatorial approval

RULES:
Subchapter 1. general Provisions
230:50-1-1. Purpose [AMENDED]
230:50-1-2. Definitions [REVOKED]
Subchapter 3. Voting Devices and Data Processing
Part 7. ~~Oklahoma~~ Election Management ~~System~~
230:50-3-31. Oklahoma Election Management System authorized [REVOKED]
230:50-3-31.1. Modern Election Support Application [AMENDED]
230:50-3-32. Use of ~~OEMS and~~ MESA required [AMENDED]
230:50-3-33. OEMS Hardware, software use restricted [REVOKED]
230:50-3-34. County Election Board shall maintain data [AMENDED]
230:50-3-35. Training for County Election Board personnel [AMENDED]
230:50-3-35.1. Instructions for OEMS software [REVOKED]
230:50-3-37. Username and password security in ~~OEMS and~~ MESA [AMENDED]
230:50-3-38. OEMS morning routine [REVOKED]
230:50-3-39. OEMS system backups [REVOKED]
230:50-3-40. Conducting daily OEMS backups [REVOKED]
230:50-3-41. Conducting weekly OEMS backups [REVOKED]
230:50-3-41.1. Election backups in OEMS [REVOKED]
230:50-3-42. Turning OEMS hardware components on and off [REVOKED]
Part 9. Election Programming [REVOKED]
230:50-3-52. Election programming [REVOKED]
230:50-3-53. Time for election programming [REVOKED]
230:50-3-54. Election programming for statewide elections [REVOKED]
230:50-3-55. Election programming for elections that are not statewide elections [REVOKED]
230:50-3-56. Model elections [REVOKED]
230:50-3-57. Election programming procedures checklists [REVOKED]
230:50-3-58. Burning voting device memory packs [REVOKED]
Part 11. Voting Device Testing [REVOKED]
230:50-3-64. Testing voting devices and memory packs required [REVOKED]
230:50-3-65. Testing Procedures Checklist [REVOKED]
230:50-3-68. Testing voting devices for an election [REVOKED]

Subchapter 9. Telephone Voting System [REVOKED]
230:50-9-1. Purpose of telephone voting system [REVOKED]
230:50-9-2. Use of telephone voting system [REVOKED]
230:50-9-3. Telephone voting procedure [REVOKED]
230:50-9-4. Procedure when telephone is not available at polling place [REVOKED]
230:50-9-5. Procedure when voter is referred from polling place without telephone [REVOKED]
230:50-9-6. Telephone Voting System Aide responsibilities [REVOKED]
230:50-9-7. Telephone Voting System Precinct Log [REVOKED]
230:50-9-8. Receiving telephone ballots by fax from State Election Board [REVOKED]
230:50-9-9. Counting telephone voting system ballots [REVOKED]

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

[OAR Docket #13-988]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 1. General Provisions
360:1-1-1. [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]

GUBERNATORIAL APPROVAL:
May 15, 2013

[OAR Docket #13-988; filed 5-31-13]

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

[OAR Docket #13-990]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

RULES:
Subchapter 1. General Provisions
360:10-1-2. [AMENDED]
Subchapter 3. Administration of Plans
360:10-3-3. [AMENDED]
360:10-3-3.1. [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
360:10-5-100. [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]

GUBERNATORIAL APPROVAL:
May 15, 2013

[OAR Docket #13-990; filed 5-31-13]

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

[OAR Docket #13-992]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

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]
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]

GUBERNATORIAL APPROVAL:
May 15, 2013

[OAR Docket #13-992; filed 5-31-13]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #13-956]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

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

GUBERNATORIAL APPROVAL:
May 7, 2013.

[OAR Docket #13-956; filed 5-29-13]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 15. PROPERTY AND CASUALTY

[OAR Docket #13-957]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

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]

GUBERNATORIAL APPROVAL:
May 7, 2013.

[OAR Docket #13-957; filed 5-29-13]

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 #13-958]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

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]
GUBERNATORIAL APPROVAL:
May 7, 2013.

[OAR Docket #13-958; filed 5-29-13]

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 #13-959]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
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
365:25-5-35. 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]
Part 7. Specific Financial Circumstances Warranting Release of Professional Deposit
365:25-5-51. Specific financial circumstances enumerated [AMENDED]
GUBERNATORIAL APPROVAL:
May 7, 2013.

[OAR Docket #13-959; filed 5-29-13]

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

[OAR Docket #13-960]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 3. Financial
Part 3. Holding Company System
365:40-3-17. Forms: general requirements [AMENDED]
GUBERNATORIAL APPROVAL:
May 7, 2013.

[OAR Docket #13-960; filed 5-29-13]

TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION CHAPTER 9. OKLAHOMA OPEN RECORDS

[OAR Docket #13-965]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. Criminal History Information
375:9-1-1.1 [AMENDED]
375:9-1-2 [AMENDED]
375:9-1-5 [AMENDED]
GUBERNATORIAL APPROVAL
April 18, 2013

[OAR Docket #13-965; filed 5-29-13]

TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION CHAPTER 25. OKLAHOMA SELF-DEFENSE ACT

[OAR Docket #13-964]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. Application for Concealed Handgun License
375:25-1-2 [AMENDED]
375:25-1-3 [AMENDED]
375:25-1-5 [AMENDED]
375:25-1-5.2 [AMENDED]
375:25-1-7 [AMENDED]
375:25-1-9 [AMENDED]

GUBERNATORIAL APPROVAL
April 18, 2013

[OAR Docket #13-964; filed 5-29-13]

TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION
CHAPTER 40. OKLAHOMA IDENTITY THEFT PASSPORT PROGRAM

[OAR Docket #13-962]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
375:40-1-3 [AMENDED]
GUBERNATORIAL APPROVAL
April 18, 2013

[OAR Docket #13-962; filed 5-29-13]

TITLE 420. OKLAHOMA LIQUEFIED PETROLEUM GAS BOARD
CHAPTER 10. LIQUEFIED PETROLEUM GAS ADMINISTRATION

[OAR Docket #13-1055]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
420:10-1-14. Standards for the storage and handling of liquefied petroleum gas [AMENDED]
420:10-1-15. Standards for installations of gas appliances, gas piping and testing [AMENDED]
GUBERNATORIAL APPROVAL:
April 29, 2013

[OAR Docket #13-1055; filed 6-7-13]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 1. GENERAL RULES OF THE DEPARTMENT OF PUBLIC SAFETY

[OAR Docket #13-973]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. Organization of the Department of Public Safety
595:1-1-3 [AMENDED]

GUBERNATORIAL APPROVAL:
May 13, 2013

[OAR Docket #13-973; filed 5-30-13]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 10. CLASS D DRIVER LICENSES AND IDENTIFICATION CARDS AND MOTOR LICENSE AGENT PROCEDURES

[OAR Docket #13-974]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 5. Medical Aspects
Part 1. Medical Conditions
595:10-5-5 [AMENDED]
GUBERNATORIAL APPROVAL:
May 13, 2013

[OAR Docket #13-974; filed 5-30-13]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 10. CLASS D DRIVER LICENSES AND IDENTIFICATION CARDS AND MOTOR LICENSE AGENT PROCEDURES

[OAR Docket #13-975]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 11. Certified Schools and Designated Class D Examiners [NEW]
595:10-11-1 [NEW]
595:10-11-2 [NEW]
595:10-11-3 [NEW]
595:10-11-5 [NEW]
595:10-11-6 [NEW]
595:10-11-7 [NEW]
595:10-11-8 [NEW]
595:10-11-9 [NEW]
595:10-11-10 [NEW]
595:10-11-11 [NEW]
595-10-11-12 [NEW]
595:10-11-13 [NEW]
595:10-11-14 [NEW]
595:10-11-15 [NEW]
595:10-11-16 [NEW]

GUBERNATORIAL APPROVAL:
May 13, 2013

[OAR Docket #13-975; filed 5-30-13]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 10. CLASS D DRIVER LICENSES AND IDENTIFICATION CARDS AND MOTOR LICENSE AGENT PROCEDURES

[OAR Docket #13-976]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. Procedures for Obtaining and Maintaining a Driver License or Identification Card
Part 2. Application for Initial Driver License
595:10-1-3 [AMENDED]
Part 13. Motor License Agents
595:10-1-51 [AMENDED]
Part 19. Driver License and Identification Card Content
595:10-1-92 [AMENDED]
GUBERNATORIAL APPROVAL:
May 13, 2013

[OAR Docket #13-976; filed 5-30-13]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 10. CLASS D DRIVER LICENSES AND IDENTIFICATION CARDS AND MOTOR LICENSE AGENT PROCEDURES

[OAR Docket #13-977]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. Procedures for Obtaining and Maintaining a Driver License or Identification Card
Part 3. Driver License Renewal
595:10-1-12 [AMENDED]
Part 5. Driver License Replacement
595:10-1-19 [AMENDED]
GUBERNATORIAL APPROVAL:
May 13, 2013

[OAR Docket #13-977; filed 5-30-13]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 11. COMMERCIAL DRIVER LICENSES

[OAR Docket #13-978]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 1. Commercial Driver Licensing
Part 2. Application for Initial Commercial Driver License
595:11-1-15 [AMENDED]
595:11-1-16 [AMENDED]
595:11-1-17 [NEW]
595-11-1-18 [NEW]
GUBERNATORIAL APPROVAL:
May 13, 2013

[OAR Docket #13-978; filed 5-30-13]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 35. ENFORCEMENT OF OKLAHOMA MOTOR CARRIER SAFETY AND HAZARDOUS MATERIALS TRANSPORTATION ACT

[OAR Docket #13-979]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
595:35-1-6 [AMENDED]
GUBERNATORIAL APPROVAL:
May 13, 2013

[OAR Docket #13-979; filed 5-30-13]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 35. ENFORCEMENT OF OKLAHOMA MOTOR CARRIER SAFETY AND HAZARDOUS MATERIALS TRANSPORTATION ACT

[OAR Docket #13-980]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
595:35-1-2 [AMENDED]
595:35-1-3 [AMENDED]
595:35-1-4 [AMENDED]
595:35-1-8 [AMENDED]

595:35-1-9 [AMENDED]
595:35-1-10 [AMENDED]
595:35-1-11 [NEW]
GUBERNATORIAL APPROVAL:
May 13, 2013

[OAR Docket #13-980; filed 5-30-13]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 70. SPECIAL TRAFFIC-RELATED ENFORCEMENT DESIGNATION

[OAR Docket #13-981]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Chapter 70. Special Traffic Related Enforcement Designation [NEW]
GUBERNATORIAL APPROVAL:
May 13, 2013

[OAR Docket #13-981; filed 5-30-13]

TITLE 610. STATE REGENTS FOR HIGHER EDUCATION
CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS

[OAR Docket #13-1013]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 23. Oklahoma Higher Learning Access Program
610:25-23-4. Program requirements [AMENDED]
610:25-23-5. Securing Program benefits [AMENDED]
610:25-23-6. Retaining eligibility in postsecondary education [AMENDED]
GUBERNATORIAL APPROVAL:
May 15, 2013

[OAR Docket #13-1013; filed 6-3-13]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #13-948A]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
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]
GUBERNATORIAL APPROVAL:
April 29, 2013

[OAR Docket #13-948A; filed 5-29-13]

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

[OAR Docket #13-948]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules
RULES:
Subchapter 19. Specific Applications and Examples
Part 1. "A"
710:65-19-11 [AMENDED]
GUBERNATORIAL APPROVAL:
April 29, 2013

[OAR Docket #13-948; filed 5-29-13]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 90. WITHHOLDING

[OAR Docket #13-961]

RULEMAKING ACTION:
Gubernatorial approval of permanent rules

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

GUBERNATORIAL APPROVAL:
April 29, 2013

[OAR Docket #13-961; filed 5-29-13]

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 92. OKLAHOMA STATE ATHLETIC COMMISSION
CHAPTER 10. RULES FOR BOXING AND OTHER ACTIVITIES

[OAR Docket #13-1057]

RULEMAKING ACTION:

Gubernatorial disapproval of permanent rules

RULES:

Subchapter 1. General Provisions

92:10-1-4 [AMENDED]

92:10-1-5 [AMENDED]

GUBERNATORIAL DISAPPROVAL:

April 29, 2013

[Agency Note: on May 24, 2013, the proposed amendments to 92:10-1-4 were approved by House Joint Resolution No. 1062.]

[OAR Docket #13-1057; filed 6-7-13

TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION
CHAPTER 25. OKLAHOMA SELF-DEFENSE ACT

[OAR Docket #13-963]

RULEMAKING ACTION:

Gubernatorial disapproval of permanent rules

RULES:

Subchapter 1. Application for Concealed Handgun License

375: 25-1-4.1 [AMENDED]

GUBERNATORIAL DISAPPROVAL

April 18, 2013

[OAR Docket #13-963; filed 5-29-13]

Legislative Disapprovals

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

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

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

[OAR Docket #13-945]

RULEMAKING ACTION:
Legislative disapproval of PERMANENT rules.
RULES:
Subchapter 5. Licensing Fees
235:10-5-1 [AMENDED]
LEGISLATIVE DISAPPROVAL:
These rules were disapproved by the failure of the Legislature to approve the proposed rules prior to Sine Die Adjournment.

[OAR Docket #13-945; filed 5-29-13]

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

[OAR Docket #13-1026A]

RULEMAKING ACTION:
Legislative disapproval of PERMANENT rules
RULES:
Subchapter 4. Application and Examination Procedures for Licensure as Physician and Surgeon
435:10-4-6. Medical licensure examination
LEGISLATIVE DISAPPROVAL:
These rules were disapproved by the Legislature by failure to actively approve the rules prior to sine die adjournment.

[OAR Docket #13-1026A; filed 6-6-13]

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

[OAR Docket #13-1026]

RULEMAKING ACTION:
Legislative disapproval of PERMANENT rules
RULES:
Subchapter 1. General Provisions
435:10-1-4. Definitions
LEGISLATIVE DISAPPROVAL:
These rules were disapproved by the Legislature by failure to actively approve the rules prior to sine die adjournment.

[OAR Docket #13-1026; filed 6-6-13]

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

[OAR Docket #13-1017]

RULEMAKING ACTION:
Legislative disapproval of permanent rules
RULES:
748:1-1-1. Organization [AMENDED]
LEGISLATIVE DISAPPROVAL:
These rules were disapproved by the Legislature in HJR 1047, effective 5-24-13.

[OAR Docket #13-1017; filed 6-5-13]

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

[OAR Docket #13-1018]

RULEMAKING ACTION:
Legislative disapproval of permanent rules
RULES:
748:3-1-2. Definitions [AMENDED]
LEGISLATIVE DISAPPROVAL:
These rules were disapproved by the Legislature in HJR 1047, effective 5/24/13.
EMERGENCY RULES TERMINATED:
The following emergency rules are also terminated by the disapproval:
RULES:
748:3-1-2. Definitions [AMENDED]
GUBERNATORIAL APPROVAL:
October 22, 2012
REGISTER PUBLICATION:
12-957
30 Ok Reg 106

[OAR Docket #13-1018; filed 6-5-13]

TITLE 748. UNIFORM BUILDING CODE COMMISSION
CHAPTER 5. FEES AND COLLECTION OF FEES

[OAR Docket #13-1019]

RULEMAKING ACTION:
Legislative disapproval of permanent rules
RULES:
Subchapter 1. Fees
748:5-1-1. Fee for initial permit and permit renewal [AMENDED]
Subchapter 3. Collection and Late Fee Assessment
748:5-3-1. Late Fee Assessment [AMENDED]
LEGISLATIVE DISAPPROVAL:
These rules were disapproved by the Legislature in HJR 1047, effective 5-24-13.
EMERGENCY RULES TERMINATED:
The following emergency rules are also terminated by the disapproval:
RULES:
Subchapter 3. Collection of Late Fee Assessment
748:5-3-1 Late Fee Assessment [AMENDED]
GUBERNATORIAL APPROVAL:
October 22, 2012
REGISTER PUBLICATION:
12-956
30 Ok Reg 107

[OAR Docket #13-1019; filed 6-5-13]

TITLE 748. UNIFORM BUILDING CODE COMMISSION
CHAPTER 7. COMMISSION COMMITTEES

[OAR Docket #13-1020]

RULEMAKING ACTION:
Legislative disapproval of permanent rules
RULES:
Subchapter 5. Standing Committees
748:7-5-1. Standing Committees [AMENDED]
Subchapter 7. Technical Committees
748:7-7-1. Specific purpose [AMENDED]
748:7-7-3. Technical committee composition [AMENDED]
784:7-7-4. Member selection [AMENDED]
LEGISLATIVE DISAPPROVAL:
These rules were disapproved by the Legislature in HJR 1047, effective 5/24/13.

[OAR Docket #13-1020; filed 6-5-13]

TITLE 748. UNIFORM BUILDING CODE COMMISSION
CHAPTER 10. CODE ADOPTION PROCEDURES

[OAR Docket #13-1021]

RULEMAKING ACTION:
Legislative disapproval of permanent rules
RULES:
Subchapter 1. General
748:10-1-2. Public input to Technical Committees [AMENDED]
LEGISLATIVE DISAPPROVAL:
These rules were disapproved by the Legislature in HJR 1047, effective 5-24-13.

[OAR Docket #13-1021; filed 6-5-13]

TITLE 748. UNIFORM BUILDING CODE COMMISSION
CHAPTER 15. CODE ADOPTED BY STATE AGENCIES AND POLITICAL SUBDIVISIONS

[OAR Docket #13-1022]

RULEMAKING ACTION:
Legislative disapproval of permanent rules
RULES:
748:15-1-1. Codes which may be adopted [AMENDED]
LEGISLATIVE DISAPPROVAL:
These rules were disapproved by the Legislature in HJR 1047, effective 5-23-13.

[OAR Docket #13-1022; filed 6-5-13]

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

[OAR Docket #13-1023]

RULEMAKING ACTION:
Legislative disapproval of permanent rules
RULES:
Subchapter 9. NEC® 2011
748:20-9-7. NEC® 2011 Chapter 5 Special Occupancies [NEW]
Subchapter 11. IFGC® 2009
748:20-11-10. IFGC® 2009 Chapter 8 Referenced Standards [NEW]
Subchapter 13. IMC® 2009
784:20-13-11. IMC® 2009 Chapter 15 Referenced Standards [NEW]
Subchapter 15. IPC® 2009

748:20-15-17. IPC® 2009 Chapter 13 Referenced Standards [NEW]

LEGISLATIVE DISAPPROVAL:

These rules were disapproved by the Legislature in HJR 1047, effective 5-24-13.

[OAR Docket #13-1023; filed 6-5-13]

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 #13-982]

RULEMAKING ACTION:
Withdrawal of PERMANENT rulemaking
WITHDRAWN RULES:
Subchapter 3. Child Protective Services
340:75-3-7.3 [AMENDED AND RENUMBERED TO 340:75-3-310]
(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:
March 25, 2013
Withdrawn:
April 10, 2013
CONTACT PERSON:
Dena Thayer, Programs Administrator at 521-4326

[OAR Docket #13-982; filed 5-30-13]

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 92. OKLAHOMA STATE ATHLETIC COMMISSION
CHAPTER 10. RULES FOR BOXING AND OTHER ACTIVITIES

[OAR Docket #13-1058]

RULEMAKING ACTION:
PERMANENT final adoption
PROPOSED RULES:
Subchapter 1. General Provisions
92:10-1-2 [AMENDED]
92:10-1-6 [AMENDED]
92:10-1-7 [AMENDED]
92:10-1-8 [AMENDED]
Subchapter 3. Boxing and Kickboxing Participants
92:10-3-2 [AMENDED]
92:10-3-5 [AMENDED]
92:10-3-13 [AMENDED]
Subchapter 5. Professional Boxing and Kickboxing Events
92:10-5-2 [AMENDED]
92:10-5-11 [AMENDED]
92:10-5- 14 [AMENDED]
92:10-5-15 [AMENDED]
Subchapter 11. Mixed Martial Arts
92:10-11-3 [AMENDED]
AUTHORITY:
3A O.S.2011, § 603; Oklahoma State Athletic Commission
DATES:
Comment Period:
February 1, 2013 to March 6, 2013
Public Hearing:
March 6, 2013
Adoption:
March 6, 2013
Submitted to Governor:
March 15, 2013
Submitted to House:
March 15, 2013
Submitted to Senate:
March 15, 2013
Gubernatorial approval:
April 29, 2013
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on May 14, 2013.
Final Adoption:
May 14, 2013
Effective:
July 25, 2013
SUPERSEDED EMERGENCY RULES:
n/a
INCORPORATION BY REFERENCE:
n/a
ANALYSIS:
The proposed rules modify definitions to accord with the Commission's enabling act; set minimum number of bouts required to hold an event; provide standards to clearly identify complimentary tickets issued by promoters; set requirements for information regarding fighters that must be submitted by matchmakers and provide a deadline for finalization of matches; establish standards for the conduct of seconds at events; extend the rest period between bouts if approved by the Commission; establish standards for the use and issuance of gloves; and otherwise contain clean-up language.
CONTACT PERSON:
Aleta Billings, Oklahoma State Athletic Commission, 1000 NE 10th Street, Room 159, Oklahoma City, OK 73117-1299; Phone: (405) 271-2694

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 25, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

92:10-1-2. Definitions

The definitions found at 3A O.S. § 602 shall apply to this Chapter. 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 State Athletic Commission Act, 3A O.S. §§ 601 et seq.

"Administrator" means the administrator of Oklahoma State Athletic Commission licensing representing the Oklahoma State Athletic Commission.

"Amateur Mixed Martial Artist" means a person Eighteen (18) years of age or older who has never received or competed for any purse or other thing of value either for the expenses of training therefor or for participating in any combative sport contest or professional exhibition which exceeds in monies or other things of value a sum to be determined by the Oklahoma State Athletic Commission.

"Amateur Mixed Martial Arts" means any form of competitive pugilistic contest in which the participants have never been licensed as a professional in any combative sport and blows are delivered with any part of the hands, feet, or knees, and multiple combative disciplines are used to include grappling.

"Announcer" means a person responsible for announcing the names of the officials, the participants, their correct weight, the decisions of the referee and judges during an event.

"Combative sports practitioner" or **"Practitioner"** means a person who competes or spars in a combative sports event and includes boxers, kickboxers, mixed martial artists and wrestlers.

"Commission" means the Oklahoma State Athletic Commission or its designee, including the Administrator.

"Down" means when any part of a participant's body, except the participants' feet, touches the ring floor or when the participant is hanging helplessly over the ropes as a result of a legal blow as ruled by the referee.

"Drug" means a controlled substance.

"Elimination Tournament" means a bout in which the participants lack training in boxing skills. Such participants shall engage in the use of boxing techniques using fists only where the objective is to win by decision, knockout (KO) or technical knockout (TKO).

"Event" means "contest" or "exhibition" including a match, bout, contest, show, or tournament where sparring, boxing, kickboxing, wrestling, elimination tournaments and the mixed martial arts, takes place.

"Inspector" means a person who is employed by the Commission to assist the Administrator as directed by the Commission or the Administrator. The Inspector shall have the same powers as the Administrator in his/her absence.

"Judge" means an individual, other than a referee, who shall have a vote in determining the winner of an event.

"Mandatory 8 count" means a required count of eight (8) that is given by a referee to a participant who has been knocked down.

"Matchmaker" means an individual who brings together participants or arranges events.

"Mixed Martial Arts" means unarmed combat involving the use, subject to any applicable limitations set forth in this chapter, of combinations of techniques from different disciplines of boxing, kickboxing, wrestling, and the martial arts, including, without limitation, grappling, kicking and striking.

"No Decision" means boxing or sparring where a decision is not rendered.

"Official" means referees, judges, matchmakers, managers, second(s), announcers, timekeepers and physicians involved in events.

"OSAC" means Oklahoma State Athletic Commission

"Participant" means a person who takes part in an event.

"Person" means any individual, partnership, limited liability company, club, association, corporation or trust.

"Promoter" means any person who produces or stages events and shall include any officer, director, or employees as defined by the Commission.

"Referee" means the person in charge of enforcing these rules during an event.

"Ring Official" means any individual who performs an official function during the progress of an event including but not limited to timekeepers, judges, referees, and attending physicians.

"Second" means any person aiding, assisting, or advising a participant during a boxing, kickboxing, elimination tournament, or mixed martial arts event or exhibition.

"Timekeeper" means a person responsible for keeping accurate time during each event and also responsible for the knockdown count for boxing, kickboxing, elimination tournaments, and mixed martial arts event or exhibition.

"Vendor" means a person who participates in the conduct of an event by offering for sale food or merchandise, including but not limited to, wearing apparel, alcoholic and nonalcoholic beverages, souvenirs and programs.

"Wrestling" means any form of fighting or combat between two or more participants where such participants deliver blows to an opponent's body, execute throws to an opponent's body, or apply holds to the opponent's body, except boxing and kickboxing.

92:10-1-6. Promoters

(a) No person shall promote any event without obtaining a license from the Commission.

(b) A promoter shall:

(1) Provide the following proof of insurance a minimum of 24 hours prior to the event:

(A) Medical benefit policy in the amount of at least $10,000 for each participant with the promoter being responsible for the deductable payments on insurance claims;

(B) Death benefit policy in the amount of at least $10,000 for each participant;

(2) Provide surety bond, cash, certificate of deposit, or other forms of security acceptable to the Commission in the amount of $10,000.00. The Commission may increase the security as circumstances warrant.

(3) Not hold a license as a second, referee, timekeeper, or judge.

(c) Promoters shall have a contract with each participant and shall maintain copies for two years.

(d) Each promoter shall supervise the conduct of the promoter's employees, and shall be directly responsible for them to the Commission for violations of the Act and of this chapter.

(e) The Commission hereby deems any violations by any employee or representative of a promoter as a violation by the promoter.

(f) Before the Commission issues a promoter's license, the promoter shall:

(1) Submit a completed application form with the required fee.

(2) Have reached the age of 18.

(3) Provide the Commission with evidence that the applicant possesses knowledge of the responsibilities involved in the promotion under the Act and this Chapter and has the ability and intent to comply therewith.

(g) Promoters shall be responsible to the Commission for all events held and for meeting all deadlines ~~for permit applications~~as directed by the Commission.

(h) Promoters are responsible for ensuring the maintenance of adequate public safety at all events. Failure to ensure adequate public safety may result in cancellation of an event, discipline against a promoter's license and denial of future permits for events. The promoter or venue shall provide evidence of a general liability insurance policy for the purposes of boxing, kickboxing, elimination tournaments, and mixed martial arts events.

(i) The promoter is responsible for ensuring that no bottled drinks unless poured into paper cups by vendors at the time of

sale, or glass ashtrays are permitted in any facility where any event is being held. If the event is staged out-of-doors, paper cups also must be used on the site of the event.

(j) Promoters and all licensed individuals and organizations associated with the events shall be familiar with the Act and Chapter 1 and 10 of Title 92 of the Oklahoma Administrative Code. Any questions or interpretations should be referred to the Commission. If an immediate decision is required, it should be referred to the inspector present.

(k) No one shall interfere with the inspectors' duties, use foul language, or threaten physical harm.

(l) The promoter shall be responsible performance of requirements of the Act and of the rules in this chapter at each event.

(m) For the purposes of mixed martial arts, boxing, elimination tournaments, and kickboxing events, the promoter shall arrange for an ambulance to be on site at each event with emergency medical personnel and proper resuscitation equipment.

92:10-1-7. Denial of license or permit

(a) The Commission may deny any application for license that does not comply with the requirements of the Act or this chapter. Furthermore, the Commission shall deny a license to an applicant who has competed in an event not sanctioned by a state or tribal commission for a period of 60 days from the date of the event. Participants who are currently licensed by the Commission shall not be approved to compete until 60 days from the date of their last non-state or non-tribal commission sanctioned fight.

(b) The Commission may refuse to issue any sanctioning permit because of the unavailability of an inspector, because the location of the event is determined by the Commission to be inadequate or unsafe, because the application is incomplete, or for any other reason under the Act.

(c) The Commission may deny any type of new or renewal license or sanctioning permit to an applicant having an unpaid license fee, sanctioning permit fee, pending security forfeiture, or assessment due the Commission pursuant to the Act or this chapter.

(d) The Commission shall not allow a boxing event to be conducted without a minimum of four (4) bouts or a mixed martial arts event without a minimum of seven (7) bouts unless otherwise approved by the Commission. Promoters and matchmakers who do not have the number of bouts scheduled at the designated start time for the event are responsible for all costs for payments to officials and costs incurred by the Commission in preparation for the event.

92:10-1-8. Disciplinary action

(a) The Commission may take disciplinary action against:

(1) any licensee who violates any provision of the Act or any rule or order of the Commission;

(2) any licensee who fails to follow the instructions of a Commission representative at a sanctioned event;

(3) any licensee who engages in unsportsmanlike conduct including but not limited to the use of foul and abusive language or mannerisms;

(4) any participant in a contest who fails to strive earnestly in good faith to win or who commits flagrant or repeated fouls;

(5) any licensee~~licensees~~ who engages~~engage~~ in conduct at any time or place or in any manner that is deemed by the Commission to reflect discredit to combative sports; or

(6) any licensee~~licensees~~ who is~~are~~ convicted or pleads~~plead~~ guilty or nolo contendre to a felony or to a crime of moral turpitude.

(b) Disciplinary action by the Commission may include immediate suspension pending a hearing, suspension for a definite term, conditional suspension, fines, and/or revocation. Disciplinary action shall be taken by the Commission as provided in Chapter 1 of this Title, and pursuant to the provisions of the Administrative Procedures Act, 75 O.S. §§ 250 et seq.

(c) The retail price of the tickets shall be printed in large type and displayed prominently above or near all ticket sellers or ticket windows. The promoter shall disclose the retail ticket prices to the Commission no later than the time the sanctioning permit for the event is issued, and shall not be changed. Tickets of different prices shall be printed in different colors, or state the retail price on the face of the ticket.

SUBCHAPTER 3. BOXING AND KICKBOXING PARTICIPANTS

92:10-3-2. The Professional Boxing Safety Act of 1996 and the Muhammad Ali Boxing Reform Act

(a) The Commission hereby adopts by reference the current rules and guidelines adopted by the Association of Boxing Commissions (ABC) for issuance of identification cards, suspension of licenses, and reporting event results required by the Professional Boxing Safety Act of 1996 and the Muhammad Ali Boxing Reform Act. Any amendment to the rules and guidelines of the ABC in the above stated areas shall be deemed adopted by the Commission by reference, unless the Commission takes affirmative action to the contrary within sixty (60) after notification thereof.

(b) The OSAC Shall be a member in good standing of The Association of Boxing Commissions. The OSAC shall use ABC prescribed data bases for reporting purposes.

92:10-3-5. Matchmakers

(a) In boxing, the promoter and matchmaker shall not be the same person.

(b) If the matchmaker is employed by the promoter, both the matchmaker and the promoter are jointly responsible for matches made and compliance with applicable state laws, including the Act, and the rules in this chapter.

(c) The duties of the matchmaker shall include arranging the event, matching the participants as to weight and experience and ensuring that all the required equipment is in its place.

While the events are in progress, the matchmaker shall cooperate with the inspector and is responsible to the Commission for the actions of the promoter.

(d) The matchmaker shall provide to the Commission the legal name, federal id number or national mma id number for all participants. The matchmaker shall indicate on the tentative bout list submitted to the Commission whether the participant is a debut fighter. If the name of a debut fighter contained on the tentative bout list is not the same as the name on the fighter's picture ID, the fighter will not be approved to participate unless granted an exception by the Commission.

(e) Matches shall be finalized a minimum of 24 hours prior to the start time of the event and shall not be changed unless otherwise approved by the Commission.

92:10-3-13. Seconds

(a) No licensed second shall act as a second at any boxing, mixed martial arts, elimination tournaments, or kickboxing match in this State unless the match is held in accordance with the rules of this Chapter.

(b) Seconds must be at least eighteen (18) years of age.

(c) Each participant shall be allowed no more than four seconds, one of whom shall be designated the chief second. The chief second shall be in charge of the participant's corner and be responsible for the conduct of all seconds, and shall be held responsible for any violation committed by any second. All seconds shall adhere to direction given by the Commission. Seconds shall not interfere with the Commission Inspectors' duties, use foul language, or threaten physical harm.

(d) The chief second of any participant shall have at the ringside a stool, a pair of scissors, a towel, a clean water bucket, a container of drinking water and/or electrolyte drinks, and tape and bandages.

(e) First aid and other ring equipment of a second shall in all cases and at all times before, during, and after use, be available for inspection by the physician and the Commission whose decision shall be final as to the propriety of its use.

(f) Seconds shall not by word or action attempt to heckle or annoy his participant's opponent. Seconds shall not knock or pound on the ring floor.

(g) No second shall attempt to render aid to a participant who has been counted out during the course of a match before the physician has examined the participant.

(h) If any second enters the ring during any bout, the participant of that second shall lose the bout by disqualification. If a second mounts the ring apron during any bout, the participant of that second shall lose the bout by technical knockout (TKO).

(i) The excessive or undue spraying of water on any fighter between rounds is prohibited.

(j) Only one second shall be allowed in the ring. No second shall enter the ring until the bell indicates the end of a round. The second shall leave the ring at the sound of the timekeeper's whistle, which indicates ten (10) seconds remain before the start of the next round. Prior to the beginning of each round, the entire ring platform and ropes shall be cleared of all obstructions, including buckets, stools, towels, and other articles; and none of these articles shall again be placed on the ring platform until the bell has sounded indicating the end of the round.

SUBCHAPTER 5. PROFESSIONAL BOXING AND KICKBOXING EVENTS

92:10-5-2. Weigh-in

(a) Within 36 hours before an event, or as otherwise determined by the Commission to benefit the safety and health of the participants, the Commission or an inspector shall weigh in each participant. The weigh-in shall occur in the presence of other participants to the extent practicable.

(b) Only those participants who have been approved for the event shall be permitted to weigh in.

(c) The location of the weigh-in shall be approved by the Commission. There shall be only one scheduled weigh-in per event. Participants who cannot be at the scheduled weigh-in will weigh in at the discretion of the Commission at a time and place directed by the Commission.

92:10-5-11. Pre-bout physicals for boxing, ~~and~~ kickboxing and mixed martial arts participants

(a) Within 36 hours before an event, each participant shall be given medical examination by a Medical Doctor (MD) or Doctor of Osteopathy (DO). The physician shall be appointed by Commission. The examination shall include the following:

(1) Blood pressure,
(2) Head,
(3) Eyes,
(4) Ears,
(5) Nose,
(6) Throat,
(7) Lungs,
(8) Chest,
(9) Heart,
(10) Abdomen, and
(11) Orthopedic.

(b) If upon examination a participant is determined to be unfit for competition, the participant shall be prohibited from competing and the Commission or an inspector shall be notified.

(c) The physician shall certify, in writing, those participants who are in good physical condition to compete.

(d) An event shall not begin until a physician is present. The physician shall not leave until the decision in the final event has been announced and all injured boxers have been attended to.

(e) The physician shall sit near the steps into the ring and the event shall not begin until the physician is seated. The physician shall remain at that location for the entire event.

(f) Each participant shall remain at the event site until released by the physician.

92:10-5-14. Female participants

(a) Female participants shall not engage in combative sports events against male opponents~~boxing or kickboxing with a male participant~~.

(b) In addition to requirements for male participants, female participants shall:

(1) Have hair secured, with soft and non-abrasive material, in a manner that does not interfere with vision or safety of either participant; and

(2) Use no facial cosmetics.

(c) A female participant must, before each professional boxing match, provide a negative pregnancy test which shall be verified by the ringside physician.

(d) The promoter of a contest between female participants shall provide adequate, separate dressing rooms.

(e) Rounds shall be of two (2) or three (3) minutes duration with a one (1) minute rest period between rounds. All bouts shall be scheduled for no more than ten (10) rounds.

(f) Female participants up to 147 pounds shall use at least (8) ounce gloves and female participants over 147 pounds shall use at least 10 ounce gloves.

92:10-5-15. Championship and non-championship bouts

(a) Non-championship bout(s) shall not be less than four (4) scheduled rounds and shall not exceed ten (10) scheduled rounds. The number of rounds allowed in a non-championship bout shall be determined by each participant's number of bouts. Each round in a non-championship contest shall be three (3) minutes duration, and a one (1) minute rest period between each round. The one minute rest period may be extended as approved by the Commission but not to exceed seven (7) seconds.

(b) Each championship contest will be scheduled for twelve (12) rounds, of three (3) minute duration, and one (1) minute rest period between each round. The one minute rest period may be extended as approved by the Commission but not to exceed seven (7) seconds.

(c) For the purposes of kickboxing, participants shall execute kicks, which are attempts to land hard on a target area of the opponent's body with the intent to do damage. Non-championship kickboxing bouts shall not be less than three (3) scheduled rounds and shall not exceed ten (10) scheduled rounds. Championship kickboxing bouts shall not exceed twelve (12) rounds.

(d) All of the following shall apply to championship and non-championship bouts:

(1) The referee is the sole arbiter of a bout and is the only individual authorized to stop a contest.

(2) All participants are required to wear a mouthpiece during the competition. The round cannot begin without the mouthpiece. If the mouthpiece is dislodged during the competition, the referee will call time and replace the mouthpiece at the first opportune moment, without interfering with the immediate action. Points may be deducted by the referee if her or she feels the mouthpiece is being purposely ejected from the participant's mouth.

(3) All bouts shall be scored by three judges.

(4) Mandatory eight count after knockdowns shall be standard procedure in all bouts.

(5) A participant shall receive a twenty (20) second count if he is knocked out of the ring and onto the floor. The participant is to be unassisted by his seconds.

(6) If a participant sustains an injury from a fair blow and the injury is severe enough toterminate the bout, the injured participant will lose by TKO.

(7) Injuries sustained by accidental fouls:

(A) If an accidental foul causes an injury severe enough for the referee to stop the bout immediately, the bout will result in a no decision if stopped before four (4) completed rounds.

(B) If an accidental foul causes an injury severe enough for the referee to stop the bout immediately, after four (4) completed rounds, the bout will result in a technical decision awarded to the participant who is ahead on the score cards at the time the bout is stopped.

(8) A participant who is hit with an accidental low blow must continue after a reasonable amount of time but no more than five (5) minutes or the participant shall lose the bout.

(9) Injuries sustained by intentional fouls:

(A) If an intentional foul causes an injury, and the injury is severe enough to terminate the bout immediately, the participant causing the injury shall lose by disqualification.

(B) If an intentional foul causes an injury and the bout is allowed to continue, the referee will notify the authorities and deduct two (2) points from the participant who caused the foul. Point deductions for intentional fouls shall be mandatory.

(C) If an intentional foul causes an injury and the injury results in the bout being stopped in a later round, the injured participant shall win by a technical decision if he/she is ahead on the score cards or the bout shall result in a technical draw if the injured participant is behind or even on the score cards.

(10) If a participant injures himself/herself while attempting to intentionally foul his/her opponent, the referee shall not take any action in his/her favor, and this injury will be thesame as one produced by a fair blow.

(11) If the referee feels that a participant has conducted himself/herself in an unsportsman-like manner, the referee may stop the bout and disqualify the offending participant.

(12) Partial or incomplete rounds will be scored. However, any point deduction(s) occurring during this partial round will be deducted from the final score of the completed rounds.

SUBCHAPTER 11. MIXED MARTIAL ARTS

92:10-11-3. Mixed Marital Arts Participants

(a) An applicant for a Mixed Martial Arts License as a participant must be at least 18 years of age and shall complete an application as required in section 92:10-1-4.

(b) Participants must wear shorts.

(c) Participants may not wear shoes or any padding on the feet during a contest or exhibition.

(d) For contest or exhibitions, each participant must wear gloves that weigh not less than four (4) ounces and not more

than eight (8) ounces unless otherwise approved by the Commission. Gloves shall be examined by the Commission before a contest by the referee and the inspector. The promoter shall provide gloves for all professional contests or exhibitions. If gloves are found to be broken or unclean or if the padding is found to be misplaced or lumpy, they shall be changed before the contest begins.

(e) Participants must possess and present their national MMA identification card to the Commission upon request. If the participant has not been issued a national MMA identification card, one will be issued. ~~free of charge.~~ Participants will not be allowed to compete without a national MMA identification card.

[OAR Docket #13-1058; filed 6-7-13

TITLE 92. OKLAHOMA STATE ATHLETIC COMMISSION
CHAPTER 10. RULES FOR BOXING AND OTHER ACTIVITIES

[OAR Docket #13-1056]

RULEMAKING ACTION:
PERMANENT final adoption
RULES
Subchapter 1. General Provisions
92:10-1-4 [AMENDED]
AUTHORITY:
3A O.S.2011, § 603; Oklahoma State Athletic Commission
DATES:
Comment Period:
February 1, 2013 to March 6, 2013
Public Hearing:
March 6, 2013
Adoption:
March 6, 2013
Submitted to Governor:
March 15, 2013
Submitted to House:
March 15, 2013
Submitted to Senate:
March 15, 2013
Gubernatorial disapproval:
April 29, 2103
Legislative approval:
Approved May 24, 2013, by House Joint Resolution 1062.
Final Adoption:
May 24, 2013
Effective:
July 25, 2013
SUPERSEDED EMERGENCY RULES:
n/a
INCORPORATION BY REFERENCE:
n/a
ANALYSIS:
The rule increases existing fees and creates new fees in order to partially make up for lost revenues from elimination of pay-per-view fees repealed in the previous legislative session. The proposed changes are necessary to allow the Commission to continue performing its statutory duty of regulating combative sports in order to protect the health and safety of participants, officials and the general public.
CONTACT PERSON:
Aleta Billings, Oklahoma State Athletic Commission, 1000 NE 10th Street, Room 159, Oklahoma City, OK 73117-1299; Phone: (405) 271-2694

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 25, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

92:10-1-4. Licenses process

(a) All participants must apply for and be issued a license before participating in an event.

(b) Each applicant for a license shall request an official application from the Commission. The Commission will not process any application for a license that does not contain the proper fee and all information required from the applicant. All licenses expire on June 30 of each year following the date of issuance.

(c) Each participant shall consistently use the same name in events. Each participant shall provide the Commission with the participant's legal name and the name to be used in events, if any.

(d) The license fees and permit fees shall be:

(1) Professional Promoter - ~~$200.00~~$250.00
(2) Combative Sports Practitioner~~Participant~~ Fee - ~~$20.00~~$30.00
(3) Referee Fee - ~~$25.00~~$50.00
(4) Judge - ~~$25.00~~$50.00
(5) Matchmaker - ~~$100.00~~ $150.00
(6) Second - ~~$10.00~~$25.00
(7) Announcer - ~~$10.00~~ $20.00
(8) Timekeeper - ~~$20.00~~$40.00
(9) Vendor - $50.00
(10) Event Permit Boxing - $50.00
(11) Event Permit MMA - $100.00
(12) Event Permit Wrestling - $50.00
(13) National MMA ID Cards - $20.00
(14) Federal Boxer ID Cards - $20.00
(15) Replacement License, Permit or ID - $15.00
(16) Fight Fax Records - $5.00 per record requested

(e) Applicants must provide a residence or business address at the time of application and inform the Commission in writing of any change of address. An applicant whose license or permit is returned to the Commission office because of an incorrect address, or whose application is not legible forfeits the fee that has been paid and must submit a new application and pay a replacement fee in order to be issued a license or permit.

(f) Applicants shall provide the Commission with identification showing proof of age.

(g) Any person whose license is lost or stolen may obtain a replacement from the Commission.

(h) No license issued under the Act or these rules shall be transferable.

AGENCY NOTE: *On April 29, 2013, proposed amendments to 92:10-1-5, which included the deletion of subsection (d) regarding event permit fees, were gubernatorially disapproved. On May 24, 2013, proposed amendments to 92:10-1-4, which included the establishment of event permit fees in subsection (d) of the rule, were approved by House Joint Resolution 1062. As a result,*

92:10-1-4(d) and 92:10-1-5(d) contain event permit fees of differing amounts. The fees in 92:10-1-4(d) are the later enacted fees.

[OAR Docket #13-1056; filed 6-7-13

TITLE 135. COMMISSION ON CHILDREN AND YOUTH
CHAPTER 10. PROGRAMS, BOARDS, AND COUNCILS: OPERATION AND ADMINISTRATION

[OAR Docket #13-984]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 21. Child Death Review Board
135:10-21-2 [AMENDED]
135:10-21-3 [REVOKED]
AUTHORITY:
10 O.S. § 601.4(9): 10 O.S. § 1150.2(A)(5); Commission on Children and Youth
DATES:
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July 25, 2013
SUPERSEDED EMERGENCY RULES:
n/a
INCORPORATION BY REFERENCE
n/a
ANALYSIS:
The rules provide the procedure by which the Child Death Review Board may establish local child death review teams pursuant to 10 O.S. § 1150.2(A)(5).
CONTACT PERSONS:
Lisa Smith, Oklahoma Commission on Children and Youth, at (405) 606-4900.

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 25, 2013:

SUBCHAPTER 21. CHILD DEATH REVIEW BOARD

135:10-21-2. ~~Responsibilities of Multidisciplinary~~Local Child Death Review Teams

~~Local teams shall:~~

(a) The Child Death Review Board may establish and enter into agreements with local child death review teams pursuant to 10 O.S. § 1150.2(A)(5). The local teams shall carry out such duties and responsibilities as the Board shall designate, including reviewing cases in the geographical area where the team is located.

(b) Members of a team shall be appointed by the Executive Director of the Oklahoma Commission on Children and Youth (OCCY) upon recommendation by the Board and shall include, at a minimum, the following: a medical professional, a District Attorney, a law enforcement investigator, an OKDHS Child Welfare employee, and a member of the Oklahoma Psychological Association.

(c) Each team member shall serve a term of two years and may be reappointed to an unlimited number of terms. Each member may appoint a designee to attend team meetings in the member's absence. However, each member shall personally attend at least seventy-five percent of all meetings in a given calendar year. If a member fails to attend at least seventy-five percent of all meetings in a given year, the position shall be vacated and the OCCY Executive Director shall make an appointment filling the position for the remainder of the term.

(d) The teams shall meet no less than quarterly in a given calendar year.

(e) The team shall send at least one member, other than a designee, to report annually to the Board for the purpose of assessing the progress and functioning of the team. If a team is deemed to be non-functioning, the Board may dismantle it and establish a new team whose new members shall be appointed in the same manner as provided for in subsection (b) above.

(f) The teams shall conduct case reviews of the deaths and near deaths of children due to abuse or neglect which occur in the geographical region designated by the Board. The teams shall use the same review resources as the Board. All records obtained or created by a local team shall be records of the Board and subject to the confidentiality and privilege provisions of the Board's enabling act.

(g) Each team shall perform all duties and abide by all conditions as provided for in each agreement between the team and the Board.

~~(1) Enter into formal agreement with the Oklahoma Child Death Review Board for the purpose of providing local child death review pursuant to 10 O.S. § 7110.D & E~~

~~(2) Provide list of team members to the Commission on Children and Youth and the Child Death Review Board.~~

~~(3) Meet no less than quarterly.~~

~~(4) Develop a method of review which utilizes the resources available to that team. (This method of review shall be reduced to written protocol).~~

~~(5) Conduct case reviews of the deaths of children and case reviews of near deaths (as defined in 10 O.S. § 1150.2.B.1) of children due to abuse or neglect which has occurred within the geographical area served by the multidisciplinary team.~~

~~(6) Utilize forms provided by the Child Death Review Board, collect statistics of cases reviewed.~~
~~(7) Sign a confidentiality acknowledgment provided by the Child Death Review Board.~~
~~(8) Have a medical professional in attendance at all meetings when review of deaths/near deaths occur.~~
~~(9) Provide statistical and other relevant information to the Child Death Review Board in a timely manner.~~

135:10-21-3. Responsibilities of the Child Death Review Board [REVOKED]

~~The Child Death Review Board shall:~~
~~(1) Provide local review teams with copies of case information available for the review of deaths or near deaths.~~
~~(2) Provide copies of data collection forms to be used by local review teams.~~
~~(3) Attempt to collect any additional information concerning the death or near death of a child, which is requested by local review teams.~~
~~(4) Provide technical assistance to local review teams.~~
~~(5) Provide training to local review teams.~~

[OAR Docket #13-984; filed 5-31-13]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 1. PROCEDURES OF THE OKLAHOMA CONSTRUCTION INDUSTRIES BOARD

[OAR Docket #13-1045]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Description of Organization
158:1-1-1 [AMENDED]
Subchapter 3. General Operation and Procedures
158:1-3-1 [AMENDED]
Subchapter 5. Procedure in Individual Proceedings
158:1-5-2 [AMENDED]
158:1-5-3 [AMENDED]
AUTHORITY:
Construction Industries Board; 59 O.S. § 1000.4
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n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The amendments update citation references and correct the address of the agency which relocated in 2012.
CONTACT PERSON:
Linda Ruckman, Board Secretary/Executive Assistant, 405-521-6550.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

SUBCHAPTER 1. DESCRIPTION OF ORGANIZATION

158:1-1-1. Purpose

(a) These rules implement the Administrative Procedures Act, 75 O.S. ~~1991, Section 250et seq., as amended~~§ 250, *et seq.*, *as amended* ("APA"). These rules govern formal proceedings of the Construction Industries Board and may be supplemented by procedural rules within a particular departmental or unit area. Informal proceedings may be held as announced by the Construction Industries Board or as agreed with any person or entity.
(b) These rules are adopted to simplify procedure, avoid delays, save expenses, and facilitate the administration of the Construction Industries Board Act of Oklahoma and all other regulatory laws and rules administered by the Construction Industries Board. To that end, the provisions of these rules shall be given a fair and impartial construction.

SUBCHAPTER 3. GENERAL OPERATION AND PROCEDURES

158:1-3-1. Address

The principal office of the Board is 2401 N.W. 23rd, Suite ~~5~~, 2F, Oklahoma City, Oklahoma 73107.

SUBCHAPTER 5. PROCEDURE IN INDIVIDUAL PROCEEDINGS

158:1-5-2. Notice of hearing

The Administrator, his or her designee, or the Administrative Law Judge shall schedule the date, time and place of the hearing. The hearing clerk shall notify both parties. The hearing shall be scheduled at least fifteen (15) days after the date of service of the petition. Both parties may agree to an earlier date. If a specific law requires a hearing in fewer days, that statute shall be followed. If an emergency exists, a hearing

may be conducted without the filing of a petition and without the fifteen (15) day notice.

158:1-5-3. Service of petition and notice of hearing

(a) Service. The Petition and notice of hearing shall be served on the Respondent by personal service or by mail or other lawful means as may be provided in the Oklahoma Pleading Code.

(b) **Personal service.** Personal service of the petition and the notice of hearing upon an individual shall be made by delivering the Petition personally on the Respondent or by leaving a copy of the Petition at the individual's dwelling place or the usual place of abode with some person residing therein who is fifteen (15) years of age or older.

(c) **~~Department~~Board as petitioner.** Where the Board is the petitioner, personal service of the petition and notice of hearing may be made by a person designated by the Administrator to make such service for the Board.

(d) Service by mail. Service of the petition and the notice of hearing may be made by certified mail, return receipt requested, restricted delivery.

(e) Proof of service. The person serving the petition and the notice of hearing shall file proof of service with the hearing clerk within twenty (20) days of service or before the date of the hearing whichever is sooner. Acknowledgement in writing by the Respondent or appearing at the hearing without objection to service is equivalent to service.

(f) Substitute service. Substitute service in a matter against a licensee may be completed after personal and mail service are attempted with the filing of an affirmation of the attempted service and that the petition and notice of hearing were mailed first class mail to the last known address of the licensee.

[OAR Docket #13-1045; filed 6-7-13]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 10. FINE SCHEDULE

[OAR Docket #13-1046]

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PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
158:10-1-1 [AMENDED]
Subchapter 3. Administrative Fine Schedule
158:10-3-1 [AMENDED]
158:10-3-4 [AMENDED]
Subchapter 5. Oklahoma Small Business Regulatory Flexibility Act
158:10-5-1 [AMENDED]
AUTHORITY:
Construction Industries Board: 59 O.S. § 1000.1, et seq.; and 59 O.S. §§ 858-627, 1002, 1681, 1850.3.
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The amendments update citation references and correct the address to which fines must be submitted.
CONTACT PERSON:
Linda Ruckman, Board Secretary/Executive Assistant, 405-521-6550.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

158:10-1-1. Purpose

The purpose of this chapter is to establish fines based on violation of requirements found in any regulation administered by the Oklahoma Construction Industries Board pursuant to the Construction Industries Board Act found at 59 O.S.~~§ 1000.1 et seq.~~ § 1000.1, *et seq.*

SUBCHAPTER 3. ADMINISTRATIVE FINE SCHEDULE

158:10-3-1. Common requirements under the Electrical License Act, the Mechanical Licensing Act, the Plumbing License Law of 1955, and Home Inspectors Licensing Act

(a) The schedule of fines in this Section is based on violation of requirements common to the rules promulgated under authority of the Electrical License Act, the Mechanical Licensing Act and The Plumbing License Law of 1955, or each of the respective licensing laws. Except as provided in Section 158:10-3-~~3~~2, the fine schedule for citations issued by the Board for violations of the following requirements is:

(1) Contracting without license, which includes offering to perform work:

(A) First - $500.00

(B) Second or subsequent - $1,000.00.

(2) Inactive contractor or a journeyman engaged in contracting:
(A) First - $500.00
(B) Second or subsequent - $1,000.00.
(3) Contractor working unlicensed or unregistered individual (per person):
(A) First - $500.00;
(B) Second or subsequent - $1,000.00.
(4) Contractor working registered apprentice without direct supervision (per apprentice):
(A) First - $500.00;
(B) Second or subsequent - $1,000.00.
(5) Unlicensed or unregistered individual performing trade work under the direction of one acting as a contractor:
(A) First - $500.00;
(B) Second or subsequent - $1,000.00.
(6) Loaning a license:
(A) First - $500;
(B) Second or subsequent - $1,000.00.
(7) Forging or altering a license:
(A) First - $1,000.00;
(B) Second or subsequent - $500. $1,000.00.
(8) Code violations per day (after NOV compliance date):
(A) First - $500.00.
(9) Contracting with an expired bond:
(A) First - $500.00;
(B) Second or subsequent - $1,000.00.
(10) Contracting with expired insurance
(A) First - $500.00;
(B) Second or subsequent - $1,000.00.
(11) Failure to properly display firm name and state license number on vehicles:
(A) First - $500.00;
(B) Second or subsequent - $1,000.00.
(b) The fine schedule for citations issued by the Board for Violations of the Home Inspector Licensing Act or the Rules promulgated there under shall be subject to the following fines:
(1) Violation of 158:70-5-2(d):
(A) First violation: $50.00
(B) Subsequent violation:$200.00
(2) Violations of 158:70-11-2(a):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(3) Violations of 158:70-11-2(b):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(4) Violations of 158:70-11-2(c):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(5) Violations of 158:70-11-2(d):
(A) First violation: up to $200.00
(B) Subsequent violation: up to $500.00
(6) Violations of 158:70-11-2(e):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(7) Violations of 158:70-11-2(f):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(8) Violations of 158:70-11-2(g):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(9) Violations of 158:70-11-2(h):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(10) Violations of 158:70-11-2(i):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(11) Violations of 158:70-11-2(j):
(A) First violation: up to $1,000.00
(B) Subsequent violation: up to $2,000.00
(12) Violations of 158:70-11-2(k):
(A) First violation: up to $200.00
(B) Subsequent violation: up to $500.00
(13) Violations of 158:70-11-2(l):
(A) First violation: up to $200.00
(B) Subsequent violation: up to $500.00
(14) Violations of 158:70-11-2(m):
(A) First violation: up to $200.00
(B) Subsequent violation: up to $500.00
(15) Violations of 158:70-11-2(n):
(A) First violation: up to $200.00
(B) Subsequent violation: up to $500.00
(c) Violations of any other provision of the Electrical Industry Regulations, the Mechanical Industry Regulations and the Plumbing Industry Regulations not otherwise provided hereinabove or in 158:10-3-2, shall be subject to a fine of $200.00 for the first offense and $400.00 for each subsequent offense.

158:10-3-4. Payment of fines

(a) A person who is ordered to pay a fine shall submit the fine to the Construction Industries Board, 2401 N.W. 23, Suite ~~5~~2F, Oklahoma City, Oklahoma 73107. A person who decides not to contest the issuance of the citation shall submit payment of the fine amount to the address above on or before the hearing date indicated on the citation.
(b) Contractors or journeymen shall pay all fines and penalties imposed by penalty orders of the Electrical, Mechanical, Plumbing, or Inspector Hearing Boards and/or the Board and fines and penalties imposed by courts of competent jurisdiction for the violation of municipal ordinances.
(c) The Board may seek payment through the surety bond of any licensed Contractor for any fines or penalties, which the licensee fails to pay.

SUBCHAPTER 5. OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

158:10-5-1. Purpose

Pursuant to the Oklahoma Small Business Regulatory Flexibility Act (75 O.S. ~~Supp. 2002,~~ § 501,*et seq.*), these Rules apply to all fines and penalties imposed by the Board.

[OAR Docket #13-1046; filed 6-7-13]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 30. PLUMBING INDUSTRY REGULATIONS

[OAR Docket #13-1047]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
158:30-1-1 [AMENDED]
158:30-1-2 [AMENDED]
158:30-1-4 [AMENDED]
Subchapter 3. Procedures of the Committee and Hearing Board
158:30-3-1 [AMENDED]
158:30-3-2 [AMENDED]
Subchapter 5. License Types, Bond Requirements, and Display of License Number and Firm Name
158:30-5-4 [AMENDED]
Subchapter 9. Examination Procedures, License and Registration Fees and Duration of Licenses
158:30-9-1 [AMENDED]
158:30-9-3 [AMENDED]
158:30-9-4 [AMENDED]
AUTHORITY:
Construction Industries Board: 59 O.S. §§ 1000.4(A)(1) and 1002.
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Superseded rules:
Subchapter 9. Examination Procedures, License and Registration Fees and Duration of License
158:30-9-4 [AMENDED]
Gubernatorial Approval:
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30 Ok Reg 771
Docket number:
13-743
INCORPORATIONS BY REFERENCE:
Incorporating standards:
International Plumbing Code, International Fuel Gas Code, plumbing portion of the International Residential Code as revised and adopted by the Oklahoma Uniform Building Commission pursuant to the Oklahoma Uniform Building Code Commission Act.
Incorporating rule:
158:30-1-4
Availability:
See contact person below.
ANALYSIS:
158:30-1-1 Cleans up statutory citation. 158:30-1-2 Cleans up statutory citation and deletes duplicative language. 158:30-1-4 Shows standards of installation as code documents adopted by the Oklahoma Uniform Building Code Commission (OUBCC). 158:30-3-1 Updates language on examination procedures. 158:30-3-2 Allows appointment of a designee besides the Administrator to the Hearing Board. 158:30-5-4 Cleans up statutory citation. 158:30-9-1 Changes the requirements needed for examination allowing education to substitute for experience and updates to allow military equivalency for experience requirement. 158:30-9-3 Updates language to allow for internet based renewal process. 158:30-9-4 Clarifies the continuing education requirements and reflects changes adopted in the emergency rule process. The emergency rule and this proposed permanent rule retain the requirement for continuing education but expand the allowable course subjects to avoid retaking the same course, separate the trigger for continuing education requirements from the actions of the OUBCC, bring more uniformity among the trades, and simplify and clarify the continuing education requirements for the plumbing trade. The proposed permanent rule also defines a credit hour of education, eliminates the completion of a continuing education evaluation form, and adds a procedure for submitting a complaint against a provider of continuing education.
CONTACT PERSON:
Linda Ruckman, Board Secretary/Executive Assistant, 405-521-6550.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

158:30-1-1. Purpose

The rules in this Chapter implement the Plumbing Licensing Law, Title 59 ~~O.S, Section 1001et seq., as amended.~~ O.S. § 1001, *et seq., as amended.*

158:30-1-2. Definitions

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

"Act" means the plumbing license law of 1955 as found at ~~59O.S.§ 1001 et seq.~~59 O.S. § 1001, *et seq., as amended.*

"Administrator" means the Administrator of the Board as described in the Construction Industries Board Act found at 59 O.S. § 1000.1,*et seq.*

"Applicant" means any person applying for an examination, for a license or registration, for review of plans and specifications or for a plumbing code variance from the current, published edition of the code of plumbing regulations endorsed by the International Code Council (ICC) by the Board under the Act.

"Board" means the Oklahoma Construction Industries Board.

"Bonds and Insurance Unit" means the consolidated unit that processes bonds, insurance, and citations under the direction of the Construction Industries Board.

"Cheating" means any unapproved deviation from any official instruction given before, during or after a license examination, for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

"Committee" means the Committee of Plumbing Examiners.

"Direct supervision" means the on-the-job presence by the supervisor who must be a licensed plumbing contractor or plumbing journeyman.

"Farm Operations"

(A) For purposes of the Plumbing License Law, "farm" means land devoted primarily to production for sale of livestock or agricultural commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(B) For purposes of the Plumbing License Law, "Farm building" means all homes (i.e., domiciles, residences), or buildings therewith designed and used primarily for and in conjunction with conducting farming operations, provided that said buildings are not connected to a public water and/or sewage system. A "farm building" shall not include other structures such as stores, service stations, schools, motels, or any other building having public access, whether connected to private or public water or sewer systems.

"Maintenance of state owned or operated facilities" means maintenance of state institutions and school districts and will be construed as all repair and/or upkeep of existing plumbing or plumbing fixtures within existing state owned buildings or local school district owned buildings. This term shall not include the installation of plumbing in a new building or new additions to existing structures or replacement of plumbing systems in existing buildings.

"Plumbing" means and includes:

(A) all piping, fixtures, appurtenances and appliances for, and in connection with, a supply of water within or adjacent to any building, structure, or conveyance, on the premises and to the connection with a water main or other source of supply;

(B) all piping, fixtures, appurtenances and appliances for sanitary drainage or storm drainage facilities, including venting systems for such facilities, within or adjacent to any building, structure, or conveyance, on the premises and to the connection with a public disposal system or other acceptable terminal;

(C) the installation, repair, maintenance and renovation of all piping, fixtures, appurtenances and appliances for a supply of water, or for the disposal of waste water, liquid waste, or sewage within or adjacent to any building, structure, or conveyance, on the premises and to the source of supply of water or point of disposal of wastes;

(D) the original installation of a water softener but not the exchanging of the units whereby only unions are disturbed in the replacement;

(E) the installation of water services and building sewers; and

(F) sewer cleaning-house sewer maintenance~~; and,~~.

~~(G) sewer cleaning-house sewer maintenance; and,~~

"Plumbing License Unit" means the staff and administrative support unit to the Committee of Plumbing Examiners and the Plumbing Hearing Board.

"Reciprocity agreement" means an agreement whereby a person holding a plumber's license or registration who is licensed in ~~other states~~another state with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

"Variance" means the use of an alternative material or method of construction from that prescribed in the current, published edition of the code of plumbing regulations endorsed by the International Plumbing Code for use at a particular location or project specified in the variance application; and

"Variance and Appeals Board" means the Oklahoma State Plumbing Installation Code Variance and Appeals Board.

158:30-1-4. Standard of installation

~~Effective July 1, 2009, and thereafter, The Construction Industries Board incorporates the International Plumbing Code/2009, 2009 International Fuel Gas Code, and the plumbing portion of the 2009 International Residential Code, as the minimum standard for the installation of plumbing in Oklahoma where no ordinance or regulation of a governmental subdivision applies.~~The standards of installation are the provisions of the plumbing codes - the International Plumbing Code, the International Fuel Gas Code and the plumbing portion of the International Residential Code, as revised and adopted by the Oklahoma Uniform Building Code Commission pursuant to the Oklahoma Uniform Building Code Commission Act.

SUBCHAPTER 3. PROCEDURES OF THE COMMITTEE AND HEARING BOARD

158:30-3-1. Procedures of the Committee

The Committee of Plumbing Examiners (the "Committee") shall serve the Board in an advisory capacity, formulate rules pursuant to the Plumbing License Law of 1955, and ~~to~~ assist and advise the Administrator on the examination of applicants for licenses as journeyman plumber and/or plumbing contractor, in accordance with these rules and the terms and conditions of the law. The Committee shall make up a part of the State Plumbing Hearing Board.

(1) The Committee of Plumbing Examiners (the "Committee") shall meet at least twice each year. The Committee shall give open meeting notices. The Board shall notify all examination applicants by direct mail of the

~~dates and times of examinations~~procedures and contact information to set a date and time for examination.

(2) The public may obtain information and make submissions, requests, and applications for plumbing examinations by mail or in person at the Oklahoma Construction Industries Board.

(3) The only formal procedure available to the public is to apply for a plumbing license. This shall be done by filling out an application for examination with the Administrator at Oklahoma Construction Industries Board, Oklahoma City, Oklahoma address. The application form shall be provided by the Plumbing Licensing unit.

(4) All forms and instructions used by the Plumbing Licensing Unit shall be approved by the Administrator pursuant to Title 59 O.S. 1981, Section 1007, and are available at the offices of the Board.

(5) All rules and policy statements and interpretations of policy and results of examinations shall be available on request from the Board. Copies shall be priced as determined by rule of the Oklahoma Construction Industries Board.

(6) The ~~administrator~~Administrator will confirm or deny that a person is licensed upon request of the public.

158:30-3-2. Procedures of the Hearing Board

(a) The Hearing Board shall meet as often as is necessary to enforce the requirements of the Act and these Rules. The Hearing Board, comprised of ~~the Administrator~~a designee of the Construction Industries Board and the Committee, shall follow the Rules of Practice and Procedure of the Oklahoma Construction Industries Board.

(b) The standard of review to be used by the Hearing Board for individual proceedings concerning the work of contractors, journeymen and apprentices shall be the standard of installation referenced in 158:30-1-4.

SUBCHAPTER 5. LICENSE TYPES, BOND REQUIREMENTS, AND DISPLAY OF LICENSE NUMBER AND FIRM NAME

158:30-5-4. Plumbing journeymen and contractor licenses by reciprocity

(a) **General procedures for application.** Any person holding a valid plumbing journeyman license or plumbing contractor license issued by another State who is seeking to obtain a license by reciprocity shall first submit an application to the Construction Industries Board on a form provided by the Board. The application shall include all documentation necessary to show the applicant meets the requirements established by these rules. All applications shall first be directed to the Committee or its designee for an initial review to determine if the applicant meets the qualifications for a license by reciprocity as set forth in these rules and in 59 O.S. ~~Supp. 2002,~~ § 1000.5A or any subsequent enactment of the Legislature. Following this review, the Committee or its designee shall make a recommendation to the Board or its designee as to whether the application should be approved or disapproved. The Board or its designee shall make the final determination as to whether an application shall be approved or disapproved. If the Board or its designee disapproves an application, the application shall be returned to the applicant with the reason for the disapproval.

(b) **Application fees.** Before an application will be considered, a person applying for a plumbing journeyman license by reciprocity must pay an application and licensing fee of $ 75. If the person is applying for a plumbing contractor license, the person must pay an application and licensing fee of $225. These fees shall not be refundable under any circumstances.

(c) **Requirements for issuance of a license by reciprocity.** An application for a license by reciprocity may be approved upon a satisfactory showing by the applicant of the following:

(1) That the requirements for licensure from the State in which the applicant is licensed is determined to be substantially the same or equivalent to the requirements for obtaining a license by examination in this state. In making this determination the following shall be considered:

(A) Whether the experience required by the other State to be eligible to sit for the license examination is substantially the same or equivalent to the Board's requirements;

(B) Whether the experience commercial/industrial work required by the other State is substantially the same or equivalent to the Board's requirements;

(C) Whether the continuing education requirements of the other State are substantially the same or equivalent to the Board's requirements;

(D) Whether the codes adopted by the other State are substantially the same or equivalent to the Board's requirements;

(E) Whether the examination of the other State is substantially the same or equivalent to the Board's requirements. This shall include the score required to pass the examination, the subject matter of the examination, the codes on which the examination is based, and whether the examination is in written form.

(2) That the other State will recognize a license issued by the State of Oklahoma through the Construction Industries Board. Paragraphs 1 and 2 of this rule may only be satisfied by the existence of a reciprocity agreement between the Board and the State issuing the applicant's current license as provided in subsection (d) of this rule.

(3) That the applicant is currently licensed by a State that meets the requirements of Section 1 of this rule and that one year immediately prior to the application, the applicant lawfully practiced an applicable trade within and under the laws of that State.

(4) That no disciplinary matters are pending against the applicant in any jurisdiction in which the applicant is currently licensed. This requirement will be considered satisfied upon presentation of a certified statement from the licensing authorities of all jurisdictions in which the applicant is currently licensed that no disciplinary matters are pending against applicant.

(5) That the applicant obtained the license to be reciprocated by examination.

(d) **Reciprocity agreements.** The Board may enter into a reciprocity agreement with another State if the requirements for licensure in the other State are deemed by the Board to be substantially the same or equivalent to the requirements for obtaining an original license by examination in this state.

(e) **Additional requirements for contractor applicants.** Applicants seeking a plumbing contractor license by reciprocity who meet the necessary qualifications for a license as required in this rule will be granted a journeyman license by reciprocity. The applicant will be issued a contractor license upon successfully passing the Oklahoma Plumbing Contractor Business and Law portion of the full contractor examination and satisfaction of the bonding and insurance requirements of OAC 158:30-5-2.

SUBCHAPTER 9. EXAMINATION PROCEDURES, LICENSE AND REGISTRATION FEES AND DURATION OF LICENSES

158:30-9-1. Examination procedures

(a) The plumbing standards for the plumbing examination shall be the International Plumbing Code as adopted in 158:30-1-4.

(b) Any previously certified examination may be used to meet an examination requirement.

(c) Examination for a plumber's license shall include, but not be limited to, written questions and drawings and/or charts.

(d) The maximum grade value of each part of the plumbing examination shall be 100 points. An examinee must make 75% or more on each part, above, to pass the examination.

(e) Attendance at an approved technical school with specialization in the plumbing skills may be substituted for experience or employment on an equal time basis. Substitution of education for experience shall be limited to a maximum of one half the experience requirements. Applicants must present to the Administrator for approval records of schools attended, grades and/or certificates of completion if education is to be substituted for experience. An associate degree or Career Tech diploma certifying completion of a plumbing educational program consisting of a minimum of 1000 classroom hours from a school, approved by the Committee, and one (1) year of verifiable experience in the plumbing trade while employed by a licensed plumbing contractor, or

(f) A Career Tech diploma certifying completion of an educational program consisting of a minimum of 500 classroom hours from a school, approved by the Committee, and two (2) years of verifiable experience in the plumbing trade.

(g) Applicants for the plumbing contractor examination must be capable of reading English without assistance. A person who cannot meet this requirement may request a hearing before the Committee to request reasonable accommodations.

(~~g~~h) Except as authorized by the Plumbing Examining Committee, no person, other than examinees, shall be permitted in the examination area.

(~~h~~i) An examinee who is caught cheating during the course of an examination shall be deemed to have failed the examination.

(~~i~~j) Applicants for the journeyman examination must be eighteen (18) years of age or older and have either

(1) three (3) years experience in the plumbing trade while employed by a licensed Plumbing contractor.

(2) equivalent verifiable three (3) years experience in the plumbing trade while serving in the U.S. military.

(~~2~~3) a verifiable out-of-state plumbing license that must be:

(A) current, and

(B) in good standing.

(~~j~~k) Applicants for the contractors examination must be eighteen (18) years of age or older and have four (4) years experience in the plumbing trade while employed by a licensed Plumbing contractor.

(~~k~~l) The fees for a license must be on deposit with the Administrator in advance of the examination.

(~~l~~m) If the applicant fails to meet the minimum qualifications to take the examination, the application fee will be forfeited.

158:30-9-3. Duration of licenses

(a) All licenses shall have a duration of no longer than one year, and shall expire on the last day of the birth month of the licensee each year.

(b) Any license issued by examination may be renewed by submitting the license fee for the next year by a check or money order and be delivered or mailed on or before the birth month expiration date, or by credit card through a state-wide internet online licensing system.

(c) An expired license issued by examination may be reinstated if: The license fee ~~if~~is submitted after the license expired, and is accompanied by a late fee.

(d) A licensee who, during an investigation of the licensee by the Construction Industries Board, surrenders their license shall be treated as if the license had been revoked for one year from the day of surrender.

(e) A license cannot be renewed until the licensee has paid any and all outstanding fines due and owing to any ~~department~~division of the Construction Industries Board.

158:30-9-4. Continuing Education

(a) Continuing education requirements.

(1) No plumbing contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) instructional hours of continuing education on the revisions to the current, published edition of the International Plumbing Code, International Fuel Gas Code and/or International Residential Code within one (1) year of adoption. Continuing Education requirements may also be fulfilled by a combination of not less than four (4) hours of plumbing related instruction, including revisions to the current, published edition of the International Plumbing Code, International Fuel Gas Code and/or International Residential Code and at least two (2) hours of continuing education of manufacturers' installation of equipment or parts. By July 1, 2014, no contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) hours of continuing education; and

thereafter, the licensee shall complete six (6) hours every three years or thirty-six (36) months. The continuing education course and instructor shall be approved in advance by the Committee. Exceptions to advance approval, or post-course approval, may be allowed by the Committee, or its designee, for substitute instructors in emergency situations when written notice of the emergency is provided to the Administrator, or trade section chief, within seven (7) days of the course. The continuing education material shall cover codes and revisions adopted by the Oklahoma Uniform Building Code Commission, any other code approved by the Committee as an appropriate code for topics of continuing education for licensees, and/or other trade related subject matters approved by the Committee including: examination materials, manufacturers' installation of equipment or parts, the licensing act, the trade regulations, and other trade or safety related subject matters approved by the Committee.

(2) Credit will be given for CE programs approved by the Plumbing Examining Committee or its designee.

(3) Except as provided herein these rules shall apply to every journeyman or contractor licensed by the Construction Industries Board.

(4) A licensee is exempt from the educational requirements of these rules for ~~the code year during which~~three (3) years from the date he or she ~~first~~ passed ~~an exam testingover that code.~~their current licensing exam.

(b) The following standards will govern the approval of continuing education programs by the Plumbing Examining Committee (Committee).

(1) The program must be offered by a provider having substantial, recent, experience in offering continuing education or demonstrated ability to organize and present effectively continuing education. Demonstrated ability arises partly from the extent to which individuals with trade training or educational experience are involved in the planning, instruction and supervision of the program.

(2) If written materials are provided, the materials must be thorough, high quality, readable, and must be made available to all participants at or before the time the course is presented.

(3) The program must be conducted in a comfortable physical setting which is conducive to learning.

(4) The program itself must be conducted by an individual or group qualified by practical or academic experience. The program including the named advertised participants must be conducted substantially as planned, subject to emergency withdrawals and alterations.

(5) Changes including but not limited to location, date, instructors, or cancellations must be requested from the Committee or its designee in writing prior to the start of class. All requests for change must include the Course ID number.

(6) The training location shall be outside the regular work place or after regular working hours.

(7) ~~Sixty (60) minutes constitutes one (1) instructional hour.~~ A credit hour is at least 50 minutes of instruction with a 10 minute break.

(8) CE courses shall be presented in one of the following formats:

(A) Six ~~instructional~~(6) credit hours presented on one day

(B) Two sessions of three ~~instructional~~(3) credit hours each presented within a seven day period

(C) One session of two ~~instructional~~(2) credit hours for the purposes of presenting a manufacturers' installation course,

(D) An approved correspondence or online course, or

(E) Another format approved by the committee.

(9) Verification of Credit.

(A) The Course Provider shall verify the total number of continuing education hours completed by each attendee.

(B) Continuing education providers shall require attendees to present a photo I.D. prior to the attendee signing the sign-in sheet provided by the Construction Industries Board. Sign-in sheets shall include the name and license number of each licensee in attendance.

~~(C) Each attendee shall complete a course evaluation on a form provided by the Construction Industries Board.~~

(~~D~~C) As soon as practicable but in any event on or before seven (7) days following an approved education program, the provider shall furnish to the Examining Unit the original sign-in sheets ~~and evaluations~~ from the course.

(~~E~~D) Providers must maintain copies of all sign-in sheets ~~and evaluations~~ for a period of two (2) years following the conclusion of the course.

(10) Course providers or instructors may not advertise or promote the sale of any goods, products or services between the opening and closing of any Continuing Education Course.

(c) Any organization desiring approval of a course shall apply to the Plumbing Examining Committee by submitting an application on a form to be obtained from the Construction Industries Board and supporting documentation at least thirty (30) days prior to the date for which the course is scheduled. An application is to be submitted for each date or set of dates that constitute a single class. Each class must be included on a separate application. The Committee or its designee will review each application for completeness of form and supporting documentation as well as course content. The applicant will be notified in writing by mail whether the program is approved or disapproved. Applicants denied approval of a course may appeal such a decision by submitting a letter of appeal to the Committee within fifteen (15) days of the receipt of the notice of disapproval. All appeals will be heard by the Committee at its next regularly scheduled meeting.

(1) Supporting documentation includes:

(A) resumes or a brief summary of qualifications for all instructors providing instruction for the class,

(B) a class agenda designating beginning and ending of actual instructional times, sign-in times, breaks, lunches and evaluation time, and

(C) A class curriculum indicating the subject or code areas to be taught with sufficient detail to determine which code revisions are to be addressed or the product for which the installation is being provided.

(2) The Committee or its designee may refuse to accept any application for approval if the supporting documentation is insufficient or incomplete. The Committee may deny or revoke approval of an application for any of the following reasons:

(A) Failure to comply with the continuing education provisions;

(B) Inadequate application or supporting documentation;

(C) Failure to instruct on the topic approved, or

(D) Unsatisfactory ~~evaluations~~assessments of the course, instructor, or materials from previous classes.

(3) If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant.

(4) The Committee may at any time ~~re-evaluate~~reconsider and grant or revoke approval of an application or course.

(A) The Committee may at any time review courses for quality in instruction. The Committee shall also investigate and take appropriate action, up to and including revocation of authority to provide CE, regarding complaints involving approved courses.

(B) A provider's failure to comply with any continuing education rule constitutes grounds for disciplinary action, up to and including revocation of authority to provide CE, against the provider or for denial of future applications for coursework.

(d) Course advertisement.

(1) All advertising must include the course identification.

(2) Approved program courses may be advertised.

(3) The provider of an approved continuing education program may announce or indicate as follows: Course #_____ has been approved by the Construction Industries Board Plumbing Examining Committee for _____ hours of CE credit.

(e) Correspondence or online course approval.

(1) Entities seeking to offer correspondence courses for continuing education shall submit a course curriculum and study material for review and approval by the Committee prior to the courses being offered as continuing education. Approved correspondence courses shall be required to comply with all requirements for other continuing education courses except for sign-in sheets. Providers shall provide a student with a document of completion which certifies completion of approved correspondence courses.

(2) Only licensees meeting one or more of the following requirements may receive CE credit for taking an correspondence or online course:

(A) Any licensee residing outside of Oklahoma

(B) Who has an expired license that requires a CE course that is no longer available in the classroom,

(C) Any licensee who is currently incarcerated, or

(D) Any licensee who submits written proof to the Board from a physician stating the medical reason that the licensee is unable to attend a CE class.

(3) Providers are to offer reasonable accommodations for disabled licensees attending a course when such accommodations are requested.

(f) **Alternate Credit accrual.**

(1) Credit may be earned through teaching in an approved continuing education class. The Committee may award up to six (6) hours of CE credit not to exceed the number of approved hours for that CE class.

(2) Credit may also be earned through teaching a course in an accredited trade school or a trade-specific program approved by the committee. The Committee may award up to six (6) hours of CE credit for each semester of academic credit awarded by the academic institution for the course.

(g) **Complaint procedure.**

(1) A person, government, or private organization may submit a written complaint to the Committee, or its designee, charging a provider of continuing education with a violation of the rules, and specifying the grounds for the complaint.

(2) Complaints must be in writing and include contact information, and shall be filed on the proper complaint form prescribed by the Construction Industries Board, or its designee.

(3) The Committee may consider an unsigned or anonymous complaint for further investigation.

(4) Upon receipt of a signed complaint form, a copy shall be sent to the continuing education provider addressed in the complaint. The continuing education provider shall provide a written response within fifteen days. Upon receipt of the continuing education provider's written response, both complaint and response shall be considered by the Committee, or its designee, for appropriate action including dismissal of the complaint, further investigation, or a finding of violation of a statute or rule. The Committee, or its designee, shall notify both complainant and continuing education provider of the determination made by the Committee. Failure of the continuing education provider to respond will be considered as a violation of this rule.

(5) If a reasonable cause violation determination is made by the Committee, the Oklahoma Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken including but not limited to all parts of this subsection.

[OAR Docket #13-1047; filed 6-7-13]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 40. ELECTRICAL INDUSTRY REGULATIONS

[OAR Docket #13-1048]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
158:40-1-4 [AMENDED]
Subchapter 3. Procedures of the Committee and the Hearing Board
158:40-3-1 [AMENDED]
Subchapter 7. License Classifications
158:40-7-1 [AMENDED]
158:40-7-5 [AMENDED]
Subchapter 9. Examination Applications, Examinations and License and Registration Fees and Renewals
158:40-9-3 [AMENDED]
158:40-9-4 [AMENDED]
AUTHORITY:
Construction Industries Board: 59 O.S. §§ 1000.4(A)(1), 1000.5, and 1681.
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Subchapter 9. Examination Applications, Examinations and License and Registration Fees and Renewals
158:40-9-4 [AMENDED]
Gubernatorial Approval:
October 22, 2012
Register publication:
30 Ok Reg 773
Docket number:
13-744
INCORPORATIONS BY REFERENCE:
Incorporating standards:
National Electrical Code (National Fire Protection Association, "NFPA" 70) and the electrical portion of the International Residential Code, as revised and adopted by the Oklahoma Uniform Building Code Commission pursuant to the Oklahoma Uniform Building Code Commission Act.
Incorporating rule:
158:40-1-4
Availability:
See contact person below.
ANALYSIS:
158:40-1-4 Shows standards of installation as code documents adopted by the Oklahoma Uniform Building Code Commission. 158:40-3-1 Grammatical change. 158:40-7-1 Clarifies experience required for unlimited journeyman license. 158:40-7-5 Clarifies reciprocal agreement is to be in written form and corrects citation reference. 158:40-9-3 Corrects the scrivener's error in the renewal contractor license and has clean-up language. 158:40-9-4 Clarifies the continuing education requirements and reflects changes adopted in the emergency rule process. The emergency rule and this proposed permanent rule retain the requirement for continuing education but expand the allowable course subjects to avoid retaking the same course, separate the trigger for continuing education requirements from the actions of the OUBCC, bring more uniformity among the trades, and simplify and clarify the continuing education requirements for the electrical trade. The proposed permanent rule also amends the requirements and approval process for correspondence or online courses, eliminates the completion of a continuing education evaluation form, and adds a procedure for submitting a complaint against a provider of continuing education.
CONTACT PERSON:
Linda Ruckman, Board Secretary/Executive Assistant, 405-521-6550.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

158:40-1-4. Standard of installation

~~The Construction Industries Board hereby incorporates the 2008 National Electrical Code [National Fire Protection Association Standard 70-08(NFPA 70-08)] and/or other approved documents by the Oklahoma Uniform Building Code Commission as the minimum standard for electrical installations in Oklahoma.~~ The standards of installation are the provisions of the electrical codes - the National Electrical Code (National Fire Protection Association, "NFPA" 70) and the electrical portion of the International Residential Code, as revised and adopted by the Oklahoma Uniform Building Code Commission pursuant to the Oklahoma Uniform Building Code Commission Act.

SUBCHAPTER 3. PROCEDURES OF THE COMMITTEE AND THE HEARING BOARD

158:40-3-1. Procedures of the committee

(a) Committee meetings are generally, ~~and~~ unless otherwise stated by the Administrator, held in the principal offices of the Construction Industries Board referenced at 158:1-3-1. The Committee shall meet and conduct examinations, as often as is necessary, but at least once each quarter when applications are pending. Meetings of the Committee will comply with the Oklahoma Open Meeting Act.

(b) The Committee shall work with the Construction Industries Board to provide for the administration, grading and processing of electrical examinations, by contract or otherwise; may recommend regulations to the Administrator and to the State Construction Industries Board; and shall act as advisor to the Administrator on electrical matters.

(c) Application for licensure shall be done by filling out an application for examination on a form provided by the Electrical License Unit.

(d) The public may communicate with the Committee in person or by mail through the Oklahoma Construction Industries Board. The Administrator will make available all forms and instructions used by the Committee, rules, and all other written statements of policy or interpretations, all final orders, decisions and opinions. Copies will be provided upon payment of a fee of 25 cents per page.

SUBCHAPTER 7. LICENSE CLASSIFICATIONS

158:40-7-1. Unlimited electrical license

(a) Applicants for an unlimited electrical contractor examination must be eighteen (18) years of age or older and must verify at least twelve thousand (12,000) hours (6 years) experience on-the-job in electrical construction work. At least six thousand (6,000) of the hours of experience must be verified in commercial/industrial work. Experience must be obtained while employed by a licensed electrical contractor. No more than two thousand (2,000) of the hours may be counted as experience for any combination of verified actual classroom hours of formal electrical education and/or military electrical experience. Applicants must submit proof of two (2) years' experience as ~~a~~an unlimited licensed electrical journeyman prior to making application for the unlimited electrical contractor's license.

(b) Applicants for an unlimited electrical journeyman examination must be at least eighteen (18) years of age or older and must verify eight thousand (8,000) hours (4 years) on-the-job experience in the electrical construction trade, as defined in 90-2 National Electrical Code, under the supervision of a journeyman or contractor. Experience must be obtained while employed by a licensed electrical contractor. Six thousand (6,000) of the hours of experience must be verified in commercial/industrial work. No more than two thousand (2,000) of the hours may be counted as experience for any combination of verified actual classroom hours of formal electrical education and/or military electrical experience.

(c) A licensed residential electrician may work as an apprentice electrician on commercial/industrial jobs in order to qualify experience for an unlimited license exam.

(d) A licensed residential electrician may work as an apprentice under the unlimited license category.

158:40-7-5. Electrical journeyman and contractor licenses by reciprocity

(a) **General procedures for application.** Any person holding a valid electrical journeyman license or electrical contractor license issued by another State who is seeking to obtain a license by reciprocity shall first submit an application to the Construction Industries Board on a form provided by the Board and confirm that a written reciprocity agreement exists between the applicant's state and Oklahoma for the license the applicant is seeking. The application shall include all documentation necessary to show the applicant meets the requirements established by these rules. All applications shall first be directed to the Committee or its designee for an initial review to determine if the applicant meets the qualifications for a license by reciprocity as set forth in these rules and in 59 O.S. ~~Supp. 2002,~~ § 1000.5A or any subsequent enactment of the Legislature. Following this review, the Committee or its designee shall make a recommendation to the Board or its designee as to whether the application should be approved or disapproved. The Board or its designee shall make the final determination as to whether an application shall be approved or disapproved. If an application is disapproved by the Board or its designee, the application shall be returned to the applicant with the reason for the disapproval.

(b) **Application fees.** Before an application will be considered, a person applying for an electrical journeyman license by reciprocity must pay an application and licensing fee of $ 75. If the person is applying for an electrical contractor license, the person must pay an application and licensing fee of $300. These fees shall not be refundable under any circumstances.

(c) **Requirements for issuance of a license by reciprocity.** An application for a license by reciprocity may be approved upon a satisfactory showing by the applicant of the following:

(1) That the requirements for licensure from the State in which the applicant is licensed is determined to be substantially the same or equivalent to the requirements for obtaining a license by examination in this state. In making this determination the following shall be considered:

(A) Whether the experience required by the other State to be eligible to sit for the license examination is substantially the same or equivalent to the Board's requirements;

(B) Whether the experience in commercial/industrial work required by the other State is substantially the same or equivalent to the Board's requirements;

(C) Whether the continuing education requirements of the other State are substantially the same or equivalent to the Board's requirements;

(D) Whether the codes adopted by the other State are substantially the same or equivalent to the Board's requirements;

(E) Whether the examination of the other State is substantially the same or equivalent to the Board's requirements. This shall include the score required to pass the examination, the subject matter of the examination, the codes on which the examination is based, and whether the examination is in written form.

(F) Whether the above-listed factors are set forth and determined to be substantially the same or equivalent in a written reciprocity agreement.

(2) That the other State will recognize a license issued by the State of Oklahoma through the Construction Industries Board. Paragraphs 1 and 2 of this rule may only be satisfied by the existence of a reciprocity agreement between the Board and the State issuing the applicant's current license as provided in subsection (d) of this rule.

(3) That the applicant is currently licensed by a State that meets the requirements of Section 1 of this rule and that one year immediately prior to the application, the applicant lawfully practiced an applicable trade within and under the laws of that State.

(4) That no disciplinary matters are pending against the applicant in any jurisdiction in which the applicant is currently licensed. This requirement will be considered satisfied upon presentation of a certified statement from the licensing authorities of all jurisdictions in which the applicant is currently licensed that no disciplinary matters are pending against applicant.

(5) That the applicant obtained the license to be reciprocated by examination.

(d) **Reciprocity agreements.** The Board may enter into a reciprocity agreement with another State if the requirements for licensure in the other State are deemed by the Board to be substantially the same or equivalent to the requirements for obtaining an original license by examination in this state.

(e) Additional requirements for contractor applicants. Applicants seeking an electrical contractor license by reciprocity, who meet the necessary qualifications for a license as required in this rule and for which there is a written reciprocity agreement for contractors, will be granted a journeyman license by reciprocity. The applicant will be issued a contractor license upon successfully passing the Oklahoma Electrical Contractor Business and Law portion of the full contractor examination and satisfaction of the insurance and bonding requirements of OAC 158:40-5-5.

SUBCHAPTER 9. EXAMINATION APPLICATIONS, EXAMINATIONS AND LICENSE AND REGISTRATION FEES AND RENEWALS

158:40-9-3. License and registration fees and renewals

(a) **Examination fees for contractors and journeyman.** The Construction Industries Board, or its designated representative, may collect for the actual cost of any examination provided by these rules. The cost for each such examination referenced in section 158:40-9-2 shall be posted in plain view at the testing site that provides and administers the examination. Every person whose application for examination is approved shall be informed of the specific fee prior to setting for the examination. The unit testing fee shall be the amount negotiated by the administrator in accordance with the provisions of the Oklahoma Central Purchasing Act, but cannot exceed the maximum allowable fee provided in 59 O.S. § 1000.5 (A)(2). Documentation confirming the contractual fee shall be available upon request.

(b) **Licensing, registration and application fee schedule for contractors, journeyman, and apprentices.** The licensure, application, and registration fees shall be annually as follows:

(1) contractors application - $30.00
(2) initial contractor license - $300.00
(3) renewal contractor license - ~~$250.00~~$200.00
(4) renewal contractor license with late fee - $300.00
(5) journeyman application - $25.00
(6) initial journeyman license - $50.00
(7) renewal journeyman license - $75.00
(8) renewal journeyman license with late fee - $100.00
(9) apprentice application - $5.00
(10) apprentice registration - $20.00
(11) initial alarm endorsement ~~issuance~~ - $75.00
(12) renewal alarm endorsement ~~renewal~~ - $25.00

(c) **License renewal penalties.** ~~Penalty for late license renewal for~~Thirty (30) days after the expiration of a license for contractors and journeyman ~~(30 days after expiration date)~~a late license renewal fee is effective, as provided in the Act ~~is~~ and as listed above~~,~~.~~andu~~Upon meeting the continuing education requirements listed in 158:40-9-4, a license may be renewed up to a year from the original renewal date. Any license which remains expired for longer than one (1) year shall not be renewed. The former license holder shall be required to make an initial application and retest to obtain the license formerly held.

(d) **Outstanding fines.** A license cannot be issued until the applicant has paid any and all outstanding fines due and owing to any department of the Construction Industries Board.

(e) **Duration of licenses.** All licenses and alarm endorsements shall have a duration of no longer than one year, and shall expire on the last day of the birth month of the licensee each year. The alarm endorsement for apprentices shall expire on the expiration date of each apprentice registration.

158:40-9-4. Continuing education

(a) **Continuing Education Requirements.**

(1) ~~No Electrical contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) instructional hours of continuing education on a current, published edition of the National Electrical Code approved by the Committee for continuing education, any other code approved by the Committee as an appropriate code for topics of continuing education for electrical licensees, and/or other electrical subject matters approved by the Committee within thirty-six (36) months preceding the application for renewal.~~ By July 1, 2014, no contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) hours of continuing education within thirty-six (36) months preceding the application for renewal; and thereafter, the licensee shall complete six (6) hours every three years or thirty-six (36) months. The continuing education course and instructor shall be approved in advance by the Committee. Exceptions to advance approval, or post-course approval, may be allowed by the Committee, or its designee, for substitute instructors in emergency situations when written notice of the emergency is provided to the Committee within seven (7) days of the course. The continuing education material shall cover codes and revisions adopted by the Oklahoma Uniform Building Code Commission and/or other trade related subject matters appropriate for topics of continuing education for licensees and approved by the Committee including: examination materials, manufacturers' installation of equipment or parts, the licensing act, the trade regulations, and other trade or safety related subject matters approved by the Committee.

(2) Credit will be given for CE programs approved by the Electrical Examining Committee (Committee) or its designee.

(3) Except as provided herein these rules shall apply to every journeyman or contractor licensed by the Construction Industries Board.

(4) A licensee is exempt from the educational requirements of these rules for ~~the code year during which~~three (3) years from the date he or she ~~first~~ passed ~~an exam testing over that code~~their current licensing exam.

(b) The following standards will govern the approval of continuing education programs by the Committee.

(1) The program must be offered by a provider having substantial, recent, experience in offering continuing education or demonstrated ability to organize and present effectively continuing education. Demonstrated ability arises partly from the extent to which individuals with trade training or educational experience are involved in the planning, instruction and supervision of the program.

(2) If written materials are provided, the materials must be thorough, high quality, readable, and must be made available to all participants at or before the time the course is presented.

(3) The program must be conducted in a comfortable physical setting which is conducive to learning.

(4) The program itself must be conducted by an individual or group qualified by practical or academic experience. The program including the named advertised participants must be conducted substantially as planned, subject to emergency withdrawals and alterations.

(5) Changes including but not limited to location, date, instructors, or cancellations must be requested from the Committee or its designee in writing prior to the start of class. All requests for changes must include the Course ID number.

(6) The training location shall be outside the regular work place or after regular working hours.

(7) Each attendee of a continuing education course shall have, or otherwise be provided with, a copy of the most recently adopted edition of the National Electrical Code for use during the duration of the course.

(8) Sixty (60) minutes constitutes one (1) instructional hour.

(9) CE courses shall be presented in one of the following formats:

(A) Six instructional hours presented on one day

(B) Two sessions of three instructional hours each presented within a seven day period

(C) An approved correspondence or online course, or

(D) Another format approved by the committee.

(10) Verification of Credit.

(A) The Course Provider shall verify the total number of continuing education hours completed by each attendee.

(B) Continuing education providers shall require attendees to present a photo I.D. prior to the attendee signing the sign-in sheet provided by the Construction Industries Board. Sign-in sheets shall include the name and license number of each licensee in attendance.

~~(C) Each attendee shall complete a course evaluation on a form provided by the Construction Industries Board.~~

(~~D~~C) As soon as practicable but in any event on or before seven (7) days following an approved education program, the provider shall furnish to the ~~Examining Unit~~ Electrical License Unit the original sign-in sheets. ~~and evaluations from the course.~~

(~~E~~D) Providers must maintain copies of all sign-in sheets ~~and evaluations~~ for a period of two (2) years following the conclusion of the course.

(11) Course providers or instructors may not advertise or promote the sale of any goods, products or services between the opening and closing of any Continuing Education Course.

(c) Any organization desiring approval of a course shall apply to the Electrical Examining Committee by submitting an application on a form to be obtained from the Construction Industries Board and supporting documentation at least thirty (30) days prior to the date for which the course is scheduled. An application is to be submitted for each date or set of dates that constitute a single class. Each class must be included on a separate application. The Committee or its designee and the Construction Industries Board Administrator will review each application for completeness of form and supporting documentation as well as course content. The applicant will be notified in writing by mail whether the program is approved or disapproved. Applicants denied approval of a course may appeal such a decision by submitting a letter of appeal to the Committee within fifteen (15) days of the receipt of the notice of disapproval. All appeals will be heard by the Committee at its next regularly scheduled meeting.

(1) Supporting documentation includes:

(A) resumes or a brief summary of qualifications for all instructors providing instruction for the class,

(B) a class agenda designating beginning and ending of actual instructional times, sign-in times, breaks, lunch~~es and evaluation~~ time, and

(C) A class curriculum indicating the subject or code areas to be taught with sufficient detail to determine which code revisions are to be addressed.

(2) The Committee or its designee may refuse to accept any application for approval if the supporting documentation is insufficient or incomplete. The Committee may deny or revoke approval of an application for any of the following reasons:

(A) Failure to comply with the continuing education provisions;

(B) Inadequate application or supporting documentation;

(C) Failure to instruct on the topic approved, or

(D) Unsatisfactory evaluations of the course, instructor, or materials from previous classes.

(3) If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant.

(4) The Committee may at any time re-evaluate and grant or revoke approval of an application or course.

(A) The Committee or its designee shall be granted access to attend, observe and audit any continuing education course approved by the committee.

(B) The Committee may at any time review courses for quality in instruction. The Committee shall also investigate and take appropriate action, up to and including revocation of authority to provide CE, regarding complaints involving approved courses.

(C) A provider's failure to comply with any continuing education rule constitutes grounds for disciplinary action, up to and including revocation of authority to provide CE, against the provider or for denial of future applications for coursework.

(d) **Course Advertisement.**

(1) All advertising must include the course identification.

(2) Approved program courses may be advertised.

(3) The provider of an approved continuing education program may announce or indicate as follows: Course #_____ has been approved by the Construction Industries Board Electrical Examining Committee for _____ hours of CE credit.

(e) **Correspondence or Online course approval.**

(1) Providers seeking to offer correspondence or online courses for continuing education shall submit a course curriculum and study material for review and approval by the Committee, or its designee,~~and the Construction Industries Board Administrator~~ prior to the courses being offered as continuing education. An access code and password shall be provided to the Committee, or its designee, for an online course for the purpose of review and approval. Correspondence or online courses shall have sufficient explanation and or graphics to expound the concepts and changes being taught. The format of the online course shall be constructed so as to illicit interaction between the student and the material presented. Each page of text shall be designed with a question that must be answered before advancing to the next page or a test at the end of a subject matter before the course is considered complete. Approved correspondence and online courses shall be required to comply with all requirements for other continuing education courses except for sign-in sheets. Providers shall provide a student with a document of completion that shall certify completion of an approved correspondence or online course.

(2) Providers are to offer reasonable accommodations for disabled licensees attending a course when such accommodations are requested.

(f) **Alternate Credit accrual.**

(1) Credit may be earned through teaching in an approved continuing education class. The Committee may award up to six (6) hours of CE credit not to exceed the number of approved hours for that CE class.

(2) Credit may also be earned through teaching a course in an accredited trade school or a trade-specific program approved by the committee. The Committee may award up to six (6) hours of CE credit for each semester of academic credit awarded by the academic institution for the course.

(g) **Complaint procedure.**

(1) A person, government, or private organization may submit a written complaint to the Committee, or its designee, charging a provider of continuing education with a violation of the rules, and specifying the grounds for the complaint.

(2) Complaints must be in writing and include contact information, and shall be filed on the proper complaint form prescribed by the Construction Industries Board, or its designee.

(3) The Committee may consider an unsigned or anonymous complaint for further investigation.

(4) Upon receipt of a signed complaint form, a copy shall be sent to the continuing education provider addressed in the complaint. The continuing education provider shall provide a written response within fifteen days. Upon receipt of the continuing education provider's written response, both complaint and response shall be considered by the Committee, or its designee, for appropriate action including dismissal of the complaint, further investigation, or a finding of violation of a statute or rule. The Committee, or its designee, shall notify both complainant and continuing education provider of the determination made by the Committee. Failure of the continuing education provider to respond will be considered as a violation of this rule.

(5) If a reasonable cause violation determination is made by the Committee, the Oklahoma Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken including but not limited to all parts of this subsection.

[OAR Docket #13-1048; filed 6-7-13]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS

[OAR Docket #13-1049]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. General Provisions
158:50-1-2 [AMENDED]
158:50-1-3 [AMENDED]
158:50-1-4 [AMENDED]
Subchapter 5. License Types, Limitations of Licenses, Contractor Special Requirements and Display of License Number and Firm Name
158:50-5-1 [AMENDED]
158:50-5-2 [AMENDED]

Subchapter 9. Qualifications for Mechanical Licensure, License and Registration Fees, Duration of License, Mechanical License Application, and Apprentice Registration
158:50-9-1 [AMENDED]
158:50-9-2 [AMENDED]
158:50-9-3 [AMENDED]
158:50-9-7 [AMENDED]
Subchapter 11. License Revocation or Suspension and Prohibited Acts
158:50-11-2 [AMENDED]

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INCORPORATIONS BY REFERENCE:
Incorporating standards:
The International Mechanical Code, the International Fuel Gas Code, the mechanical portion of the International Residential Code, and the medical gas system standards portion of the National Fire Protection Association ("NFPA" 99) as referenced in the International Plumbing Code, as revised and adopted by the Oklahoma Uniform Building Code Commission pursuant to the Oklahoma Uniform Building Code Commission Act.
Incorporating rule:
158:50-1-4
Availability:
See contact person below.

ANALYSIS:
158:50-1-2 Defines "Credit hour," "Health care facility," "Medical gas piping work," and "Medical gas journeyman," for purposes of regulatory compliance. "Mechanical work," "Process piping," "Refrigeration system," and "Variance," have been modified for regulatory clarification. Defines "Verifiable experience" in order to allow military equivalency to substitute for experience. 158:50-1-3(c), (d), (e), (f) and (g) Provide uniformity between the Mechanical Licensing Act and these Mechanical Industry Regulations and establish the requirements for the installation, replacement, modification, or repair of mechanical systems. 158:50-1-4 Shows standards of installation as code documents adopted by the Oklahoma Uniform Building Code Commission ("OUBCC"). 158:50-5-1(b)(9) Creates the mechanical license category and license type for medical gas journeyman as adopted in prior emergency rulemaking action. 158:50-5-2(b)(10) Clarifies the authorized activities and limitations of a medical gas journeyman licensee. 158:50-9-1(b)(1) Clarifies experience requirements to conform to current procedure and cleans up language. 158:50-9-1(b)(2) Grammatical changes. 158:50-9-1(c) Sets forth the requirement of proof of current certification to meet the standard for the Medical Gas journeyman license category. 158:50-9-2 Clean-up language which corrects a misspelling and typographical errors. 158:50-9-3 Corrects rule citation. 158:50-9-7 Clean-up language and clarification of requirements and reflects changes adopted in the emergency rule process. The emergency rule and this proposed permanent rule retain the requirement for continuing education but expand the allowable course subjects to avoid retaking the same course, separate the trigger for continuing education requirements from the actions of the OUBCC, bring more uniformity among the trades, and simplify and clarify the continuing education requirements for the mechanical trade. The proposed permanent rule also eliminates the course evaluation form and creates a complaint procedure. 158: 50-9-7(l) and (m) Eliminate continuing education requirements for ground source piping category licensees and medical gas category licensees. 158:50-11-2 Prohibits one having a Medical Gas license from working without having the required current certification.

CONTACT PERSON:
Linda Ruckman, Board Secretary/Executive Assistant, 405-521-6550.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

158:50-1-2. Definitions

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

"Act" means Mechanical Licensing Act as found at 59 O.S. § 1850.1 et seq.

"Administrator" means the Administrator of the Board as described in the Construction Industries Board Act found at 59 O.S. § 1000.1 et seq.

"Applicant" means any person applying for an examination, for a license or registration, for review of plans and specifications or for a mechanical code variance from the ICC International Mechanical Code or the International Fuel Gas Code and the International Residential Code ~~(Chapters 12~~

~~through 24)~~ by the Construction Industries Board under the Act.

"Associated with and responsible for" means the relationship between a mechanical contractor and mechanical firm based on the mechanical contractor being a permanent employee, owner, partner, or officer in a corporate firm, and whereby the mechanical contractor shall give full time to the supervision and control of operations necessary to secure full compliance with the provisions of the Mechanical Licensing Act and this Chapter.

"Board" means the Oklahoma Construction Industries Board.

"Bonds and Insurance Unit" means the consolidated unit that processes bonds, insurance, and citations under the direction of the Construction Industries Board.

"Cheating" means any unapproved deviation from any official instruction given before, during or after a license examination, for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

"Committee" means the Committee of Mechanical Examiners.

"Credit Hour or Hour" means at least 50 minutes of classroom instruction with a 10 minute break.

"Direct supervision" means the on-the-job presence by the supervisor who must be a licensed mechanical contractor or mechanical journeyman.

"Gas piping" means and includes all natural gas piping within or adjacent to any building, structure, or conveyance, on the premises up to the connection with a natural gas meter, regulator, or other source of supply.

"Ground source piping" means piping buried below the earth's surface or submerged in a water well, lake or pond and used in conjunction with a heat pump to provide heating, ventilation and/or air conditioning to a structure.

"Health care facility" includes but is not limited to hospitals, nursing homes, limited care facilities, clinics, medical or dental offices, and ambulatory care centers, whether permanent or moveable.

"Humidification" when applied to air conditioning, means and includes an increase or decrease in moisture content of the air being conditioned and supplied to the space for human occupancy by means of that integral part of the entire air conditioning system, equipment, and control devices; when applied to refrigeration, means and includes an increase or decrease in the moisture content of the air or product being conditioned for a food preservation measure or manufacturing process by means of the integral part of the entire refrigeration system, equipment, and control devices.

"HVAC" or "heating, ventilation and air conditioning" means the process of treating air by controlling its temperature, humidity, and cleanliness and of supplying such air to spaces for human occupancy by means of an integrated system of air conditioning and ventilation equipment, accessories and control devices.

"ICC" means the International Code Council.

"Limited residential journeyman" means a type and category of mechanical license that is restricted to new installations in detached one or two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with a separate means of egress as regulated by this chapter.

"Mechanical License Unit" means the staff and administrative support unit to the Committee of Mechanical Examiners and the Mechanical Hearing Board.

"Mechanical work" means the installation, maintenance, repair, or renovation, in whole or in part, of any heating system, exhaust system, cooling system, mechanical refrigeration system, ventilation system, medical gas system, medical-surgical vacuum systems, or any equipment or piping carrying chilled water, air for ventilation purposes, or natural gas, or the installation, maintenance, repair, or renovation of process piping used to carry any liquid, substance, or material, including steam and hot water used for space heating purposes not under the jurisdiction of the Department of Labor or Department of Health, provided that minor repairs and maintenance ~~and repairs~~ are excluded.

"Medical gas piping work" means the lay out, assembly, installation, and maintenance of pipe systems used in health care facilities for oxygen, nitrous oxide, medical air, carbon dioxide, helium, nitrogen, instrument air, medical-surgical vacuum, waste anesthetic gas disposal, mixtures thereof, or any other gaseous, partly gaseous substance, material or any mixtures thereof used in a health care facility. Replacing cylinders and filters, and performing routine and preventive maintenance that does not breach the integrity of the medical gas piping system and does not constitute the installation, repair, or replacement of medical gas piping shall not require a medical gas piping licensee.

" Medical gas journeyman" means a type and category of mechanical license that is restricted to medical gas piping.

"Minor repairs and maintenance" means minor repairs or maintenance prescribed in the manufacturer's operating instructions to be performed by the equipment owner or his authorized agent, and shall not include replacement and repairs of any nature on natural gas piping, natural gas controls, the low voltage manufacturer installed controls, the vent system of fuel burning appliances or any repair or maintenance which would violate the safe operation of the equipment.

"Petroleum refinery" means an industrial plant which processes petroleum for purposes of creating products derived from petroleum and includes industrial plants which produce and/or refine alternative fuels or petroleum additives. "Petroleum refinery" shall not mean gas processing plant or gas gathering pipeline operations.

"Petroleum refinery journeyman" means a type and category of mechanical license that is restricted to petroleum refinery process piping.

"Petroleum refinery process piping work" means the lay out, assembly, installation, and maintenance of pipe systems used in the petroleum refining process or product refining systems of a petroleum refinery.

"Process" means a series of operations performed in the making or treatment of a product.

"Process piping" means lay out, assembly, installation, and maintenance of pipe systems, pipe supports, and related hydraulic and pneumatic equipment for steam, hot water, heating, cooling, lubricating and fire sprinklers, not subject to regulation pursuant to the Alarm Industry Act, and industrial production and processing systems, and piping used to carry any gaseous, or partly gaseous, substance or material as part of a medical gas piping system.

"Reciprocity" means an agreement whereby a person holding a mechanical license or registration who is licensed in other states with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

"Refrigeration system" means installation, repairing and servicing of a system employing fluid which normally is vaporized and liquefied in an air conditioning system, food preservation measure or manufacturing process.

"Variance" means the use of an alternative material or method of construction from that prescribed in the ICC International Mechanical Code or the International Fuel Gas Code or the International Residential Code ~~(Chapters 12 through 24)~~and/or other approved documents by the Oklahoma Uniform Building Code Commission for use at a particular location or project specified in the variance application; and

"Variance and Appeals Board" means the Oklahoma State Mechanical Installation Code Variance and Appeals Board.

"Verifiable experience" means mechanical experience obtained while employed by a licensed Mechanical contractor, or by other means approved by the Committee of Mechanical Examiners including equivalent experience earned while serving in the U.S. Military, for which one year of verifiable experience equals two thousand (2,000) hours.

158:50-1-3. License requirement and exemptions

(a) No person, on behalf of himself or of a mechanical firm, shall engage or offer to engage in, by advertisement or otherwise, any mechanical work who does not possess a valid and appropriate license from the Construction Industries Board unless otherwise exempt by law or this Chapter. No State agency, a political subdivision of the State, business entity or trust shall act as a mechanical firm unless a licensed, active mechanical contractor is associated with and responsible for all mechanical work of such entity.

(b) The terms air conditioning, sheet metal, and heating do not include the design, installation, construction, maintenance, service, repair, alteration, or modification of a portable or self contained ductless air conditioning or heating unit that has a cooling capacity of less than two and one-half (2 1/2) tons or a heating capacity of 36,000 British Thermal Units per Hour (BTU/H) or less.

(c) No person shall install, replace or repair gas piping unless such person is licensed under the Mechanical Licensing Act or is licensed as a plumbing contractor or journeyman plumber pursuant to the laws of this state.

(d) No person shall install, replace or repair floor furnaces or wall heaters unless such person is licensed under the Mechanical Licensing Act or is licensed as a plumbing contractor or journeyman plumber pursuant to the laws of this state.

(e) No person shall install, replace or repair any radiant-floor heating systems unless such person is licensed under the Mechanical Licensing Act or is licensed as a plumbing contractor or journeyman plumber pursuant to the laws of this state.

(f) No person shall install, replace or repair any medical gas or medical-surgical vacuum systems unless such person is licensed under the Mechanical Licensing Act as a medical gas journeyman, an unlimited mechanical contractor, process piping mechanical contractor, plumbing contractor or journeyman plumber pursuant to the laws of this state and shall provide proof of being certified by examination in accordance with the most current National Fire Protection Act ("NFPA") 99 standard or certified in the proper installation of medical gas piping by an organization approved by the Committee.

(g) No person shall act as a foreman, supervisor or superintendent over any mechanical work on behalf of a mechanical contractor unless such person possesses a valid license as a mechanical contractor or journeyman from the Construction Industries Board.

158:50-1-4. ~~Adopted references and standard of workmanship~~Standard ofinstallation

~~Effective July 1, 2009 and thereafter, The Construction Industries Board incorporates the International Mechanical Code/2009, International Fuel Gas Code 2009, and the International Residential Code/2009, Chapters 12 through 24) as the minimum standard for mechanical work in Oklahoma.~~The standards of installation are the provisions of the mechanical codes - the International Mechanical Code, the International Fuel Gas Code, the mechanical portion of the International Residential Code, and the medical gas system standards portion of the National Fire Protection Association ("NFPA" 99) as referenced in the International Plumbing Code, as revised and adopted by the Oklahoma Uniform Building Code Commission pursuant to the Oklahoma Uniform Building Code Commission Act.

SUBCHAPTER 5. LICENSE TYPES, LIMITATIONS OF LICENSES, CONTRACTOR SPECIAL REQUIREMENTS AND DISPLAY OF LICENSE NUMBER AND FIRM NAME

158:50-5-1. License types

(a) Mechanical licenses shall be issued as journeyman, contractor or inactive contractor.

(b) Licenses shall be issued for the following categories:

(1) HVAC limited or unlimited~~;~~

(2) Natural Gas Piping~~;~~

(3) Process Piping~~;~~

(4) Refrigeration~~;~~

(5) Sheet Metal~~;~~

(6) Ground Source Piping~~;~~

(7) Limited Residential~~; and/or~~
(8) Petroleum Refinery Process Piping (journeyman only)~~;~~
(9) Medical Gas (journeyman only)

158:50-5-2. Limitations of licenses

(a) **License duties.**

(1) Journeyman is a person who possesses the knowledge and skills to perform mechanical work within a category or categories without direct supervision.

(2) Contractor is a person who possesses the knowledge and skills of a journeyman and who is responsible, either to himself or his employer, for planning, contracting, supervising, or furnishing labor and/or materials used for mechanical work. A mechanical contractor shall only be associated with and responsible for one mechanical firm. However, a mechanical contractor may be responsible for one firm with branch offices.

(A) Active contractor is one who is actively performing as a contractor and who has met the bond and insurance requirements for licensure.

(B) Inactive contractor is one who has met all the licensing requirements of a contractor, but has chosen not to currently perform as a contractor. An inactive contractor is not required to provide bond or insurance, and will be regulated as a journeyman.

(b) **License categories.**

(1) A limited mechanical HVAC license entitles the licensee to install, alter, modify, service, maintain, or repair a ventilation (duct) system and/or:

(A) any cooling product, system, or equipment including the process piping, that has a cooling capacity of no more than twenty-five (25) tons, and/or

(B) all heating equipment including the process piping that have a heat input of no more than 500,000 British Thermal Units per hour per appliance.

(2) A limited residential journeyman license entitles the licensee to install:

(A) 5-ton or less cooling systems and/or

(B) 150,000 British Thermal Units per hour or less heating systems. Installations shall include complete new systems for detached one or two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with a separate means of egress. Accessory appurtenances (such as humidifiers and filtering systems), kitchen vent hoods, exhaust fans and clothes dryer vent exhausts for such dwellings shall not be prohibited to be installed by the holder of this category. Such installations shall not include any welding, soldering or final connection of refrigerant lines or final connection of any electrical wiring permitted to be installed in accordance with Oklahoma statutes.

(3) An unlimited mechanical HVAC license entitles the licensee to install, alter, modify, service, maintain, or repair a ventilation (duct) system and/or:

(A) any cooling product, system, or equipment, including the process piping, and/or

(B) heating equipment, including the process piping.

(4) A natural gas piping license entitles the licensee to install, alter, modify, service, maintain, or repair all natural gas piping.

(5) A process piping license entitles the licensee to install, alter, modify, service, maintain, or repair all process piping.

(6) A refrigeration license entitles the licensee to install, alter, modify, service, maintain, or repair refrigeration products, systems, or equipment, including the process piping.

(7) A sheet metal license entitles the licensee to install, alter, modify, service, maintain, or repair all ferrous and nonferrous duct systems.

(8) A ground source piping license entitles the licensee to install, alter, modify, service, maintain or repair all piping outside a structure for a ground source (earth or water) loop pipe.

(9) A petroleum refinery journeyman license entitles the licensee to install, alter, modify, service, maintain, or repair all petroleum refinery process piping and said license is limited to petroleum refinery process piping work only. A petroleum refinery journeyman shall be under the direction and supervision of a licensed unlimited mechanical contractor or a licensed process piping mechanical contractor.

(10) A medical gas journeyman license entitles the licensee to install, alter, modify, service, maintain, or repair medical gas or medical-surgical vacuum systems, or equipment, including the piping. A medical gas journeyman shall be under the direction and supervision of a licensed unlimited mechanical contractor or a licensed process piping mechanical contractor.

SUBCHAPTER 9. QUALIFICATIONS FOR MECHANICAL LICENSURE, LICENSE AND REGISTRATION FEES, DURATION OF LICENSE, MECHANICAL LICENSE APPLICATIONS, AND APPRENTICE REGISTRATION

158:50-9-1. Qualifications for mechanical licensure

(a) **Application.** A person desiring to be licensed under this Chapter shall file an application with the application fee, examination fee, and the initial License fee to the Administrator. The fees must be received no less than three (3) working days before the examination date. If the applicant fails to meet the minimum qualifications to take the examination, the application fee will be forfeited.

(b) **Experience.** All persons applying for a license must provide proof of experience in the mechanical trade.

(1) Applicants for a journeyman license must be at least eighteen (18) years of age and have:

(A) ~~either~~ three (3) years of verifiable experience in the mechanical trade in the category for which he is applying, or

(B) ~~have~~ an ~~associates~~associate's degree or ~~Vo Tech~~vocational diploma certifying completion of an educational program consisting of 1000 hours or more from a school, approved by the Committee, which exhibits knowledge of the trade in the category of license applied for and one (1) year of verifiable experience in the mechanical trade, or

(C) have a ~~VoTech~~vocational diploma certifying completion of an educational program consisting of 500 or more hours from a school, approved by the Committee, which exhibits knowledge of the trade in the category of license applied for and two (2) years of verifiable experience in the mechanical trade, or

(D) equivalent, verifiable experience in the mechanical trade while serving in the U.S. military, or

(E) experience sufficient to obtain the special certification required for the mechanical category sought by the tendered application, such as Ground Source Piping and Medical Gas.

(F~~D~~) ~~have~~ a verifiable out-of-state license in the mechanical classification for which the applicant is applying. The license must be:

(i) current, ~~and~~

(ii) in good standing~~.~~,

(iii) and meet qualification listed in (A), (B), or (C) above.

(2) Applicants for a contractor license must meet the same requirements as a journeyman with an additional one (1) year of experience.

(c) **Examination.** A license cannot be issued until the applicant has passed the appropriate examination for the license type and category. Examinations and the passing score for each examination shall be approved by the Committee. Applicants for the Ground Source Piping category shall provide proof of being certified by examination in the proper installation of ground source piping by an organization approved by the Committee. Applicants for the Petroleum Refinery journeyman category shall provide proof of being certified by examination in the area of industrial pipefitter by an organization approved by the Committee. Applicants for the Medical Gas category shall provide proof of being certified by examination in accordance with the most current NFPA 99 standard or certified in the proper installation of medical gas piping by an organization approved by the Committee.

(1) If the applicant does not pass the exam, the applicant may reapply for the exam and pay an additional retesting fee. However, no person will be allowed to retake an exam within 30 days of the first failed exam ~~nor~~or within 90 days of the second or subsequent failed exam.

(2) Any person suspected of cheating during an examination shall be immediately notified of the suspicion and shall not be allowed to finish the examination. He shall be called before the Committee during the next scheduled meeting for discussion of the incident. If the Committee determines that the person did in fact cheat, the examinee's application for licensure shall be denied and the Committee shall determine when the applicant can next apply for an examination.

(3) No person shall be allowed any assistance in reading the contractor's examination, nor shall any persons other than the examinees or the Committee members be allowed in the examination area. However, an applicant may request that the Committee make reasonable accommodations for any disability.

(d) **Outstanding fines.** A license cannot be issued until the applicant has paid any and all outstanding fines due and owing to any department of the Construction Industries Board.

158:50-9-2. License and registration fees and renewals

(a) **Examination fees for contractors and journeyman.** The Construction Industries Board, or its designated representative, may collect for the actual cost of any examination provided by these rules. The cost for each such examination referenced in section 158:50-9-1 shall be posted in plain view at the testing site that provides and administers the examination. Every person whose application for examination is approved shall be informed of the specific fee prior to ~~setting~~sitting for the examination. The unit testing fee shall be the amount negotiated by the administrator in accordance with the provisions of the Oklahoma Central Purchasing Act, but cannot exceed the maximum allowable fee provided in 59 O.S.§ 1000.5 (A)(2). Documentation confirming the contractual fee shall be available upon request.

(b) **Licensing, registration and application fee schedule for contractors, journeyman, and apprentices.** The licensure, application, and registration fees shall be annually as follows:

(1) contractors application - $30.00
(2) initial contractor license - $300.00
(3) renewal contractor license - $200.00
(4) renewal contractor late fee - $100.00
(5) journeyman application - $25.00
(6) initial journeyman license - $50.00
(7) renewal journeyman license - $75.00
(8) renewal journeyman late fee - $25.00
(9) apprentice application - $5.00
(10) apprentice registration - $20.00

158:50-9-3. Duration of licenses

(a) All licenses shall have a duration of no more than one year, and shall expire on the last day of the birth month of the licensee each year.

(b) Any license issued may be renewed by submitting the license fee for the next year by a check or money order and be mailed on or before the birth month expiration date.

(c) A license renewed under the provision of ~~158:9-3(b)~~158:50-9-3(b) is effective when notice of such renewal is issued by the Construction Industries Board.

(d) An expired license may be reinstated if: The license fee is submitted within one (1) year after the license expired, and is accompanied by a late fee, plus any applicable continuing education, and insurance and bonding requirements.

(e) A licensee who, during an investigation of the licensee by the Construction Industries Board, surrenders their license

shall be treated as if the license had been revoked for one year from the day of surrender.

(f) A license cannot be renewed until the licensee has paid any and all outstanding fines due and owing to any department of the Construction Industries Board.

158:50-9-7. Continuing Education

(a) **Continuing Education Requirements:**

(1) ~~Within one year from the date of adoption of the appropriate code, and thereafter, no license will be renewed unless the licensee has completed 6 hours of continuing education. Continuing education shall consist of six (6) hours training in the International Mechanical Code, International Fuel Gas Code and/or International Residential Code(as applicable pursuant to Mechanical Industry Regulations promulgated under this chapter) emphasizing revisions of the code or four (4) hours training emphasizing revisions of the codes and two (2) hours of trade related instruction.~~By July 1, 2014, no contractor or journeyman license shall be renewed unless the licensee has completed at least six (6) hours of continuing education within thirty-six (36) months preceding the application for renewal; and thereafter, the licensee shall complete six (6) hours every three years or thirty-six (36) months. The continuing education course and instructor shall be approved in advance by the Committee. Exceptions to advance approval, or post-course approval, may be allowed by the Committee, or its designee, for substitute instructors in emergency situations when written notice of the emergency is provided to the Committee within seven (7) days of the course. The continuing education material shall cover codes and revisions adopted by the Oklahoma Uniform Building Code Commission and/or other trade related subject matters appropriate for topics of continuing education for licensees and approved by the Committee including: examination materials, manufacturers' installation of equipment or parts, the licensing act, the trade regulations, and other trade or safety related subject matters approved by the Committee.

(2) Credit will be given for CE programs approved by the Mechanical Examining Committee, or its designee.

(3) Except as provided herein, these rules shall apply to every licensed mechanical journeyman or contractor.

(4) A licensee is exempt from the education requirements of these rules for ~~the code year during which~~three (3) years from the date he or she ~~the licensee first~~ passed their current licensing exam ~~an exam testing over the code~~.

(b) **Standards.** The following standards will govern the approval of continuing education programs by the Mechanical Examining Committee.

(1) The program provider shall submit evidence that the provider and instructional staff are qualified by reason of education, experience or training. The training provider and instructors will be of good reputation and of good moral character.

(2) Any written material that is distributed during the session shall be readable, of high quality and shall be made available to all attendees.

(3) The program shall be presented in a comfortable location such as hotel/motel conference room, corporate meeting room, or regular classroom.

(4) The training session shall be presented outside the regular workplace or after regular working hours. An onsite conference room, that meets standards imposed by number 3 above, shall be considered outside the regular workplace.

(5) ~~Sixty minutes shall constitute one instructional hour~~. A credit hour means at least 50 minutes of classroom instruction with a 10 minute break.

(6) CE courses shall be presented in one of the following formats.

(A) Six ~~instructional~~credit hours presented in one day.

(B) Two sessions of three ~~instructional~~credit hours each presented within a seven day period.

(C) One session of two ~~instructional~~credit hours of trade related instruction~~.~~, Mechanical Licensing Act and/or Mechanical Industry Regulations.

(D) An approved correspondence course.

(E) Another format approved by the Committee.

(7) Verification of Credit.

(A) The Course Provider shall verify the total number of continuing education hours completed by each attendee.

(B) Continuing education providers shall require attendees to present a photo I.D. prior to the attendee signing the sign-in sheet provided by the Construction Industries Board. Sign-in sheets shall include the name and license number of each licensee in attendance.

~~(C) Each attendee shall complete a course evaluation on a form provided by the Construction Industries Board.~~

(~~D~~C) As soon as practicable but in any event on or before seven (7) days following an approved continuing education program, the provider shall furnish the original sign-in sheets ~~and evaluations~~ from the course to the Examining Unit of the Construction Industries Board.

(~~E~~D) Providers shall maintain copies of all sign-in sheets ~~and evaluations~~ for a period of two (2) years following the conclusion of the course.

(E) Complaint Procedure.

(i) A person, government, or private organization may submit a written complaint to the Committee, or its designee, charging a provider of continuing education with a violation of the rules, and specifying the grounds for the complaint.

(ii) Complaints must be in writing and include contact information, and shall be filed on the proper complaint form prescribed by the Construction Industries Board, or its designee.

(iii) The Committee may consider an unsigned or anonymous complaint for further investigation.

(iv) Upon receipt of a signed complaint form, a copy shall be sent to the continuing education provider addressed in the complaint. The continuing education provider shall provide a written response within fifteen days. Upon receipt of the continuing education provider's written response, both complaint and response shall be considered by the Committee, or its designee, for appropriate action including dismissal of the complaint, further investigation, or a finding of violation of a statute or rule. The Committee, or its designee, shall notify both complainant and continuing education provider of the determination made by the Committee. Failure of the continuing education provider to respond will be considered as a violation of this rule.

(v) If a reasonable cause violation determination is made by the Committee, the Oklahoma Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken including but not limited to all parts of this subsection.

(8) Course providers or instructors may not advertise or promote the sale of any goods, products or services between the opening and closing of any Continuing Education Course.

(c) **Application Procedures.**

(1) A completed application form, with all supporting documentation, shall be submitted to the Construction Industries Board at least 30 days prior to the scheduled start date.

(A) Supporting documents shall include the following.

(i) A resume or brief summary of qualifications of all course developers and instructors.

(ii) A course agenda designating the beginning and ending of actual instruction times, sign-in times, breaks, lunches and evaluation time.

(iii) A course curriculum indicating the subject or code areas to be taught with sufficient detail to determine which code revisions are to be addressed or the trade related instruction being provided.

(2) An application is to be submitted for each date, or dates, that constitute a single course.

(3) Each course must be included on a separate application.

(d) **Mechanical Examining Committee Acceptance.**

(1) The Committee, or its designee, will review each application for completeness of form and supporting documentation, as well as course content.

(2) The approval of any course will be made by a majority vote of the Committee at the regularly scheduled meeting of the Mechanical Examining Committee.

(3) The Committee's designee may approve additional dates and locations after the course has been approved by Committee vote. Substantive change to course content must be brought before the Committee.

(4) The applicant will be notified in writing whether the program is approved or disapproved, detailing the basis of the decision if disapproved.

(e) **Committee Rejection and Reevaluation of a Course.**

(1) The Committee, or its designee, may refuse to accept any application for approval if the supporting documentation is insufficient or incomplete. The Committee may deny or revoke approval of an application for any of the following reasons.

(A) Failure to comply with the continuing education provisions.

(B) Inadequate application or supporting documentation.

(C) Failure to instruct on topic approved.

(D) Inadequate experience of program developer or instructor.

(E) Unsatisfactory evaluation of the course instructor or materials from previous classes.

(2) The Committee may, at any time, re-evaluate and grant or revoke approval of application or course.

(A) The Committee may, at any time, review courses for quality of instruction. The Committee may also investigate complaints regarding approved courses. The Committee may then take appropriate action, up to and including revocation of authority to provide CE courses.

(B) A provider's failure to comply with any continuing education rule constitutes grounds for disciplinary action, up to and including revocation of authority to provide CE, against the provider or for denial of future applications for course work.

(3) The Committee, or its designee, will notify the provider, in writing, of any changes in approval status.

(f) Appeals.

(1) Applicants denied approval of a course may appeal such a decision by submitting a written letter of appeal to the committee within fifteen days of the receipt of the notice.

(2) All appeals will be heard by the Committee at its next regularly scheduled meeting.

(g) **Course Presentation.**

(1) The program, including the named advertised participants, shall be conducted as approved by the committee, subject to emergency withdrawals and minor alterations.

(2) Changes including but not limited to location, date, instructors, or cancellations must be requested from the Committee, or its designee, in writing prior to start of class. All requests for change must include the course ID number.

(h) **Course Advertisement.**

(1) All advertising must include the course ID number.

(2) Approved program courses may be advertised.

(3) The provider of an approved continuing education program may announce or indicate as follows: Course # has been approved by the Construction Industries Board Mechanical Examining Committee for hours of CE credit.

(i) **Correspondence and Online Courses.**

(1) Applications, approvals and rejections, and appeals of all correspondence and online courses shall be the same as for classroom-based courses.

(2) Correspondence courses shall be required to comply with all requirements of continuous education courses, except sign-in sheets.

(3) Providers of an on-line course shall submit verification of six (6) hours of real time on-line instruction.

(4) Course providers shall provide a student with a document of completion which certifies completion of approved correspondence course.

(j) **Alternate Credit Method.** Credit may be earned through teaching an approved continuing education course. The Committee may award up to six hours of CE credit, not to exceed the number of approved hours for that CE course.

(k) **Continuing Education Not Required for Petroleum Refinery Journeyman.** Provisions (a) - (j) herein shall not apply to the license category of Petroleum Refinery Journeyman. The Petroleum Refinery Journeyman license may be renewed without continuing education.

(l) **Continuing Education Not Required for Ground Source Piping.** Provisions (a) - (j) herein shall not apply to the license category of Ground Source Piping. The Ground Source Piping category license may be renewed without continuing education provided that a current approved certification is submitted.

(m) **Continuing Education Not Required for Medical Gas.** Provisions (a) - (j) herein shall not apply to the license category of Medical Gas. The Medical Gas category may be renewed without continuing education provided that a current approved certification is submitted.

SUBCHAPTER 11. LICENSE REVOCATION OR SUSPENSION AND PROHIBITED ACTS

158:50-11-2. Prohibited acts

(a) The following prohibited acts apply to all license holders:

(1) No person, entity, or firm may perform mechanical work without first obtaining the appropriate license or registration pursuant to these rules.

(2) No licensee shall perform mechanical work in a category under which he is not licensed or work outside of the confinements of the required Medical Gas certification.

(3) No licensee shall perform work contrary to any provision of the adopted references in 158:50-1-4, except as otherwise provided by law or rule. Each violation of the adopted references in 158:50-1-4 can be treated as a separate violation of this Chapter.

(4) No person shall offer to engage in mechanical work during the period his license is suspended or revoked.

(5) No employing mechanical firm shall employ or use and unlicensed or unregistered individual or entity to perform mechanical work.

(6) No person, entity, or firm may transfer a license or registration.

(7) No individual or entity, licensed pursuant to these Rules shall enter into an agreement for the use of his license with any firm or person which is, or has been adjudicated to be, in violation of any provision of the Act, or whose license is currently suspended or has within the last year been revoked, unless or until otherwise approved by the Board.

(8) No person shall make a materially false or fraudulent statement in an application for license.

(9) No person may alter a license.

(10) No licensee shall fail to notify the Administrator of a change in his address.

(11) No licensee shall perform mechanical work without keeping their license and any required certification on their person or in close proximity while performing mechanical work.

(12) No person may engage in cheating or any act involving the fraudulent misrepresentation of an applicant by an examinee.

(13) No person or entity shall deny access to the Construction Industries Board or its representative on a job site.

(b) The following prohibited acts apply to persons issued a contractor license:

(1) No licensee shall employ or supervise persons performing mechanical work unless those persons are licensed or registered to perform that category of work.

(2) No licensee shall allow any apprentice to perform mechanical work at the contractor's job site unless the apprentice will have direct supervision by a person licensed to perform in that category of mechanical work.

(3) No licensee shall allow more than three (3) apprentices per journeyman at a job site.

(4) No licensee shall fail to maintain a bond as provided for in 158:50-5-3.

(5) No licensee shall fail to provide proof of financial responsibility to the Administrator as provided for in 158:50-5-3 (b).

(6) No licensee shall be associated with and responsible for more than one mechanical firm.

(c) The following prohibited acts apply to persons issued a journeyman license:

(1) No licensee shall allow an apprentice under his direct supervision to perform mechanical work for which the journeyman is not licensed to perform.

(2) No licensee shall perform mechanical work except under the employment or supervision of a Mechanical Contractor.

(3) No licensee shall engage in the planning, contracting, or furnishing of labor and/or materials used for mechanical work.

[OAR Docket #13-1049; filed 6-7-13]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 60. INSPECTORS REGULATIONS

[OAR Docket #13-1050]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
158:60-1-2 [AMENDED]
Subchapter 5. Categories and Classifications of Inspector Licenses, Qualifications for Inspector Licensure, License Requirements for Inspectors, Fees, Certification and Continuing Education for Inspectors, and Continuing Education Courses
158:60-5-1 [AMENDED]
158:60-5-2 [AMENDED]
158:60-5-3 [AMENDED]
158:60-5-4 [AMENDED]
158:60-5-5 [AMENDED]
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ANALYSIS:
158:60-1-2 Adds definitions including: "Credit Hour," "OUBCC," "Political subdivision," and "Regular work place." The amendments remove unnecessary specific references to "IAPMO" and "ICC" which are already included in general entity references. The revision adds the OUBCC as the code authority for the State of Oklahoma. The revision to the Residential definition recognizes the Residential code adopted by the OUBCC. The Energy Code Inspector classifications, both Unlimited and Residential, are moved to 158:60-5-1(a)(5) from 158:60-5-2(d). 158:60-5-1(b)(3) Clarifies the definition of an inactive inspector. 158:60-5-2(a) Clarifies the approval of the employing political subdivision. 158:60-5-2(c)(1) Removes unnecessary reference to specific entities covered by general references. 158:60-5-2(d) Moves Energy Code Inspector to 158:60-5-1(a)(5) and adds certifications recognized and approved by the Committee. 158:60-5-2(e) Clarifies the language on the provisional licensing requirements. 158:60-5-2(f) Removes the requirement to maintain a list of inactive inspectors. 158:60-5-3(e) Clarifies the type of inspections that can be made. 158:60-5-4 (1),(2),(3), and (4) Adds the word "approved" before each CEU class. 158:60-5-4(5) Adds the Energy Code Inspector. 158:60-5-5(a) Clarifies language for the continuing education provider and the instructor. 158:60-5-5(b) Eliminates evaluation form and adds that courses must be at least 2 credit hours; sets parameters for continuing education courses. 158:60-5-5(c) Adds a complaint procedure.
CONTACT PERSON:
Linda Ruckman, Board Secretary/Executive Assistant, 405-521-6550.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

158:60-1-2. Definitions

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

"Act" means the Oklahoma Inspectors Act as found at 59 O.S.§ 1031 et seq.

"Administrator" means the Administrator of the Board as described in the Construction Industries Board Act found at 59 O.S. § 1000.1 et seq.

"Board" means the Construction Industries Board.

"Certification" means approval by a certifying ~~entity~~organization demonstrating that an applicant has passed an appropriate certification examination.

"C.E.U." means a continuing education unit that is either one (1) ~~clock~~credit hour of Committee approved instruction or its equivalent as determined by the Committee.

"Committee" means the Oklahoma Inspector Examiners Committee.

"Credit Hour" means 50 minutes (or more) of instruction with a 10 minute break.

~~**"IAPMO"** means the International Association of Plumbing and Mechanical Officials, a nationally recognized code organization that publishes a code for governing plumbing installations and that certifies inspectors in the plumbing trade~~.

~~**"ICC"** means International Code Council, a nationally recognized code organization that publishes codes as standards for governing building and mechanical installations and that certifies inspectors in various categories in the building and construction trades.~~

"OCIB EXAM" means an examination prepared by the Committee.

"OUBCC" means the Oklahoma Uniform Building Code Commission.

"Political Subdivision" means a municipality, city, town, village, county, or public trust where a city or town is a beneficiary.

"Provisional license" means a license issued for not more than two years to a person who has made proper application but does not meet all licensing requirements.

"Regular work place" means the immediate individual office including desk, chair, computer and office telephone wherein the inspector is expected to be reached and to conduct day-to-day office business.

"Residential" means the classification of inspector license, which authorizes an individual to conduct electrical, mechanical, plumbing or building inspections of only those structures designated as use group R3 or R4 in the most current

~~adopted National Building Code~~Residential code adopted by the "OUBCC".

"Unlimited" means the classification of inspector license which authorizes an individual to conduct electrical, mechanical, plumbing or building inspections of all structures or installations.

SUBCHAPTER 5. CATEGORIES AND CLASSIFICATIONS OF INSPECTOR LICENSES, QUALIFICATIONS FOR INSPECTOR LICENSURE, LICENSE REQUIREMENTS FOR INSPECTORS, FEES, CERTIFICATION AND CONTINUING EDUCATION FOR INSPECTORS, AND CONTINUING EDUCATION COURSES

158:60-5-1. Categories and classifications of inspector licenses

(a) Licenses shall be issued for the following categories and classifications:

(1) Electrical inspector:
- (A) Unlimited.
- (B) Residential.

(2) Mechanical inspector:
- (A) Unlimited.
- (B) Residential.

(3) Plumbing inspector:
- (A) Unlimited.
- (B) Residential.

(4) Building inspector:
- (A) Unlimited.
- (B) Residential.

(5) Energy Code Inspector:
- (A) Unlimited.
- (B) Residential.

(b) In addition to the above categories, a person may also be classified as:

(1) a circuit rider inspector if the person is employed by more than one political subdivision,

(2) a provisional inspector if the ~~Administrator~~ Committee, or its designee, determines that a license should be issued even though the examination requirement has not yet been met,

(3) an inactive inspector if the licensed person is not currently employed by a political subdivision or authority having jurisdiction ("AHJ") as a building and construction inspector.

158:60-5-2. Qualifications for inspector licensure

(a) Initial application must be made on the form provided by the Administrator and must be approved by the employing political subdivision or authority having jurisdiction ("AHJ").

(b) The proper fees must accompany any application, including the late fee if application for renewal is made within one year after expiration of the initial license.

(c) The applicant must submit as soon as is practicable after application is made:

(1) proof of certification by a national ~~code~~ inspector certifying organization recognized by the Committee~~, such as ICC, IAPMO~~;

(2) proof of certification by the Committee that the person has passed the Oklahoma Inspector Examination; or

(3) proof that the required C.E.U.'s have been completed.

(d) Section 158:60-5-4 sets forth the licensing qualifications for the license categories and classifications provided in 158:60-5-1. ~~The fees and licensing qualifications for the license category and classifications for Energy Code Inspector shall be the same as the other categories and classifications set forth in Section 158:60-5-4, provided that additional~~Additional certifications or exams may be recognized by approval of the Committee and the Construction Industries Board on a case by case basis. However, no person shall be required to meet the continuing education requirements for the licensing year the certification requirements of 158:60-5-2(c)1 or 2 are met.

(e) A provisional license is issued to allow a person to work as an inspector even though all the license qualifications have not been met. This provisional license will provide the licensee with adequate time and motivation to become educated and meet all licensure requirements within two years after being issued the provisional license. No person shall be issued more than one provisional license ~~at a time, nor shall a provisional license be issued twice for the same~~in any category. The initial fee for the provisional license shall be $35.00.

~~(f) The Administrator shall maintain a list of inactive inspectors, said list shall be made available on request to any political subdivision who may need the services of a licensed inspector.~~

158:60-5-3. License requirements for inspectors

(a) The licensee shall notify the Administrator within fifteen (15) days of any change in employment status related to the license.

(b) The licensee shall, in addition to any local procedures or requirements, notify the Administrator as to persons suspected of performing building, electrical, mechanical, or plumbing work within their jurisdiction who are not properly licensed by the State. All licensed building and construction inspectors shall require all persons doing work in his/her jurisdiction to meet all requirements for licensing and code standards.

(c) Any person who voluntarily surrenders their license during an investigation by the licensing authority shall be treated as if their license had been revoked by the Administrator on the day of surrender.

(d) The licensee shall not attempt to retain licensure by making false statements concerning C.E.U.'s.

(e) In political subdivisions where licensing is required by the act, no person may perform building and construction inspections in a category in which he or she is not licensed.

158:60-5-4. Fees, certification and continuing education for inspectors

Fees, certification and continuing education requirements for inspectors are as follows:

(1) Building inspectors (both unlimited and residential licenses):
(A) $35.00 Fee for license and renewal;
(B) $70.00 Late fee; and
(C) Approved Certification ~~or exam ICC,~~ or Construction Industries Inspector's Exam.
(D) Approved C.E.U.- 6 hours.
(2) Electrical inspectors (both unlimited and residential licenses):
(A) $35.00 Fee for license and renewal;
(B) $70.00 Late fees for renewal license; and
(C) Approved Certification ~~or exam ICC,~~ or Construction Industries Inspector's Exam.
(D) Approved C.E.U.- 6 hours.
(3) Mechanical inspectors (both unlimited and residential licenses):
(A) $35.00 Fee for license and renewal;
(B) $70.00 late fees for renewal license; and
(C) Approved Certification ~~or exam ICC,~~ or Construction Industries Inspector's Exam.
(D) Approved C.E.U.-6 hours.
(4) Plumbing inspectors (both unlimited and residential licenses):
(A) $35.00 Fee for license and renewal;
(B) $70.00 late fees for renewal license; and
(C) Approved Certification ~~or exam ICC,~~ or Construction Industries Inspector's Exam.
(D) Approved C.E.U.-6 hours.
(5) Energy Code inspector (both unlimited and residential licenses):
(A) $35.00 Fee for license and renewal;
(B) $70.00 late fees for renewal license; and
(C) Approved Certification ~~or exam ICC~~or Construction Industries Inspector's Exam.
(D) Approved C.E. U. -6 hours.

158:60-5-5. Continuing education courses

(a) **Continuing education course approval.** Any ~~entity~~ provider or instructor which desires to sponsor education to licensees in compliance with the continuing education requirements of ~~OAR~~ OAC 158:60-5-4 Subchapter 5 shall file an application for approval on the form prescribed by the ~~Department~~Committee, or its designee. The application shall include a list of the course instructors and their qualifications, an agenda detailing the material to be presented, the location of the training, the program objectives, and the number of ~~clock~~credit hours of classroom and supervised instruction. Licensees shall not receive continuing education credit for attending classes that are not approved by the Committee. After completion of the course, the ~~entity~~provider or instructor shall submit sign-in sheets for all sessions. The sign-in sheets shall include the signature and state inspector license number of each person in attendance. The ~~entity~~provider or instructor shall verify the total number of continuing education hours completed by each attendee. All programs shall be presented as submitted unless changes have been approved. Changes to the program shall be submitted to the ~~Department~~Committee, or its designee, within 10 days of the training session for review by the committee. Failure to obtain approval of changes may result in loss of CEU approval.

(b) **Approval requirements for continuing education.** All continuing education providers shall abide by the following requirements:
(1) All material and information presented shall pertain to the discipline in which the person is licensed.
(2) All courses must be of at least two (2) credit hours in length.
(3) The training location must be outside the regular work place or after hours.
(4) ~~Each attendee shall complete an evaluation on a form provided by the Department. The entity shall return the completed evaluation form to the Department~~. Correspondence or online course approval.
(A) Providers or instructors seeking to offer correspondence courses for continuing education shall submit a course curriculum and study material for review and approval by the Committee prior to the courses being offered as continuing education. Approved correspondence courses shall be required to comply with all requirements for other continuing education courses except for sign-in sheets. Providers shall provide a student with a document of completion which certifies completion of approved correspondence courses.
(B) Only licensees meeting one or more of the following requirements may receive CE credit for taking a correspondence or online course;
(i) Any licensee residing outside of Oklahoma,
(ii) Any licensee that has an expired license which requires a CE course that is no longer available in the classroom,
(iii) Any licensee who is currently incarcerated, or
(iv) Any licensee who submits written proof to the Committee from a physician stating the medical reason that the licensee is unable to attend a CE class.
(C) Providers are to offer reasonable accommodations for disabled licensees attending a course when such accommodations are requested.
(5) Along with a course application, a video presentation may be submitted for course material and instructor approval by the Committee if the video presentation is closely related to the subject matter of the course and meets the following:
(A) All video presentations must be submitted in electronic format at least thirty (30) days in advance of the Committee meeting reviewing the course application, except for manufacturer's videos generally accepted in the industry covering accepted industry practices or standards. If the electronic format does not allow forwarding by email, then seven (7) copies of a portable storage format is required.

(B) Video segments shall be no more than thirty (30) minutes, followed by a discussion and no more than fifty percent (50%) of the total course time.

(C) The required copies of each individual video presentation training segment must be submitted with the CEU class approval request for review and approval by the Committee of the course material and instructor. However, if the video is a manufacturer's video, the Committee is not required to approve of the instructor in the video as long as the video course material and video presentation is approved by the Committee.

(D) An approved instructor will be present during the viewing of any video and will monitor the class for questions. Prior to any video presentation, class participants shall be instructed to raise their hand if they have a question or comment during the video presentation. When a class participant has a question or comment during the video presentation, the instructor must be able to stop or pause the video to accommodate live interactive discussion.

(E) Audio and video equipment shall be arranged in advance or otherwise provided to assure that class participants are able to see and hear all portions of any video presentation. In the case of audio or video failure, the time of the video presentation may be presented by the approved instructor over subject matter previously approved for that instructor.

(c) **Complaint procedure.**

(1) A person, government, or private organization may submit a written complaint to the Committee, or its designee, charging a provider of continuing education with a violation of the rules, and specifying the grounds for the complaint.

(2) Complaints must be in writing and include contact information, and shall be filed on the proper complaint form prescribed by the Construction Industries Board, or its designee.

(3) The Committee may consider an unsigned or anonymous complaint for further investigation.

(4) Upon receipt of a signed complaint form, a copy shall be sent to the continuing education provider addressed in the complaint. The continuing education provider shall provide a written response within fifteen days. Upon receipt of the continuing education provider's written response, both complaint and response shall be considered by the Committee, or its designee, for appropriate action including dismissal of the complaint, further investigation, or a finding of violation of a statute or rule. The Committee, or its designee, shall notify both complainant and continuing education provider of the determination made by the Committee. Failure of the continuing education provider to respond will be considered as a violation of this rule.

(5) If a reasonable cause violation determination is made by the Committee, the Oklahoma Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken including but not limited to all parts of this subsection.

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TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 70. HOME INSPECTORS ACT

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158:70-1-3 [AMENDED]
158:70-1-4 [NEW]
Subchapter 9. Examination Applications, Examinations, Course Approval Requirements, Instructor Requirements, Continuing Education, Denied Application Appeal, Submission of Records, Substantial Compliance and Reciprocity
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158:70-9-5 [AMENDED]
158:70-9-6 [AMENDED]
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INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
158:70-1-2 Clarifies definition of "classroom hour." 158:70-1-3 Allows for certain systems and components to be excluded from the inspection when requested in writing prior to the inspection and recorded on a signed form. 158:70-1-3 Adds previous CSST emergency rule language which is the requirement for notification of CSST flexible gas piping to the client if the inspector visually observes any shade of yellow corrugated stainless steel tubing flexible gas piping during the inspection and that the product is safer when properly bonded and grounded as required by the manufacturer's installation instructions. 158:70-1-4 Shows a sample of forms or formats.

158:70-9-1 Increases the examination requirements from 50 clock hours to 90 credit hours to conform to the statutory requirement. 158:70-9-5 Changes the renewal continuing education hours from 5 (five) clock hours to 8 (eight) credit hours consisting of no more than 2 (two) hours of ancillary systems topics per year and it clarifies the continuing education requirements to conform to statutory requirements. It also eliminates the course evaluation form and adds a complaint procedure for the licensee to submit. 158:70-9-6 Increases the credit hour for committee approval from fifty (50) hours to ninety (90) hours.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

158:70-1-2. Definitions

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

"Act" means the Home Inspection Licensing Act, found at 59 O.S.§ 858-621 et seq.

"Alarm systems" means warning devices, installed or free-standing, including but not limited to: carbon monoxide detectors, flue gas and other spillage detectors, security equipment, ejector pumps and smoke alarms.

"Applicant" means any person applying for an examination for a license or registration under the Act.

"Architectural service" means any practice involving the art and science of building design for construction of any structure or grouping of structures and the use of space within and surrounding the structures or the design for construction, including but not specifically limited to, schematic design, design development, preparation of construction contract documents, and administration of the construction contract.

"Board" means the Construction Industries Board.

"Certificates of course completion" means a document acceptable to the Committee which signifies satisfactory completion of course work and reflects the hours of credit earned.

"Cheating" means any unapproved deviation from any official instruction given before, during or after a home inspector license examination for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

"Classroom hour", **"credit hour"**, and **"clock hour"** ~~is~~are each equal to fifty (50) minutes out of each sixty (60) minute segment.

"Client" means a person with a direct material interest in the outcome of a home inspection who hires and compensates a home inspector for the performance of a home inspection.

"Committee" means the Committee of Home Inspector Examiners established by the Home Inspector Licensing Act, 59 O.S. 858-624.

"Component" means a part of a system.

"Continuing education" means education that is approved by the Committee to satisfy education requirements in order to renew licensure as a home inspector.

"Continuing education verification form" means a form acceptable to the Committee and completed by the course provider, that documents compliance with the continuing education requirements.

"Cosmetic" means a condition that affects appearance but not the manner in which the system or component functions.

"Decorative" means ornamental; not required for the operation of the essential systems and components of a home.

"Defect" means a condition, malfunction or problem, which is not decorative or cosmetic, that would have a materially adverse effect on the value of a system or component, or would impair the health or safety of the occupants or client.

"Department" means the Construction Industries Board.

"Describe" means to report a system or component by its type or other observed, significant characteristics to distinguish it from other systems or components.

"Dismantle" means to take apart or remove any component, device or piece of equipment that would not be taken apart or removed by a homeowner in the course of normal and routine homeowner maintenance.

"Engineering service" means any professional service or creative work requiring engineering education, training, and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such professional service or creative work as consultation, investigation, evaluation, planning, design and supervision of construction for the purpose of assuring compliance with the specifications and design, in conjunction with structures, buildings, machines, equipment, works or processes.

"Further evaluation" means examination and analysis by a qualified professional, tradesman or service technician beyond that provided by the home inspection.

"Home" or **"residence"** means any dwelling, from one to four (1-4) units in design, intended principally for residential purposes by one (1) or more individuals.

"Home inspection" or **"inspection"** *means a visual examination of any or all of the readily accessible physical real property and improvements to real property consisting of four or fewer dwelling units, including structural, lot drainage, roof, electrical, plumbing, heating and air conditioning and such other areas of concern as are specified in writing to determine if performance is as intended.* [59:858-622(5)]

"Home inspection license unit" means the staff and administrative support unit to the Committee of Home Inspector Examiners.

"Home inspection report" means a written opinion of the functional and physical condition of property written by the licensed home inspector pursuant to home inspection.

"Home inspector" means an individual licensed pursuant to the Home Inspection Licensing Act who, for compensation, conducts home inspections.

"Inspect" means to examine readily accessible systems and components of a building in accordance with these Standards of Practice, using normal operating controls and opening readily openable access panels.

"Installed" means attached such that removal requires tools.

"Instructor" means a person who presents course materials approved for qualifying education and continuing education credit hours that has the experience, training, and/or education in the course subject matter and has been approved by the Committee.

"Normal working order" means the system or component functions without defect for the primary purpose and manner for which it was designed.

"Normal operating controls" means devices such as thermostats, switches or valves intended to be operated by the homeowner.

"Practice of Architecture" means that practice defined in section 46.3 of Title 59 and exempt from the Home Inspector's Licensing Act under Title 59 O.S.858-623(B)(2).

"Professional craftsman" means a person who can demonstrate by certification, education or experience, specialized skill in the construction or repair of homes, duplexes, apartment buildings or similar structures. Persons demonstrating specialized skill by experience alone must be able to show that they have been actively engaged in their profession, trade or craft for at least one (1) year prior to the performance of a single item inspection.

"Provider" means a person, corporation, professional association or its local affiliates, or any other entity, which is approved by the Committee and provides approved qualifying and continuing education to home inspectors.

"Readily accessible" means available for visual inspection without requiring moving of personal property, dismantling, destructive measures, or any action which will likely involve risk to persons or property.

"Readily openable access panel" means a panel provided for homeowner inspection and maintenance that is within normal reach, can be removed by one person, and is not sealed in place.

"Reciprocity agreement" means an agreement whereby a home inspector who is licensed in other states with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

"Recreational facilities" means spas, saunas, steam baths, swimming pools, exercise, entertainment, athletic, playground or other similar equipment and associated accessories.

"Report" means to communicate in writing.

"Roof drainage systems" means components used to carry water off a roof and away from a building.

"Shut down" means a state in which a system or component cannot be operated by normal operating controls.

"Solid fuel burning appliances" means a hearth and fire chamber or similar prepared place in which a fire may be built and which is built in conjunction with a chimney; or a listed assembly of a fire chamber, its chimney and related factory-made parts designed for unit assembly without requiring field construction.

"Structural component" means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).

"System" means a combination of interacting or interdependent components, assembled to carry out one or more functions.

"Technically exhaustive" means an investigation that involves dismantling, the extensive use of advanced techniques, measurements, instruments, testing, calculations, or other means.

"Under-floor crawl space" means the area within the confines of the foundation and between the ground and the underside of the floor.

"Unsafe" means a condition in a readily accessible, installed system or component which is judged to be a significant risk of personal injury during normal operation. The risk may be due to damage, deterioration, improper installation or a change in accepted residential construction standards.

"Wiring methods" means identification of electrical conductors or wires by their general type, such as "non-metallic sheathed cable" ("Romex"), "armored cable" ("bx") or "knob and tube", etc.

158:70-1-3. Standards of workmanship and practice

(a) **General requirements.**

(1) These standards of practice are the minimum levels of inspection practice required of inspectors for the components and systems identified in these rules. Home inspections performed in accordance with these standards of practice are intended to provide the client with information regarding the condition of the systems and components at the time of the inspection.

(2) The inspector shall be governed by the following general requirements:

(A) The inspector shall inspect all readily accessible installed systems and components listed in these standards of practice.

(B) The inspector shall complete a written inspection report in accordance with these standards and submit the report to the client within an agreed upon time frame.

(C) The inspector shall identify in any written report the client, the inspector who performed the inspection by name and license number and the address of the inspected property.

(D) The inspector shall report:

(i) those systems and components inspected, which in the professional opinion of the inspector, are in normal working order;

(ii) those systems and components inspected which, in the professional opinion of the inspector, are not in normal working order and the reason, if not self-evident;

(iii) those systems and components inspected which, in the professional opinion of the inspector, could impair the safety of the occupants or client and the reason, if not self-evident;

(iv) the inspector's recommendations to have corrected, further evaluated or monitored any reported condition or defect; and,

(v) any systems and components designated for inspection in these standards, which were present at the time of the Home Inspection but were not inspected and the reason they were not inspected.

(3) These standards of practice are not intended to limit inspectors from:

(A) including other inspection services or inspecting other systems or components in addition to those required by these Standards;

(B) providing a higher level of inspection performance than required by these Standards;

(C) reporting other observations or conditions in addition to those required by these Standards; or,

(D) excluding systems and components from the inspection, if requested by the client in writing prior to the inspection and recorded on a signed form, such as the sample form "Sample Home Inspection Exclusion" at Appendix A of this Chapter.

(4) Beginning July 1, 2006 all home inspectors shall maintain a log or record of all home inspections performed, for a minimum period of five years from the date of inspection. The log or record shall include the name of the client, the address of the property, and the date of the inspection. The home inspector shall maintain a copy of all home inspections completed within the past 36 months. The log or record and inspection reports may be a hard file or an electronic file and shall be maintained at the home inspector's principal business address. The files shall be available for review upon request of an authorized representative of the Construction Industries Board.

(5) A home inspector who visually examines any portion of a residential unit that is part of a real property consisting of more than four (4) dwelling units, shall advise, in writing, the person requesting the visual examination that the visual examination being conducted by the home inspector is not governed by the Act and these rules.

(b) **General limitations and exclusions.**

(1) The inspector is not required to perform any action or make any determination not specifically stated in these Standards of Practice.

(2) Inspections performed in accordance with these standards are not required to be technically exhaustive, will not identify concealed conditions or latent defects and are only applicable to buildings with four or fewer dwelling units and their garages, both attached and detached, or carports.

(3) The inspector is not required to:

(A) perform any action or make any determination unless specifically stated in these Standards, except as may be required by lawful authority;

(B) determine the condition of systems or components which are not readily accessible;

(C) determine the remaining life of any system or component;

(D) determine the strength, adequacy, effectiveness, efficiency or insurability of any system or component;

(E) determine the causes of any condition or defect;

(F) determine the methods or materials for repair or correction of any defect;

(G) determine future conditions including, but not limited to, failure of systems and components;

(H) determine the suitability of the property for any specialized use or compliance with any regulatory requirements other than this Chapter;

(I) determine the presence of potentially hazardous plants or animals including, but not limited to, wood destroying organisms, mold, mildew, fungi, or diseases harmful to humans;

(J) determine the presence of any environmental hazards including, but not limited to, toxins, carcinogens, noise, and contaminants in soil, water, or air;

(K) determine the effectiveness of any system installed or methods utilized to control or remove suspected hazardous substances;

(L) determine the operating costs of any system or component;

(M) determine the acoustical properties of any system or component;

(N) perform engineering or architectural services or perform work in any trade or professional service other than home inspections;

(O) provide warranties or guarantees of any kind;

(P) operate any system or component which is shut down or otherwise inoperable or turn on any utility services;

(Q) operate any system or component which does not respond to normal operating controls, or shut-off valves;

(R) enter any area which will, in the opinion of the inspector, likely be dangerous to the inspector or other persons or may damage the property or its systems or components;

(S) enter the under-floor crawl spaces, attics or any area which, in the opinion of the inspector, is not readily accessible;

(T) inspect or determine the integrity of underground systems or components, including, but not limited to, main drain lines connecting to sewers, water lines, gas lines, electrical lines and underground storage tanks or other underground indications of their presence whether abandoned or active;

(U) inspect systems or components which are not installed, decorative items, systems or components located in areas that are not entered in accordance with these Standards, detached structures other than garages and carports, or common elements and areas in multi-unit housing, such as condominium properties or cooperative housing;

(V) move suspended ceiling tiles, personal property, furniture, equipment, plants, soil, snow, ice, or debris;

(W) dismantle any system or component, except as explicitly required by these rules; or,

(X) light any standing gas pilot light that does not have a spark-igniter, including but not limited to heating systems, water heaters and fireplaces; or,

(Y) determine the cost to correct any defect or provide cost estimates.

(4) The inspector shall not:

(A) offer or perform any act or service contrary to law;

(B) determine or report on the market value of the property or its marketability;

(C) report on the advisability of the purchase of the property; or,

(D) advertise or solicit to perform repair services on the inspected home for a period of one (1) year from the date of the inspection.

(c) **Structural system inspection requirements.**

(1) The inspector shall inspect:

(A) the foundation structure including slabs, piers, columns, posts, stem walls;

(B) the floor structure including beams, girders, joists, trusses, sill plates, blocking, bracing, drilling, notching and sub floors;

(C) the wall structure;

(D) the roof structure including rafters, trusses, sheathing, blocking, bracing, drilling, notching and fire stops;

(E) the ceiling structure including joists, trusses, blocking, bracing, drilling, notching and fire stops at ceiling penetrations; and,

(F) the crawlspace, basement and attic moisture conditions and indicators of harmful water penetration or condensation on structural components.

(2) The inspector is required to:

(A) describe the foundation, floor structure, roof structure, ceiling structure and wall structure;

(B) describe indicators of foundation or structural movement;

(C) enter the crawlspace and attic to determine the general condition of the components;

(D) report the method used to observe the crawlspace and attic if the inspector did not enter; and,

(E) probe structural components where deterioration is suspected or where clear indications of possible deterioration exist. Probing is not required where no deterioration is visible.

(3) The inspector is not required to:

(A) enter a crawlspace or any foundation area where the headroom is less than 18 inches, the access opening is less than 18 inches by 24 inches, where the area is excessively wet, or where the inspector reasonably determines the conditions or materials are hazardous to the safety of the inspector;

(B) enter an attic space where head room is less than 30 inches, the access opening is less than 18 inches wide by 24 inches long, or where the inspector reasonably determines conditions or materials are hazardous to the safety of the inspector; or

(C) perform any invasive or destructive inspection.

(d) **Exterior inspection requirements.**

(1) The inspector shall inspect:

(A) the exterior wall covering, trim, flashings, caulking and protective coatings;

(B) all exterior doors and locking devices;

(C) overhead garage doors and garage door openers including safety mechanisms;

(D) storm windows and doors;

(E) attached decks/patios, balconies, stoops, steps, porches, and their associated railings;

(F) eaves, soffits and fascias;

(G) driveways and walkways leading to dwelling entrances;

(H) vegetation, grading, surface drainage, and retaining walls on the property when any of these are likely to have an adverse effect on the structure; and,

(I) the primary garage or carport.

(2) The inspector shall describe:

(A) the exterior wall covering;

(B) attached decks/patios and balconies;

(C) driveways; and,

(D) walkways.

(3) The inspector is not required to inspect:

(A) screening, shutters, awnings, and similar seasonal accessories;

(B) fences;

(C) geotechnical or hydrological conditions;

(D) recreational facilities;

(E) detached structures except the primary garage or carport;

(F) seawalls, break-walls, and docks; or,

(G) erosion control and earth stabilization measures.

(e) **Roof system inspection requirements.**

(1) The inspector shall inspect the:

(A) roof covering;

(B) roof drainage systems;

(C) flashings;

(D) skylights;

(E) chimneys;

(F) attic ventilation covers; and,

(G) other roof penetrations.

(2) The inspector shall describe:

(A) the roof covering;

(B) the inspector shall report;

(C) the number of layers of roof covering;

(D) asphalt/composition shingles over wood shingles; and,

(E) the methods used to inspect the roof.

(3) The inspector is not required to inspect:

(A) the interiors of flues or chimneys;

(B) antennae; or,

(C) other installed accessories.

(f) **Plumbing system inspection requirements.**

(1) The inspector shall inspect:

(A) the interior water supply and distribution systems and components;

(B) the connections, flow and drainage of fixtures, and fittings at bathtubs, showers, sinks, toilets and the exterior hose bibs immediately adjacent to the structure;

(C) the clothes washing machine faucets and drains, unless a washing machine is in place;

(D) drain, waste and vent systems and components;

(E) the shower and bathtub enclosure surfaces;

(F) the water heating equipment, safety devices/valves, clearances, vent systems, flues and chimneys, gas supply piping, and gas shut off valves;

(G) the fuel storage and/or fuel distribution systems; and,

(H) the drainage sumps, sump pumps and related piping.

(2) The Inspector shall describe:

(A) water supply piping materials;

(B) drain, waste, and vent piping materials;

(C) the water heating equipment and the energy sources; ~~and,~~

(D) the location of the main water shut-off, main fuel shut-off and the house sewer cleanout, and

(E) the presence of any shade of yellow corrugated stainless steel tubing ("CSST") flexible gas piping observed during the inspection in which the inspector is not required to identify concealed conditions, components not readily accessible, or any other item excepted from inspection pursuant to 158:70-1-3. If any shade of yellow CSST flexible gas piping is observed, the home inspector shall notify the client, in writing, as follows: "Manufacturers believe the product is safer if properly bonded and grounded as required by the manufacturer's installation instructions. Proper bonding and grounding of the product can only be determined by a licensed electrical contractor."

(3) The inspector is not required to:

(A) inspect the interiors of flues or chimneys, wells, well pumps, or water storage related equipment, water conditioning systems, solar water heating systems, fire and lawn sprinkler systems, or private waste disposal systems,

(B) determine the quantity or quality of the water supply;

(C) determine whether water supply and waste disposal are public or private;

(D) operate safety valves, shut-off valves or washing machine hose connections, if installed appliances are present; or,

(E) use technically exhaustive techniques to determine the water tightness or integrity of shower pans or enclosures.

(g) **Electrical system inspection requirements.**

(1) Except as provided in 158:70-1-3(b), the Inspector shall inspect:

(A) The service drop;

(B) the service entrance conductors, cables, and raceways;

(C) the service equipment and main disconnects;

(D) the service grounding;

(E) the interior components of service panels and sub panels by removing the panel dead front covers;

(F) the branch circuit conductors, over current protection devices and the compatibility of the conductors with the device;

(G) conduit, wiring and splicing including the basement, crawl space and attic;

(H) interior and exterior installed lighting fixtures, switches and ceiling fans;

(I) receptacles including polarity and grounding, ground fault circuit interrupters and arc fault circuit interrupters; and,

(J) exterior electrical components that provide service to a qualifying garage or carport.

(2) The Inspector shall describe:

(A) the amperage and voltage rating of the service;

(B) the wiring methods;

(C) the location of main disconnect(s), distribution panels and sub panels;

(D) the presence of solid conductor aluminum branch circuit wiring; and,

(E) the absence of smoke detectors.

(3) The inspector is not required to:

(A) inspect remote control devices unless the device is the only control device, alarm systems and components, low voltage wiring systems and components or ancillary wiring systems and components not a part of the primary electrical power distribution system;

(B) measure amperage, voltage/voltage drop, or impedance;

(C) insert any tool, probe or testing device inside panels or dismantle any electrical device or control other than to remove the dead front covers of the main and sub panels; or,

(D) test or operate any over current protection device except ground fault and arc fault circuit interrupters.

(h) **Heating, Air conditioning and distribution system inspection requirements.**

(1) Heating systems.

(A) The inspector shall open readily openable access panels

(B) The inspector shall inspect:

(i) the installed heating equipment including backup heating devices;

(ii) controls;

(iii) heating operation;

(iv) burners and burner chambers in fuel fired heating systems;

(v) combustion air provisions;

(vi) gas supply piping and shut off valve;

(vii) electrical supply provisions and disconnects;

(viii) clearances;

(ix) vent systems, flues, and chimneys; and,

(x) bathroom supplemental heating appliances.

(C) The inspector shall describe the heating methods by their distinguishing characteristics and the energy sources.

(D) The inspector is not required to:

(i) inspect the interiors of flues or chimneys, humidifiers or dehumidifiers, solar space heating systems, and heat exchangers;

(ii) measure amperage of electric heating elements.

(2) Air conditioning systems.

(A) The inspector shall open readily openable access panels.

(B) The inspector shall inspect:

(i) installed cooling equipment;

(ii) cooling operation;

(iii) condensate disposal provisions;

(iv) the electrical supply provisions and disconnect; and,

(v) the refrigerant lines.

(C) The inspector shall describe the cooling methods by their distinguishing characteristics and the energy sources.

(D) The inspector is not required to:

(i) verify sizing or component matching; or,

(ii) operate equipment when outdoor temperatures may cause damage to the equipment.

(3) Heat and air conditioning distribution systems.

(A) The inspector shall inspect:

(i) plenums and ducts with associated supports, insulation, supply registers and return grills;

(ii) radiators and piping;

(iii) filters; and,

(iv) main air handlers fans and blowers.

(B) The inspector shall describe the type of conditioned air distribution system.

(C) The inspector is not required to:

(i) inspect electronic air filters, heat reclamation equipment or dampers;

(ii) determine duct leakage or calculate duct sizing; or,

(iii) determine the uniformity, adequacy, or distribution balance of the heat or cooling supply to habitable rooms.

(i) **Interior inspection requirements.**

(1) The inspector shall inspect:

(A) walls, ceilings and floors of the dwelling and garage;

(B) steps, stairways, balconies and railings;

(C) doors and windows including operation, glazing and thermal pane seals;

(D) installed cabinets and countertops; and,

(E) indicators of harmful water penetration or condensation on interior and structural components.

(2) The inspector shall describe the walls, ceilings and floors.

(3) The inspector is not required to inspect:

(A) paint, wallpaper, and other finish treatments;

(B) carpeting and other floor coverings;

(C) window treatments;

(D) the operation of interior door locks, latches and devices; or,

(E) recreational facilities.

(j) **Insulation and ventilation inspection requirements.**

(1) The inspector shall inspect:

(A) insulation and vapor retarders/barriers in unfinished spaces,

(B) ventilation of attics and foundation areas,

(C) mechanical ventilation systems

(D) the clothes dryer exhaust system.

(2) The inspector shall describe:

(A) the insulation and vapor retarders or barriers in unfinished spaces; and,

(B) the absence of insulation in unfinished spaces at conditioned surfaces.

(3) The inspector is not required to:

(A) disturb insulation or vapor retarders or barriers;

(B) operate powered attic vents; or,

(C) determine indoor air quality.

(k) **Appliance inspection requirements.**

(1) The inspector shall inspect the:

(A) food waste disposal;

(B) range/stove, regardless of whether it is an installed or free standing appliance;

(C) cook top;

(D) oven(s);

(E) dishwasher;

(F) ventilation equipment or range hoods;

(G) installed microwave;

(H) trash compactor; and,

(I) gas appliance connectors and shut off valves.

(2) The inspector shall describe the range/stove, cook top and oven(s) by the energy source.

(3) The inspector is not required to:

(A) operate appliances in all modes or self-cleaning cycles; or,

(B) inspect clocks, timers, thermostats or household appliances not listed in these standards.

(l) **Fireplaces and solid fuel burning appliances inspection requirements.**

(1) The inspector shall inspect the:

(A) hearth and hearth extension;

(B) damper;

(C) gas supply; and,

(D) the firebox, vent systems, flues and chimneys.

(2) The inspector shall describe:

(A) the fireplaces;

(B) solid fuel burning appliances; and,

(C) chimneys.

(3) The inspector is not required to:

(A) inspect the interiors of flues or chimneys, the fire screens and doors, the seals and gaskets, the automatic fuel feed devices, the mantels and fireplace surrounds, the combustion make-up air devices, the heat distribution assists whether gravity controlled or

fan assisted or free standing solid fuel burning appliances;

(B) ignite or extinguish fires;

(C) determine draft characteristics; and,

(D) move fireplace inserts, stoves or firebox contents.

158:70-1-4. Sample Forms or Formats

Sample Home Inspection Exclusion form - Per OAC 158:70-1-3(a)(3)(D). The inspector shall report on any systems and components designated for inspection in these standards which were present at the time of the Home Inspection but were not inspected and a reason they were not inspected. See Appendix A of this Chapter.

SUBCHAPTER 9. EXAMINATION APPLICATIONS, EXAMINATIONS, COURSE APPROVAL REQUIREMENTS, INSTRUCTOR REQUIREMENTS, CONTINUING EDUCATION, DENIED APPLICATION APPEAL, SUBMISSION OF RECORDS, SUBSTANTIAL COMPLIANCE AND RECIPROCITY

158:70-9-1. Qualifications and examination applications

Applicants for home inspection license examinations must be eighteen (18) years of age or older and be of good moral character, and every application must be accompanied by evidence of successful completion of ~~fifty (50)~~ninety (90)~~clock~~credit hours of home inspection training that is approved pursuant to 158:70-9-3, or its equivalent.

158:70-9-5. Continuing education

(a) **Continuing education hours.** No home inspection license shall be renewed unless the licensee has completed at least ~~five (5)~~eight (8)~~clock~~credit hours, consisting of no more than two (2) hours of Ancillary Systems topics per year, of continuing education prior to the date of renewal.

(b) **Special approval requirements for continuing education.** All continuing education providers shall abide by the following requirements:

(1) Course content should be designed to update knowledge and improve inspection skills directly related to the components and systems described in Subchapter 1 of this Chapter.

(2) All courses shall be at least two (2) hours in length. Recommended curriculum for Committee approval may cover, but it is not limited to, the following topics related to residential real property of four or fewer residences: (Approval of Continuing Education material is not an endorsement or underwriting of the subject content or the presentation.)

(A) structural systems

(B) foundations, basements, grading and drainage

(C) interior walls, windows, doors, stairways, ceilings and floors

(D) exterior walls, windows, doors, and stairways

(E) exterior coatings, claddings and glazing

(F) roof structure, coverings, penetrations, drainage and attics

(G) porches, decks, driveways and walkways

(H) railings and assistive devices

(I) thermal insulation, air penetration, and moisture barriers

(J) electrical service entrances, panels, branch electrical circuits, connected devices

(K) environmental heating, cooling ventilation, and air conditioning devices, controls and distribution systems.

(L) solid, liquid, and gas fuel heating systems

(M) electrical heating and cooling systems chimneys, ductwork, vents, fans and flues (including dryer vents)

(N) home inspection administrative subjects

(i) Oklahoma home inspection laws and regulations

(ii) Oklahoma Standards of Practice

(iii) ethics

(iv) Home Inspection documentation, forms and contracts

(v) Report writing and legal ramifications of report content

(O) Ancillary Systems

(i) Plumbing systems, controls, and components (including septic systems)

(ii) Water supply system, capacities, and components (drilled wells/community water supplies)

(iii) Swimming pools, spas and hot tubs.

(iv) Solar/wind/generator energy systems

(v) Lawn irrigation systems

(vi) Energy auditing

(3) Unless provided after regular working hours, the training location shall be outside the regular work place.

(4) ~~Each attendee shall complete a course evaluation on a form provided by the Agency.~~ The CEU provider shall return the ~~completed evaluation forms~~sign-in sheets to the home inspection license unit. ~~with the sign-in sheets.~~

(5) Complaint procedure.

(A) A person, government, or private organization may submit a written complaint to the Committee, or its designee, charging a provider of continuing education with a violation of the rules, and specifying the grounds for the complaint.

(B) Complaints must be in writing and include contact information, and shall be filed on the proper complaint form prescribed by the Construction Industries Board, or its designee.

(C) The Committee may consider an unsigned or anonymous complaint for further investigation.

(D) Upon receipt of a signed complaint form, a copy shall be sent to the continuing education provider addressed in the complaint. The continuing education provider shall provide a written response within fifteen days. Upon receipt of the continuing

education provider's written response, both complaint and response shall be considered by the Committee, or its designee, for appropriate action including dismissal of the complaint, further investigation, or a finding of violation of a statute or rule. The Committee, or its designee, shall notify both complainant and continuing education provider of the determination made by the Committee. Failure of the continuing education provider to respond will be considered as a violation of this rule.

(E) If a reasonable cause violation determination is made by the Committee, the Oklahoma Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken including but not limited to all parts of this subsection.

158:70-9-6. Denied application appeal

(a) **Denied instructor/provider application.** If the Committee fails to approve ~~or rejects~~ any proposed instructor or entity seeking to conduct an approved course, the Committee shall give written notice of the rejection and the cause therefore within fifteen (15) days after such decision. The applicant may appeal the decision by filing a written request for a hearing before the Committee within thirty (30) days after notice of denial. The Committee shall set the matter for hearing to be conducted within sixty (60) days thereafter. No part of the application fee is refundable.

(b) **Denied course application.** If the Committee fails to approve ~~or rejects~~ any proposed continuing education offering ~~or~~of~~fifty (50)~~ninety (90) hour home inspection training course, the Committee shall give written notice of the rejection and the cause therefore within fifteen (15) days after such decision to the ~~party applying~~applicant for approval. Upon the written request from ~~such party,~~the applicant, filed within thirty (30) days after such notice of denial, the Committee shall set the matter for hearing to be conducted within sixty (60) days thereafter for an appeal of the determination of the cause for rejection. No portion of the fee is refundable.

APPENDIX A. SAMPLE HOME INSPECTION EXCLUSION FORM [NEW]

(SAMPLE) HOME INSPECTION EXCLUSION FORM

PER OAC 158:70-1-3(a)(3)(D):
The Inspector shall report on any systems and components designed for inspection in these standards which were present at the time of the Home Inspection but were not inspected and a reason they were not inspected.
EXCLUSIONS REQUESTED BY CLIENT PRIOR TO INSPECTION:
(Initials = excluded from inspection)
_____Structural Systems
_____Exterior
_____Roof System
_____Plumbing System
_____Electrical System
_____Heating System
_____Cooling System
_____Interior
_____Insulation & Ventilation
_____Appliances
_____Fireplaces and solid fuel burning appliances
_____Other as noted _____

I, _____, the client, understand that by excluding the above systems or components from mandatory inspection in accordance with Oklahoma Home Inspection Rules (OAC 158:70), relieve the inspector of any responsibility to report on their condition at the time of the inspection and take full responsibility for any future adverse conditions or malfunctions that may have been disclosed at the time I excluded them from inspection.

DATE: _____ CLIENT SIGNATURE_____

INSPECTOR _____LIC#_____

[OAR Docket #13-1051; filed 6-7-13]

TITLE 165. CORPORATION COMMISSION CHAPTER 55. TELECOMMUNICATIONS SERVICES

[OAR Docket #13-1024]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
165:55-1-4. Definitions [AMENDED]
Subchapter 3. Certificates, Reports, And Records
Part 1. Certificates Of Convenience And Necessity
165:55-3-1. Certificate of Convenience and Necessity [AMENDED]
Part 5. Record Requirements
165:55-3-22. Records to be provided to the Commission [AMENDED]
Subchapter 5. Rates And Tariffs
Part 3. Approval And Notice Requirements
165:55-5-11. Type of notices [AMENDED]
165:55-5-12. Reclassification of exchange [REVOKED]
Subchapter 9. Customer Billing And Deposits
Part 3. Credit Requirements
165:55-9-14. Deposits and interest [AMENDED]
Subchapter 13. Operating And Maintenance Requirements
Part 5. Service Quality Standards
165:55-13-20. Responsibility for adequate and safe service [AMENDED]
Subchapter 17. Facilitation of Local Exchange Competition
165:55-17-7. Procedures for negotiation, arbitration and approval of agreements [AMENDED]
Subchapter 23. Wireless Eligible Telecommunications Carrier
Part 1. General Provisions
165:55-23-3. Records to be provided to the Commission [AMENDED]
165:55-23-7. Content of bills [AMENDED]
165:55-23-11. Minimum service standards [AMENDED]
165:55-23-15. Lifeline program [AMENDED]
165:55-23-17. Link-up program [AMENDED]
Part 3. Transmission Objectives
165:55-23-52. Records of trouble reports [AMENDED]
AUTHORITY:
Corporation Commission; Article IX, § 18 Okla. Const., 17 Okla. Stat. §§131 *et seq.*
DATES:
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December 19, 2012, through January 8, 2013
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January 15, 2013, February 7, 2013, and March 14, 2013
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May 17, 2013
Effective:
July 11, 2013
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
Incorporated standards:
Federal Universal Service Fund (47 C.F.R. §54.410)
Federal Truth in Billing Rules (47 C.F.R. §64.2401)
Incorporating rules:
165:55-23-3
165:55-23-7
Availability:
The standards are readily available to the public for examination at the office of the Public Utility Division, Oklahoma Corporation Commission, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Room 580, Oklahoma City, Oklahoma, during regular business hours from 8:00 a.m. to 4:30 p.m., Monday through Friday.
ANALYSIS:
Amendments and additions to existing Commission rules in Chapter 55 were needed to clarify the Commission's rules and allow the agency to establish minimum standards for wireless Lifeline services and, thereby, avoid waste, fraud, and abuse in Oklahoma for both the Oklahoma Universal Service Fund and the federal Lifeline Fund.
The revised rules also ensure that E911/911 public safety answering points will receive notification prior to a new company providing service that should be routed to their E911/911 switch in case of emergency.
CONTACT PERSON:
Kimberly Prigmore, Assistant General Counsel, Office of General Counsel, Oklahoma Corporation Commission, 2101 North Lincoln Boulevard, PO Box 52000, Oklahoma City, OK 73152-2000, telephone: (405-522-1010).

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 11, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

165:55-1-4. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"CLEC" means a Competitive Local Exchange Carrier.

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

"Commission" means the Oklahoma Corporation Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"FCC" means the Federal Communication Commission.

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

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

"ILEC" means an Incumbent Local Exchange Company.

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

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

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

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

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

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

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

"Internet Subscriber Fee" means any fee that is paid to a telecommunications service provider for Internet service that is in addition to the access connection charge.

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

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

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

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

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

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

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

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

"Near reservation" means those areas or communities adjacent or contiguous to reservations which are designated by the Commissioner of Indian Affairs upon recommendation of the local Indian Bureau Superintendent, which recommendation shall be based upon consultation with the tribal governing body of those reservations, as locales appropriate for the extension of financial assistance and/or social services, on the basis of such general criteria as: (1) number of Indian people native to the reservation residing in the area, (2) a written designation by the tribal governing body that members of their tribe and family members who are Indian residing in the area,

are socially, culturally and economically affiliated with their tribe and reservation, (3) geographical proximity of the area to the reservation, and (4) administrative feasibility of providing an adequate level of services to the area. The Commissioner of Indian Affairs shall designate each area and publish the designations in the Federal Register.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"RUS" means the Rural Utility Services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Unbundling" means to provide to any telecommunications service provider nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms and conditions that are just, reasonable and nondiscriminatory.

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

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

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

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

SUBCHAPTER 3. CERTIFICATES, REPORTS, AND RECORDS

PART 1. CERTIFICATES OF CONVENIENCE AND NECESSITY

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

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

(b) **Requirement for Certificate of Convenience and Necessity prior to receiving funding from the Oklahoma Universal Service Fund.** Any provider requesting funding from the Oklahoma Universal Service Fund for the provision of Special Universal Services shall first obtain a Certificate of Convenience and Necessity in the exchange where service is to be provided.

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

(~~c~~d) **Application requirements for Certificate of Convenience and Necessity.** Every telecommunications service provider or IXC making application to the Commission for a Certificate of Convenience and Necessity to provide telecommunications services in the State of Oklahoma shall be required to demonstrate its financial, managerial and technical ability to provide the requested telecommunications services in the State of Oklahoma. An application for a Certificate of Convenience

and Necessity shall include information and attachments which are certified as true and correct by an officer of any corporate applicant, or an authorized representative of an unincorporated applicant.

(1) The application shall contain the following information:

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

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

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

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

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

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

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

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

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

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

(viii) That the applicant understands that before it ceases, discontinues, or curtails operations and/or service, it must file with the Commission and provide each affected customer, in the manner required by the Commission, notice of the intended action, and must also provide notice to any E911/911 Database Management Service Provider, pursuant to OAC 165:55-15-5;

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

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

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

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

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

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

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

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

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

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

(ii) A sole proprietor shall provide financial statements for the last three (3) years, if available,

or other documentation as may be requested by the Commission.

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

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

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

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

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

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

(i) The applicant is authorized to operate;

(ii) Authorization to operate is pending;

(iii) A request for authorization has been denied, including the reason stated for denial, with a certified copy of the denial document attached; and/or,

(iv) Authorization has been revoked, with a certified copy of the revocation document attached.

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

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

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

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

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

(Q) An affirmation that the Applicant will maintain a record of complaints in a manner consistent with OAC 165:55-3-23.

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

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

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

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

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

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

(~~e~~f) **Notice requirements of CCN applications.** Applicants for a Certificate of Convenience and Necessity shall provide Notice of the Application to be given by mail, electronic mail or personal service to the Attorney General of the State of Oklahoma, and the governing body of each Enhanced 911 Public Safety Answering Point (E911 PSAP) operating in the proposed service territory of the Applicant. In addition, at the time the Application is filed, the Applicant shall provide an electronic copy of Notice of the Application, to the Director of the Public Utility Division for posting on the OCC website. The Director of the Public Utility Division will then place the Notice on the OCC website within five (5) business days. The address of the Commission's website is http://www.occeweb.com.

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

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

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

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

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

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

(j) Prior to providing service in Oklahoma, the Applicant shall jointly test interoperability with the 911/E911 PSAPs in their service area and provide verification of interoperability to the Commission and the PSAP.

PART 5. RECORD REQUIREMENTS

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

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

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

(c) **Proof of third-party surety bond, surety bond or irrevocable letter of credit.** Where applicable, not later than May 1 of each year, each telecommunications service provider and IXC which does not have at least one million dollars ($1,000,000) net book value invested in telecommunications plant and/or telecommunications facilities located in the State of Oklahoma, shall provide annually, to the Director of the Public Utility Division, proof of the continuing existence and sufficiency of the required third-party surety bond, surety bond or irrevocable letter of credit providing coverage at a level of at least 110% of customer deposits. Such proof shall be in a format developed by the Director of the Public Utility Division and approved by the Commission.

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

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

(A) One exchange service area per sheet.

(B) Each map shall be on eight and one-half by eleven inches (8.5" x 11") (or larger sheet which folds down to eight and one-half by eleven inches (8.5" x 11"), twenty pounds (20 lbs.) or heavier, white paper.

(C) Each township and range will be specified along the side of the map and as a minimum each corner section will be numbered.

(D) The outline of the exchange service area will be a heavy black line with an "E" every one inch (1") or two inches (2") along the boundary.

(E) The name of adjacent incumbent LEC exchanges will be indicated on the exchange map to identify their relative location.

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

(A) Application number.

(B) Maps showing the changes in contrasting colors.

(C) Metes and bounds of changes.

(D) Proposed orders (one for each exchange) with complete metes and bounds of the revised exchange(s).

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

(f) **Contracts and agreements.** Upon request by the Director of the Public Utility Division, a TSP or IXC shall provide a copy of a contract entered into by the TSP or IXC for regulated services.

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

(1) The update shall include the name(s), physical street address(es), electronic mail addresses ~~and/or~~ and telephone number(s) of the designated individual(s).

(2) The contact name(s) provided pursuant to this subsection shall be the individual(s) primarily responsible for:

(A) Providing customer service;

(B) Repair and maintenance;

(C) Answering complaints;

(D) Authorizing and/or furnishing refunds to customers; and,

(E) Tariff issues.

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

SUBCHAPTER 5. RATES AND TARIFFS

PART 3. APPROVAL AND NOTICE REQUIREMENTS

165:55-5-11. Type of notices

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

(b) **Notice of tariff revisions and new service offerings by ~~IXCs and~~ telecommunications service providers.** ~~IXCs and telecommunications~~Telecommunications service providers shall serve proposed tariff revisions for switched access, payphone access, or E911/911 services on the Office of the Attorney General at the time of their filing with the Commission, and shall provide a copy of their proposed tariff revisions pursuant to OAC 165:55-5-10 to each IXC and telecommunications service provider that has previously requested in writing to receive such filings. Notice of tariff revisions to E911/911 services shall also be provided to the governing body of each E911/911 Public Safety Answering Point operating in the service territory of the TSP.

(c) **Notice requirements.** All entities seeking to interconnect with the ILEC, including CLECs and Wireless providers, shall provide Notice of the Application to be given by mail, electronic mail or personal service to the Attorney General of the State of Oklahoma and each E911 Public Safety Answering Point within the territory of the service area affected by the proposed Agreement. Each governmental entity operating an E911 PSAP that wishes to receive notice of interconnection agreement approvals shall register its contact persons with the Commission.

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

(1) Prominent display on the end-user's bill;

(2) Direct mailing;

(3) Prominent display on an insert in the end-user's bill; or

(4) Any other method approved by the Director of the Public Utility Division.

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

(1) Direct mailing or email;

(2) Through a website posting of all customer notifications and Terms of Service changes; or

(3) Identification on the website posting of the effective date of the Terms of Service.

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

(1) Written notice of the restriction/limitation and clear and concise explanation of when the penalty is imposed will be given to the end-user(s) prior to or concurrent with the initial bill for the service offering which contains the restriction/limitation. The notice will advise the end-users of the exact restriction/limitation and the penalty assessed.

(2) The notice shall be provided by any of the following:

(A) Prominent display on the end-user's bill;

(B) Direct mailing;

(C) Fulfillment and/or welcome packages;

(D) Prominent display on an insert in the end-user's bill; or

(E) Any other method approved by the Director of the Public Utility Division.

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

165:55-5-12. Reclassification of exchange [REVOKED]

~~Reclassification of an exchange into higher or lower rate brackets shall be made in accordance with tariff provisions and subject to approval by the Director of the Public Utility Division of the Commission as being in compliance with approved tariffs. Such reclassification shall be made without further order of the Commission.~~

SUBCHAPTER 9. CUSTOMER BILLING AND DEPOSITS

PART 3. CREDIT REQUIREMENTS

165:55-9-14. Deposits and interest

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

(1) The residential plan shall conform to all subsections of this Section.

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

(b) No telecommunications service provider shall require a deposit of a residential end-user who has received the same or similar type of classification of service for twelve (12) consecutive months and to whom service was not terminated for nonpayment nor was payment late more than twice nor was a check for payment of a telecommunications service account dishonored. The twelve (12) months service period shall have been within eighteen (18) months prior to the application for new service. The telecommunications service provider's plan may establish other relevant criteria which will qualify the end-user for nonpayment of a deposit.

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

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

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

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

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

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

(1) For all consumers deposits returned more than thirty (30) days after receipt of the deposit, the interest rate shall be established the 1st day of January of each year to equal the average of the weekly percent annual yields of

one (1) year U.S. Treasury Securities for September, October, and November of the preceding year. The interest rate shall be rounded to the nearest basis point.

(2) Provided, however, that after the interest rate is initially established pursuant to this subsection, the interest rate(s) shall not change unless the application of the formula in paragraphs (e)(1) results in a change in interest rate(s) that is/are greater than ~~two hundred (200)~~ fifty (50) basis points.

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

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

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

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

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

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

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

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

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

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

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

(2) The amount and date of the deposit.

(3) Each transaction concerning the deposit.

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

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

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

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

SUBCHAPTER 13. OPERATING AND MAINTENANCE REQUIREMENTS

PART 5. SERVICE QUALITY STANDARDS

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

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

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

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

(d) The dominant criteria for these standards is voice grade service quality.

(e) All telecommunications service providers, that install temporary drops and temporary cables as interim facilities to

ensure service to customers pending permanent placement of those facilities, are required to:

(1) Permanently remove, bury, or install drops and temporary cables as soon as practical, but in no circumstances shall that time exceed ninety (90) days without notification and justification being provided to the Director of the Consumer Services Division prior to expiration of the ninety (90) day period.

(2) Keep records of all temporary drops and temporary cables in each of its exchanges and provide the records to the Commission upon request.

SUBCHAPTER 17. FACILITATION OF LOCAL EXCHANGE COMPETITION

165:55-17-7. Procedures for negotiation, arbitration and approval of agreements

(a) **Agreements arrived at through voluntary negotiations.** Upon receiving a request for interconnection, services, or network elements pursuant to OAC 165:55-17-5, an incumbent LEC may negotiate and enter into a binding agreement with the requesting telecommunications service provider or providers without regard to the standards set forth in OAC 165:55-17-5 (b) and (c). The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement. The agreement, including any interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1996 (February 8, 1996), shall be filed with the Commission under subsection (e) of this Section.

(b) **Mediation.** Any party negotiating an agreement under this Section may, at any point in the negotiations, ask the Commission to participate in the negotiations and mediate any differences arising in the course of the negotiations. The Public Utility Division shall provide the mediator, unless otherwise directed by the Commission.

(c) **Agreements arrived at through compulsory arbitration.** During the period from the 135th to the 160th day (inclusive) after the date on which an incumbent LEC receives a request for negotiation under this Section, the incumbent LEC or any other party to the negotiation may seek arbitration at the Commission of any open issues. Nothing in this subsection shall preclude negotiating parties from filing a joint application.

(1) **Responsibilities of the applicant with regard to the Commission.** A party that seeks arbitration from the Commission pursuant to this subsection shall, contemporaneously with the filing of its application, provide the Commission all relevant documentation concerning:

(A) The unresolved issues and the position of each of the parties with respect to those issues; and,

(B) Any other issue discussed and resolved by the parties.

(2) **Responsibility of the applicant with regard to other parties.** A party that seeks arbitration from the Commission pursuant to this subsection shall, provide a copy of the application and any documentation to the other party or parties not later than the day on which the application is filed.

(3) **Opportunity to respond.** A nonpetitioning party to a negotiation under this Section may respond to the other party's petition and provide such additional information as it wishes within twenty-five (25) days after the Commission receives the petition.

(4) **Action by the Commission.** When an application for arbitration is filed, the Commission will utilize the following procedures.

(A) The Commission will limit its consideration of any petition under this subsection, and any response thereto, to the issues set forth in the petition and in the response, if any, filed under paragraph (3) of this subsection.

(B) The Commission may require the petitioning party and the responding party to provide such information as may be necessary for the Commission to reach a decision on the unresolved issues. If any party refuses or unreasonably fails to respond on a timely basis to any request from the Commission, then the Commission may proceed on the basis of the best information available to it, from whatever source derived.

(C) The Commission will resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required to implement subsection (d) of this Section upon the parties to the agreement, and shall conclude the resolution of any unresolved issues not later than nine (9) months after the date on which the telecommunications service provider received the request under this Section.

(5) **Refusal to negotiate.** The refusal of any other party to the negotiation to participate further in the negotiations, to cooperate with the Commission in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the Commission shall be considered a failure to negotiate in good faith.

(d) **Standards for Arbitration.** In resolving by arbitration, under subsection (c) of this Section, any open issues and imposing conditions upon the parties to the agreement, the Commission will:

(1) Ensure that such resolution and conditions meet the requirements of OAC 165:55-17-5 and applicable FCC requirements;

(2) Establish rates for interconnection, services, or network elements consistent with OAC 165:55-17-27; and,

(3) Provide a schedule for implementation of the terms and conditions by the parties to the agreement.

(e) **Approval by the Commission and grounds for rejection.** Any interconnection agreement adopted by negotiation or arbitration shall be submitted for approval by filing an application with the Commission's Office of the Court Clerk. After review of the application, the Commission will approve or reject the agreement, with written findings as to any deficiencies. The Commission will only reject an agreement, or any portion thereof, if it finds that:

(1) The agreement, adopted by negotiation under subsection (a) of this Section, either:

(A) Discriminates against a telecommunications service provider that is not a party to the agreement; or,

(B) The implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.

(2) The agreement adopted by compulsory arbitration under this Section does not meet the requirements of OAC 165:55-17-5 or the agreement does not meet the standards in OAC 165:55-17-27.

(3) **Notice requirements.** Applicants seeking approval of an Interconnection Agreement shall provide Notice of the Application to be given by mail,electronic mail or personal service to the Attorney General of the State of Oklahoma.

(f) **Reservation of authority.** Notwithstanding subsection (e), the Commission, consistent with the requirements of 47 § 253, shall enforce other requirements of State law in its review of an agreement, including requiring compliance with Subchapter 13 of this Chapter.

(g) **Statement of generally available terms.** In conformance with 47 U.S.C. § 252(f), SWBT may prepare and file with the Commission a statement of the terms and conditions that SWBT generally offers within Oklahoma to comply with the requirements of 47 U.S.C. § 251, and the regulations thereunder and the standards applicable under this Section. In the event SWBT files such a statement, the Commission will:

(1) Approve the statement provided the statement complies with Subchapter 13 of this Chapter, OAC 165:55-17-5 and OAC 165:55-17-27 and is consistent with 47 U.S.C. § 253;

(2) Complete the Commission's review of SWBT's statement not later than 60 days after the date of such submission, (including any reconsideration thereof), unless SWBT agrees to an extension of the period for such review; or permit such statement to take effect.

(h) **Continued review of SWBT's statement of generally available terms.** In the event the Commission has permitted the statement of SWBT to take effect pursuant to paragraph (2) of subsection (g), the Commission may continue to review said statement after it is effective and the Commission may approve or disapprove said statement if it does not meet the requirements of paragraph (1) of subsection (g).

(i) **Duty to negotiate not affected.** The submission or approval of a statement under subsection (g) shall not relieve SWBT of its duty to negotiate the terms and conditions of an agreement pursuant to OAC 165:55-17-5.

(j) **Consolidation of proceedings.** Where not inconsistent with the requirements of the Federal Telecommunications Act of 1996, the Commission may, to the extent practical, consolidate proceedings under OAC 165:55-17-5 and OAC 165:55-17-7, in order to reduce administrative burdens on telecommunications service providers, other parties to the proceedings, and the Commission in carrying out its responsibilities under the Telecommunications Act of 1996.

(k) **Availability for public inspection.** The Commission will make a copy of each agreement approved under subsection (e) and each statement approved under subsection (g) available for public inspection and copying within 10 days after the agreement or statement is approved. The Commission will charge the fees set forth in OAC 165:5-3-1 to cover the costs of processing an application and copying.

(l) **Availability to other telecommunications service providers.** A telecommunications service provider shall make available any interconnection, service, or network element provided under an agreement approved under this Section to which it is a party, to any other requesting telecommunications service provider; upon the same terms and conditions as those provided in the agreement.

SUBCHAPTER 23. WIRELESS ELIGIBLE TELECOMMUNICATIONS CARRIER

PART 1. GENERAL PROVISIONS

165:55-23-3. Records to be provided to the Commission

(a) ~~**Tariffs or service offerings.**~~**Terms, conditions and rates for Supported Services.** Prior to any wireless carrier, who has been designated an ETC, requesting funds from the Federal Universal Service Fund (FUSF), the Oklahoma Universal Service Fund (OUSF), or the Oklahoma Lifeline Fund (OLF), and within thirty (30) days of receiving ETC status and prior to commencing to provide the Supported Services, the wireless ETC shall make an informational filing with the Commission of a complete set of its ~~tariffs or service offerings containing all of~~ terms, conditions and rates for its Supported Services. A wireless ETC must post its Terms and Conditions and rates ("Lifeline product") on its website, and may elect to post all of its terms, conditions and rates for its Supported Services on its website or maintain a current copy of its terms, conditions and rates for its Supported Services with the Commission. However, any modification of an ETC's terms, conditions and rates for its Lifeline servicer, including modifications to existing plans and new plans, must be submitted to the Director of PUD 15 days prior to the effective date of such modification for the purpose of the Commission determining whether the modification is in the public interest. Unless the ETC receives written notification that its modification is NOT IN THE PUBLIC INTEREST within 15 days after its submission, then the submission is deemed to be in the public interest and may be implemented. If an ETC seeks a plan that has been determined by the Director of the PUD to not be in the public interest, an application may be filed with the Court Clerk and a determination by Commission order may be sought. Failure to comply with this Section may result in the filing of an application by the Director of the Public Utility Division to revoke the wireless carrier's ETC designation.

(b) **Location of records.** All records including terms, conditions and rates for its Supported Services, required by this Subchapter shall, at the option of the wireless ETC, be kept

at the general office of each wireless ETC and shall be made available to the Commission or its authorized representative upon reasonable request. ~~Each wireless ETC governed by this Subchapter shall keep all of its books and records in accordance with good business practices and as required by this Subchapter, and at such place as they are normally kept in the usual course of business.~~ The wireless ETC shall keep the Commission advised as to the location of these records and shall make them available to the Commission at reasonable times for examination and inspection at a location designated by the Commission.

(c) **Retention of certification records.** All records, including the signup form showing proof of eligibility and a report from the third party verification system that shows the identity and address of the Lifeline customer was verified (unless the ETC has obtained a waiver from the requirement to utilize a third party verification system),~~required by this Subchapter~~ shall be preserved for ~~two (2)~~a minimum of five (5) years.

(d) **Required information to be reviewed.** At the time a prospective Lifeline subscriber signs up for initial service, each ETC shall obtain:

(1) a legible copy of the subscriber's sign up form showing proof of eligibility;

(2) the subscriber's current physical address;

(3) information necessary to comply with 47 C.F.R. § 54.410; and

(4) government issued photo identification unless the ETC utilizes a third party verification system that has been approved by the Director of the Public Utility Division.

(~~d~~e) **Contact names.** Each wireless ETC shall notify, in writing, the Director of the Public Utility Division and the Director of the Consumer Services Division within thirty (30) days of a change in the company-designated contacts for Public Utility Division and Consumer Services Division issues.

(1) The update shall include the name(s), address(es) and/or telephone number(s) of the designated individual(s).

(2) The contact name(s) provided pursuant to this subsection shall be the individual(s) primarily responsible for:

(A) Providing customer service;

(B) Repair and maintenance;

(C) Answering complaints;

(D) Authorizing and/or furnishing refunds to customers; and,

(E) ~~Tariff issues~~Terms, conditions and rates of Supported Services.

(~~e~~f) **Other information.** Each wireless ETC shall promptly furnish such other information as the Commission Staff may reasonably request, unless otherwise ordered by the Commission.

~~(f) **Annual affirmation and proof of compliance with the 911 Wireless Number Act.** Each wireless ETC shall provide to both the Director of the Public Utility Division and the Attorney General an annual written affirmation, signed before a Notary Public by an individual with the authority to bind the wireless ETC, affirming compliance with its obligations set forth in 63 O.S. § 2841 *et seq.* Upon request by either the Director of the Public Utility Division or the Attorney General of the State of Oklahoma, the wireless ETC shall provide supporting documentation of compliance.~~

(g) **Annual certification under 47 CR § 54. 314 and Reporting of Universal Service Offerings.** Each wireless ETC shall submit documentation, as necessary and requested by the Director of the Public Utility Division, for the Commission to file an annual certification with the Administrator of the federal USF and the FCC stating that all federal high-cost support provided to such carriers within that State will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Such submissions shall be received by the Commission no later than ~~September~~August 1 of each year or upon such other date as is agreed upon

between the Commission and the wireless ETC.

(1) The wireless ETC shall file a report, on a date agreed upon by the wireless ETC and the Commission, which includes:

(A) A notarized statement that the wireless ETC's Universal Service offering(s) in designated service areas of Oklahoma contain the services required under the Act and Federal Rules for the receipt of USF funds, and

(B) A description of all the wireless ETC's rate plans, setting forth the rates, minutes of use and terms and conditions of service of said plans, along with confirmation that each such plan provides the Supported Services.

(2) The wireless ETC shall include in the report information specific to designated service areas of Oklahoma including the amount of federal universal service funds received, a description of how such funds have been used and a certification that such funds have been used only for the provision, maintenance and upgrading of facilities and services for which the support is intended. If requested by the Commission, the wireless ETC shall make available to the Commission all documents and other information regarding such expenditures for verification purposes.

~~(h) **New Service.** If the wireless ETC provides a new service to customers in Oklahoma subsequent to the annual reporting date set forth in this Section, it will within thirty (30) days of first making such service available to customers, file an affidavit, signed by an individual authorized to bind the company, stating the information set forth above with respect to such service.~~

(~~i~~h) **Annual report of operations.** No later than May 1 each year, unless otherwise determined by the Commission, each wireless ETC shall provide an annual report of operations for the preceding calendar year, to the Director of the Public Utility Division, in a format approved by the Director of the Public Utility Division. In addition, each wireless ETC shall provide a copy of any annual report required to be filed with any federal regulatory agency(ies). As a component part of the annual report of operations, each wireless ETC shall attach a copy of its Annual Report to Stockholders. All non-publicly available information included in the annual report will be considered confidential by the OCC.

(~~j~~i) **Complaints report.**

(1) Each wireless ETC shall maintain a record of customer complaints that ~~have been~~ it has received.~~by the company in a manner that includes, at a minimum:~~

~~(A) The end-user name;~~

~~(B) The account number;~~

~~(C) The applicable complaint code;~~

~~(D) The date the complaint was filed; and,~~

~~(E) The amount of refund, if any, given.~~

~~(2) If the account number only is utilized, a cross-reference with the end-user's name must also be readily available.~~

~~(3) The categories of complaints to be used shall be negotiated between the wireless ETC and the Director of the Consumer Services Division, subject to the approval of the Commission. Lists of the suggested customer complaint codes are attached as Appendices B and C to this Chapter.~~

~~(4) Each complaint shall count as a separate report regardless of whether subsequent reports relate to the same physical defect, difficulty, or dissatisfaction with the provision of the wireless carrier's services.~~

~~(5) The wireless ETC shall submit annually a customer complaint report containing a record of trouble/complaint calls from the wireless ETC's Oklahoma customers and/or such other information that indicates the nature of the customer's service complaint.~~

(~~6~~2) The wireless ETC will provide complete information and such other information as may be requested, from time to time, by the Commission Staff. These should be maintained for a period of no less than two (2) years.

(~~k~~j) **Report attestation.** All reports required by this subchapter to be submitted to the Commission shall be attested to by an officer or authorized agent of the wireless ETC.

(~~l~~k) **Due dates of reports.** All periodic reports required by this Commission must be received on or before the following due dates unless otherwise specified in this Chapter or unless otherwise agreed to by the Director of the Public Utility Division. Special and additional reports - As may be prescribed by the Commission.

~~(1) Annual affirmation and proof of compliance with the Wireless 911 Emergency Number Act - One hundred twenty (120) days after the end of the reporting period of the Wireless ETC. The affirmation shall include a verification that the information contained in the E911 emergency database has been reconciled with the information maintained by the company.~~

~~(2) Special and additional reports - As may be prescribed by the Commission.~~

(~~m~~l) **Name changes and/or trade name additions and/or address changes.** Each wireless ETC shall file with the Commission an application to reflect a change to the name and/or change, deletion or addition of a trade name under which the wireless ETC will be doing business in the State of Oklahoma, and/or change of address that shall become effective, without Commission order, the date of filing such an application, provided the filing contains the attestation required by paragraph (5) of this Subsection. The request for name change or request for change, addition, or deletion of a trade name shall be accompanied by the following, as applicable:

(1) An amended Certificate of Incorporation effecting a change of name pursuant to 18 O.S. § 1076, 1077 or 1031;

(2) A Trade Name Report filed with the Secretary of State as provided in 18 O.S. § 1140;

(3) A Withdrawal of Trade Name Report filed with the Secretary of State as provided in 18 O.S. § 1140.1;

(4) A Transfer of Trade Name Report filed with the Secretary of State as provided in 18 O.S. § 1140.2; and,

(5) An attestation that no revisions are being made, except for the name change or change, addition or deletion of a trade name of the Wireless ETC.

165:55-23-7. Content of bills

Wireless ~~ETCs~~ETC bills ~~shall develop a bill design that can be easily interpreted by their customers and complies with federal billing requirements~~ shall comply with the Federal Truth in Billing Rules, 47 C.F.R. § 64.2401, for each Supported Service.

165:55-23-11. Minimum service standards

(a) The purpose of this Section is to create a uniform standard governing the minimum components of the Supported Services for all end-users of wireless ETCs. Supported Services shall be offered by each wireless ETC pursuant to OAC 165:55-23-15 and 165:55-23-17.

(~~1~~b) Each wireless ETC shall make available to each end-user subscribing to its Supported Services within its ETC designated service area the following service features~~:~~.Services designated for support~~.~~: Voice Telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide:

~~(A) Local usage for Supported Services at uniform rates for end-users of a given class within its designated service area;~~

~~(B) Dual tone multi-frequency signaling or its functional equivalent;~~

~~(C) Single party service or its functional equivalent:~~

~~(D) Access to emergency services;~~

~~(E) Emergency telephone number services capable of automatic number identification, automatic location identification and call routing facilities to facilitate public safety response; e.g., Enhanced 911 Service, where the local government agency serving the end-user has in place a Public Safety Answering Point;~~

~~(F) Access to interexchange service;~~

~~(G) Access to telecommunications relay services by dialing 711;~~

~~(H) Access to Directory Assistance service;~~

~~(I) Access to operator services;~~

~~(J) Toll limitation and/or blocking for qualifying low-income consumers; and~~

~~(K) Unlimited local calling for Lifeline subscribers.~~

(1) voice grade access to the public switched network or its functional equivalent;

(2) dual tone multi-frequency signaling or its functional equivalent;
(3) local usage for supported services at uniform rates for end-users of a given class within its designated service area;
(4) unless approved by Commission order, at least one Lifeline plan containing unlimited anytime minutes of use for local service on Tribal Land;
(5) unless otherwise approved by Commission order, at the ETC's option and in addition to the unlimited minute Lifeline plan, additional Lifeline plans containing at least 1,000 minutes of use for local service on Tribal Land or 500 minutes of local use on non-Tribal Land may be offered.

165:55-23-15. Lifeline program

(a) Each wireless ETC shall file informational ~~tariffs~~terms, conditions, and rates with the Commission implementing a program for which qualifying low-income end-users pay reduced charges as a result of the Lifeline support amount described in (e) below.

(b) The wireless ETC shall offer toll restriction to all qualifying low-income end-users at the time such end-user subscribes to Lifeline service. If the end-user elects to receive toll restriction, that service shall become part of that end-user's Lifeline service. Wireless ETCs may not collect a deposit in order to initiate Lifeline service if the qualifying low-income end-user voluntarily elects toll restriction, where available, from the wireless ETC. If toll restriction is unavailable, or if it is available and the qualifying low-income end-user does not elect toll restriction, the wireless ETC may charge a deposit as detailed in OAC 165:55-9-14.

(c) Each wireless ETC shall publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.

(d) Qualifying end-users must meet the eligibility criteria set out in OAC 165:59-9-3.

(e) For a qualifying low-income end-user who is not an eligible resident of Tribal lands, the Lifeline support amount shall be sufficient to cause the rate paid by the end-user to be equivalent to the rate the end-user would pay for Lifeline service had the end-user received Lifeline service from the Incumbent LEC in whose service territory the end-user would receive wireline local exchange service.

(f) The wireless ETC shall instruct applicants to the Lifeline program to indicate, at the time of application, in writing, all qualifying programs under which the applicant is eligible for or receives assistance or benefits.

(g) The wireless ETC must provide access to its own customer service department by dialing 611 from the wireless handset or have a toll free number for contacting the ETC programmed in the phone and clearly identified.

(h) All enrollment in any Lifeline Services from any outdoor mobile location is prohibited unless the following conditions are met:

(1) There are at least two banners identifying the name of the ETC, in print that is readable from at least 30 feet away;
(2) The banners are at least 3 foot by 5 foot in size and the identification of the ETC takes up at least 50 percent of the banner;
(3) Employees must wear a shirt that has the name of the ETC on it permanently affixed to the shirt,
(4) The available terms, conditions and rates for the Lifeline product(s) must be prominently posted at the location where the marketing is taking place;
(5) The marketer must have permission from either the owner of the property where the marketing is taking place or from the individual responsible for the property;
(6) The marketer must have all required city and county licenses necessary for selling a service at that location; and
(7) The marketing must be done in a manner that it does not create a traffic hazard or distraction.
(8) Marketing may only be done from a tent of at least 10 foot x 10 foot in size or from an enclosed trailer or panel truck that has the name of the ETC permanently affixed on the truck or trailer in letters that are at least 18 inches in height.
(9) The ETC must provide PUD a list of locations by email where mobile marketing is taking place, including the date, time and location, prior to the mobile marketing taking place or maintain an active phone number the Commission can call or a web site the public can view, that identifies all mobile marketing locations and times for at least the following three days;
(10) The ETC has obtained a waiver from the Director of the Public Utility Division regarding a specific requirement of this paragraph.

(i) Any wireless handset provided in conjunction with the Lifeline Service must clearly identify the provider of the service.

(j) An ETC may not provide Lifeline Service purely by resale without a Commission order.

(k) An approved Lifeline product may not be modified without submitting the modification to the Director of the Public Utility Division at least 15 days prior to the effective date of the proposed change for the purpose of receiving a determination whether the modification is in the public interest. Unless the ETC receives written notification that its modification is NOT IN THE PUBLIC INTEREST within 15 days after its submission, the submission is deemed to be in the public interest and may be implemented.

(l) The ETC shall utilize a third party verification system that has been approved by the Director of PUD to verify the customer's identity and address, or obtain a waiver from the Director of the Public Utility Division from this requirement.

(m) The ETC must retain a copy of the signed application for Lifeline Service, and any recertification information for five (5) years.

(n) The ETC shall maintain a database sufficient to identify any duplicates among all companies affiliated with the ETC.

(o) Any Lifeline plan on Tribal Land must include a minimum of 1000 minutes of local voice use or unlimited domestic calling, to be considered in the public interest. Any Lifeline plan on non-Tribal Land must include a minimum of 500 minutes of local voice usage to be considered in the public interest.

(p) All marketing efforts must clearly identify the ETC actually providing the Lifeline Service.
(q) In addition to other remedies available to the Commission, violations of the marketing rules may result in a minimum of a 30 days suspension of an ETC's ability to sign up new customers.

165:55-23-17. Link-up program

(a) Each wireless ETC providing service on Tribal Land and receiving High Cost Support shall file informational tariffs that offer a Link-up assistance program. This program shall offer:

~~(1) For a qualifying low-income end-user who is not a resident of a reservation or does not reside near reservation lands, a reduction in the Wireless ETC's customary charge for commencing wireless telecommunications service for a single wireless unit billed at an end-user's principal place of residence. This program will offset one half of the initial connection fee or $30.00, whichever is less. Eligibility criteria for this program shall be the same as OAC 165:59-9-3.~~

(~~2~~1) For an eligible resident living on ~~or near a reservation~~ Tribal Land, a reduction of up to ~~$70.00, in addition to the reduction in (1) above to cover 100% of the charges between $60.00 and $130.00 for installation of initial service billed at the end-user's principal place of residence.~~100% of the first $100 in charges for installation of initial service billed at the end-user's principal place of residence.

(~~3~~2) A deferred payment plan for the charges assessed for initiating service for which the end-user does not pay interest. The interest charges not assessed to the end-user shall be for connection charges up to $200.00 that are deferred for a period not to exceed one year. Charges assessed for initiating service include any charges that the wireless ETC customarily assesses to connect end-users. These charges do not include any security deposit requirements.

(b) A qualifying low-income end-user who is a resident of a reservation or resides near reservation lands may choose one or both of the programs set forth in (a)(1) and (a)(2) above of this Section. An eligible resident living on or near a reservation may participate in the programs set forth above.
(c) A wireless ETC shall allow an end-user to receive the benefit of the Link-up program for a second or subsequent time only for service billed at a principal place of residence with an address different from the residence address at which the Link-up assistance was provided previously.
(d) A wireless ETC shall publicize the availability of Link-up support in a manner reasonably designed to reach those likely to qualify for the support.
(e) The end-user qualification criteria for Link-up shall be the same as the criteria established for Lifeline in accord with OAC 165:59-9-3.

PART 3. TRANSMISSION OBJECTIVES

165:55-23-52. Records of trouble reports

(a) Each wireless ETC shall make a full and prompt investigation of every trouble report made to it by its end-users, either directly or through the Commission.
(~~a~~b) The wireless ETC shall maintain its network so as to minimize customer trouble reports for Supported Services in an economical manner, but shall not exceed eight reports per one hundred (100) customers per month per service area averaged over a three-month period. An occurrence of a violation of this procedure shall be considered as each day in the month for which the three-month average of trouble reports for that month and the preceding two months exceed this criteria for the service area in question.
(~~b~~c) The response of a wireless ETC to customer trouble reports shall be eighty-five percent (85%) of all trouble reports cleared within twenty-four (24) hours.

[OAR Docket #13-1024; filed 6-6-13

TITLE 165. CORPORATION COMMISSION CHAPTER 59. OKLAHOMA UNIVERSAL SERVICE

[OAR Docket #13-1025]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
165:59-1-4. Definitions [AMENDED]
Subchapter 3. Oklahoma Universal Service Fund
Part 3. Oklahoma Universal Service Fund
165:59-3-14. Eligibility to receive OUSF funding [AMENDED]
Part 5. Administration of the OUSF
165:59-3-38. Violations [AMENDED]
Part 9. Requests for OUSF Funding
165:59-3-60. Requests for funding from the OUSF [AMENDED]
165:59-3-62. Procedures for requesting funding from the OUSF [AMENDED]
165:59-3-64. Identifying and measuring the level of OUSF funding [AMENDED]
Subchapter 7. Special Universal Services
165:59-7-1. Reimbursement from the OUSF for Special Universal Services [AMENDED]
165:59-7-6. Telemedicine access for eligible healthcare entities [AMENDED]
165:59-7-8. Internet access to public schools and libraries [AMENDED]
165:59-7-17. Disclosure on bill regarding provided Special Universal Services [AMENDED]
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Part 1. Lifeline Service Program
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165:59-9-3. Lifeline Service Program [AMENDED]
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Amendments and additions to existing Commission rules in Chapter 59 were needed to better define certain terms and to add others. The amendments also update the statutory citations within the rules. The amendments also clarify processes for providing and receiving Special Universal Services. It is anticipated that the process regarding discontinuing or reducing funding to current recipients of telemedicine funding will encourage eligible healthcare entities to make alternative arrangements for funding once a determination is made by the Commission regarding recertification. The amendments also place additional requirements on those telecommunication carriers receiving support from the Oklahoma Lifeline Fund for the provision of Lifeline services, in order to eliminate waste, fraud, and abuse within the program.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

165:59-1-4. Definitions

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

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

"Administrator" means the person(s) or entity(ies) responsible for administering the Oklahoma Universal Service Fund and/or the Oklahoma Lifeline Fund.

"Bona fide request" means a written request delivered to a telecommunications carrier requesting services provided for in this Chapter.

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

"Commercial mobile radio serviceprovider" means a carrier who provides wireless telecommunications services.

"Commission" means the Oklahoma Corporation Commission.

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

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

"Customer" or **"Subscriber"** means any person, firm, partnership, cooperative corporation, corporation or lawful entity that receives telecommunications services.

"Eligible healthcare entity" means a not-for-profit hospital; county health department; city-county health department; <u>not-for-profit mental health and substance abuse facility as defined in this Section;</u> and federally qualified health center in Oklahoma. <u>Eligible healthcare entity also includes telemedicine services provided by the Oklahoma Department of Corrections at facilities identified in 57 O.S. § 509.</u>

"Eligible local exchange telecommunications service provider" means any incumbent LEC that was designated as an eligible local exchange telecommunications service provider pursuant to OAC 165:55-17-29 and any telecommunications service provider that has been determined to be an eligible local exchange telecommunications service provider pursuant to OAC 165:59-3-14.

"End-User Common Line Charge" means the flat rate monthly interstate access charge required by the Federal Communications Commission that contributes to the cost of local service.

"Enhanced service" means a service that is delivered over communications transmission facilities and that uses computer processing applications to:

(A) Change the content, format, code, or protocol of transmitted information;

(B) Provide the customer new or restructured information; or,

(C) Involve end-user interaction with information stored in a computer.

"Enhanced service provider" means a provider of enhanced service.

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

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

"FCC" means the Federal Communications Commission.

"Federally Qualified Health Center ("FQHC")" means an entity which

(A) is receiving a grant under section 330 of the Public Health Service Act (PHS) [42 U.S.C. 254b],

or is receiving funding from such a grant under a contract with the recipient of such a grant and meets the requirements to receive a grant under section 330 of such Act [42 U.S.C. 254b]; or

(B) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, is determined by the Secretary of the Department of Health and Human Services ("HHS") to meet the requirements for receiving such a grant; or

(C) was treated by the Secretary, for purposes of part B of Section 330, as a comprehensive Federally funded health center as of January 1, 1990; or

(D) is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act [25 U.S.C. 1651 et seq.].

"Free of Charge" means 100% discount off the amount of the tariffed rate or charge, recurring and nonrecurring, directly attributable to the telecommunications line or wireless connection, used to provide the Special Universal Service. All applicable taxes and regulatory fees shall apply to the undiscounted rate or charge, but shall not be recoverable from the OUSF.

"High cost area" means an area where actual costs exceed Commission- or Legislatively-authorized rates for Primary Universal Services.

"Incumbent local exchange telecommunications service provider" or "Incumbent local exchange carrier" or "ILEC" means, with respect to an area or exchanges, any telecommunications service provider furnishing local exchange service in such area or exchanges within this state on July 1, 1995, pursuant to a certificate of convenience and necessity or grandfathered authority.

"Internet" means the international research-oriented network comprised of business, government, academic and other networks.

"Internet Subscriber Fee" means any fee that is paid to a telecommunications service provider for internet service that is in addition to the access connection charge.

"Lifeline Service Program" means the federal and state program designed to keep low-income subscribers on the telecommunications network.

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

"Local exchange telecommunications service provider" or "telecommunications service provider" or "TSP" means a company holding a certificate of convenience and necessity from the Commission to provide local exchange telecommunications service.

"Network" includes a telecommunications service provider's or telecommunication carrier's facilities used to originate and terminate traffic.

"Not-for-profit hospital" means:

(A) A hospital established as exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C. Section 501(c)(3)~~;~~, or

(B) A not-for-profit hospital owned by a municipality, county, or the state, that is primarily funded by county, state or federal support, located in this state, ~~and~~that is devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care of patients admitted overnight or longer in order to obtain medical care, surgical care or obstetrical care.

"Not-for-profit mental health and substance abuse facility" means facilities operated by the Oklahoma Department of Mental Health and Substance Abuse Services ("ODMHSAS"), or certified by the ODMHSAS, as a Community Mental Health Center (OAC 450:17), Community Based Structure Crisis Center (OAC 450:23) or Community Comprehensive Addiction Recovery Center (OAC 450:24).

"Oklahoma High Cost Fund" or "HCF" means the fund established by the Commission in Cause Nos. PUD 950000117 and 950000119.

"Oklahoma Lifeline Fund" or "OLF" means the fund established and required to be implemented by the Commission pursuant to 17 O.S. Supp. 1997 § 139.105.

"Oklahoma Universal Services" means Primary Universal Service and Special Universal Services as defined herein.

"Oklahoma Universal Service Fund" or "OUSF" or "Fund" means the fund established and required to be implemented by the Commission pursuant to 17 O.S. ~~Supp. 1997~~ § 139.106.

"OneNet" means ~~the telecommunications network which is operated by the Oklahoma Office of State Finance for the purpose of providing, within this State, telecommunications services to governmental and educational entities and to medical entities of the kind previously served by the Oklahoma Telemedicine Network,~~ statewide Internet and technology provider operated by the Oklahoma State Regents for Higher Education for the purpose of meeting the mission critical technology needs of Oklahoma's education, research, healthcare and public service communities.

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

"Primary Universal Service" means an access line and dial tone provided to the premises of residential or business customers which provides access to other lines for the transmission of two-way switched or dedicated communication in the local calling area without additional, usage-sensitive charges, including:

(A) A primary directory listing;

(B) Dual-tone multifrequency signaling;

(C) Access to operator services;

(D) Access to directory assistance services;

(E) Access to telecommunications relay services for the hearing impaired;

(F) Access to nine-one-one service where provided by a local governmental authority or multijurisdictional authority; and,

(G) Access to interexchange long distance services.

"Public library" means a library or library system that is freely open to all persons under identical conditions, and which is supported in whole or in part by public funds. Public Libraries shall not include libraries operated as part of any university, college, school museum, the Oklahoma Historical Society or county law libraries.

"Public school" means all free schools supported by public taxation, and shall include grades kindergarten through twelve.

"Public school building wherein classrooms are contained" means a building owned, leased or rented with public funds and accredited by the Oklahoma State Department of Education as a public school, which contains one or more classrooms utilized for student instruction for kindergarten through twelfth grade, and where internet access is utilized for student instruction.

"Regulated telecommunications service" means the offering of telecommunications for a fee directly to the public where the rates for such service are regulated by the Commission. Regulated telecommunications service does not include the provision of nontelecommunications services, including, but not limited to, the printing, distribution, or sale of advertising in telephone directories, maintenance of inside wire, customer premises equipment, and billing and collection service, nor does it include the provision of wireless telephone service, enhanced service, and other unregulated services, including services not under the jurisdiction of the Commission, and services determined by the Commission to be competitive.

"Reimbursement" means remuneration from the OUSF pursuant to OAC 165:59-3-60 for Primary Universal Services and OAC 165:59-7 for Special Universal Services. Reimbursement also means remuneration from the Oklahoma Lifeline Fund pursuant to OAC 165:59-9, for the Lifeline Service Program.

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

"Special Universal Services" means:

(A) One incoming, toll-free phone number and up to a total of five access lines, provided free of charge to a not-for-profit hospital, public school building wherein classrooms are contained, public library, or county seat, in order to allow incoming, toll-free calls from any location within the geographic area of Oklahoma served by said entity.

(B) One access line, with the ability, to connect to an Internet service provider in accordance with 17 O.S. §139.109(C)(4), provided free of charge to a public school or a public library within the State, as set forth in 17 O.S. § 139.109 and Subchapter 7 herein.

(C) One telecommunications line or wireless connection, provided free of charge to an eligible healthcare entity within the State, sufficient for providing such telemedicine services as the healthcare entity is equipped to provide.

"State" means the State of Oklahoma.

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

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

"Telecommunications Act of 1996" means the Federal legislation cited as 47 U.S.C. Section 151 *et. seq*.

"Telecommunications carrier" means a person that provides telecommunications service in this state.

"Telecommunications service" means the offering of telecommunications for a fee.

"Telemedicine" means the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, or exchange of medical education information by means of audio, video, or data communications. Telemedicine is not a consultation provided by telephone or facsimile machine~~.~~, nor does it include administrative applications such as billing, contracted non-clinical services, or security systems.

"U.S.C." means United States Code.

"Universal service area" or "service area" means a geographic area established by the Commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the FCC and the Commission, after taking into account recommendations of a Federal-State Joint Board instituted under 47 U.S.C. Section 410(c), establish a different definition of service area for such company.

"Unregulated services" means telecommunications services not regulated by the Commission.

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

SUBCHAPTER 3. OKLAHOMA UNIVERSAL SERVICE FUND

PART 3. OKLAHOMA UNIVERSAL SERVICE FUND

165:59-3-14. Eligibility to receive OUSF funding

(a) The incumbent local exchange telecommunications service provider, its successors and assigns, which owned, maintained and provided facilities for universal service within a local exchange area on January 1, 1996, shall be the local exchange telecommunications service provider eligible for

OUSF funding within the local exchange area, except as otherwise provided for in the Telecommunications Act of 1997, 17 O.S. ~~Supp. 1997~~ § 139.101, et seq.

(b) Upon request, and after notice and hearing, the Commission shall consider the designation of more than one eligible local exchange telecommunications service provider in a universal service area to receive funding from the OUSF under the Oklahoma Telecommunications Act of 1997 and 47 U.S.C. 214(e).

(c) Where the incumbent local exchange telecommunications service provider receives or is eligible to receive monies from the OUSF, except as otherwise provided in 17 O.S. ~~Supp. 1997~~ § 139.106, the Commission, after notice and hearing, may designate other local exchange telecommunications service providers to be eligible for the funding, provided:

(1) The other local exchange telecommunications service provider is certificated by the Commission to provide and offer the primary universal services supported by the OUSF to all customers in the universal service area designated by the Commission, using its own facilities, or a combination of its own facilities and the resale of the services or facilities of another;

(2) The other local exchange telecommunications service provider may only receive funding for the portion of the facilities that it owns, maintains, and uses for regulated services;

(3) The other local exchange telecommunications service provider shall not receive OUSF funding at a level higher than the level of funding the incumbent local exchange telecommunications service provider is eligible to receive for the same area if the incumbent local exchange telecommunications service provider is also providing service in the same area; provided, the cost of any cost studies required to be performed shall be borne by the party requesting such studies, unless the party performing the study utilizes the study for its own benefit;

(4) The other local exchange telecommunications service provider advertises the availability and charges for services it provides through a medium of general distribution; and,

(5) It is determined by the Commission that the designation is in the public interest and the other local exchange telecommunications service provider is in compliance with all Commission rules for which a waiver has not been granted.

(d) For any area served by an incumbent local exchange telecommunications service provider which serves less than seventy-five thousand (75,000) access lines within the State, only the incumbent local exchange telecommunications service provider shall be eligible for OUSF funding except;

(1) Other eligible telecommunications carriers which provide Special Universal Services or Lifeline service shall be eligible to request and receive OUSF funds in the same manner as the incumbent local exchange telecommunications service provider in the same area pursuant to this Chapter;

(2) The incumbent local exchange telecommunications service provider may elect to waive the right to be the only eligible local exchange telecommunications service provider within the local exchange area by filing notice with the Commission; or

(3) When the Commission, after notice and hearing, makes a determination that it is in the public interest that another local exchange telecommunications service provider should also be deemed a carrier of last resort and be eligible to receive OUSF funding in addition to the incumbent local exchange telecommunications service provider. It shall not be in the public interest to designate another local exchange telecommunications service provider as being a carrier of last resort and eligible to receive OUSF funding if such designation would cause a significant adverse economic impact on users of telecommunications services generally or if the other carrier refuses to seek and accept carrier of last resort obligations throughout the universal service area as designated by the Commission. The other local exchange telecommunications service provider shall not receive OUSF funding at a level higher than the level of funding the incumbent local exchange telecommunications service provider is eligible to receive for the same area if the incumbent local exchange telecommunications service provider is also providing service in the same area and the other local exchange telecommunications service provider meets the requirements of subsection (c) of this Section.

(e) In order to be designated as an eligible local exchange telecommunications service provider for purposes of Federal Universal Service support, the local exchange telecommunications service provider shall meet the requirements of 47 U.S.C. § 214(e).

(f) Notwithstanding the criteria set forth in this Section for designation as an eligible local exchange telecommunications service provider, a commercial mobile radio service provider may, after notice and hearing, seek reimbursement from the OUSF for the provision of services supported by the OUSF.

(g) Notwithstanding the criteria set forth in this Chapter for designation as an eligible local exchange telecommunications service provider, OneNet and/or any telecommunications carrier may seek reimbursement from the OUSF for the provision of Special Universal Services consistent with 17 O.S. ~~Supp. 1997~~ § 139.109.

(h) Any provider who is not prohibited from applying for OUSF funds as set forth in 17 O.S. ~~Supp. 1997~~ §139.109, shall receive funding for any Special Universal Services provided and contributions made to the Oklahoma E911 Emergency Service Fund and the Oklahoma Telecommunications Technology Training Fund from the OUSF without a hearing, in a manner consistent with OAC 165:59-7-1. The funding shall be approved only after the appropriate forms have been submitted to and reviewed by the Administrator or contracted agent.

(i) For an area served by an incumbent local exchange telecommunications service provider which serves less than seventy-five thousand (75,000) access lines within the State, the incumbent local exchange telecommunications service provider may elect to waive the right to be the only eligible local exchange telecommunications service provider within the local exchange area by filing notice with the Commission.

PART 5. ADMINISTRATION OF THE OUSF

165:59-3-38. Violations

(a) Failure to pay an assessed contribution to the OUSF shall be deemed a violation of this Chapter.

(b) If the Commission determines after notice and hearing that a telecommunications carrier has acted in violation of 17 O.S. ~~Supp. 1997~~ § 139.107, in addition to the other enforcement powers of the Commission, including its contempt powers and authority to revoke a provider's certificate of convenience and necessity, the Commission may bring an action on behalf of the Oklahoma Lifeline Fund or the Oklahoma Universal Service Fund, in the district court that the Commission deems appropriate, to recover any unpaid fees and charges the Commission has determined are due and payable, including interest, administrative and adjudicative costs, and attorney fees. Upon collection of the charges and costs, the Administrator shall pay the costs of the actions and deposit the remaining funds in the Oklahoma Lifeline Fund or the Oklahoma Universal Service Fund as appropriate.

PART 9. REQUESTS FOR OUSF FUNDING

165:59-3-60. Requests for funding from the OUSF

(a) Any eligible telecommunications service provider may request funding from the OUSF as necessary to maintain rates for primary universal services, at rates that are reasonable and affordable, and special universal services, and to provide for reasonably comparable services at affordable rates in rural areas as in urban areas.

(b) Should the OUSF at any time experience a shortfall, the costs associated with administering the fund will be paid first, followed by the payment due to the Attorney General pursuant to 17 O.S. ~~Supp 1997~~ § 139.103. Thereafter, any residual funds will be distributed to eligible OUSF recipients on a pro rata basis, pursuant to their approved requests. The balance of each approved request for OUSF funding will be paid at such time as additional funds become available.

(c) Each request for OUSF funding by an eligible ILEC serving less than seventy-five thousand (75,000) access lines shall be premised upon the occurrence of one or more of the following:

(1) In the event of an FCC order, rule or policy, the effect of which is to decrease the federal universal service fund revenues of an eligible local exchange telecommunications service provider, the eligible local exchange telecommunications service provider shall recover the decreases in revenues from the OUSF;

(2) If, as a result of changes required by existing or future federal or state regulatory rules, orders, or policies or by federal or state law, an eligible local exchange telecommunications service provider experiences a reduction in revenues or an increase in costs, it shall recover the revenue reductions or cost increases from the OUSF, the recovered amounts being limited to the net reduction in revenues or cost increases; or,

(3) If, as a result of changes made as required by existing or future federal or state regulatory rules, orders, or policies or by federal or state law, an eligible local exchange telecommunications service provider experiences a reduction in costs, upon approval by the Commission, the provider shall reduce the level of OUSF funding it receives to a level sufficient to account for the reduction in costs.

(d) The receipt of OUSF funds for any of the changes referred to in subsection (c) of this Section shall not be conditioned upon any rate case or earnings investigation by the Commission. The Commission shall, pursuant to 17 O.S. ~~1997 Supp~~. § 139.106(d), approve the request for payment or adjustment of payment from the OUSF based on a comparison of the total annual revenues received from the sources affected by the changes described herein by the requesting eligible local exchange telecommunications service provider during the most recent twelve (12) months preceding the request, and the reasonable calculation of total annual revenues or cost increases which will be experienced after the changes are implemented by the requesting eligible local exchange telecommunications service provider.

(e) Upon request for OUSF funding by an ILEC serving seventy-five thousand (75,000) or more access lines or a CLEC, the Commission shall after notice and hearing make a determination of the level of OUSF funds, if any, that the provider is eligible to receive for the purposes contained in subsection (c) of this Section. If the Commission fails to make a determination within one hundred twenty (120) days of the filing of the request, the request for funding shall be deemed approved.

(f) Providers who are not prohibited from applying for OUSF funds as set forth in 17 O.S. ~~Supp. 1997~~ § 139.109 shall receive funding from the OUSF without a hearing, for any special universal services provided and contributions made to the Oklahoma E911 Emergency Service Fund and the Oklahoma Telecommunications Technology Training Fund, pursuant to OAC 165:59-7-1.

(g) In areas where the Commission, after notice and hearing, designates a local exchange telecommunications service provider other than the incumbent, to be eligible for funding:

(1) The other local exchange telecommunications service provider may only receive funding for the portion of the facilities that it owns, maintains, and uses for regulated services,

(2) The other local exchange telecommunications service provider shall not receive OUSF funding at a level higher than the level of funding the incumbent local exchange telecommunications service provider is eligible to receive for the same area if the incumbent local exchange telecommunications service provider is also providing service in the same area; provided, the cost of any cost studies required to be performed shall be borne by the party requesting such studies, unless the party performing the study utilizes the study for its own benefit,

(h) For any area served by an incumbent local exchange telecommunications service provider which serves less than seventy-five thousand (75,000) access lines within the State, the other local exchange telecommunications service provider

shall not receive OUSF funding at a level higher than the level of funding the incumbent local exchange telecommunications service provider is eligible to receive for the same area if the incumbent local exchange telecommunications service provider is also providing service in the same area and the other local exchange telecommunications service provider meets the requirements of paragraph (g)(1) of this Section and OAC 165:59-3-14.

(i) Should the Commission expand primary universal services in accordance with OAC 165:59-3-1(b), the Administrator or its contracted agent, upon approval of the Commission, shall determine the level of additional OUSF funding to be made available to an eligible local exchange telecommunications service provider.

165:59-3-62. Procedures for requesting funding from the OUSF

(a) An eligible telecommunications carrier or provider of Special Universal Services requesting funds from the OUSF shall file a "Request for OUSF Funding" with the Commission Court Clerk's Office. On the date of filing the Request for OUSF Funding, the eligible telecommunications carrier or provider of Special Universal Services shall deliver a filed copy of the Request to the Administrator for processing.

(b) It is the intention of the Commission that each funding request will be reviewed on a case-by-case basis. Part 9 of Subchapter 3 does not purport to predetermine the merits of any funding request. The eligible local exchange telecommunications service provider requesting OUSF funding for primary universal service shall make every reasonable and timely effort to obtain funding from alternative funding sources designated to support universal service, and shall submit all documentation of the effort to obtain funding from alternative funding sources designated to support universal service as a part of its Request for OUSF funding set forth in subsection (a), or an explanation for why alternative funding is not available. Upon the company providing the documentation that it has sought alternative funding sources, or an explanation for why alternative funding is not available, the company shall not be precluded from having its application processed.

(c) If an eligible local exchange telecommunications service provider receives funding from alternative funding sources for an investment or expense already reimbursed by the OUSF, the company shall reduce the amount of any prospective funding request from the OUSF by an equivalent amount. Under no circumstances will double recovery be allowed.

(d) Concurrent with the filing of the Request for OUSF Funding, the eligible telecommunications carrier who is requesting funding from the OUSF shall provide copies of its Request for OUSF Funding, and notice of the Request for OUSF Funding, to the Director of the Public Utility Division and to the Attorney General. In addition, the eligible telecommunications carrier, which is requesting funding shall provide notice of the Request for OUSF Funding to the contributors to the OUSF. The notice requirement to each telecommunications carrier in the State of Oklahoma which is a contributor to the OUSF, shall be accomplished by providing an electronic copy of such notification to the Fund Administrator on the date the eligible telecommunications provider files its Request for OUSF Funding at the Commission's Court Clerk's office for posting on the OCC website. The OUSF Administrator will then place the notification on the OCC website within five (5) business days. The Administrator shall provide a list of the contributors to the OUSF, upon request by an eligible telecommunications carrier. The notice shall identify whether the request is for Lifeline support, Primary Universal Serviced support or Special Universal Service support. The notice shall also include the dollar amount requested for both the lump sum and any recurring amounts, as well as the name of the school, library, or eligible healthcare entity for which reimbursement of OUSF credits are sought in the Application.

(e) An eligible telecommunications carrier or provider of Special Universal Services shall submit to the Administrator or file with its Request for OUSF Funding a copy of its tariffed rate for the data speed set forth in 17 ~~OKLA. STAT.~~O.S. § 139.109(C)(4) or its equivalent. If the eligible carrier or provider does not have a tariffed rate for the data speed set forth in 17 ~~OKLA. STAT.~~O.S. § 139.109(C)(4), then the eligible carrier or provider shall provide a copy of its Individual Case Basis pricing or document that describes the rates being charged. The eligible carrier or provider shall also provide a diagram showing the configuration identifying components and charges.

(f) Within ninety (90) days after receipt of the completed Request for OUSF Funding, the Administrator shall review, determine the accuracy of the request, and advise the provider requesting the OUSF funds of the determination of eligibility. Simultaneously with the Administrator or contracted agent advising the provider, the Administrator or contracted agent shall provide the written determination to the Commission and post it to the Commission's website.

(g) Any adversely affected party shall have fifteen (15) days to file a request for reconsideration by the Commission of the determination made by the Administrator. Upon filing a request for reconsideration, the matter will be set for hearing.

(h) The Commission will, within thirty (30) days from the request for reconsideration, issue an order on the Request for OUSF Funding after reviewing the Administrator's or contracted agent's determination regarding the Request for OUSF Funding and any request for reconsideration. The Commission shall give notice to the provider making the Request for OUSF Funding, the Attorney General, the Administrator or contracted agent, and all parties requesting reconsideration of the time and place for hearing.

(i) If no request for reconsideration of the Administrator's determination is filed, an order will be issued by the Commission approving the request without further notice and/or hearing.

(j) If the Commission does not issue an order within the time frames set forth in this Section, the request shall be deemed approved, on an interim basis, subject to refund, with interest at a rate determined by the Commission. Any refund shall include interest at a rate of not more than the interest rate established by the Commission on customer deposits and shall accrue for a period not to exceed ninety (90) days from the date the funds were received by the requesting eligible provider.

(k) The Administrator or contracted agent shall ensure that all OUSF funds have been received and are on deposit in a sufficient manner so as to pay requests for OUSF funding for primary Universal Services as ordered by the Commission, or as may be deemed approved in accordance with State law. The Administrator or contracted agent shall provide the approved funding to the requesting eligible local exchange telecommunications service provider after issuance of a Commission order approving payment or the request is deemed approved, whichever occurs sooner.

(l) Any Request for OUSF Funding may be returned to the requesting party and deemed denied if the appropriate forms are not used or said forms are not completed in a satisfactory manner. The appropriate forms may be obtained from the Public Utility Division of the Commission.

(m) Unless good cause is shown, any request for OUSF funding should be made within eighteen (18) months from the date the requesting telecommunications carrier can determine the impact of occurrence of the circumstance giving rise to the request.

(n) An eligible telecommunications carrier or provider shall receive future reimbursement upon submission of properly submitted true ups to the Fund Administrator or contracted agent, and upon request, provide copies of invoices submitted to the customer or subscriber showing, as required by OAC 165:59-7-17, the credit equivalent to the reimbursement to be received by the provider from the OUSF.

(o) An eligible telecommunications carrier or provider shall submit changes to the monthly recurring support based on e-rate discount adjustments and/or changes to the OUSF assessment factor to the Fund Administrator or contracted agent via the monthly or quarterly true-up reports, for processing. Any ongoing monthly recurring charges will be adjusted as necessary based on the appropriate e-rate discount approved by the Universal Service Administrative Company and/or any change in the OUSF assessment factor.

(p) An eligible telecommunications carrier or provider shall notify the Fund Administrator or contracted agent in writing, of any changes to the provisioning of service, including but not limited to disconnection of service, upgrade and/or downgrade in connectivity speed, and adding or removing eligible buildings. Any increase to the number of entities will require approval from the Fund Administrator or contract agent in order to determine if a new application will be required and a new Commission Order issued to approve reimbursement.

(q) **Preapproval.**

(1) An eligible telecommunications carrier or provider of Special Universal Services requesting funds from the OUSF may request preapproval of a Request for OUSF Funding for an entity for which eligibility is uncertain. A request for preapproval shall follow the procedures outlined in OAC 165:59-3-62 (a)-(p). The purpose of such a preapproval request is to provide greater certainty to providers of Special Universal Services and the eligible institutions that rely on those services. No OUSF funds shall be dispersed to an eligible telecommunications carrier or provider of Special Universal Services until the services are installed and in service. The amount of OUSF funding preapproved under this subsection shall be subject to adjustments based on the amount of support received from other sources, if any, as well as adjustments to pricing that may occur between the time of preapproval and installation of service. Additional services or buildings that are installed beyond those contained in the pre-approved application shall require an additional application to be filed.

(2) Upon receipt of an application under this paragraph, the Administrator shall process the application in the manner outlined in 165:59-3-62 (e)-(i). If the Administrator recommends that preapproval be granted, the Commission may enter an Interim Order regarding the specific request for which preapproval is sought. After the services are installed and in service, the provider of Special Universal Services shall provide documentation regarding the installation and charge for the services, after which time the Commission may enter a final order in the cause approving disbursement of OUSF funds if there are no material differences between the services for which pre-approval was granted and the services that were installed.

(3) This paragraph is intended to supplement and not supplant the current application process, and eligible telecommunication carrier and providers of Special Universal Services shall still submit requests for funding from OUSF in the manner provided in OAC 165:59-3-62 (a)-(p).

(r) **Portability.** An eligible entity that has been approved to receive support for Special Universal Services and chooses to change providers may continue to receive Special Universal Service support, without requiring a new application to be filed if the following conditions are met:

(1) The support for which services are sought is for the same services at the same or lower rates;

(2) Written notification is submitted to the Administrator which includes the following:

(A) The entity name;

(B) The current provider;

(C) The new provider;

(D) The services being provided;

(E) The current and new prices for the services provided;

(F) Proposed date of installation of service by new provider; and

(G) Disconnection date of reimbursable services by the old provider.

(3) Within forty-five (45) days after receipt of a completed Request for OUSF Funding under this subsection, the Administrator shall review, determine the accuracy of the request, and provide a written determination of eligibility to the Commission. The Commission shall then issue an order approving the request.

(4) If the eligible entity is seeking to upgrade or add services, the entity will continue to receive support for the previously approved services at the same or lower rates; and any additional requests for support for Special

Universal Services shall require an application to be filed pursuant to OAC 165:59-3-62.

(5) In the event a provider receives any funds in error under this section, the provider shall promptly notify the Administrator and return such funds to the Administrator within 60 days of the discovery of the erroneous payment. If the provider fails to return such funds within 60 days of the discovery of the erroneous payment, the repayment shall be subject to interest at the highest rates allowed under Oklahoma law beginning on the 61st day and continuing until such time as the proper funds plus applicable interest are paid in full.

165:59-3-64. Identifying and measuring the level of OUSF funding

(a) In identifying and measuring the costs of providing primary universal services, exclusively for the purpose of determining OUSF funding levels under 17 O.S. ~~Supp. 1997~~ § 139.106, the eligible local exchange telecommunications service provider serving less than seventy-five thousand (75,000) access lines shall, at its option:

(1) Calculate such costs by including all embedded investments and expenses incurred by the eligible local exchange telecommunications service provider in the provision of primary universal service, and may identify high-cost areas within the local exchange area it serves and perform a fully distributed allocation of embedded costs and identification of associated primary universal service revenue. Such calculation may be made using fully distributed FCC Parts 32, 36, and 64 costs, if such Parts are applicable. The high-cost area shall be no smaller than a single exchange, wire center, or census block group, chosen at the option of the eligible local exchange telecommunications service provider; or,

(2) Adopt the cost studies approved by the Commission for a local exchange telecommunications service provider that serves seventy-five thousand (75,000) or more access lines; or,

(3) Adopt such other costing or measurement methodology as may be established for such purpose by the FCC pursuant to Section 254 of the Federal Telecommunications Act of 1996.

(b) In identifying and measuring the cost of providing primary universal services, and exclusively for the purpose of determining OUSF funding levels pursuant to 17 O.S. ~~Supp. 1997~~ § 139.106, each ILEC which serves seventy-five thousand (75,000) or more access lines and each CLEC shall identify high-cost areas within the local exchange and perform a cost study using a Commission-approved methodology from those identified in subsection (a) of this Section. The high-cost area shall be no smaller than a single exchange, wire center or census block group chosen at the option of the eligible ILEC or CLEC. If the Commission fails to approve the selected methodology within one hundred twenty (120) days of the filing of the selection, the selected methodology shall be deemed approved.

SUBCHAPTER 7. SPECIAL UNIVERSAL SERVICES

165:59-7-1. Reimbursement from the OUSF for Special Universal Service

(a) A provider of Special Universal Services may be eligible to receive funding from both the OUSF and other state or federal funds; however, in no instance will there be a double recovery. If the provider of Special Universal Services receives funding from another state or federal fund for an investment or expense already reimbursed by the OUSF, the provider shall reduce the amount of its prospective funding from the OUSF by an equivalent amount. The recipient of Special Universal Services shall make every reasonable effort to obtain funding from another state and/or federal fund designated to support special universal service; however, such efforts shall not delay or affect the provider's ability to receive funding from the OUSF pursuant to the provisions of this Chapter and the Oklahoma Telecommunications Act of 1997. Recipients shall provide the Commission with information regarding the recipient's request for funding from government sources designed to support the provisioning of telemedicine. Failure to provide such documentation regarding telemedicine may result in the Commission denying the request for telemedicine funding from the OUSF.

(b) A provider of the free-of-charge telecommunications services identified in this Chapter and 17 O.S. ~~(1997 Supp.)~~ § 139.109 as Special Universal Services, shall be reimbursed from the OUSF for the provisioning of said Special Universal Services, if requested.

(c) A provider of Special Universal Services seeking reimbursement from the OUSF for the tariffed rate or charge for any Special Universal Service provided must make its request for reimbursement pursuant to OAC 165:59-3-62, in the same manner that an eligible telecommunications carrier requests funds from the OUSF for purposes other than the provisioning of Special Universal Services. The requesting provider shall submit information with its Request for OUSF Funding that identifies where and to whom the services are provided, along with documentation supporting the requested level of funding. The information shall include the applicable tariffed rate or charges for providing the services.

(d) Upon receipt of a Request for OUSF Funding, the Administrator of the OUSF or the contracted agent shall review the Request and, if appropriate, reimburse the provider of the Special Universal Services, consistent with the Oklahoma Telecommunications Act of 1997.

165:59-7-6. Telemedicine access for eligible healthcare entities

(a) It is the intention of the Commission that this Chapter be interpreted to assist in the development of telemedicine programs which in turn have the following effects on eligible health care entities:

(1) Empowering eligible healthcare entities, especially those in rural areas, to provide a higher level of medical service;

(2) Expanding the range of medical services available, especially those in rural areas;
(3) Providing greater access to more choices in medical care by patients in rural areas;
(4) Reducing the number of rural patient transfers to urban areas;
(5) Enhancing rural economic development; and
(6) Reducing the costs of medical care at eligible healthcare entities.

(b) Upon receipt of a written request by an authorized representative of an eligible healthcare entity, as defined by this Chapter, the telecommunications carrier or OneNet shall, by itself or in conjunction with another provider of telecommunications services, provide one telecommunications line or wireless connection, free of charge, sufficient for providing such telemedicine, clinical, and health consultation services as the entity is equipped to provide as set forth in 17 ~~OKLA. STAT.~~O.S. § 139.109(C)(2).

(c) The telecommunications carrier shall be entitled to reimbursement from the OUSF for the recurring amount of the tariff rate or charge directly attributable to the telecommunications line or wireless connection.

(d) In no case, however, shall reimbursement from the OUSF be made for an Internet subscriber fee or charges incurred as a result of services accessed via the Internet.

(e) The telecommunications carrier shall be entitled to reimbursement from the OUSF for a one-time reasonable charge for the establishment of service of a new telecommunications line or wireless connection. Reimbursement under this subsection (e) is intended to allow for reasonable changes in 1) the telecommunications services and technologies purchased by an eligible healthcare entity, 2) the physical location of an eligible healthcare entity by permitting establishment of new service at a new location, and 3) the telecommunications carrier providing service to an eligible healthcare entity.

(f) The written request by an authorized representative of an eligible healthcare entity to a telecommunications carrier or OneNet shall be in the form and content approved by the Director of the Public Utility Division.

(g) If available, the eligible healthcare entity shall select an Internet provider that is accessible via a non-toll call, in order to minimize the toll charges that may be recoverable from the OUSF. If no non-toll provider is available, the eligible healthcare entity may seek a waiver letter from the Director of the Public Utility Division in order to select an Internet provider that is accessible via a toll call.

(h) No later than February 1, each eligible healthcare entity that receives OUSF telemedicine funding shall, annually recertify for the purpose of determining their continued eligibility. The annual recertification shall be in the form and content approved by the Director of the Public Utility Division. If the healthcare entity is not recertified for the current level of funding, then funding will be adjusted or cease as of July 1 of the same calendar year unless determined otherwise by the Commission; except that in 2013 funding shall be adjusted or cease December 31, 2013, unless determined otherwise by the Commission.

(i) No later than May 1, the Public Utility Division shall mail a letter to each eligible healthcare entity and its telecommunications service provider, to inform of the Public Utility Division's determination regarding recertification. If either the eligible healthcare entity or the telecommunications service provider disputes the determination of eligibility or bandwidth to be funded by the OUSF after July 1 of that year (December 31, in 2013 only), they may file an application in the Court Clerk's office to request reconsideration by the Commission.

165:59-7-8. Internet access to public schools and libraries

(a) It is the intention of the Commission that this Chapter be interpreted to maximize the availability of Internet access to all public schools and public libraries within Oklahoma, so that children within Oklahoma will be able to utilize the Internet to enhance their learning opportunities, thereby better preparing them for the future.

(b) Upon receipt of a written request by a public school or a public library, the telecommunications carrier or OneNet shall, by itself or in conjunction with another provider of Special Universal Services, provide each public school building wherein classrooms are contained and each public library in the state one access line, free of charge, with the ability to connect toll-free to an Internet service provider at 1.5 Mbps as set forth in 17 O.S. § 139.109 (C)(4), in the most economically efficient manner for the carrier, or an equivalent dollar credit to be applied by the public school or public library toward similar services provided by the same carrier, including services that link locations prior to accessing an Internet provider.

(c) If available, the public school or public library shall select an Internet provider that is accessible via a non-toll call, in order to minimize the toll charges that may be recoverable from the OUSF. If no non-toll provider is available, the public school or public library may seek a waiver letter from the Director of the Public Utility Division in order to select an Internet provider that is accessible via a toll call.

(d) The written request by a public school or public library shall be in the form and content approved by the Director of the Public Utility Division.

(e) In no case will the OUSF reimburse an entity for an Internet subscriber fee or charges incurred as a result of services accessed via the Internet.

(f) The provider of the Internet access component of Special Universal Service shall receive reimbursement from the OUSF in the amount of the tariffed rate or charges directly attributable to the provisioning of the toll-free access line capable of connecting with an Internet service provider as set forth in 17 O.S. § 139.109 (C)(4) and Subchapter 7, and the associated usage, and all access or other charges paid by the provider of the Special Universal Service.

165:59-7-17. Disclosure ~~on bill~~ regarding provided Special Universal Services

(a) Each provider of Special Universal Services, which may be either a telecommunications carrier or OneNet, shall render a bill to the eligible healthcare entity, public school, public

library, or county seat government regarding said Special Universal Services. The bill shall reflect the provider's tariffed rate or charge for the provided toll-free telephone number, access lines, usage and any other costs incurred by the provider in conjunction with the provision of the Special Universal Services. The bill should also separately reflect a credit equivalent to the reimbursement to be received by the provider from the Oklahoma Universal Service Fund. Such credits shall be made to the entities before requesting any associated disbursement from the OUSF.

(b) Prior to signing a contract with a school, library or recipient of a telemedicine line, the provider shall provide to said school, library or recipient of a telemedicine line, written information regarding the limitations on funding from the OUSF. The content of the written information to be provided shall be posted on the Commission's website.

SUBCHAPTER 9. OKLAHOMA LIFELINE FUND

PART 1. LIFELINE SERVICE PROGRAM

165:59-9-1. Purpose of Oklahoma Lifeline Fund

(a) This Subchapter establishes guidelines for the administration of the Oklahoma Lifeline Fund ("OLF"), that are consistent with 17 O.S. ~~(Supp. 1997)~~ §§ 139.105 and 139.107 and 47 C.F.R. § 69.104 (k)(1).

(b) The Oklahoma Lifeline Fund is designed to advance the goals of universal service and ensure that low-income residential customers within the State of Oklahoma, who meet the criteria of 47 C.F.R. § 69.104 (k)(1), 17 O.S. ~~(Supp. 1997)~~ § 139.105, and 47 CFR §§ 54.400 through 54.415, are provided financial assistance in maintaining basic local exchange telecommunications service.

(c) The Oklahoma Lifeline Fund is a state fund administered by the Oklahoma Corporation Commission, for the purpose of funding the Lifeline Service Program, as set forth in Section 165:59-9-3.

165:59-9-3. Lifeline Service Program

(a) The Lifeline Service Program is a program designed to operate in conjunction with the Federal Lifeline program, to provide full waiver of the End-User Common Line Charge and a monthly credit to the monthly bill of qualifying residential subscribers for basic local exchange service, in an amount equal to the End-User Common Line Charge, or such other amount as may be established by the Commission, after notice and hearing.

(b) In order to qualify for the Lifeline Service Program, a customer must meet the requirements of 47 CFR §§ 54.400 through 54.415 and show that they:

(1) Participate in or receive assistance or benefits, as certified by the Department of Human Services, under a program providing:

(A) Temporary Assistance to Needy Families,

(B) Supplemental Nutrition Assistance Program (SNAP) f/k/a Food Stamps, or Food Distribution Program on Indian Reservations, (FDPIR),

(C) Medical Assistance and/or Medicaid, or

(D) Supplemental Security Income;

(2) Participate in Federal Public Housing Assistance

(3) Participate in Low Income Home Energy Assistance Programs

(4) Participate in or receive assistance or benefits, as certified by the State Department of Rehabilitation Services, under a program providing vocational rehabilitation, including aid to the hearing impaired; or,

(5) Participate in or receive assistance or benefits, as certified by the Oklahoma Tax Commission, pursuant to the Sales Tax Relief Act, 68 O.S. § 5011 et seq.

(6) Beginning October 1, 2000, eligibility has been expanded to permit low-income individuals living on tribal lands to establish their income eligibility by certifying participation in one of the following Federal Assistance Programs:

(A) Bureau of Indian Affairs General Assistance,

(B) Tribally Administered Temporary Assistance for Needy Families (TANF),

(C) Head Start Programs (under income qualifying eligibility provision only),

(D) National School Lunch Program (free lunch program only)

(c) Each eligible telecommunications carrier shall file tariffs implementing a Lifeline Service Program that is consistent with this Subchapter.

(d) Lifeline Assistance shall not be available on a retroactive basis to the customers.

(e) Upon notification to the eligible telecommunications carrier, the credit will be discontinued for customers who no longer qualify for Lifeline Assistance.

(f) Lifeline Service benefits are applicable only to the primary line at the customer's principal residence. An applicant for Lifeline Service may report only one address in the state as the principal place of residence.

(g) As a participant in Lifeline Assistance, customers will be eligible to receive Toll Restriction Service at no charge.

(h) Each telecommunications service provider with approved Lifeline Service tariffs shall advertise the availability of the Lifeline Service Program within its exchange(s) or service territory on, at a minimum, an annual basis.

(i) The wireless ETC must provide access to its own customer service department by dialing 611 from the wireless handset or have a toll free number for contacting the ETC programmed in the phone and clearly identified.

(j) All enrollment in any Lifeline Services from any outdoor mobile location is prohibited unless the following conditions are met:

(1) There are at least two banners identifying the name of the ETC, in print that is readable from at least 30 feet away;

(2) The banners are at least 3 foot by 5 foot in size and the identification of the ETC takes up at least 50 percent of the banner;

(3) Employees must wear a shirt that has the name of the ETC on it permanently affixed to the shirt;
(4) The available terms, conditions and rates for the Lifeline product(s) must be prominently posted at the location where the marketing is taking place;
(5) The marketer must have permission from either the owner of the property where the marketing is taking place or from the individual responsible for the property;
(6) The marketer must have all required city and county licenses necessary for selling a service at that location;
(7) The marketing must be done in a manner that it does not create a traffic hazard or distraction;
(8) Marketing may only be done from a tent of at least 10 foot x 10 foot in size or from an enclosed trailer or panel truck that has the name of the ETC permanently affixed on the truck or trailer in letters that are at least 18 inches in height;
(9) The ETC must provide PUD a list of locations by email where mobile marketing is taking place, including the date, time and location, at least two weeks prior to the mobile marketing taking place or maintain an active phone number the Commission can call or a web site the public can view, that identifies all mobile marketing locations and times for at least the following three days;
(10) The ETC has obtained a waiver from the Director of the Public Utility Division regarding a specific requirement of this paragraph.

(k) Any wireless handset provided in conjunction with the Lifeline Service must clearly and permanently identify the provider of the service.
(l) An ETC may not provide Lifeline Service purely by resale without a Commission order.
(m) An approved Lifeline tariff may not be modified without submitting the modification to the Director of the Public Utility Division at least 15 days prior to the effective date of the proposed change for the purpose of receiving a determination whether the modification is in the public interest. Unless the ETC receives written notification that its modification is NOT IN THE PUBLIC INTEREST within 15 days after its submission, the submission is deemed to be in the public interest and may be implemented.
(n) The ETC shall utilize a third party verification system that has been approved by the Director of PUD to verify the customer's identity and address, or obtain a waiver from the Director of the Public Utility Division from this requirement.
(o) The ETC must retain a copy of the signed application for Lifeline Service, and any recertification information for five (5) years.
(p) The ETC shall maintain a database sufficient to identify any duplicates among all companies associated with the ETC.
(q) Unless otherwise approved by Commission Order, any Lifeline plan on Tribal Land must include a minimum of 1000 minutes of local voice use or unlimited domestic calling, to be considered in the public interest. Any Lifeline plan on non-Tribal Land must include a minimum of 500 minutes of local voice use to be considered in the public interest.
(r) All marketing efforts must clearly identify the ETC actually providing the Lifeline Service.
(s) In addition to other remedies available to the Commission, violations of the marketing rules may result in a minimum of a 30 days suspension of an ETC's ability to sign up new customers.

[OAR Docket #13-1025; filed 6-6-13]

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

[OAR Docket #13-1039]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Due Process
210:1-5-6. Revocation of certificates [AMENDED]
AUTHORITY:
70 O.S. § 3-104; 70 O.S. § 6-189; 75 O.S. § 314.1; Oklahoma State Department of Education.
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SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The amendments clarify the rules and procedures for hearings on revocation of licenses and/or certificates issued to persons for instructional, supervisory, and administrative positions in state public schools by the State Board of Education. The amendments clarify the circumstances upon which licensure proceedings may be triggered, and the grounds under which licenses may be suspended or revoked and add a provision for emergency suspension in accordance with 75 O.S. §314.1. The amendments update the text of the rule to ensure compliance with the provisions of the Oklahoma Administrative Procedures Act.
CONTACT PERSON:
Stephanie Moser Goins, (405) 521-4890

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 11, 2013:

SUBCHAPTER 5. DUE PROCESS

210:1-5-6. Suspension and/or revocation ~~Revocation~~ of certificates

(a) **Application.** The rules and regulations of the State Board of Education governing the suspension and revocation of certificates apply to the following: ~~superintendent~~superintendents of schools, principals, supervisors, librarians, school nurses, school bus drivers, visiting teachers, classroom teachers and other personnel performing instructional, administrative and supervisory services in the public schools. Except as otherwise specifically provided by law, the issuance or denial of a new certificate shall not be considered an individual proceeding subject to the process and procedures set forth in this Section.

(~~1~~b) **Grounds for revocation.** A certificate shall be revoked only for:

(1) A ~~a~~ willful violation of a rule or regulation of the State Board of Education, or the United States Department of Education; ~~,~~ or

(2) A willful violation of any federal or state law, or ~~for other proper cause,~~

(3) A conviction for any of the offenses or bases for revocation set forth in 70 O.S. §§ 3-104 or 3-104.1; or

(4) For ~~for~~ other proper cause. ~~[70-3-104]~~

(c) It shall be a violation of State Board of Education rules and regulations for any person holding a valid teaching certificate to be aware of and fail to report, or knowingly participate in any activity deemed illegal while participating in job-related activities of student organizations, athletic and scholastic competitions, fairs, stock shows, field trips, or any other activity related to the instructional program. Willful violation of (b)(1)-(b)(4) of this regulation or the failure to report or ~~knowlingly participate~~knowing participation in any activity deemed illegal may result in recommendation of revocation or suspension of the certificate, or such other penalty, as may be determined after due process by the State Board of Education.

(~~2~~d) **Right to hearing on ~~certificate~~ revocation of an existing certificate.** No certificate shall be revoked until the holder of the certificate has been provided with a copy of the application to revoke the certificate and opportunity for a hearing ~~has been held~~provided by the State Board of Education in accordance with the following procedures: ~~The Board may utilize a hearing officer to conduct the hearing. If utilized, the hearing officer shall be appointed by the Chairperson of the Board.At least twenty (20) days before the hearing, the complaint giving rise to the hearing shall be filed with the Chairperson of the Board, showing grounds or reasons for revocation of the certificate.The complaint shall be in writing, and shall be signed by the complaining party, and the chairperson or chairperson's designee.~~

(~~3~~1) **Filing of ~~complaint~~ application to revoke a certificate.**~~In an~~ An individual proceeding to revoke a certificate shall be initiated by filing~~, there shall be filed a complaint~~ an application to revoke a certificate. An application to revoke a certificate shall be filed with the Secretary of the State Board of Education by the State Department of Education. The application shall name the holder of the certificate to be revoked as the respondent in the action, and shall contain:~~containing~~

(A) A statement of the legal authority and jurisdiction under which the applicant seeks to initiate the proceeding and the hearing is to be held;

(B) A reference to each particular statute and/or rule involved;

(C) A short and plain ~~a~~ statement of the ~~matters~~allegations asserted; and

(D) A statement of the facts alleged to give rise to the revocation.~~,the right to the relief,and naming thepersons against whom relief is sought.~~The application shall also state a proposed effective date for the relief requested (e.g., revocation), which shall be set no earlier than thirty (30) days from the date the complaint is filed.

(~~4~~2) **Informal disposition.** Informal disposition of ~~any complaint~~the application to revoke a certificate may be made by stipulation, agreed settlement, consent order, or default, unless otherwise precluded by law. Written notice signed by each party or counsel representatives shall be delivered to the Secretary of the State Board of Education prior to the time of the scheduled hearing.

(~~5~~3) **Notice to parties.** ~~Whenever such a charge or complaint~~Within three (3) business days of the date the application to revoke a certificate is filed with the ~~Chairperson~~Secretary of the State Board of Education,~~ he or sheshall send a copy thereof to the holder of the certificate by certified or registered mail, restricted delivery with return receipt requested.~~the Secretary shall send a copy of the application along with a notice of intent to revoke the certificate ~~Notice of the time and place of the hearingand the name of the hearing officer (if applicable) shall be given by the Chairperson~~ by certified or registered mail, restricted delivery with return receipt requested, to the holder of the certificate. In addition to the requirements of notice set forth at 75 O.S. § 309, the notice of intent to revoke the certificate shall include:

(A) A statement setting forth the proposed effective date of revocation of the certificate; and

(B) A statement advising the holder that if the holder fails to appear for a hearing and contest the revocation, the allegations in the application for revocation will be deemed confessed and the Board may issue a final order to effect revocation of the certificate as of the effective date proposed in the notice.

(e) **Emergency Action.** Pursuant to 75 O.S. § 314, in the event the State Board of Education finds that public health, safety, or welfare imperatively requires emergency action, the State Board of Education may issue an emergency order summarily suspending a certificate pending an individual proceeding for revocation or other action. Such proceedings shall be promptly instituted and determined. Such an order shall include specific findings of fact specifying the grounds for the emergency action. Within three (3) business days of the issuance of the order by the Board, a copy of the order shall be sent to the holder of the certificate via certified or registered

mail, delivery restricted to the certificate holder, with return receipt requested.

(f) **Hearing procedures.**

(1) **Hearing and appointment of a hearing officer.** Upon filing the application with the Secretary of the Board, the Secretary shall set the matter for a hearing. The Board, at its discretion, may utilize a hearing officer to conduct the hearing. If utilized, the hearing officer shall be appointed by the Chairperson of the Board.

(~~6~~2) **Attendance of witnesses.** If the complainant, or the holder of the certificate wants any person to attend the hearing and testify as a witness, he/she shall notify the Chairperson of the State Board of Education at least ten (10) calendar days prior to the hearing, in writing, giving the name and address of the desired witness, and the Chairperson shall thereupon subpoena, by mail, the desired witness to attend in accordance with the provisions of this subsection. Every person testifying at a revocation hearing shall be sworn to tell the truth. The parties to the hearing shall exchange witness and exhibit lists no later than five (5) days prior to the hearing. ~~The hearing shall be electronically recorded by the State Department of Education.A party to the hearing, upon request, shall be supplied a copy of the tape recording of the hearing. Any transcription cost shall be borne by the party requesting transcription.If a hearing officer is utilized, written recommended findings of fact and conclusions of law shall be prepared by the hearing officer after conclusion of the hearing and submitted to the parties and the State Board of Education.The parties shall have the opportunities set out in 75 O. S. Supp. 1997, § 311 before action is taken by the Board on the proposed findings of fact and conclusions of law. After the parties have been given notice and an opportunity to file exceptions, present briefs and oral arguments in accordance with 75 O.S. Supp. 1997, § 311, action shall be taken by the State Board of Education to accept, reject, or modify the proposed Findings and Conclusions of the hearing officer.~~

(~~7~~3) **Subpoenas.** Subpoenas and/or subpoenas duces tecum may be issued in accordance with the following procedures:

(A) **Issuance of subpoenas.** Subpoenas for the attendance of witnesses, or ~~for the furnishing of information required by the Board, or~~ for the production of books, records, papers, objects, or other evidence ~~or records~~ of any kind as may be necessary and proper for the purposes of a proceeding shall be issued by the Secretary of the Board at the direction of the Chairperson;~~or~~ upon order of the Board~~.~~; or ~~In like manner, and for like purpose, subpoenas shall be issued by the Secretary~~ at the request of any party to a proceeding before the Board ~~for the attendance of witnesses or for the production of evidential materials at a hearing in such proceeding~~. The signature of the Secretary shall be sufficient authentication for any subpoena.

(B) **Service of subpoenas.** Subpoenas shall be served in any manner prescribed for service of a subpoena in a civil action in the district courts of the State of Oklahoma. ~~[75 315]~~

(~~8~~C) **Objections to and compliance with subpoenas.** Any party to the proceeding may move to quash a subpoena or subpoenas duces tecum issued in accordance with the provisions of this Section, provided that, prior to quashing a subpoena or subpoenas duces tecum the agency shall give notice to all parties. A subpoena or subpoenas duces tecum may not be quashed if any party objects.

(D) **Enforcement of subpoenas.** Upon the failure of any person to obey a subpoena, or upon the refusal of any witness to be sworn or make an affirmation or to answer a question put to her or him in the course of ~~a hearing inanyrule making proceeding, proceeding for a declaratory ruling, or in an~~any individual proceeding~~, or in any~~ other authorized action of the Board, the Board as soon as convenient shall consider ~~the matter~~ the issue of enforcement of the subpoena. By resolution, it may direct application to the district or superior court of the county of such person's residence or to any judge thereof for an order to compel compliance with the subpoena or the furnishing of information or the giving of testimony. ~~the institution of appropriate judicial proceedings under the law of the state for an order to compel compliance with the subpoena or the giving of testimony, as the case may be.~~ Meanwhile, the hearing or other matters shall proceed, so far as is possible, but the Board at its discretion at any time may order a stay or continuance of ~~continue~~ the proceedings for such time as may be necessary to secure a final ruling in the compliance proceedings.

(~~9~~E) **Costs of issuance and service of subpoenas.** The costs covering the issuance and service of subpoenas and all witness fees incurred on behalf of a party to the proceedings, other than the Board, shall be borne by the party on whose behalf they are incurred.

(~~10~~4) **Right to representation.** ~~The person or persons signing the charge or complaint, the holder of the certificate, and any other interested person may appear at the hearing personally and/or by legal counsel.~~ Any party to the individual proceeding shall at all times have the right to representation by counsel, provided that such counsel must be duly licensed to practice law by the Supreme Court of Oklahoma, and provided further that counsel shall have the right to appear and act for and on behalf of the party represented.

(~~11~~5) **Legal counsel to State Board of Education.** The attorney for the State Board of Education ~~or, upon request, the Attorney General's representative~~ shall present evidence to the Board, in furtherance of the ~~Complaint~~application. If deemed necessary by the Chairperson of the Board, a request ~~will~~may be made of the Attorney General to provide counsel to the Board to rule

on questions of admissibility of evidence, competency of witnesses, and any other questions of law. In the event that counsel is not requested from the Attorney General the Chairperson of the Board will rule on the evidence, competency of the witness and other questions of law.

~~(12) **Requests for disqualifications.** Requests for the disqualification of a member or members of the Board shall be embodied in an affidavit, stating with particularity the grounds alleged therefor. Such requests must be filed prior to the commencement of the hearing unless it appears in the affidavit that the grounds for disqualification were not previously known and that upon such grounds the application to disqualify was promptly filed. Upon the filing of such affidavit, the Chairperson of the Board or the Secretary, if the affidavit is filed against the Chairperson, shall set the matters for hearing at the earliest date at which the Board can be convened, giving notice thereof personally or by telephone to the party or his or her counsel. The Board, or those members thereof qualified to sit at the hearing, shall take evidence and make prompt decisions. In the event the disqualification is sustained or in the event of a mandamus requiring disqualification, the hearing shall be continued to such time as is necessary for the appointment of members pro tem to proceed with the matters, and due notice of the continuance shall be given to all parties.~~

(~~13~~6) **Disqualification of a Board ~~or Agency~~ member or hearing officer.** A Board ~~or Agency~~ member or hearing officer shall withdraw from any individual proceeding in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification on the ground of his or her inability to give a fair and impartial hearing by filing an affidavit promptly upon discovery of the alleged disqualification, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined promptly by the Board, or if it affects a member of the Board, by the remaining members thereof, if a quorum. Upon the entry of an order of disqualification affecting a hearing officer, the Board shall either assign a replacement hearing officer, or conduct the hearing itself. Upon the entry of an order of disqualification affecting a Board ~~or Agency~~ member, the Governor immediately shall appoint a member pro tempore ~~tem~~ to sit in place of the disqualified member in that proceeding.

(~~14~~7) **Notice of facts.** The Board shall give notice to all parties, prior to, or at the hearing, of any facts of which it proposes to take official notice. Any party or her/his attorney may request that official notice be taken of any fact qualified for such notice by the statutes of this state. If such official notice is taken, it shall be stated in the record, and all parties shall have opportunity to contest and give evidence in rebuttal or derogation of the official notice.

(~~15~~8) **Presentation and consideration of evidence.** The State Board of Education shall consider only evidence upon the specific cause contained in the notice, and evidence will be heard for such cause. Questions of the admissibility of evidence shall be governed by the provisions of ~~75 310~~ 75 O.S. § 310.

(~~16~~9) **Order of procedure.** The order of procedure at the hearing shall be as follows:

(A) Opening statements by legal counsel of both parties;

(B) Presentation of evidence by both parties followed by cross-examination of witnesses, and questions by State Board members or the hearing officer;

(C) Closing arguments by legal counsel of both parties; and

(D) Submission of case to the Board or the hearing officer for decision.

(10) **Continuance of a hearing.** The Board or hearing officer may continue or adjourn the hearing at any time for a specified time by notice or motion. The Board or hearing officer may grant a continuance upon motion of a party for good cause shown if written request is filed and served on all parties of record and filed with the Secretary of the Board at least five (5) days prior to the date set for hearing.

(~~17~~g) ~~**Decision**~~ **Deliberations and decisions.** Deliberations by the Board or the hearing officer in an individual proceeding may be held in executive session pursuant to the provisions of the Open Meeting Act set forth at 25 O.S. § 307.

(1) **Decision.** Decisions shall be issued in accordance with the following procedures:

(A) After hearing all evidence, and all witnesses, the State Board of Education or, if applicable, the hearing officer, shall ~~issue~~ render its decision on whether the certificate shall be revoked.

(B) The decision of the State Board of Education or a hearing officer presiding at the hearing shall be announced at the conclusion of the hearing and notification of that decision shall be by certified or registered mail, restricted delivery with return receipt requested to the holder of the certificate.

(C) If the holder of the certificate fails to appear at the scheduled hearing without prior notification within the time frame to request a stay or continuance set forth in (f)(10) of this Section, demonstration of good cause, the Board or hearing officer shall hold the party in default and issue an order sustaining the allegations set forth in the application.

(D) If the applicant fails to appear at the scheduled hearing without prior notification within the time frame to request a stay or continuance set forth in subsection (f)(10) of this Section, demonstration of good cause, or fails to prove the allegations by clear and convincing evidence, the application shall be dismissed.

(~~18~~2) **Findings of fact and conclusions of law.** After the decision is announced, but before issuance of the final order, if the Board has not heard the case or read the record of the individual proceeding, the hearing officer shall provide the parties with an opportunity to prepare and submit proposed findings of fact and conclusions of law in accordance with the provisions of 75 O.S. § 311.

After the parties have been given notice and an opportunity to file exceptions, present briefs and oral arguments to the proposed findings of fact and conclusions of law, the Board may take action to accept, reject, or modify the proposed Findings and Conclusions of the hearing officer. The Board shall render findings of fact and conclusions of law. All findings of fact made by the Board shall be based exclusively on the evidence presented during the course of the hearing or previously filed briefs, (made a part of the record), of the testimony of witnesses taken under oath.

(~~19~~3) **Final order.** As the final determination of the matter, the final order shall constitute the final agency order and shall comply with the requirements set forth at 75 O.S. § 312. If no motion for rehearing, reopening or reconsideration of the order is filed in accordance with (h) of this Section, the final agency order shall represent exhaustion of all administrative remedies by the State Board of Education. All final orders in an individual proceeding shall be in writing and made a part of the record. Final orders are to be issued by the Chairperson of the Board or the presiding officer for transmission to the parties by the Secretary of the Board. Within five (5) business days of the date of issuance of the final order, parties shall be notified of a final order either personally or by certified mail, return receipt requested. Upon request, a copy of the order shall be delivered or mailed to each party and the party's attorney of record, if any.

(~~20~~4) **Communication with parties.** Unless required for the disposition of ex parte matters authorized by law, the Chairperson and the members of the Board, the hearing officer, or the employees or the agents of the Board shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or his or her representative except upon notice and opportunity for all parties to participate. The Chairperson and members of the Board or their employees may communicate with one another and have the aid and advice of one or more personal assistants. Advice may also be secured from the Attorney General's office.

(~~21~~h) **Record of hearing.**

(~~A~~1) The record of a hearing shall be set forth in such form and detail as the Chairperson or the Board may direct. The hearing may also be fully transcribed, and shall be placed on file in the Secretary's office. Parties to the proceeding may have the proceedings transcribed by a court reporter at their own expense. In accordance with the requirements of 75 O.S. § 309, the ~~The~~ record shall include:

(A) All ~~all~~ pleadings, motions, and intermediate rulings;

(B) Evidence ~~evidence~~ received or considered during the individual proceeding;

(C) A ~~a~~ statement of matters officially noticed;

(D) Questions ~~questions~~ and offers of proof, objections, and rulings thereon;

(E) Proposed findings and exceptions;

(F) Any~~any~~ decision, opinion, or report by the Board or a hearing officer presiding at the hearing; and

(G) All other evidence ~~all staffmemoranda~~ or data submitted to the Board or hearing officer~~members of the Agency~~ in connection with their consideration of the case.

(~~B~~2) The State Board Secretary shall ~~tape~~electronically record the proceedings, with the exception of the executive sessions~~.~~The recording shall be made and maintained in accordance with the requirements of 75 O.S. § 309, and a copy shall be provided to any party to the proceeding upon request. If the requesting party should desire the tape(s) to be transcribed by a court reporter, the requesting party shall bear the expense.

(~~22~~i) **Rights to a rehearing, reopening or reconsideration.**

(~~A~~1) A petition for rehearing, reopening or reconsideration of a final order must be filed with the Secretary of the State Board within ten (10) days from the entry of the order. It must be signed by the party or his or her attorney, and must set forth with particularity the statutory grounds upon which it is based. However, a petition based upon fraud practiced by the prevailing party or upon procurement of the orders by perjured testimony or fictitious evidence may be filed at any time. All petitions for rehearing, reopening, or reconsideration will be considered and ruled upon as soon as the convenient conduct of the Board's business will permit.

(~~B~~2) A petition for ~~The grounds for requesting~~ a rehearing, reopening, or reconsideration shall set forth the grounds for the request. The grounds for such a petition shall be either:

(i) ~~newly~~Newly discovered or newly available evidence, relevant to the issues;

(ii) ~~need~~Need for additional evidence adequately to develop the facts essential to proper decision;

(iii) Probable error committed by the Agency in the proceeding or in its decision such as would be grounds for reversal on judicial review of the order;

(iv) ~~need~~Need for further consideration of the issues and the evidence in the public interest; or

(v) ~~a~~A showing that issues not previously considered ought to be examined in order to properly dispose of the matter. The grounds which justify the rehearing shall be set forth by the State Board of Education which grants the order, or in the petition of the individual making the request for the hearing.

(~~C~~3) It is the burden of the party requesting a rehearing to notify the opposing party of the appeal.

(~~D~~4) ~~On reconsidering~~Rehearing, reopening, or reconsideration of the matter~~, it~~ may be heard by the State Board of Education or ~~it~~ may be referred to a hearing officer. ~~Board or Agency Memberand the~~The hearing must be confined to those grounds on which the recourse was granted. ~~[75 317]~~

(~~2~~j) **Judicial review.** Any person or party aggrieved or adversely affected by a final order in an individual proceeding is entitled to certain judicial review ~~pursuant to 75 318 323~~in accordance with the provisions of the Oklahoma Administrative Procedures Act, and the procedures set forth therein shall govern appeals.

(k) **Applications for reinstatement of a license.** After five (5) years of the effective date of revocation of a license, an individual may apply for reinstatement of the license in accordance with the application procedures set forth by the State Department of Education.

[OAR Docket #13-1039; filed 6-6-13]

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

[OAR Docket #13-1033]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 13. Student Assessment
210:10-13-18. Oklahoma School Accountability System [AMENDED]
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ANALYSIS:
The amendments to the rule update the language of the rule relating to the Oklahoma School Accountability System and the identification of schools failing to make Adequate Yearly Progress (AYP) in student achievement in accordance with the provisions of 70 O.S. § 1210.541.
CONTACT PERSON:
Stephanie Moser Goins, (405) 521-4890

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 11, 2013:

SUBCHAPTER 13. STUDENT ASSESSMENT

210:10-13-18. Oklahoma School Accountability System

(a) **Adequate Yearly Progress (AYP).** The Oklahoma School Accountability System shall be based on ~~AYP~~academic performance data. All public elementary and secondary schools and local educational agencies (LEAs) shall be accountable for student achievement and for making Adequate Yearly Progress (AYP) in accordance with the Oklahoma School Accountability System required by 70 O.S. § 1210.541. For purposes of 70 O.S. § 1210.541, a school shall be deemed to have made AYP if it is not identified as a school in need of improvement by the State Department of Education Office of Accountability. ~~according to federal law.AYP will be determined by meeting or exceeding statewide performance targets for required student groups in Reading/Language Arts and Mathematics on state tests; administering tests to 95 percent of students in each required student group; and meeting statewide targets for attendance rates and graduation rates where applicable. Alternatively, schools shall make AYP by showing growth in Reading/Language Arts and Mathematics on state tests as required by Safe Harbor regulations as defined in the No Child Left Behind Act of 2001, Public Law 107-110.~~

(b) **Consequences of Testing Irregularities or Misconduct on Test Scores and AYP.**

(1) If the State Department of Education (SDE) Student Assessment Office receives documentation of a student cheating on a test, the student's score shall be "invalidated." The student's score report for that content area shall read "Invalidated." The "invalidated" score shall have the effect of nonparticipation when aggregated with scores of other students at the school, district, and state levels.

(2) If a student does not attempt the test (such as refusal to read items or mark answers, finishing in 5 minutes, or randomly marking answers), no special action shall be taken. The student's test shall be scored and the score aggregated with the rest of the scores at the school, district, and state levels according to standard procedure.

(3) If a student becomes ill during testing and is not able to complete the test, the test shall not be scored and not counted in the summary scores. The student shall be counted as absent. If an equivalent form of the test is available through the OSTP, the student may be given an opportunity to take the equivalent form within the same testing window. In this case, the first test shall not be scored and the equivalent test shall be scored in its place. (Note: Equivalent test forms of the OSTP shall only be made available through the SDE only if determined practicable by the State Department of Education.)

(4) If any violation of security provisions (Section 210:10-13-4) occurs, such violations shall be reported in writing to the Student Assessment Section of the State Department of Education and may result in a student's, a

school site's, and/or a school district's test scores being declared as invalid (Section 210:10-13-4 (18). In the case of invalidation, each invalidated score shall have the effect of a zero score and each zero score shall be aggregated with the remaining student scores at the school, district, and state levels. If the violation is not the fault of the students involved, and if an equivalent form of the test is available through the OSTP, students may be given the equivalent form within the same testing window at the district's expense if this is the first year for a security violation within the school and/or district in question. In the case that an equivalent form is administered, the individual student score report shall reflect the scores from the equivalent test (in place of the previous invalidated scores) and shall be aggregated at the school, district, and state levels. (Note: Equivalent test forms of the OSTP shall only be made available through the SDE only if determined practicable by the State Department of Education.)

(5) If extreme changes in test scores or in Academic Performance Index (API) scores occur for a school or district from year to year, an investigation shall be conducted, which may include, but not be limited to, a hand erasure analysis, and results of any apparent testing irregularity or misconduct reported to the State Board of Education for possible further action, which may include but not be limited to, score invalidation.

(6) Erasures shall be identified statewide by electronic scanning of all student answer documents, and the following action shall be taken: Scores for classes whose wrong-to-right erasures exceed the state average by more than four standard deviations shall be identified for further investigation. For each class with excessive erasures, the proportion of wrong-to-right erasures to the total number of erasures will be taken into account. A report shall be made to the State Board of Education of schools where classes have been identified with excessive erasures as defined by the criteria above for possible further action, which may result in score invalidation.

(7) Steps for Dealing with Reported Testing Irregularities or Misconduct

(A) **Step One.** When report of a testing irregularity or misconduct is made to the State Department of Education Student Assessment Section, the school site and/or school district involved shall be required to respond by conducting an investigation and providing in writing to the State Department of Education Student Assessment Section an explanation of how the testing misconduct/irregularity occurred and a description of the measures taken to prevent the misconduct from occurring again.

(B) **Step Two.** The testing irregularity or misconduct shall be categorized into one of three violation categories (minor, major, and critical) according to the severity of the violation and its possible consequences. Possible consequences may include, but not be limited to, invalidation of scores, accreditation with deficiency, accreditation with warning, accreditation with probation.

(C) **Step Three.** At the end of each testing period, a testing violations report shall be prepared by the Student Assessment office for review by the State Superintendent and possible further action.

(c) **Procedures for Schools to Review ~~AYP~~ Data Reports and Appeal Accountability Decisions.**

(1) To assure the validity of ~~AYP determinations~~accountability decisions prior to the release of the list of schools in need of improvement~~AYPdata reports,~~ as required by federal law, ~~No Child Left Behind,~~ the State Department of Education will forward to schools the preliminary ~~AYPData Reports~~data reports containing component pieces from the school district, testing vendor, and the State Department of Education. Each school district must review these component pieces for accuracy and report any inaccuracies to the entity supplying the information within the applicable timelines. If the school district does not report inaccuracies within the timeline the State Department of Education will rely on the data in the preliminary ~~AYP Data Report~~data report.

(2) Upon receiving their preliminary ~~AYP Data Reports~~ data reports from the State Department of Education for use in creating School and District Report Cards, districts shall review the data in the preliminary ~~AYP Data Reports~~data reports and report any discrepancies with the data components previously reviewed by the district to the ~~Student Assessment Section of the~~ State Department of Education within the specified timeline.

(3) Subsequent to the review of the preliminary ~~AYP Data Report~~ data report, if a principal of a school, or a majority of the parents of the students enrolled in a school, believe that ~~any~~ the accountability decision contained in the ~~AYP Data Report~~data report is in error the principal shall provide supporting evidence to the district. The district must consider the evidence and if warranted, request an appeal in writing to the State Department of Education. The State Department of Education must receive the appeal request within ten working days of the electronic release of the ~~AYPData Reports~~data reports.

(4) If a school and/or district has had test scores invalidated because of a testing irregularity or misconduct with the effect of nonparticipation for aggregation purposes, and such action results in an invalidation~~a API score~~ that prevents the school and/or district from ~~making AYP~~receiving an accountability decision, the district may appeal the determination~~this accountability decision~~ on a first time occurrence and request placement on Probationary Status instead of receiving ~~an API score~~ an invalidation. At the end of the next consecutive year, if the school and/or district ~~do not make AYP~~does not receive an accountability decision for any reason, they ~~shall not be allowed to invoke Safe Harbor and~~ shall automatically be identified as being in ~~School Improvement~~need of improvement status.

(5) When a school district or charter school appeals an accountability decision, the appeal request will be sent to the ~~Office of Accountability and Assessment~~State Department of Education on the appeal form or other electronic

submission method provided by the State Department of Education. The school district or charter school must specify on the form~~,~~ if a hearing pursuant to Title 75 O.S. § 309 is requested. If such a hearing is requested, the district must provide a written waiver of the right of the district to receive a final determination from the State Department of Education within the ~~30 day~~ period required by federal law.~~the NCLB Act.~~ In that event, all parties will cooperate to expedite the hearing process. If a hearing pursuant to Title 75 O.S. § 309 is not requested, the school district must submit with the appeal request written evidence supporting its appeal. The district may also request to address the ~~AYP~~ School Status Designation Appeals Committee in person or by telephone. All appeal requests will initially be reviewed by the Office of Accountability and Assessments to determine whether the appeal request remains with the ~~AYP~~School Status Designation Appeals Committee or is forwarded to the State Superintendent for a hearing pursuant to Title 75 O.S. § 309. The ~~AYP~~School Status Designation Appeals ~~Appeal~~ Committee will consist of members of the State Department of Education's ~~School Improvement~~ Leadership Team and may also include additional members appointed by the State Superintendent. The ~~AYP~~ Appeals Committee will review the district's evidence submitted with the appeal and if requested, hear comments from the school district, before providing a final determination in writing within ~~thirty working~~forty-five (45) days from release of the ~~AYPData Reports~~ data reports.

(6) At the end of the State Department of Education Appeals process, the State Department of Education shall report to the State Board of Education the statewide list of ~~School Improvement~~ schools in need of improvement.

(d) **Sanctions for public elementary and secondary schools that do not make Adequate Yearly Progress (AYP)**

(1) Title I schools that do not make Adequate Yearly Progress (AYP) for two consecutive years shall be identified as being in ~~School Improvement~~need of improvement status. Title I schools in the ~~state~~State of Oklahoma shall be subject to the sanctions defined by federal law.~~in the No Child Left Behind Act of 2001, Public Law 107-110~~.

(2) Non-Title I schools that do not make AYP for two consecutive years or more shall be subject to sanctions as determined by the State Board of Education. The State Board of Education may utilize sanction options identified ~~in the No Child Left Behind Act of 2001, Public Law 107-110~~ by federal law, as deemed appropriate based upon relevant circumstances of the school's performance. The sanctions ~~shall~~may include but not be limited to the following:

(A) provide a school improvement plan,
(B) provide technical assistance,
(C) offer school choice,
(D) provide supplemental services,
(E) take corrective action, or
(F) implement a restructuring plan.

(e) **Rewards for public elementary and secondary schools that make Adequate Yearly Progress (AYP)**

(1) **Academic Achievement Awards - Title I, Part A.** ~~Title I Schools that meet AYP shall be eligible for Academic Achievement Awards. Academic Achievement Awards, subject to the availability of funds awarded to the State under the federal grant under section 1117 (b) of the No Child Left Behind Act of 2001, states that each state receiving a grant under federal funds shall establish a program for making academic achievement awards to recognize schools that significantly close the achievement gap between subgroups of students or exceed their adequate yearly progress.~~ Schools that meet AYP and receive Title I, Part A funds are eligible for Academic Achievement Awards, subject to the availability of funds.

(2) **State Academic Performance Award Program.**

(A) All public elementary and secondary schools that make ~~Adequate Yearly Progress,~~ AYP shall be recognized by the state as Distinguished Schools.~~and eligible for state funds, if available, as established by the State Academic Performance Index (API) Program (O.S. § 70-30-152).~~

(B) ~~Nonmonetaryrecognition~~Recognition of Distinguished Schools may include, but not be limited to, citations of congratulations from the State Superintendent of Public Instruction as the designee of the State Board of Education, the Governor or designee, the Representative and Senator representing the school district, and a flag for each school achieving Distinguished ~~Reward~~ status.

[OAR Docket #13-1033; filed 6-6-13]

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

[OAR Docket #13-1036]

RULEMAKING ACTION:
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Subchapter 13. Student Assessment
210:10-13-22. Implementation of a System of School Improvement and Accountability [AMENDED]
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ANALYSIS:
The amendments implement changes to the criteria used to calculate the formula used in the A-F School Report Card grading system pursuant to 70 O.S. § 1210.545.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

SUBCHAPTER 13. STUDENT ASSESSMENT

210:10-13-22. Implementation of a system of school improvement and accountability

(a) **Purpose.** Accountability for student learning is the key focus of school improvement. Results from the statewide assessment program shall form the basis of the system of school improvement and accountability. Student achievement data from the State's annual standardized assessments in grades three (3) through eight (8) and end-of-instruction tests administered under Section 1210.508 of Title 70 shall be used to establish both proficiency levels and annual progress for individual students, school sites, school districts, and the State. Results shall further be used as the primary criteria in calculating school performance grades as specified in subsection (f) of this rule and shall be annually reported. Results may further be used by the Legislature in calculating any performance-based funding policy that is provided to public school districts. The statewide assessment program shall be used to measure the annual learning gains of each student toward achievement of the State standards appropriate for the student's grade level and to inform parents of the educational progress of their public school children.

(b) **Implementation.** The A-F school accountability system will be implemented in the year 2012, based on data from the 2011-2012 school year, and shall be reported annually thereafter. The school accountability system will be considered to be fully implemented with the following accountability elements:

(1) Designation of overall school performance grades shall be based on a combination of the following:

(A) Thirty-three percent (33%) on student test scores, based on the Oklahoma School Testing Program assessments in grades three (3) through twelve (12);

(B) Seventeen percent (17%) on annual student learning gains as measured by the State's annual standardized assessments in reading and mathematics in grades three (3) through eight (8); and Algebra I and English II end-of-instruction tests;

(C) Seventeen percent (17%) on annual student learning gains for the lowest twenty-five (25%) of students in the school, as measured by the State's annual standardized assessments in reading and mathematics in grades three (3) through eight (8); and Algebra I and English II end-of-instruction tests ~~for the lowest twenty-five percent (25%) of students in the school, unless thestudents so designated are exhibiting satisfactory performance~~as required by 70 O.S. § 1210.545;

(D) Thirty-three percent (33%) on whole school improvement, based on the factors listed in sub-section (f)(4) of this rule.

(2) Schools shall earn ~~individual~~a separate performance ~~grades~~grade~~measuring the individual~~for each of the four criteria listed in sub-sections (b)(1) and (f) of this rule. Additionally, schools shall earn an overall performance grade based on a combination of the criteria listed in sub-sections (b)(1) and (f) of this rule.

(3) To ensure that student data accurately represent school performance, schools shall be required to assess at least ninety-five percent (95%) of eligible students to earn a school performance grade. Failure to assess at least ninety-five percent (95%) of eligible students will result in a letter grade reduction in the school's overall school performance grade. Schools assessing less than ninety percent (90%) of eligible students will result in the school earning an overall performance grade of F.

(c) **School Accountability for Student Performance.** All schools shall be accountable for performance. Each school is accountable for the performance of its entire student population. Student achievement data from the State's annual standardized assessment and end-of-instruction tests administered in this State shall be used to measure a school's student performance for the subject areas of reading, mathematics, social studies, science and writing.

(d) **Reporting Student Achievement Data for School Accountability**. Student achievement data shall be reported for all students in a school. Each year, reports of achievement data for all students shall be prepared for each school, each district, and the State. District reports shall be calculated in the same manner as a school site, aggregated at the student level.

(1) The scores will be computed from the number of eligible students ~~of~~ enrolled in the school. Eligible students shall include all students enrolled for the full academic year in the school and taking the State's annual standardized assessments or end-of-instruction tests. ~~(A)~~ Only first opportunity students are included in the calculation of eligible students.

(2) All eligible students, regardless of disability or limited English proficiency classification, with valid state standardized assessment scores in reading and math in both the current school year and the previous school year

are included in paragraphs (f)(2) and (f)(3) of this rule regarding the determination of student learning gains. In addition, the inclusion of these students shall be applied to sub-section (b)(3) of this rule, regarding the percentage of students assessed. Current and previous school years reading and math scores for students with disabilities assessed on the State's annual standardized alternate assessment shall be included in the determination of test scores, including achievement and improvement addressed in sub-sections (f)(1) and (f)(4) of this rule.

(3) The Superintendent of Public Instruction is authorized to designate a single school performance grade for schools that serve multiple levels: elementary and/or middle and/or high school grade levels. Designations shall be made based on the highest grade level offered by the school.

(A) If the highest grade offered by a school site is the sixth (6th) grade or below, the school shall be graded according to elementary school criteria.

(B) If the highest grade offered by a school site is the (7th) through tenth (10th) grade, the school shall be graded according to the middle school criteria. Schools in this category shall not earn advance coursework credit for ninth and tenth grade students completing high school coursework unless the course qualifies as advanced coursework pursuant to subsection (f)(4)(A)(ii) or (f)(4)(B)(i).

(C) If the highest grade offered by a school site is the eleventh (11th) or twelfth (12th) grade, the school shall be graded according to high school criteria.

(4) The State Department of Education will verify that each school is appropriately classified by type before the issuance of school grades. School type is defined as the school level designation of a school based on the grade levels served: elementary, middle, high, or a combination across levels.

(e) **School Performance Grades.** The measure of school accountability shall be the school performance grade. The Oklahoma State Board of Education is authorized to designate a school performance grade for each school that:

(1) For purposes of calculating student achievement pursuant to subsection (f)(1), has at least ten (10) eligible students with valid student state standardized assessment scores.

(~~1~~2) For purposes of calculating student growth pursuant to subsection (f)(2),~~Has~~has at least ten (10)~~thirty (30)~~ eligible students with valid student state standardized assessment scores or end-of-instruction ~~tests~~test scores in reading or math in both the current and the previous school years~~, and~~.

(~~2~~3) For purposes of calculating student growth pursuant to subsection (f)(3),~~Has~~has at least ten (10)~~thirty (30)~~ eligible students ~~scores with from~~with valid student state standardized assessment scores or end-of-instruction test scores in reading or math in the current and previous school years.~~or end-of-instruction tests~~. ~~Performance designations shall be made using School Performance Grades A, B, C, D, and F. School performance grades shall be based on the assessments and criteria as specified in subsection (f) of this rule. The Superintendent of Public Instruction is authorized to establish and adjust appropriate achievement level criteria to the extent allowed by law for submission to the State Board of Education for final approval.~~

(4) A school shall not earn a grade for any component or criteria unless minimum N-size requirements established pursuant to this rule are met.Performance designations shall be made using School Performance Grades A, B, C, D, and F. School performance grades shall be based on the assessments and criteria as specified in subsection (f) of this rule. The Superintendent of Public Instruction is authorized to establish and adjust appropriate achievement level criteria to the extent allowed by law for submission to the State Board of Education for final approval.

(f) **Criteria for Designating School Performance Grades.** ~~School~~Overall school performance grades shall be based on a combination of the four ~~components~~criteria outlined in sub-section (b)(1) of this rule: (1) student achievement scores; (2) annual learning gains; (3) improvement of the lowest twenty-five percent (25%); and (4) whole school improvement.

(1) **Student achievement/performance index.** Student achievement scores are represented through a performance index, aggregated for each school, calculated based on all state standardized assessments and/or end-of-instruction tests collectively, and by each subject area. A point value shall be given to each exam based on proficiency score. Points shall be summed and divided by the number of exams administered to eligible students.

(A) Points shall be assigned based on the following criteria:

(i) Unsatisfactory = 0

(ii) Limited Knowledge = ~~0.2~~0

(iii) Proficient = 1.0

(iv) Advanced = ~~1.2~~1.0

(B) A letter grade shall be earned based on the following criteria:

(i) 90 or Above = A

(ii) 80 - 89 = B

(iii) 70 - 79 = C

(iv) 60 - 69 = D

(v) 59 or Below = F

(2) **Student growth index.** Annual learning gains are represented through a growth index, aggregated for each school. The score shall be calculated in whole and by subject-matter by assigning points for a positive change in proficiency level for eligible students from the previous school year to the current school year or by a positive change in Oklahoma Performance Index (OPI) score that meets or exceeds the State average of students with a positive OPI change.

(A) This calculation represents the number of eligible students who have:

(i) Improved their state standardized assessment achievement level or state standardized

alternative assessment achievement level, as applicable, from the previous school year to the current school year; or

(ii) Improved their state standardized assessment achievement level or state standardized alternative assessment achievement level and such change in OPI from the previous school year to the current school year met or exceeded the State average of students with a positive OPI change; or

(~~ii~~iii) Maintained their proficient or satisfactory achievement level on the state standardized assessment or state standardized alternate assessment, as applicable, from the previous school year to the current school year.

(B) The growth index shall be calculated based on improved state standardized assessment and end-of-instruction test performance from the previous school year to the current school year. The growth index shall be calculated by subject-matter and by assigning a point value to the change in proficiency score from the previous year to the next. Points based on student gains shall be summed and divided by the number of exams administered, and shall include only eligible students for whom comparative test scores exist. Points shall be assigned based on the following criteria:

(i) Change from Unsatisfactory to Limited Knowledge = 1.0

(ii) Change from Unsatisfactory to Proficient or Satisfactory = ~~2.0~~1.0

(iii) Change from Unsatisfactory to Advanced = ~~3.0~~1.0

(iv) Change from Limited Knowledge to Proficient or Satisfactory = 1.0

(v) Change from Limited Knowledge to Advanced = ~~2.0~~ 1.0

~~(vi) Remain Proficient from Previous to Current Year 2 = 1.0~~

(~~vii~~vi) Change from Proficient or Satisfactory to Advanced = 1.0

(~~viii~~vii) Remain Proficientor Advanced from Year 1 to Year 2 = 1.0

(~~ix~~viii) Remained at Unsatisfactory from Year 1 to Year 2 and Meets or Exceeds State Average Positive Change or remained at Limited Knowledge from Year 1 to Year 2 and Meets or Exceeds State Average Positive~~Growth~~ Change = 1.0

(~~x~~ ix) Remained at Unsatisfactory from Year 1 to Year 2 and Fails to Meet or Exceed State Average Positive Change or remained at Limited Knowledge from Year 1 to Year 2 and Fails to Meet or Exceed State Average Positive Change = 0

(C) A letter grade shall be earned based on the following criteria:

(i) 90 or Above = A

(ii) 80 - 89 = B

(iii) 70 - 79 = C

(iv) 60 - 69 = D

(v) 59 or Below = F

(3) **Growth of the lowest twenty-five percent of students.** Improvement of the lowest twenty-five percent (25%) of students in reading and math shall be aggregated,~~unless the students in this category are exhibiting satisfactory performance, as defined by scoring Satisfactory, Proficient or Advanced~~as required by 70 O.S. § 1210.545. The score shall be calculated in whole and by subject-matter by assigning points for a positive change in proficiency score for eligible students from the previous school year to the current school year or by a positive change in Oklahoma Performance Index (OPI) score that meets or exceeds the State's positive average ~~growth~~change.

(A) The calculation of a positive change in OPI score that meets or exceeds the State's average growth represents the number of eligible students who have:

(i) Improved their state standardized assessment achievement level or state standardized alternative assessment achievement level, as applicable, from the previous school year to the current school year; or

(ii) Retained their state standardized assessment achievement level or state standardized alternative assessment achievement level and such change in OPI from the previous school year to the current school year met or exceeded the State average of students with a positive OPI change.

~~(ii) Remained within a not proficient achievement level, but who demonstrated state average growth.~~

(B) The score shall be based on improved state standardized assessment and end-of-instruction test performance from the previous school year to the current school year. Points based on student gains shall be summed and divided by the number of exams administered, and shall include only eligible students for whom comparative test scores exist. The growth of the lowest twenty-five percent (25%) shall be calculated based on the following criteria:

(i) Change from Unsatisfactory to Limited Knowledge = 1.0

(ii) Change from Unsatisfactory to Proficient or Satisfactory = ~~2.0~~1.0

(iii) Change from Unsatisfactory to Advanced = ~~3.0~~1.0

(iv) Change from Limited Knowledge to Proficient or Satisfactory = 1.0

(v) Change from Limited Knowledge to Advanced = ~~2.0~~1.0

(vi) Remained at Unsatisfactory from Year 1 to Year 2 and Meets or Exceeds State Average Positive Change or remained at Limited Knowledge from Year 1 to Year 2 and Meets or Exceeds State Average Positive~~Growth~~Change = 1.0

(vii) Remained at Unsatisfactory from Year 1 to Year 2 and Fails to Meet or Exceed State Average

Positive Change or remained at Limited Knowledge from Year 1 to Year 2 and Fails to Meet or Exceed State Average Positive Change = 0

(C) A letter grade shall be earned based on the following criteria:

(i) 90 or Above = A
(ii) 80 - 89 = B
(iii) 70 - 79 = C
(iv) 60 - 69 = D
(v) 59 or Below = F

(4) **Whole school improvement.** The criteria listed in sub-sections (4)(A) and (4)(B) shall be used to calculate whole school improvement for high schools, middle schools, and elementary grade schools. Annually, the Oklahoma State Department of Education shall publish technical assistance specifically detailing the weighted formula and the projected availability of valid data used for computing whole school improvement. Technical assistance shall be published in time for school districts to make meaningful use of the information and data.

(A) **High schools.** For schools comprised of high school grades, the whole school improvement grade shall include:

(i) **Graduation rate.** Four-year high school graduation rate. For this component, a letter grade shall be earned based on the calculation of a graduation rate, only including students counted as on-time graduates as defined by federal regulations.

(I) 90% - 100% = A
(II) 80% - 89% = B
(III) 70% - 79% = C
(IV) 60% - 69% = D
(V) 59% or Below = F

(ii) **Participation in accelerated coursework.** Participation in accelerated coursework, is defined as participation in Advanced Placement (AP) courses, International Baccalaureate (IB) programs, concurrent enrollment, Advanced International Certificate of Education (AICE) courses, and industry certification courses. For this component, participation shall be calculated for the school year by dividing a count of accelerated coursework participants in grades nine (9) through twelve (12) (numerator) by the count of all students enrolled in grades eleven (11) and twelve (12) (denominator). For this component, a student must earn a passing grade in the course in order to be counted as a participant. Schools shall earn credit for every accelerated course in which a student is enrolled. Students enrolled in multiple accelerated courses shall be counted once for each course in which they are enrolled. In calculating a percentage for this component, participation rate shall include all enrollment data regardless of whether the course was taught at the high school, at a career technology center, an accredited college or university, or at a regional site of the Oklahoma School of Science and Mathematics. A letter grade for accelerated coursework shall be earned based on percentage of participation listed below.~~:~~ The scale provided to assign a grade will be converted to a transformed scale so that the A will range from 90-100, the B will range from 80-89, the C will range from 70-79, the D will range from 60-69, and the F will range from 59 and below. Points will be earned based on a transformed scale.

(I) 70% - 100% = A
(II) 60% - 69% = B
(III) 50% - 59% = C
(IV) 30% - 49% = D
(V) 29% or Below = F

~~(iii) Performance in Advanced Placement (AP) and International Baccalaureate (IB). For this component, a letter grade shall be earnedbased on the percent of students scoring a three (3) or better on the APexams, or a four (4) or better on IB exams:~~

~~(I) 75% - 100% = A~~
~~(II) 65% - 74% = B~~
~~(III) 50% - 64% = C~~
~~(IV) 30% - 49% = D~~
~~(V) 29% or Below = F~~

(~~iv~~iii) **Performance in accelerated coursework.** Performance in concurrent enrollment, Advanced International Certificate of Education (AICE) courses, Advanced Placement (AP), International Baccalaureate (IB), and industry certification courses. For this component, the ~~denominator~~ numerator of the performance calculation shall include all students in grades nine (9) through twelve (12) who took an accelerated course or subject area examination during the academic year. AICE successful completion is defined as earning a "C" or higher and being awarded credit for specific postsecondary course(s). For concurrent enrollment, successful completion is defined as a passing grade of "C" or higher in a concurrent enrollment course for college credit. For industry certification, successful completion is defined as ~~passing an industry certification examination~~earning a "C" or better in the course leading to industry certification. Schools can earn additional successful completions for students who achieve industry certifications that result in credit for more than one (1) college course through statewide articulation agreements. For AP and IB performance, credit shall be earned based for each student scoring a three (3) or better on the AP exams, or a four (4) or better on IB exams. For purposes of this component, a school shall earn credit for every course in which a student demonstrates the required level of performance. In calculating a percentage for this component,

performance shall include all coursework regardless of whether the course was taught at the high school, at a career technology center, an accredited college or university, or at a regional site of the Oklahoma School of Science and Mathematics. A letter grade shall be earned based on the percentage of students enrolled in these programs who meet the criteria listed above:

(I) 90% - 100% = A
(II) 80% - 89% = B
(III) 70% - 79% = C
(IV) 60% - 69% = D
(V) 59% or Below = F

(~~v~~iv) **ACT and SAT participation.** For this component, schools will earn a grade based on the calculated percent of students taking the ACT and/or SAT. The percent is calculated by dividing the number of twelfth (12th) grade students who have taken the ACT and/or SAT tests, divided by the number of students enrolled in grade twelve (12). Students will be counted once for the ACT and/or once for the SAT, regardless of the number of times or at which grade levels the test(s) are taken. The high school will earn credit for the most recent test score reported at the time the test is administered. A letter grade for ACT and SAT participation shall be earned based on the ~~following~~ criteria listed below.~~:~~The scale provided to assign a grade will be converted to a transformed scale so that the A will range from 90-100, the B will range from 80-89, the C will range from 70-79, the D will range from 60-69, and the F will range from 59 and below. Points will be earned based on a transformed scale.

(I) 75% - 100% = A
(II) 65% - 74% = B
(III) 50% - 64% = C
(IV) 30% - 49% = D
(V) 29% or Below = F

(~~vi~~v) **ACT and SAT performance.** For this component, schools will earn a grade based on the percentage of students scoring an ACT composite score of 20 or greater based on 36-point scale, and/or an SAT score of 1410 or greater based on a 2400-point scale. Students will be counted once for the ACT and/or once for the SAT, regardless of the number of times or at which grade levels the test(s) are taken. The high school will earn credit for the most recent test score reported at the time the test is administered. A letter grade for ACT and SAT performance shall be earned based on the ~~following~~ criteria listed below.~~:~~ The scale provided to assign a grade will be converted to a transformed scale so that the A will range from 90-100, the B will range from 80-89, the C will range from 70-79, the D will range from 60-69, and the F will range from 59 and below. Points will be earned based on a transformed scale.

(I) 75% - 100% = A
(I) 65% - 74% = B
(III) 50% - 64% = C
(IV) 30% - 49% = D
(V) 29% or Below = F

(~~vii~~vi) **High school graduation rate of eighth (8th) graders.** For this component, schools shall earn a grade based on the high school graduation rate of students who scored at limited knowledge or unsatisfactory on the eighth (8th) grade reading and mathematics criterion-referenced test administered pursuant to the Oklahoma State Testing Program (OSTP). For this component, schools shall earn a grade based on the calculation of the graduation rate of this population of eighth (8th) graders, regardless of where the student attended the eighth (8th grade). ~~This component shall only include students counted as on-time graduates~~. The scale provided to assign a grade will be converted to a transformed scale so that the A will range from 90-100, the B will range from 80-89, the C will range from 70-79, the D will range from 60-69, and the F will range from 59 and below. Points will be earned based on a transformed scale.

(I) 85% - 100% = A
(II) 75% - 84% = B
(III) 65% - 74% = C
(IV) 55% - 64% = D
(V) 54% or Below = F

(~~viii~~vii) **Graduation rate, including students taking ~~four (4)~~five (5) or more years to graduate.** For this component, schools shall earn a grade based on the calculation of a graduation rate to include all graduates regardless of the amount of time required to meet graduation requirements.

(I) 90% - 100% = A
(II) 80% - 89% = B
(III) 70% - 79% = C
(IV) 60% - 69% = D
(V) 59% or Below = F

(B) **Middle schools.** For schools comprised of middle school grades, the whole school improvement grade shall include:

(i) **The percentage of students who are taking higher level coursework at a satisfactory or higher level in middle school.** For this component, schools shall earn a grade based on the percentage of students taking traditional high school courses in the middle school grades, pre-Advanced Placement courses, ~~or other advanced coursework~~or honors courses in a traditional classroom or in a virtual environment who score at a satisfactory level or higher on the corresponding state standardized assessment. Schools shall earn credit for every accelerated course in which a student is enrolled. Students enrolled in multiple accelerated courses shall be counted once for each

course in which they are enrolled. A letter grade will be earned based on the ~~following~~ criteria listed below.~~:~~ The scale provided to assign a grade will be converted to a transformed scale so that the A will range from 90-100, the B will range from 80-89, the C will range from 70-79, the D will range from 60-69, and the F will range from 59 and below. Points will be earned based on a transformed scale.

(I) 30% or Higher = A
(II) 25% - 29% = B
(III) 20% - 24% = C
(IV) 15% - 19% = D
(V) 14% or Below = F

(ii) **Attendance.** For this component, schools will earn a grade for the level of student attendance based on the calculation of a student attendance rate. This rate is the Average Daily Attendance (ADA) divided by the Average Daily Membership (ADM). ADA is calculated by dividing the total number of days students were present by the number of days in the school calendar or by dividing the number of hours students were present by the number of hours in the school calendar, whichever applicable. ADM is calculated by dividing the total number of days students were enrolled in school by the number of days in the school calendar or by dividing the number of hours students were enrolled by the number of hours in the school calendar, whichever applicable. A letter grade for attendance will be earned based on the ~~following~~ criteria listed below. The scale provided to assign a grade will be converted to a transformed scale so that the A will range from 90-100, the B will range from 80-89, the C will range from 70-79, the D will range from 60-69, and the F will range from 59 and below. Points will be earned based on a transformed scale.

(I) 94% - 100% = A
(II) 92% - 93% = B
(III) 90% - 91% = C
(IV) 88% - 89% = D
(V) 87% or Below = F

(iii) **Dropout rate.** For this component, schools shall earn a grade based on the annual number of students reported as dropouts to the Oklahoma State Department of Education on the Annual Dropout Report. A letter grade for dropout rate will be earned based on the ~~following~~ scale listed below.~~:~~The scale provided to assign a grade will be converted to a transformed scale so that the A will range from 90-100, the B will range from 80-89, the C will range from 70-79, the D will range from 60-69, and the F will range from 59 and below. Points will be earned based on a transformed scale.

(I) 0% - 0.9% = A
(II) 1% - 1.9% = B
(III) 2% - 2.9% = C
(IV) 3% - 3.9% = D
(V) 4% or More = F

(C) **Elementary schools.** For schools comprised of elementary school grades, the whole school improvement grade shall include:

(i) **Attendance.** For this component, schools will earn a grade for the level of student attendance based on the calculation of a student attendance rate. This rate is the Average Daily Attendance (ADA) divided by the Average Daily Membership (ADM). ADA is calculated by dividing the total number of days students were present by the number of days in the school calendar or by dividing the number of hours students were present by the number of hours in the school calendar, whichever applicable. ADM is calculated by dividing the total number of days students were enrolled in school by the number of days in the school calendar or by dividing the number of hours students were enrolled by the number of hours in the school calendar, whichever applicable. A letter grade for attendance will be earned based on the ~~following~~ criteria listed below. The scale provided to assign a grade will be converted to a transformed scale so that the A will range from 90-100, the B will range from 80-89, the C will range from 70-79, the D will range from 60-69, and the F will range from 59 and below. Points will be earned based on a transformed scale.

(I) 94% - 100% = A
(II) 92% - 93% = B
(III) 90% - 91% = C
(IV) 88% - 89% = D
(V) 87% or Below = F

(ii) **Dropout rate.** For this component, schools shall earn a grade based on the annual number of students reported as dropouts to the Oklahoma State Department of Education on the Annual Dropout Report. A letter grade for dropout rate will be earned based on the ~~following~~ scale listed below.~~:~~ The scale provided to assign a grade will be converted to a transformed scale so that the A will range from 90-100, the B will range from 80-89, the C will range from 70-79, the D will range from 60-69, and the F will range from 59 and below. Points will be earned based on a transformed scale.

(I) 0% - 0.9% = A
(II) 1% - 1.9% = B
(III) 2% - 2.9% = C
(IV) 3% - 3.9% = D
(V) 4% or More = F

(g) **Additional points.** In addition to the criteria listed in sub-section (f)(4) of this rule, schools may earn additional points that will be factored into the school's whole school improvement grade. Annually, the Oklahoma State Department of Education shall publish technical assistance specifically

detailing the weighted formula used for computing additional points into the whole school improvement grade. Technical assistance shall be published in time for school districts to make meaningful use of the information and data.

(1) **Parent and community engagement factors.** For all schools comprised of high school, middle school, and elementary school grades, additional points may be earned and factored into the whole school improvement grade based on the following school improvement factors~~:~~.For this component, schools shall earn additional points based on the number of volunteer hours performed during the school year by parents and/or community members.

~~(A) School climate indicators. For this component, schools shall earn additional points based on the results of the Oklahoma School Climate Survey, which should be made available to all faculty, parents, and students. The Oklahoma SchoolClimate Survey must be completed by at least ninety percent (90%) of faculty,twenty percent (20%) of students, and ten percent (10%) of parents in the school.The survey shall be administered online and results submitted directly to the Oklahoma State Department of Education.~~

~~(B) **Parent and community engagement factors.** For this component, schools shall earn additional points based on the number of volunteer hours performed during the school year by parents and/or community members~~.

~~(2) In addition to the factors outlined in sub-section (g)(1), for schools comprised of elementary school grades, additional points may be earned and factored into the wholeschool improvement grade based on the following school improvement factors:~~

~~(A) Higher Level Coursework. The percentage of students who are taking higher level coursework at a satisfactory or higher level in elementary school. For thiscomponent, schools shall earn points based on the percentage of students taking traditional middle school courses in the elementary school grades or otheradvanced coursework in a traditional classroom or in a virtual environment whoscore at a satisfactory level or higher on the corresponding state standardizedassessment~~.

(~~3~~2) In addition to the factors outlined in sub-section (g)(1), for schools comprised of high school grades, additional points may be earned and factored into the whole school improvement grade based on the following school improvement factors:

(A) **College preparatory coursework.** For this component, high schools serving students in grades nine (9) through twelve (12) shall earn points based on the percentage of students completing the State's college and career preparatory curriculum. This shall be calculated based on a sum of all students, in grades nine (9) through twelve (12), enrolled in college preparatory coursework divided by the total number of students enrolled in the school in grades nine (9) through twelve (12).

(B) **College remediation.** For this component, a college remediation rate shall be calculated by dividing the unduplicated count of students needing remediation in reading, English, math, or science by the total number of the students attending an Oklahoma college or university.

(h) **School Performance Grading Scale.** The School Performance Grade shall be based on a combination of the factors outlined in sub-section (b)(1) of this rule and detailed in sub-section (f) of this rule. Thirty-three percent (33%) shall be based on student test scores; seventeen percent (17%) on student learning gains; seventeen percent (17%) on improvement of the lowest twenty-five percent (25%) of students in the school in reading and mathematics; and thirty-three percent (33%) on whole school improvement. Letter grades will be ~~converted~~calculated according to the assigned weight of each criteria and by combining points earned for each component within each criteria. ~~based on the following point distribution:A's will be converted to 4 points; B's will be converted to 3 points; C's will be converted to 2 points; D's will be converted to 1 point; and F's will be converted to 0 points.~~ The grades for each factor described in sub-section (b)(1) will be ~~averaged tocompute~~ earned~~an overall grade.~~and assigned according to the following scale:

(1) ~~A grade point average of 3.75–4.0 shall be required for a School Performance Gradeof A.~~ 90 or Above = A

(2) ~~A grade point average of 2.75–3.74 shall be required for a School Performance Grade of B.~~80 - 89 = B

(3) ~~A grade point average of 1.75–2.74 shall be required for a School Performance Grade of C.~~70 - 79 = C

(4) ~~A grade point average of 0.75–1.74 shall be required for a School Performance Grade of D.~~60 - 69 = D

(5) ~~If a school's grade point average is lower than 0.74, it shall be assigned a School Performance Grade of F.~~59 or Below = F

(i) **Accuracy and Representativeness of Performance Data.** The Oklahoma State Department of Education shall review all information submitted by school districts to represent the performance of schools receiving a school performance grade.

(1) Each school district superintendent shall designate a school accountability contact person to be responsible for verifying accuracy of data.

(2) The Superintendent of Public Instruction shall withhold the designation of a school's performance grade if he or she determines that the performance data does not accurately represent the progress of the school.

(A) Circumstances under which a school's performance data may be considered to not accurately represent the progress of the school include:

(i) Less than ninety-five percent (95%) of the school's student population eligible for inclusion in the designation of the school's performance grade was assessed.

(ii) Circumstances identified before, during, or following the administration of any state assessment where the validity or integrity of the test results are called into question and are subject to

review as determined by the State Department of Education.

~~(B) After the initial issuance of school performance grades, the school district shall have at least thirty (30) calendar days to review the data on which the performance grade was based. If the school district determines that a different performance grade should be assigned because of the omission of student data, a data miscalculation, or special circumstances that might have affected the grade assigned, a request for a review of the data can be submitted to the State Department of Education. Changes to the criteria or process shall not be considered as part of this review. Documentation of all elements and data to be reviewed by the Department must be submitted within the time limits specified in this sub-section. No changes to data shall be made after the expiration of the thirty (30) calendar day review period.~~

(j) **Data verification by school sites/districts.** School sites shall be provided an opportunity to review all data used to calculate the school performance grade and the calculation of the school performance grade.

(1) **Initial Data Verification.** Initial data verification of the data used to calculate school performance grades shall occur throughout the school year as data becomes available to the State Department of Education. School district accountability staff shall have the opportunity to perform data verification and confirm that data being used to calculate school performance grades are accurate prior to the review period required by (j)(2) of this rule. The school district shall have at least thirty (30) calendar days to review each data component, as it becomes available. No changes to data shall be made after the expiration of the respective thirty (30) calendar day review period.

(2) **Calculation Verification.** Prior to the final release of school performance grades, a school district shall have at least ten (10) calendar days to certify the calculation of the performance grade. If the school district determines that a different performance grade should be assigned because of the omission of student data, a data miscalculation, or special circumstances that might have affected the grade assigned, school districts may submit a request for a review of the data calculation to the State Department of Education. Documentation of all elements to be reviewed by the Department must besubmitted within the time limits specified in this subsection. No request for review of the calculation shall be accepted after the expiration of the ten (10) calendar day review period. Changes to the criteria, data, or process shall not be considered as part of this review.

(~~j~~k) **Final determination.** The Oklahoma State Board of Education's determination of a school's performance grade shall be final.

(1) **Planned System Enhancements.** As indicated in this subsection, planned enhancements will occur in the System of School Improvement and Accountability. The Superintendent of Public Instruction will periodically recommend additional changes to the system to the State Board of Education for approval as necessary to ensure that continuous improvements are made in the educational programs of the State.

(A) Performance data shall be reviewed annually to determine whether to adjust the school grading scale for the following year's school grades. Adjustments may include, but shall not be limited to grading criteria, classification of school type, point calculations, point requirements, and minimum points necessary to obtain a certain grade. Adjustments may reset the minimum required number of points for each grade.

[OAR Docket #13-1036; filed 6-6-13]

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

[OAR Docket #13-1034]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 27. Reading Sufficiency Act
210:15-27-1. ~~Reading Sufficiency Act~~Reading Sufficiency Plans and Summer Academy Reading Programs
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
AUTHORITY:
70 O.S. § 3-104; 70 O.S. § 1210.508C; 70 O.S. § 1210.508D; 70 O.S. § 1210.508E; Oklahoma State Department of Education
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N/A
ANALYSIS:
Amendments to the rules incorporate 2012 amendments to 70 O.S. § 1210.508C regarding good cause exemptions from retention for students who score at an unsatisfactory level on the reading portion of the statewide third grade standardized test. Amendments to the rules also revise and clarify requirements for submission of district reading sufficiency plans required by § 1210.508C and allocation of Reading Sufficiency Act funds pursuant to § 1210.508D. The rule also adds a procedure for approval of an alternate

schedule of a Summer Academy Reading Program for schools observing a continuous learning calendar.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

SUBCHAPTER 27. READING SUFFICIENCY ACT

210:15-27-1. ~~Reading Sufficiency Act~~Reading Sufficiency Plans and Summer Academy Reading Programs

(a) Each public school district will develop a district reading sufficiency plan that includes a plan for each site. The district and site reading plans~~plan will become a part of each district's Comprehensive Local Education Plan and~~ must be updated annually and electronically submitted to and approved by the Office of Instruction of the State Department of Education as part of the requirements for receiving accreditation, provided that electronic submission and approval of annual updates to the district plan shall not be required if:

(1) The last plan submitted by the school district was approved; and

(2) Expenditures for the district's reading program include only expenses relating to:

(A) Individual and small group tutoring;

(B) Purchase of and training in the use of screening and assessment measures;

(C) Summer school programs; or

(D) Saturday school programs.

(b) If any expenditure for the district's reading program is deleted or changed or if any other type of expenditure for the district's reading program is implemented, the school district shall be required to submit the latest annual update for approval. Notwithstanding the provisions of (a)(1) and (2) of this Section, if a district has one or more schools that are not achieving the annual improvement goals as outlined in the Reading Sufficiency Act, or if a district has one or more schools designated as a school in need of improvement, the district shall submit its district reading sufficiency plan for approval.

(~~b~~c) Each school district and each school site shall submit to the State Department of Education the information to be used for the required Reading Sufficiency Act Annual Reading Report Card~~.~~ by the ~~Submission~~ submission deadline ~~date~~ to be determined by the Office of Instruction of the State Department of Education.

(~~c~~d) Each school district will submit to the State Department of Education~~,~~ the number of students in kindergarten, first, second and third grades found to be in need of remediation in reading based on screening instruments approved by the State Board of Education~~.~~by the ~~Submission~~ submission deadline ~~date~~ to be determined by the Office of Instruction of the State Department of Education.

(~~d~~e) Pursuant to the Reading Sufficiency Act, each school district which has any schools that are not achieving the required annual reading goal set forth in 70 O.S. § 1210.508B shall submit to the State Department of Education its annual improvement goals necessary to progress from the baseline established September 1, 2005, to achieving the reading goal for all third-grade students set forth at 70 O.S. 1210.508B(D).~~by July 1, 2008~~. These improvement goals shall be submitted to the State Board of Education~~.~~by the ~~Submission~~ submission deadline ~~date~~ to be determined by the Office of Instruction of the State Department of Education.

(~~e~~f) Contingent on the availability of appropriated funds designated for the Reading Sufficiency Act, the State Department of Education may ~~award up to $150.00~~allocate funds to public school districts in accordance with the provisions of 70 O.S. § 1210.508D. ~~for each currently enrolled first, second, and third grade student who is found to be in need of remediation in reading.~~

(~~f~~g) Reading sufficiency funds allocated ~~under this section~~pursuant tosubsection~~(e)~~(f)of this Section must be used for expenses relating to individual and small group tutoring, purchase of and and/or development of instructional training in the use of screening assessment measures, summer ~~school~~academy reading programs, ~~and~~ Saturday school programs, and any other reading program or professional development training contemplated as necessary by the districts to perform the goals of the Reading Sufficiency Act for students in the kindergarten, first, second, and third grades who have been identified by the elementary site as in need of a program of reading instruction.

~~(g) Each school district with one or more school sites identified for School Improvement shall submit its district reading sufficiency plan to the State Board of Education. Submission date to be determined by the Office of Instruction of the State Department of Education.~~

~~(h) The district reading sufficiency plan shall be submitted to the State Board of Education if the district has any schools that are not achieving the annual improvement goals as outlined in the Reading Sufficiency Act. Submission date to be determined by the Office of Instruction of the State Department of Education.~~

~~(i) Contingent on the availability of appropriated funds, the State Department of Education may award up to $400.00 to public school districts for each eligible currently enrolled student who is found not to be reading at grade level and who subsequently participates in a summer academy reading program pursuant to the Reading Sufficiency Act.~~

(~~j~~h) Each district will submit the number of eligible students who may participate in an approved summer academy reading program based on results from an approved assessment as outlined in the Reading Sufficiency Act~~.~~by the ~~Submission~~ submission deadline ~~date~~ to be determined by the Office of Instruction of the State Department of Education.

~~(k) Reading Sufficiency funds allocated from the student count in (j) may be used for expenses relating to any approved reading programs for participating eligible students.~~

(~~l~~i) Summer academy reading programs for students shall be courses that:

(1) provide at least four (4) weeks of tutoring a half (1/2) day each day for four days;

(2) incorporate the content of a reading program that meets the criteria set forth in the Reading Sufficiency Act~~.~~;

(3) are taught by teachers who have successfully completed a professional development institute or program in reading as prescribed by the statutory provisions of the Reading Sufficiency Act~~.~~; and

(4) include only eligible students not reading at grade level based on results from an assessment approved by the State Board of Education.

(j) School districts observing a continuous learning calendar may request to implement a summer academy reading program on an alternative schedule throughout the extended school year (e.g., during intersession breaks) by submitting a proposed alternative summer academy reading program schedule to the State Department of Education for approval prior to the deadline established by the Office of Instruction of the State Department of Education, provided that any proposed alternative schedule must meet the requirements set forth in (i) of this Section.

(~~m~~k) Superintendents of districts will sign and submit an assurance statement that their reading program(s) meet the requirements of the Reading Sufficiency Act prior to receipt of funding.

(l) Upon completion of a Summer Academy Reading Program pursuant to 70 O.S. § 1210.508E, a student may demonstrate successful completion of the required competencies for reading necessary for promotion to fourth grade upon the student's completion of either:

(1) A student portfolio in accordance with the criteria set forth in 210:15-27-2(b)(4); or

(2) An acceptable level of performance on an alternative reading assessment in accordance with the criteria set forth in 210:15-27-2(b)(3)(A).

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

(a) Beginning with the 2013-2014 school year, students who score at the Unsatisfactory level on the Reading portion of the ~~Grade 3~~third grade criterion-referenced test(s) may only be promoted to fourth grade ~~four~~ if the student qualifies for a good cause ~~or other statutory~~ exemption pursuant to 70 O.S. § 1210.508C.

(b) Good cause exemptions shall be limited to the six (6) statutory exemptions outlined in 70 O.S. § 1210.508C~~, Section~~ (K) as follows:~~.~~

(1) ~~Completion of transitional grades shall be considered a previous retention for purposes of 70 O.S. § 508C, Section (K). A transitional grade consists of subject area curriculum selected from two consecutive grade levels to provide differentiated instruction needed for a student to master appropriate skills required for promotion.~~ Students with limited English proficiency may be granted a good cause exemption for promotion to the fourth grade pursuant to 70 O.S. § 1210.508C(K)(1). To qualify for this exemption, the student must:

(A) Be identified as Limited-English Proficient (LEP)/English Language Learner (ELL) on a screening tool approved by the Oklahoma State Department of Education Office of Bilingual/Migrant Education and have a Language Instruction Educational Plan (LIEP) in place prior to the administration of the third grade criterion referenced test; and

(B) The student must have had less than two (2) years of instruction in an English Language Learner (ELL) program.

(2) Students with disabilities who are assessed with alternate achievement standards (AA-AAS) under the Oklahoma School Testing Program (OSTP) with the Oklahoma Alternative Assessment Program (OAAP) qualify for the good cause exemption pursuant to 70 O.S. § 1210.508C(K)(2). To qualify for this exemption, the student must meet all of the following criteria:

(A) The student must be identified as needing special education services prior to the administration of the third grade criterion referenced test;

(B) The student must have an Individualized Education Program (IEP) in place prior to the administration of the third grade criterion referenced test; and

(C) The student's IEP must direct that the student is to be assessed with alternate achievement standards through the Oklahoma Alternative Assessment Program (OAAP) based upon the OSDE Criteria Checklist for Assessing Students with Disabilities on State Assessments.

(~~c~~3) Students who demonstrate an acceptable level of performance on an alternative standardized reading assessment may be granted a good cause exemption for promotion to the fourth grade pursuant to 70 O.S. § 1210.508C(K)(3). To promote a student using an alternative standardized reading assessment, the following criteria shall apply:

(~~1~~A) The student must score an acceptable level of performance on an approved alternative standardized reading assessment. The following are approved alternative standardized reading assessments that may be used to justify a good cause promotion pursuant to 70 O.S. § 1210.508C(K)(3). The listed score constitutes an acceptable level of performance, and the student must score at or above the following percentiles:

(~~A~~i) Stanford Achievement Test, Tenth Edition, (SAT 10) - 45th Percentile

(~~B~~ii) Iowa Test of Basic Skills (ITBS) Complete Battery Form A, C or E, Level 9, Reading Comprehension - 45th Percentile

(~~C~~iii) Iowa Test of Basic Skills (ITBS) Core Battery, Form A, C, or E, Level 9, Reading Comprehension - 45th Percentile

(~~D~~iv) ~~Terranova~~TerraNova, Third Edition Complete Battery Level 13, Reading - 45th Percentile

(~~2~~B) Alternative standardized reading assessments may only be administered following the administration of the Reading portion of the ~~Grade 3~~third grade criterion-referenced test(s). The spring test form of the exam shall be administered.

(~~3~~C) An approved alternative standardized reading assessment may be administered at any time prior to the start of the next academic year, if there are at least thirty ~~calendar~~ (30) calendar days between administrations and different test forms are administered.

(~~d~~4) Students who can demonstrate evidence through a student portfolio that the student has mastered state standards beyond the retention level and that the student is reading on grade level or higher may be granted a good cause exemption pursuant to 70 O.S. § 1210.508C(K)(4). ~~To promote a student using a student portfolio as a good cause exemption there must be evidence that demonstrates the student's mastery of state standards beyond the retention level and that the student is reading on grade level or higher.~~ To promote a student through the use of a student portfolio, the following criteria shall apply:

(~~1~~A) The student portfolio shall include evidence demonstrating~~demonstration of~~ the student's mastery of the Oklahoma state standards in reading equal to grade level performance on the Reading portion of the statewidethird grade ~~Grade 3~~ criterion-referenced test(s). Such evidence shall be documented through an organized collection of work representing the student's mastery of such standards, including a demonstration of mastery of all of the following essential components of reading:~~.~~

(i) Phonological awareness;

(ii) Phonics (i.e., The student demonstrates awareness of letter-sound correspondence for consonants, vowels, and consonant diagraphs, syllable types, and two to three syllable words);

(iii) Vocabulary (i.e., The student demonstrates ability to determine the meaning of general academic-specific and domain-specific words and phrases in a text relevant to a grade three topic or subject area);

(iv) Automaticity/Fluency (i.e., The student demonstrates timed letter and word identification, sight words, modeled paragraph reading);

(v) Comprehension (i.e., The student demonstrates ability to read and comprehend informational text independently and proficiently); and

(vi) Spelling/Writing (i.e., The student demonstrates proficiency in spelling and writing through spelling tests and writing samples).

~~(2) A student portfolio created to serve as the basis for a good cause exemption must meet the following criteria:~~

~~(A) Consist only of grade level work selected by the student's Reading teacher;~~

~~(B) Be an accurate representation of the student's reading achievement level, and only include work that has been independently produced in the third grade by the student in the classroom of the student's Reading teacher;~~

(~~C~~B) The student portfolio shall include~~Include~~ clear evidence that the standards assessed by the Reading portion of the ~~Grade 3~~statewidethird grade criterion-referenced test(s) have been met. Clear evidence must include multiple choice items and passages that are 50% literary text and 50% expository text that are between 200-600 words, with an average of 350 words. Such evidence could consist of:

(i) Chapter or unit tests from the district's adopted core reading curriculum that are aligned with the Oklahoma State Standards; or

(ii) Teacher-prepared assessments.

(~~D~~C) Each standard and objective assessed by the ~~Grade 3~~ Reading portion of the third grade criterion-referenced test(s) must include a minimum of four (4) work samples of mastery whereby the student attained a grade of 70% or above. Demonstrating mastery of each objective for each standard is required.

(D) The student portfolio shall include copies of the screening assessments and benchmark/progress monitoring assessments administered pursuant to 70 O.S. 1210.508C(B) and (C), as well as a copy of the student's Academic Progress Plan.

(E) The student portfolio shall be ~~Be~~ signed by the certified classroom teacher responsible for the student's Reading instruction and the principal of the school, ~~both~~ attesting that:

(i) The~~the~~ portfolio is an accurate assessment of the student's reading achievement level;

(ii) The portfolio includes only work that has been independently produced by the student in the third grade, including programs of reading instruction provided after regular school hours, on Saturdays, and during the summer following the student's third grade year; and

(iii) ~~that the~~The student possesses required reading skills to be promoted to fourth grade.

~~(e) To promote a student under 70 O.S. § 1210.508C (L), the student's teacher shall compile a student portfolio which demonstrates that the student should be exempted from the academic requirements of the Oklahoma Reading Sufficiency Act. The student portfolio shall indicate that promotion is appropriate based on the record of the student, as documented by a student portfolio.~~

~~(1) An exemption based on the record of the student shall exist only if the student has been evaluated for special education services and received a borderline deficiency Full Scale IQ or General Intellectual Ability (GIA) score of seventy (70) to seventy-nine (79) on an intellectual assessment listed in sub-section (1)(B).~~

~~(A) Student portfolios compiled pursuant to section (e) of this rule shall contain documentation of the intellectual assessment administered to the student and the respective score report. The intellectual~~

~~assessment must be administered by a licensed psychologist, certified school psychologist, or certified psychometrist.~~

~~(B) The following intellectual assessments may be administered to justify an exemption under this section:~~

~~(i) WISC-IV~~

~~(ii) Stanford-Binet V~~

~~(iii) Woodcock Johnson III Normative Update~~

~~(C) An intellectual assessment may only be used to justify this exemption if administered in the current or previous school year of the Grade 3 criterion referenced test administration. Prior intellectual assessments may not be relied upon as justification for this exemption.~~

~~(D) The standard error of measurement (SEM) shall not be considered for purposes of this section.~~

~~(2) The student portfolio shall be compiled by the student's Reading teacher and submitted to the school principal for approval. The portfolio shall be signed by the student's Reading teacher and the principal of the school, both attesting that the student meets the requirements of this section.~~

~~(3) The student's Reading teacher, in consultation with the school principal, shall determine whether the student qualifies for an exemption pursuant to this rule.~~

(5) Students with disabilities who participate in the statewide criterion-referenced test and have an IEP may qualify for a good cause exemption pursuant to 70 O.S. § 1210.508C(K)(5). To qualify for this exemption, the student must meet the following criteria:

(A) The student must have been previously retained in kindergarten, first grade, second grade, or third grade; and

(B) The student's IEP must:

(i) Identify Reading as an area of education need for the student or identify some type of special education service in the area of Reading; and

(ii) Reflect that the student has received intensive remediation for more than two (2) years. Intensive remediation may include any type of program offering intensive reading instruction that is identified as appropriate by the IEP team.

(6) Students who demonstrate a reading deficiency and have been previously retained may qualify for a good cause exemption pursuant to 70 O.S. § 1210.508C(K)(6). To qualify for this exemption, the student must meet the following criteria:

(A) The student must have been previously retained in kindergarten, first grade, second grade, or third grade for a total of two (2) years; and

(B) The student must have received intensive reading instruction for two (2) or more years.

(c) Each student completion of a transitional grade between kindergarten and third grade shall be considered a previous retention for purposes of 70 O.S. § 1210.508C(K). A transitional grade consists of subject area curriculum selected from two consecutive grade levels to provide differentiated instruction needed for a student to master appropriate skills required for promotion.

(~~g~~d) Documentation shall be maintained in the student record of any student promoted on the basis of a good cause exemption listed in 70 O.S. § 1210.508C(K).~~, Section (K), or student exemptions granted pursuant to sub-section (e) of this rule.~~ Documentation shall include the student's criterion-referenced test score~~,~~ and any documentation relied upon to grant a good cause exemption or exemption pursuant to ~~(e)~~(b) of this ~~rule~~Section.

(~~f~~e) Any student promoted on the basis of a good cause exemption listed in 70 O.S. 1210.508C(K) ~~, Section (K), or exempted from academic requirements pursuant to sub-section (e) of this rule~~ should continue to receive intensive reading instruction and intensive instructional services and supports through the continued implementation of an Academic Progress Plan (APP) to remedy the reading deficiency.

(f) Each student's APP required under this section shall be documented on a form approved by the Office of Instruction of the State Department of Education, and shall include, but not be limited to, the following information:

(1) Identification of assessments used for diagnostic purposes and periodic monitoring;

(2) The results of the assessment(s) used to identify the reading deficiency;

(3) A list of the developmental reading skill areas targeted for improvement (i.e., comprehension, phonics, phonological awareness, spelling, reading fluency, or vocabulary);

(4) A description of the supplemental and/or remedial services and supports provided to the student in accordance with the provisions of 70 O.S. § 1210.508C(N)(2);

(5) A description of parental involvement strategies; and

(6) Identification of any collaborative services provided to the child in order to facilitate the APP (i.e., Title I, IDEA, ELL/Title III).

(g) For purposes of the Reading Sufficiency Act, a "program of reading instruction" shall be based upon a three-tiered Response to Intervention ("RtI") model, and shall include:

(1) For students identified for Tier I intervention, a minimum of ninety (90) minutes of uninterrupted daily scientific-research-based reading instruction;

(2) For students identified for Tier II intervention, at least thirty (30) to forty-five (45) minutes of additional uninterrupted daily scientific-research-based reading instruction in addition to the ninety (90) minutes of uninterrupted daily reading instruction provided under Tier I; and

(3) For students identified for Tier III intervention, at least forty-five (45) to sixty (60) minutes of additional uninterrupted daily scientific-research-based reading instruction in addition to the ninety (90) minutes of uninterrupted daily reading instruction provided under Tier I.

[OAR Docket #13-1034; filed 6-6-13]

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

[OAR Docket #13-1035]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Evaluation: Minimum Criteria for Effective Teaching and Administrative Performance
210:20-3-4. Oklahoma minimum criteria for effective teaching performance [REVOKED]
210:20-3-5. Oklahoma minimum criteria for effective administrative performance [REVOKED]
AUTHORITY:
70 O.S. § 3-104; 70 O.S. § 6-101.10; 70 O.S. § 6-101.16; Oklahoma State Department of Education
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May 13, 2013
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Failure of the Legislature to disapprove the rules resulted in approval on May 23, 2013.
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SUPERSEDED EMERGENCY ACTIONS:
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INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The revocation of the rules is necessary to avoid confusion with the new minimum criteria to be established under the Oklahoma Teacher and Leader Effectiveness Evaluation System ("TLE"). The current rules are not based upon the TLE, and have been rendered obsolete by 70 O.S. § 6-101.10, which requires minimum criteria for policies of evaluation adopted by a board of education to be revised and based upon the new TLE System developed by the State Board of Education in accordance with 70 O.S. § 6-101.16.
CONTACT PERSON:
Stephanie Moser Goins, (405) 521-4890

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 11, 2013:

SUBCHAPTER 3. EVALUATION: MINIMUM CRITERIA FOR EFFECTIVE TEACHING AND ADMINISTRATIVE PERFORMANCE

210:20-3-4. Oklahoma minimum criteria for effective teaching performance [REVOKED]

~~(a)~~ ~~**Practice.**~~

~~(1)~~ ~~**Teacher management indicators.** Teacher management indicators are:~~

~~(A) Preparation - The teacher plans for delivery of the lesson relative to short-term and long-term objectives.~~

~~(B) Routine - The teacher uses minimum class time for non-instructional routines thus maximizing time on task.~~

~~(C) Discipline - The teacher clearly defines expected behavior (encourages positive behavior and controls negative behavior).~~

~~(D) Learning Environment - The teacher establishes rapport with students and provides a pleasant, safe and orderly climate conducive to learning.~~

~~(2)~~ ~~**Teacher instructional indicators.** Teacher instructional indicators are:~~

~~(A) Establishes Objectives - The teacher communicates the instructional objectives to students.~~

~~(B) Stresses Sequence - The teacher shows how the present topic is related to those topics that have been taught or that will be taught.~~

~~(C) Relates Objectives - The teacher relates subject topics to existing student experiences.~~

~~(D) Involves All Learners - The teacher uses signaled responses, questioning techniques and/or guided practices to involve all students.~~

~~(E) Explains Content - The teacher teaches the objectives through a variety of methods.~~

~~(F) Explains Directions - The teacher gives directions that are clearly stated and related to the learning objectives.~~

~~(G) Models - The teacher demonstrates the desired skills.~~

~~(H) Monitors - The teacher checks to determine if students are progressing toward stated objectives.~~

~~(I) Adjusts Based On Monitoring - The teacher changes instruction bases on the results of monitoring.~~

~~(J) Guides Practice - The teacher requires all students to practice newly learned skills while under the direct supervision of the teacher.~~

~~(K) Provides for Independent Practice - The teacher requires students to practice newly learned skills without the direct supervision of the teacher.~~

~~(L) Establishes Closure - The teacher summarizes and fits into context what has been taught.~~

~~(b)~~ ~~**Products.**~~

~~(1)~~ ~~**Teacher product indicators.** Teacher product indicators are:~~

~~(A) Lesson Plans - The teacher writes daily lesson plans designed to achieve the identified objectives.~~

~~(B) Student Files - The teacher maintains a written record of student progress.~~

~~(C) Grading Patterns - The teacher utilizes grading patterns that are fairly administered and based on identified criteria.~~

~~(2) **Student achievement indicators.** Student achievement indicators include: Students demonstrate mastery of the stated objectives through projects, daily assignments, performance and test scores.~~

210:20-3-5. Oklahoma minimum criteria for effective administrative performance [REVOKED]

~~(a) **Practice.**~~

~~(1) **Administrator management indicators.** Administrator management indicators are:~~

~~(A) Preparation - The administrator and staff develop goal statements which are the result of a needs assessment, a written analysis of student test scores and other data as well as community input.~~

~~(B) Routine - The administrator uses a minimum of instructional time for non-instructional routines thus maximizing time on task.~~

~~(C) Discipline - The administrator works with staff to develop and communicate defined standards of conduct which encourage positive and productive behavior.~~

~~(D) Learning Environment - The administrator establishes and maintains rapport with staff and students, providing a pleasant, safe and orderly climate for learning.~~

~~(2) **Instructional leadership indicators.** Instructional leadership indicators are:~~

~~(A) The administrator works with staff in collegial and non-threatening ways to promote and improve instruction.~~

~~(B) The administrator sets high expectations for staff.~~

~~(C) The administrator provides needed resources for staff.~~

~~(D) The administrator works with staff to establish curriculum objectives, sequence and lesson objectives.~~

~~(E) The administrator works with staff to assure that all learners are involved in the learning process.~~

~~(F) The administrator assists the staff in monitoring student progress.~~

~~(G) The administrator works with the staff to develop a program to recognize academic achievement.~~

~~(H) The administrator educates the staff to recognize and display the teaching criteria upon which evaluation is conducted.~~

~~(I) The administrator observes in the classroom the performance criteria as defined by the district.~~

~~(J) The administrator summatively evaluates staff only after classroom observations are made, performance feedback is given, growth goals are set, and alternative methods are offered.~~

~~(b) **Products.** Administrator product indicators are:~~

~~(1) The administrator provides written discipline policies to which students are expected to perform.~~

~~(2) The administrator provides a written site improvement plan that supports the district's comprehensive Local Education Plan describing school goals, objectives and professional development activities.~~

~~(3) The administrator provides a written analysis of student test scores and other data to assure that the various student populations are benefiting from the instructional program.~~

[OAR Docket #13-1035; filed 6-6-13]

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF

[OAR Docket #13-1038]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 9. Professional Standards: Teacher Education and Certification
Part 9. Teacher Certification
210:20-9-98. Administrative requirements of teacher certification [AMENDED]
210:20-9-104. Certification for languages with no subject area examination [AMENDED]
AUTHORITY:
70 O.S. § 3-104; 70 O.S. § 6-189; 70 O.S. § 11-103.6; State Department of Education
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INCORPORATIONS BY REFERENCE:
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ANALYSIS:
The amendments to the rules establish a process for certification of Native American languages and teachers of Native American languages which have no subject matter competency examination, and will provide a procedure for the State Department of Education to recognize tribal certification of proficiency in Native American languages. The amendment to 210:20-9-98 also updates the criteria for certification of noncitizen foreign language teachers.
CONTACT PERSON:
Stephanie Moser Goins, (405) 521-4890

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 11, 2013:

SUBCHAPTER 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION AND CERTIFICATION

PART 9. TEACHER CERTIFICATION

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

(a) **Evaluation of foreign credentials.** Foreign credentials must be either analyzed by a recognized translation service or an Oklahoma college before the State Department of Education will accept them.

(b) **Noncitizens of the United States.** Requirements for noncitizens seeking an Oklahoma teaching credential are as follows:

(1) Noncitizens of the United States will be required to submit an unexpired United States Citizenship and Immigration Services (USCIS) employment authorization document with the application before an Oklahoma teaching credential may be issued.

(2) The Oklahoma teaching credential may be issued/reissued for no longer than the validity of the employment authorization document.

(c) **Noncitizen Visiting Teacher Certification.** The State Board of Education may, upon request of a local school district, issue an international visiting teacher certification pursuant to 70 O.S. § 3-104(6).

(1) An international visiting teacher certification may be issued to applicants who meet the following criteria:

(A) Applicant presents a document from an accredited public school district in this state offering employment following certification;

(B) Applicant must be a citizen of a country other than the United States and hold a J-1 visa issued by the United States Department of State;

(C) Applicant holds the equivalent of a bachelor's degree or higher from an accredited college or university in the subject area the applicant intends to teach and in the case of world languages, if the applicant is not a proficient native speaker of the target language to be taught, applicant has completed a major in the target language to be taught; ~~in a world language other than English (WLOE) to be taught in Oklahoma;~~

(D) Applicants who seek to teach world languages must have a minimum of three years of teaching experience in the ~~world language other than English (WLOE)~~target language requested to be taught unless the applicant is a proficient native speaker of the target language to be taught;

(E) Applicant is a participant in a visiting teacher program approved by the Oklahoma State Department of Education;

(F) Applicant must demonstrate proficiency at the advanced-low level of the American Council on the Teaching of Foreign Languages' (ACTFL) proficiency scale in both spoken and written English; and

(G) Applicant must complete an orientation program prior to employment and must be assigned a mentor teacher by the district.

(2) Applicants meeting all qualifications shall be granted a one-year teaching credential which may be renewed on a year-to-year basis for a maximum of three years upon request of the employing district.

(d) **Native American Language Teacher Certification.** The State Board of Education may, upon application, issue a teacher certification in Native American Languages. For purposes of this subchapter, a "Native American Language" means the historical, traditional languages spoken by Native Americans. For purposes of this subchapter, "Native American" shall have the meaning set forth in 25 U.S.C § 2902(1)-(2).

(1) A Native American language certification may be issued to applicants who meet the qualifications set forth in 210:20-9-104(b) and provide documentation that the applicant has met the following criteria:

(A) Applicant has obtained a certification of proficiency in the language sought to be certified in accordance with the provisions of 210:20-9-104(b);

(B) Applicant has completed a background check conducted by the State Department of Education in accordance with the provisions of 70 O.S. § 5-142; and

(C) Applicant has submitted a portfolio documenting applicant's experience in teaching the Native American language in which the applicant has been certified by a tribe and any other experience related to education.

(D) Any applicant who does not hold an Oklahoma traditional or alternative teaching credential must complete a school orientation program prior to employment and must be assigned a mentor teacher by the district.

(2) Applicants meeting all of the criteria set forth in this subsection shall be granted a provisional Native Language teacher certification for a period of one year. After the expiration of the one year provisional term, the Native Language teacher certification may be renewed in accordance with the following provisions:

(A) For an applicant who does not hold an Oklahoma traditional or alternative teaching credential, the Native Language certification may be renewed on a year-to-year basis if:

(i) Renewal is requested by the employing district; and

(ii) As a condition of the first two renewals of the teaching certificate, applicant provides evidence of completion of 60 clock hours/points of a

professional teaching development program each year. For purposes of (ii) of this subparagraph, a professional teaching development program may include:

(I) Programs, seminars, or conferences recognized for professional development credit by an Oklahoma public school district at the time the teacher attends; or

(II) Higher education coursework in teacher education from an accredited college or university.

(B) For an applicant who holds an Oklahoma traditional or alternative teaching certificate, the Native Language teacher certification may be renewed for a five (5) year period.

(~~d~~e) **Privacy and access.** Any person, with proper identification, that makes a written or oral request, will be informed of the certification status of any individual subject to certification. No other information will be given to a third party without the written consent of the person about whom the information is sought.

(1) College transcripts and other supporting documents will neither be duplicated by nor released by the State Department of Education.

(2) An original out-of-state teaching certificate may be returned, upon written request, to the applicant.

(~~e~~f) **Multiple applications.** When application is made at the same time for two (2) or more certificates of the same class, only a single processing fee will be charged.

(1) Applications may be made for multiple classes of certificates on one (1) form. There is a fee for each class.

(2) When application is made at different times for two (2) or more certificates, a fee will be charged for each certificate requested.

(~~f~~g) **Duplicate/update certificates.** A certificate/license may be duplicated or updated by submitting a written request and paying the fee.

(~~g~~h) **Change of name.** A legal change of last name on a certificate/license may be accomplished at any time upon written request and paying the fee.

(~~h~~i) **Refusal of certification.** No certificate/license will be issued unless all requirements for the certificate/license in question are fully met. In addition, no certificate/license will be issued if the attempt to become certified is based on misrepresentation, forgery, or fraud.

(~~i~~j) **Grounds for cancellation of certificates.** Any certificate/license, credential, or endorsement obtained by misrepresentation, forgery, fraud, or issued by error will be cancelled. Upon written request the holder must surrender the certificate/license in question to the State Department of Education.

(~~j~~k) **Felony as grounds for noncertification.** No person shall receive an Oklahoma certificate/license who has been convicted of a felony, any crime involving moral turpitude, or a felony violation of the narcotics laws of the United States or the State of Oklahoma, provided the conviction was entered within the ten (10) year period immediately preceding application for teacher certification.

(~~k~~l) **Revocation of teaching certificate.** Teaching certificates/licenses issued by authority of the Oklahoma State Board of Education may be revoked by the board for willful violation of any rule or regulation of the board or any federal or state law or other proper cause. A certificate/license will be revoked only after a sufficient hearing has been given to the teacher before the State Board of Education in accordance with the hearing procedures set forth at 210:1-5-6.

(1) No person whose certificate/license has been revoked in Oklahoma or any other state shall be issued an Oklahoma certificate/license unless the revoked certificate/license has been fully reinstated by the revoking state and grounds for the revocation do not conflict with Oklahoma law.

(2) A person who has either voluntarily surrendered a teaching certificate in another state, been denied certification/licensure in another state or has had a certificate suspended in another state is not eligible for Oklahoma certification until an investigation has resolved the issues surrounding the surrender, denial, or suspension of certification.

(~~l~~m) **Extending provisional certificates.** A request for extension of validity of any expired provisional certificate will be presented to the State Board of Education only when extenuating circumstances seem to justify its consideration. These requests shall be submitted in writing by the employing superintendent. A superintendent who holds an expired provisional certificate needs to have the president of the local board of education make the written request.

(~~m~~n) **Degree/college credit accepted for certification regulations.** Only degrees conferred by state or regionally accredited colleges and universities recognized by the Oklahoma State Board of Education will be accepted by the Professional Standards Section as part of the requirements for teacher certification. Only work completed in state and regionally accredited colleges and universities, or transfer credit validated by them, will be accepted as a basis for teacher certification. For purposes of Oklahoma certification, state-accredited colleges and universities are considered to be colleges and universities accredited by the Oklahoma State Regents for Higher Education or their counterpart in other states (a statewide higher education coordinating board/agency of control). Regionally accredited colleges and universities are considered to be colleges and universities accredited by regional institutional accrediting bodies recognized by the United States Department of Education.

(~~n~~o) **Fee for duplicate licenses and certificates.** The State Board of Education shall charge and collect reasonable fees for the issuance and duplication of licenses and certificates.

210:20-9-104. Certification for languages with no subject area examination

(a) The Oklahoma State Department of Education (OSDE) shall issue a certification in world languages that have no state competency examination to qualified applicants who meet the following eligibility requirements.

(1~~b~~) A qualified applicant seeking certification in a world language that has no state competency examination

must obtain a score of at least "intermediate-high" on the following exams administered by the American Council on the Teaching of Foreign Languages (ACTFL) in the foreign language for which the applicant is seeking certification:

(A~~1~~) The Oral Proficiency Interview (OPI) or the Oral Proficiency Interview Computer (OPIc); and

(B~~2~~) The Writing Proficiency Test (WPT)

(2~~c~~) The testing assessments listed in (b) of this ~~rule~~Section are the only testing assessments which may be used as appropriate subject area assessments in a world language that has no state competency examination, unless the world language falls within the definition of a Native American Language set forth in 210:20-9-98(d) .

(3~~d~~) Applicants holding a valid Oklahoma traditional or alternative credential may add a world language that has no state competency examination by meeting the requirements listed in ~~sub-section (b)~~(1) of this ~~rule~~subsection.

(4~~e~~) Applicants seeking certification in a world language that has no state competency examination who do not hold an Oklahoma traditional or alternative credential must meet the requirements of ~~sub-section (b)~~(1) of this ~~rule~~subsection and must qualify for an Alternative Placement Teaching Certificate. Applicants seeking certification pursuant to this section must comply with all statutory requirements of the Alternative Placement Program listed in 70 O.S. § 6-122.3.

(b) The Oklahoma State Department of Education (OSDE) shall issue a certification in Native American Languages that have no state competency examination to qualified applicants who meet all of the criteria set forth in 210:20-9-98(d) and who demonstrate proficiency in the Native American Language sought to be certified as determined by a federally-recognized tribe or tribal entity. For purposes of this subsection, proficiency in a Native American Language may be established as follows:

(1) Applicant holds a Native American Language certificate issued by:

(A) A federally-recognized tribe or tribal entity; or

(B) An organization which has been recognized by a federally-recognized tribe or tribal entity with authority to certify Applicant's proficiency in the Native American Language(s) of the Tribe; and

(2) Applicant has obtained a bachelor's degree or other academic degree designated by the federally recognized Tribe or Tribal Entity as a prerequisite to certification of proficiency in the Native American Language.

(c) As a prerequisite to recognition of certification of proficiency in a Native American Language, a tribe or tribal entity certifying proficiency in a Native American Language must provide the OSDE with an official statement issued by a tribe or tribal entity which identifies:

(1) The Native American Language(s) for which the Tribe or Tribal Entity intends to certify individuals as proficient, or, in the case of an organization identified pursuant to (b)(1)(B) of this subsection, the Native American Language for which the Tribe or Tribal Entity recognizes an organization with the authority to certify proficiency;

(2) A description of the systems and standards and subject area proficiency assessments that will be used by a tribe, tribal entity, or other organization identified in (b)(1)(B) of this subsection in certifying Native American Language teachers;

(3) A description of the educational requirements, training, professional development, language ability, and other qualifications necessary for teacher certification by the Tribe/Tribal Entity; and

(4) A description of the levels of proficiency and/or particular Native American Language course(s) for which the Tribe/Tribal entity intends to certify or recognize certification of an individual to teach.

(d) A certificate in Native American Languages shall qualify the authorized individual to accept a teaching position or assignment in any school district of the State of Oklahoma that offers or permits courses in Native American Language at the proficiency and/or grade level(s) for which they hold certification, *provided that*:

(1) A holder of Native American Languages teaching certificate who does not also have a current, valid Oklahoma traditional or alternative teaching credential may not teach any subject other than the Native American language and level(s) for which the individual has been certified; and

(2) In order to teach any Native American Language course offered by a school district for core academic subject as a world language credit rather than elective credit, a holder of a Native American Language teaching certificate who does not hold an Oklahoma traditional or alternative teaching credential must either qualify for an Alternative Placement Teaching Certificate or teach the class in collaboration with a teacher of record who is highly qualified in any content area for the appropriate level of instruction.

[OAR Docket #13-1038; filed 6-6-13]

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

[OAR Docket #13-1037]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 87. Rules for Payment to Charter Schools
210:40-87-6. Charter school surety bonds [NEW]
AUTHORITY:
70 O.S. § 3-104; 70 O.S. 3-136; State Department of Education
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ANALYSIS:
The new rule at 210:40-87-6 clarifies requirements for charter schools pursuant to 70 O.S. § 3-136, which requires charter schools to comply with federal, state, and local rules and statutes relating to health, safety, civil rights, and insurance and comply with reporting requirements and financial audits. The new rule clarifies the requirement of superintendents, financial officers, and/or custodians of charter school funds to submit the surety bonds required under 70 O.S. § 5-129 and 70 O.S. §5-116A.
CONTACT PERSON:
Stephanie Moser Goins, (405) 521-4890

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 11, 2013:

SUBCHAPTER 87. RULES FOR PAYMENT TO CHARTER SCHOOLS

210:40-87-6. Charter school insurance and surety bonding

(a) **Liability insurance.** Each charter school shall be required to furnish and maintain liability insurance coverage and fidelity bonding of the same terms, conditions, types and amounts required of public schools under Oklahoma law. The provisions of this subsection shall not be interpreted to preclude any charter school from obtaining liability insurance coverage or fidelity bonds in addition to or in excess of the requirements of this section.

(b) **Surety bonds.** Charter school officers and/or employees shall be required to furnish and maintain surety bonds with the same terms, conditions, penalty, types and amounts required of public school officers and/or employees under Oklahoma law.

(1) All surety bonds shall comply with the requirements set forth in 70 O.S. § 5-116a, provided that in the case of a charter school established in accordance with the provisions of the Oklahoma Charter Schools Act, at the surety bond shall be made payable to the charter school instead of the school district.

(2) The provisions of this subsection shall not be interpreted to preclude any charter school officer and/or employee from furnishing and maintaining a surety bond in excess of the requirements of this section.

(3) Further, the provisions of this subsection shall not be interpreted to preclude a school board, school district, or charter school sponsor from requiring a charter school officer and/or employee charged with custody of public funds from furnishing a surety bond as a prerequisite of employment unless otherwise prohibited by law.

[OAR Docket #13-1037; filed 6-6-13]

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

[OAR Docket #13-1003]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
230:10-1-1. Purpose [AMENDED]
Subchapter 3. Election Personnel
Part 1. County Election Board Members and Employees
230:10-3-1. Membership [REVOKED]
230:10-3-2. Appointment of Secretary [REVOKED]
230:10-3-3. Appointment of County Election Board members and alternate members [REVOKED]
230:10-3-4. Organization [REVOKED]
230:10-3-5. Eligibility [REVOKED]
230:10-3-5.1. Disqualification of County Election Board member or Secretary [REVOKED]
230:10-3-6. Creation of vacancies [REVOKED]
230:10-3-7. Filling vacancies [REVOKED]
230:10-3-8. Salary of the Secretary [REVOKED]
230:10-3-9.2. Employment and supervision of County Election Board personnel when office of Secretary is vacant [REVOKED]
230:10-3-10. Compensation ~~of~~claims for the Chairman and Vice Chairman [AMENDED]
230:10-3-11. Employment of the Assistant Secretary [REVOKED]
230:10-3-12. Compensation of the Assistant Secretary [AMENDED]
230:10-3-13. Employment of the Chief Clerk [REVOKED]
230:10-3-14. Compensation of the Chief Clerk [AMENDED]
230:10-3-15. Additional clerical personnel [AMENDED]
230:10-3-16. Compensation of additional personnel [AMENDED]
230:10-3-16.1. Compensation for temporary personnel must be funded [REVOKED]
Part 3. The Precinct Election Board
230:10-3-23. Membership [REVOKED]
230:10-3-24. Appointment of Inspector [REVOKED]
230:10-3-25. Appointment of Judge and Clerk [REVOKED]
230:10-3-26. Retention of lists [AMENDED]
230:10-3-27. Vacancies on the Precinct Election Board [REVOKED]
230:10-3-29. Eligibility [REVOKED]
230:10-3-30. Disqualification of Precinct Election Board member; "consanguinity," "affinity," "third degree" defined [REVOKED]
230:10-3-33. Compensation of Inspector [REVOKED]
230:10-3-34. Compensation of Judges and Clerks [REVOKED]
230:10-3-35. No double compensation [AMENDED]
230:10-3-36. Removal of Inspectors, Judges, and Clerks [REVOKED]
230:10-3-38. Record of appointment of Precinct Officials [AMENDED]
Subchapter 5. Election Training
Part 1. The County Election Board
230:10-5-2. Reimbursement for workshops [REVOKED]
230:10-5-7. Inspections [AMENDED]
Part 3. The Precinct Election Board
230:10-5-12. Precinct Official training [AMENDED]
230:10-5-13. Reimbursement for training [AMENDED]
Subchapter 7. General Administration of the County Election Board
Part 1. Meetings of the Board
230:10-7-1-1. Open Meeting Act shall be observed [NEW]

230:10-7-3. Types of meetings; terms defined [REVOKED]
230:10-7-4. Public notice required [REVOKED]
230:10-7-5. Additional public notice for special meetings [REVOKED]
230:10-7-6. Changes in regularly scheduled meetings [REVOKED]
230:10-7-7. Agendas required [REVOKED]
230:10-7-8. Agenda for continued meetings [REVOKED]
230:10-7-9. Meetings must be open [REVOKED]
230:10-7-10. Informal meetings prohibited [REVOKED]
230:10-7-15. Minutes of meetings required [REVOKED]
Part 3. Equipping the Office
230:10-7-23. Legal requirements [REVOKED]
230:10-7-27. Voting devices and ballot boxes [REVOKED]
Part 5. Maintaining the Office
230:10-7-38. Office hours [REVOKED]
230:10-7-39. General duties of the Secretary [REVOKED]
230:10-7-40. Cancellation File [AMENDED]
230:10-7-43. Retention of forms and materials documenting voter registration transactions [AMENDED]
230:10-7-44. Retention of ballots [REVOKED]
230:10-7-47. Election results [AMENDED]
230:10-7-50. Annual reports [AMENDED]
230:10-7-51. Analysis of election [REVOKED]
Part 7. Public Records
230:10-7-58. Open Records Act shall be observed [NEW]
230:10-7-59. Public records [REVOKED]
230:10-7-60. Persons authorized to release records [REVOKED]
230:10-7-62. Fees for reproduction of records [REVOKED]
230:10-7-63. Written schedule of fees [REVOKED]
230:10-7-64. Search fees shall not be charged when in public interest [REVOKED]
230:10-7-65. Fees not to discourage requests [REVOKED]
Part 9. Finances
230:10-7-70. Preparation of the budget [AMENDED]
230:10-7-71. Purchasing supplies [AMENDED]
230:10-7-73. County Board Member Claims [AMENDED]
230:10-7-79. Special Depository Account ledger [AMENDED]
230:10-7-81. Election balance sheet [AMENDED]
230:10-7-82. Expenses paid through Special Depository Account [AMENDED]
230:10-7-84. State Election Board reimbursed for computer supplies [REVOKED]
Part 13. Precincts and Subprecincts
230:10-7-96. Establishment of precincts [REVOKED]
230:10-7-97. Boundary limitations [REVOKED]
230:10-7-99. Precincts within municipalities [AMENDED]
230:10-7-100. Changes in precincts [REVOKED]
230:10-7-103. Subprecincts [REVOKED]
Part 15. Polling Places
230:10-7-108. Number and location of polling places [AMENDED]
230:10-7-110. Boards to provide polling places [REVOKED]
230:10-7-111. Liability [REVOKED]
Part 17. Special Duties of the County Election Board [REVOKED]
230:10-7-119. Verification of audit request petitions [REVOKED]
Part 19. County Election Board Staff Overtime
230:10-7-132. Reimbursing funds to the Personal Services account [AMENDED]

AUTHORITY:
Title 26 O.S., Section 2-107. Secretary of the State Election Board

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n/a

ANALYSIS:
The Secretary of the State Election Board and experienced State Election Board staff members conducted a thorough review and analysis of the rules and determined that since the original drafting, adoption, and implementation of the rules in the mid-1970s, and even since the codification of the rules in the early 1990s, the needs of the election officials that the rules were designed to meet have changed.

The rules formed the foundation of Oklahoma's uniform, unified election system. Still today, Oklahoma is the only state in which every county follows the same uniform procedures, uses the same forms and software to administer voter registration and absentee voting, and also uses the same voting devices and uniformly designed ballots in every precinct.

In the early days of Oklahoma's modern election system, the rules intentionally were drafted to duplicate the content of Title 26 of the Oklahoma Statutes. When Oklahoma's election laws were modernized and recodified in 1974, the first State Election Board rules were created not only as the official "interpretation" of the new laws but also as a means of communicating the requirements of the new laws and the procedures needed to implement them to both county- and precinct-level officials.

Before the implementation of the new election code in 1974, the County Election Board Secretary had only a printed copy of the election laws with which to run his or her office and conduct elections. Now, almost 40 years later, the County Election Board Secretary has access to an array of publications to perform almost every election-related task.

The amendments in Chapter 10 have the following purposes. All rules that only duplicate statutory language and provisions are revoked. Rules are amended to update all references to the election administration software and hardware used by the State Election Board and by the 77 County Election Boards from OEMS B the designation of legacy system that will be removed from service in July, 2013, B to MESA which by July 1 will absorb all the functions of the older system.

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

SUBCHAPTER 1. GENERAL PROVISIONS

230:10-1-1. Purpose

The rules in this Chapter describe the ~~appointment and organization of the County Election Board;~~ the employment of County Election Board staff and Precinct Officials; training programs available for County Election Board members and staff and for Precinct Officials; and the organization and maintenance of the County Election Board office.

SUBCHAPTER 3. ELECTION PERSONNEL

PART 1. COUNTY ELECTION BOARD MEMBERS AND EMPLOYEES

230:10-3-1. Membership [REVOKED]

~~The County Election Board is composed of three members C a Chairman, Vice Chairman and Secretary. Each will receive a Certificate of Appointment from the State Election Board. Each is required to file an Oath of Office and a Loyalty Oath with the County Clerk.~~

230:10-3-2. Appointment of Secretary [REVOKED]

~~The Secretary of the County Election Board is appointed by the State Election Board *for a term of two years beginning May 1, 1983, and every two years thereafter*. [26:2-111.1]~~

230:10-3-3. Appointment of County Election Board members and alternate members [REVOKED]

~~(a) No later than April 15, 1999, and every four years thereafter, the county central committee of the two recognized political parties with the largest number of registered voters in the state each shall submit to the State Election Board the name of a nominee for County Election Board member and the name of a nominee for alternate member. [26:2-111] The State Election Board provides forms to the county central committee chairmen to use to submit the nominations. The nomination form must be signed by at least two members of the county central committee. [26:2-111] The State Election Board is limited to these nominees to appoint one County Election Board member and one alternate member from each party. [26:2-111] The County Election Board members and alternate members serve four-year terms, beginning May 1. If a County Election Board member is unable to attend a meeting, the alternate member of the same party shall serve on the County Election Board at that meeting. [26:2-111]~~

~~(b) *If the county central committee for a party in a county fails to submit a nominee or if there is no county central committee for a party in a county, the state central committee for the party may submit to the State Election Board a nominee for membership on the County Election Board and a nominee to serve as the alternate member.* [26:2-111]~~

~~(c) If the county or state central committee fails to submit nominees by April 15 as outlined in (a) and (b) of this Section, the State Election Board shall appoint a member and an alternate member to the County Election Board from the ranks of that party within the county. [26:2-111]~~

230:10-3-4. Organization [REVOKED]

~~*On the first Monday in June, 1983, and every four years thereafter,* the Secretary shall call a meeting of the County Election Board, at which time the Board will elect a Chairman and Vice Chairman. [26:2-111.2]~~

230:10-3-5. Eligibility [REVOKED]

~~To be eligible to serve on the County Election Board, *one must be a registered voter of the county* and must *demonstrate competence to perform his duties*. [26:2-131] A member of the County Election Board may hold no other office under the laws of the State of Oklahoma. [51:6] The latter qualification includes not only such offices as State Representative or County Sheriff, but also such offices as member of the Board of Education or City Council.~~

230:10-3-5.1. Disqualification of County Election Board member or Secretary [REVOKED]

~~(a) No person shall serve on a County Election Board at any election in which he or she is a candidate for office, or is a deputy or regular employee of a candidate for office. [26:2-132] Any person so disqualified shall resign from the County Election Board no later than ten days after the close of the filing period at which such candidacy was filed. The resignation must be submitted in writing to the Secretary of the State Election Board.~~

~~(b) The Chairman or Vice Chairman of the County Election Board shall not participate in or carry out any duties or functions associated with the office during the conduct of a contest of candidacy or a recount if related within the third degree by either consanguinity or affinity to a candidate who is the petitioner or contestee in the contest of candidacy or who is a candidate in an election being recounted. [26:2-132] In the event of such contest or recount, the alternate member for the Chairman or the Vice Chairman shall carry out the duties of the office during the contest of candidacy hearing or during the recount. [26:2-132] The Chairman or Vice Chairman may resume all the duties of the office when the contest of candidacy or the recount is completed.~~

~~(c) The Secretary of the County Election Board shall not be required to resign in the event that a person related to the Secretary within the third degree by either consanguinity or affinity becomes a candidate in an election being conducted by the County Election Board. The Secretary of the County Election Board immediately shall notify the Secretary of the State Election Board, in writing, in the event that such a candidacy is filed. The following restrictions shall be placed upon the Secretary of the County Election Board for the duration of the relative's candidacy.~~

~~(1) The Secretary shall not participate in or carry out any of the duties or responsibilities of the office of Secretary during a contest of candidacy in the race in which the relative is a candidate.~~

~~(2) The Secretary shall not participate in or carry out any of the duties or responsibilities of the office of Secretary during a recount of the race in which the relative is a candidate.~~

~~(d) The Secretary of the State Election Board shall designate a person to carry out the duties and responsibilities of the office of County Election Board Secretary listed in (c) of this Section in the event that a person related to the County Election Board Secretary within the third degree by either consanguinity or affinity becomes a candidate in any election conducted by the~~

~~County Election Board. The person designated by the Secretary of the State Election Board shall be authorized to vote as a member of the County Election Board during a contest of candidacy or during a recount involving the County Election Board Secretary's relative.~~

230:10-3-6. Creation of vacancies [REVOKED]

~~Vacancies on the County Election Board may be created in the following ways:~~

~~(1) **Resignation.** A member of the County Election Board who desires to resign must submit a written resignation to the Secretary of the State Election Board. The resignation letter need not be long. However, an oral resignation is not acceptable. If at all possible, a one-month notice should be given. If a Board member plans to resign, he should consider that it takes time to acquaint his successor with his duties, so such a resignation should not be submitted only a few weeks prior to a major election.~~

~~(2) **Death.** If a member of the County Election Board dies, the other two members of the Board shall notify the Secretary of the State Election Board, in writing, as soon as possible. The notice shall simply set forth the fact that the member has died.~~

~~(3) **Attendance.** If a member of the County Election Board fails to attend five consecutive meetings, a vacancy occurs. [26:2-111] In that event, the other two members shall notify the Secretary of the State Election Board, in writing, at the conclusion of the fifth meeting. The notice shall set forth the fact that the member has missed attending five consecutive meetings, setting out the dates of the meetings.~~

~~(4) **Change of political affiliation.** If a County Election Board member or alternate member changes his or her political affiliation, a vacancy occurs. [26:2-111] In that event, the other two members shall notify the Secretary of the State Election Board, in writing, as soon as possible. The notice shall set forth the fact that the member has changed political affiliation.~~

~~(5) **Removal.** The State Election Board may remove a member of the County Election Board. [26:2-114]~~

230:10-3-7. Filling vacancies [REVOKED]

~~Vacancies for Chairman and Vice Chairman are filled in the same manner as the appointments were made originally. The county central committee has 30 days to submit a nominee after the vacancy occurs, and the State Election Board has 60 days after the vacancy occurs to appoint a new member. [26:2-111] If the central committee fails to submit a nominee within the required 30 days, the State Election Board fills the vacancy from the ranks of the party within the county. [26:2-111]~~

230:10-3-8. Salary of the Secretary [REVOKED]

~~(a) The Secretary is paid on a monthly basis from county funds. Each month the State Election Board shall reimburse the county for the salary and fringe benefits paid to the Secretary, not to exceed 135 percent of the salaries specified. [26:2-118] The Secretary's salary is set by law and is based on the number of active registered voters in the county on January 1 of each odd-numbered year. [26:2-118]~~

~~(b) The Secretary of the State Election Board shall determine the appropriate salary level for each County Election Board Secretary, and shall notify the County Clerk in each county in January of each odd-numbered year. Any salary change shall take effect at the beginning of the County Election Board Secretary's term on May 1 of each odd-numbered year and shall remain in effect throughout the two-year term.~~

~~(c) In the event that a County Election Board is under administrative supervision of the State Election Board, as outlined in 230:10-3-9.1, at the time a salary increase becomes effective, the Secretary of that County Election Board shall not receive the salary increase. [26:2-118] The Secretary shall be entitled to receive the salary increase at the time that the administrative supervision ends. The salary increase shall not be retroactive to the time the salary increase generally became effective.~~

~~(d) The salary of a County Election Board Secretary shall not fall below the level of the salary paid in the county on April 30, 2003, regardless of the number of active registered voters in the county. [26:2-118] The salary of a County Election Board Secretary who is reappointed to a new two-year term as Secretary shall not fall below the salary received in the immediately preceding term. [26:2-118] A County Election Board Secretary serving on April 30, 2004, shall not receive a salary increase if said Secretary is paid an amount greater than the amount of the scheduled salary for the county as provided by law. [26:2-118]~~

~~(e) A county may provide additional compensation to the Secretary of the County Election Board. [26:2-118] Such additional compensation shall be paid from county funds; shall not be considered part of the Secretary's salary as established by law; and shall not be reimbursed to the county by the State Election Board. [26:2-118]~~

230:10-3-9.2. Employment and supervision of County Election Board personnel when office of Secretary is vacant [REVOKED]

~~In the event of a vacancy in the office of Secretary of the County Election Board, the Secretary of the State Election Board is authorized by law to stand in the place of the County Election Board Secretary to employ and to supervise the personnel necessary to perform the duties of the County Election Board until a new Secretary is appointed. [26:2-107 and 26:2-117]~~

230:10-3-10. Compensation ~~of~~ claims for the Chairman and Vice Chairman

~~(a) The Chairman and Vice Chairman each are paid $35 for each meeting of the County Election Board. [26:2-115] In addition, the Chairman and Vice Chairman are paid a mileage reimbursement at the rate currently allowed by the Internal Revenue Service for a business expense deduction to and from their home to the county seat. [26:2-115] If a member lives in the county seat, no mileage reimbursement is allowed. A member~~

~~can receive no more than $35 and mileage for any single meeting of the Board, and only one such meeting may be held on any calendar day.~~

~~(b) The compensation is paid directly to the Board member by the State Election Board. The payment for each meeting will consist of two checks C one for mileage reimbursement and one for meeting compensation, from which appropriate taxes have been withheld. The State Election Board shall be required to pay reimbursement to County Election Board members for no more than 40 meetings per year. [26:2-115]~~

(~~c~~a) Claims for compensation owed by the State Election Board must be filed on the County Board Member Claim forms provided by the State Election Board. Such claims shall be prepared by the County Election Board Secretary and filed promptly.

(~~d~~b) In the event a meeting is held specifically to transact business for another governmental entity, such as a school district or a municipality, the entire cost of the meeting shall be paid by that entity. If more than one entity is involved in a meeting, the cost of the meeting shall be prorated among the entities that benefit from the meeting. For example, if five school districts are involved, the $35 paid to each Board member is prorated among the districts so that each will pay $7 plus one-fifth of the mileage reimbursement. The entity's share of the Board meeting will be included in the Record of Expense submitted to the entity following the election.

(~~e~~c) When a school district election is held on the same day as a county election, the county pays all the cost of the County Election Board meeting to certify the election. However, if another entity such as a municipality also holds an election on the same day as the county and school district elections, the cost of the County Election Board meeting is divided equally between the county and the other entity and the school district pays nothing.

230:10-3-11. Employment of the Assistant Secretary [REVOKED]

~~In counties that have 17,500 or more registered voters, the Secretary is entitled to employ an Assistant Secretary of the County Election Board. [26:2-117] The Assistant Secretary is employed by, and may be terminated by, the Secretary. [26:2-117]~~

230:10-3-12. Compensation of the Assistant Secretary

~~(a) *The minimum salary of the Assistant Secretary shall be equal to ninety percent (90%) of the scheduled salary of the secretary in the same county but shall not exceed the salary of the highest salaried first or chief deputy or assistant to any county officer, excluding the under sheriff, in the same county.* [26:2-117]~~

~~(b) The Assistant Secretary's salary is paid totally by the county on a monthly basis. [26:2-117]~~

~~(c)~~ The Assistant Secretary of the County Election Board shall be compensated at the appropriate rate for all hours worked in excess of his or her regular work hours in compliance with the requirements of the federal Fair Labor Standards Act. Compensation and any related benefits for such overtime hours shall be paid by the county. See 230:10-7-125 through 230:10-7-133.

230:10-3-13. Employment of the Chief Clerk [REVOKED]

~~In counties that have 17,499 or fewer registered voters, the Secretary is required to employ a Chief Clerk of the County Election Board. [26:2-117] The Chief Clerk is employed by, and may be terminated by, the Secretary. [26:2-117]~~

230:10-3-14. Compensation of the Chief Clerk

(a) ~~The minimum salary of the Chief Clerk of the County Election Board shall be either equal to the hourly rate of the salary paid to the highest salaried first or chief deputy or assistant to any elected county officer in the same county, excluding the undersheriff, or equal to 90% of the salary of the County Election Board Secretary in the same county, whichever is lower. [26:2-117] There is no maximum salary for the Chief Clerk.~~

~~(b) The Chief Clerk's salary is paid totally by the county on a monthly basis. [26:2-117]~~

~~(c)~~ The Chief Clerk of the County Election Board shall be compensated at the appropriate rate for all hours worked in excess of his or her regular work hours in compliance with the requirements of the federal Fair Labor Standards Act. Compensation and any related benefits for such overtime hours shall be paid by the county. See 230:10-7-125 through 230:10-7-133.

(~~d~~b) The salary of the highest paid first or chief deputy in the county, excluding the undersheriff, shall be converted to an hourly rate for the purpose of determining the salary of the Chief Clerk. The following formula shall be used to determine the hourly rate.

(1) **Determining hourly rate paid to the highest salaried first deputy.**

(A) Multiply the number of hours in the highest paid deputy's regular work week by 52 to determine the maximum number of work hours per year.

(B) Divide the maximum number of work hours per year by 12 to determine the maximum regular work hours per month.

(C) Divide the gross monthly salary paid to the deputy by the number of hours per month determined in step B. This is the deputy's hourly rate.

(2) **Determining the Chief Clerk's minimum salary.**

(A) Multiply the number of hours in the Chief Clerk's regular work week by 52 to determine the maximum number of work hours per year.

(B) Divide the number of work hours per year by 12 to determine the maximum regular work hours per month.

(C) Multiply the maximum regular work hours per month by the hourly rate determined in (1)(C) of this subsection to determine the monthly salary for the Chief Clerk based on the hourly rate paid to the highest salaried first deputy.

(D) Multiply the scheduled salary for the Secretary of the County Election Board by 0.9. (90%).
(E) Divide the amount determined in (D) by 12. This is the amount of the monthly salary for the Chief Clerk based on 90% of the Secretary's salary.
(F) The minimum salary of the County Election Board Chief Clerk is the lower amount of (C) or (E).

230:10-3-15. Additional clerical personnel

The Secretary of the County Election Board has the authority to employ additional clerks and other personnel~~*necessary to perform the duties of the County Election Board*~~. [26:2-117] The Secretary may make such employment on a permanent basis or on a temporary basis. The Secretary has the authority to assign duties for all such personnel and may remove such personnel at any time.

230:10-3-16. Compensation of additional personnel

~~(a) *Salaries of additional personnel, including personnel employed temporarily*, cannot *exceed the salary of the Assistant Secretary or Chief Clerk*, whichever is applicable, but *shall be comparable to salaries paid for the same* or comparable *positions in other offices* in the courthouse. [26:2-117] Such salaries are paid totally by the county on a monthly basis. [26:2-117]~~

~~(b)~~ Additional personnel employed by the Secretary of the County Election Board shall be compensated at the appropriate rate for all hours worked in excess of their regular work hours in compliance with the requirements of the federal Fair Labor Standards Act. Compensation and any related benefits for such overtime hours shall be paid by the county. See 230:10-7-125 through 230:10-7-133.

230:10-3-16.1. Compensation for temporary personnel must be funded [REVOKED]

~~*In the event that the secretary, assistant secretary, chief clerk, or any other essential county election board employee must be away from work for a period of time due to personal illness, family illness, or family emergency, the county shall be required to fund compensation of appropriate temporary personnel during the employee's absence.* [26:2-117]~~

PART 3. THE PRECINCT ELECTION BOARD

230:10-3-23. Membership [REVOKED]

~~Each precinct in the county has its own Precinct Election Board. A Precinct Election Board has three members C the Inspector, the Judge, and the Clerk. [26:2-123] The Precinct Election Board members C who are also called Precinct Officials C are appointed by the County Election Board.~~

230:10-3-24. Appointment of Inspector [REVOKED]

~~The County Election Board may appoint any registered voter it chooses as the Inspector. [26:2-125] Once appointed, an Inspector serves until he or she resigns or until removed by the County Election Board. [26:2-125]~~

230:10-3-25. Appointment of Judge and Clerk [REVOKED]

~~(a) State law requires the Judge and Clerk to be registered to vote in different political parties. The County Election Board appoints the Judge and Clerk from lists of nominees provided by the political parties, as outlined in (b) of this Section. [26:2-124] If a party does not give the County Election Board a list or if no one on the list can serve, the County Election Board then may appoint any registered voter in that party to the position. [26:2-124]~~

~~(b) The county central committees of the two recognized political parties with the largest number of registered voters in the state are required by law to submit to the County Election Board a list of three nominees for each Precinct Election Board in the county. [26:1-124] The list of nominees must be submitted no later than June 15, 1999, and every four years thereafter. [26:2-124] The County Election Board is limited to these party nominees when making appointments to the Precinct Election Boards in each precinct. [26:2-124] However, if a party fails to submit a list of nominees for a precinct at the appropriate time or if none of the nominees for a precinct is able to serve, the County Election Board shall appoint one member of the Precinct Election Board from the ranks of that party. [26:2-124] The County Election Board shall designate the Precinct Election Board member from one party as the Judge and the Precinct Election Board member from the other party as the Clerk. [26:2-124] Each Judge and Clerk serves a term of four years, beginning on July 1 in the odd-numbered year following the gubernatorial election. [26:2-124] The Judge and Clerk in each precinct shall be members of different political parties.~~

230:10-3-26. Retention of lists

The lists of nominees for Judge and Clerk in each precinct submitted by the county central committees~~, as described in 230:10-3-25~~, of the two largest recognized political parties shall be retained throughout the four-year ~~period~~ term.

230:10-3-27. Vacancies on the Precinct Election Board [REVOKED]

~~When a vacancy occurs on a Precinct Election Board , the County Election Board fills the vacancy in the same way it made the original appointment. The Board may appoint any registered voter to fill a vacancy in the position of Inspector. The Board must fill a vacancy in the position of Judge or Clerk from the last list of nominees submitted by the appropriate political party. [26:2-124] If there is no list or if no one on the list can serve, the County Election Board may appoint any registered voter from that party to fill the vacancy. [26:2-124]~~

230:10-3-29. Eligibility [REVOKED]

~~A person must be a registered voter in the county and be able to perform a Precinct Official's duties to be eligible for appointment to a Precinct Election Board. [26:2-131] A Precinct Official may not hold any other office under the laws of the State of Oklahoma.~~

230:10-3-30. Disqualification of Precinct Election Board member; "consanguinity," "affinity," "third degree" defined [REVOKED]

~~(a) A Precinct Official may not serve at an election if he or she is a candidate for office; a deputy or regular employee of a candidate for office; or related within the third degree by consanguinity or affinity to a candidate for office. [26:2-132] ("Consanguinity" means "blood" relative. "Affinity" means relative "by marriage." "Third degree" includes only parents, children, brothers, sisters, grandparents, grandchildren, uncles, aunts, nieces, nephews, great grandparents and great grandchildren.)~~

~~(b) A Precinct Official who becomes a candidate for office must resign his or her position on the Precinct Election Board within 10 days following the close of the filing period during which the candidacy was filed.~~

~~(c) A Precinct Official who is employed by or related to a candidate for office must notify the Secretary of the County Election Board within 10 days following the close of the filing period at which the candidacy was filed. The Secretary shall appoint a suitable replacement for the Precinct Official for the election involving the official's employer or relative. [26:2-132]~~

230:10-3-33. Compensation of Inspector [REVOKED]

~~(a) For any state election, the Inspector receives $97, plus mileage for two round trips from his home to the County Election Board office to receive and return election supplies and materials. [26:2-129] Of the $97, the State Election Board pays $95 and the county pays $2. [26:2-129] For strictly county, or for city or school elections, the entire $97 is paid by the entity for which the election is held. Mileage is reimbursed at the rate currently allowed by the Internal Revenue Service for a business expense deduction.~~

~~(b) An Inspector assigned to a polling place located ten miles or more from his or her home shall be reimbursed for mileage for a one-way trip from home to the assigned polling place on election day in addition to the mileage reimbursement described in (a) of this Section. The Secretary of the County Election Board shall determine whether mileage shall be paid as outlined in 230:35-3-31.1.~~

230:10-3-34. Compensation of Judges and Clerks [REVOKED]

~~(a) For any state election, each Judge and Clerk receives $87. Of the $87, the State Election Board pays $85 and the county pays $2. [26:2-129] For strictly county, or for city or school elections, the entire $87 is paid by the entity for which the election is held.~~

~~(b) A Judge or Clerk assigned to a polling place located ten miles or more from his or her home shall be reimbursed for mileage for a round trip from the Judge's or Clerk's home to the assigned polling place on election day. The Secretary of the County Election Board shall determine whether mileage shall be paid as outlined in 230:35-3-31.1.~~

230:10-3-35. No double compensation

In no event may compensation for an Inspector exceed $97 plus mileage, nor may compensation for a Judge or Clerk exceed $87 for any election or elections conducted on a single day. ~~Except, however, a Judge or Clerk assigned to a polling place located ten miles or more from his or her home also may receive mileage as outlined in 230:10-3-34 and 230:35-3-31.1.~~ The foregoing applies to Inspectors, Judges and Clerks who serve both a precinct and a subprecinct.

230:10-3-36. Removal of Inspectors, Judges, and Clerks [REVOKED]

~~The County Election Board may remove any Inspector, Judge, or Clerk at any time. [26:2-130]~~

230:10-3-38. Record of appointment of Precinct Officials

Immediately upon appointment of each Inspector, Judge or Clerk, the Secretary of the County Election Board shall enter the appropriate information in ~~OEMS~~ MESA. A record of the appointment also shall be entered in the minutes of the County Election Board meeting for that day.

SUBCHAPTER 5. ELECTION TRAINING

PART 1. THE COUNTY ELECTION BOARD

230:10-5-2. Reimbursement for workshops [REVOKED]

~~(a) For attendance at statewide or regional workshops, the County Election Board Secretary and the Assistant Secretary or Chief Clerk are entitled to be reimbursed for expenses from state funds. [26:3-110] Mileage reimbursement is paid for a round trip from the individual's hometown to the location of the workshop at the rate currently allowed by the Internal Revenue Service for a business expense deduction.~~

~~(b) The amount of reimbursement for lodging and meal expenses shall not exceed the amount allowed in the Internal Revenue Code of 1986, as amended. [74:500.9] Expenses for overnight lodging will be reimbursed at a rate not to exceed $70 per night. [74:500.9] Reimbursement for meal expenses will be made to persons in authorized overnight travel status at a rate not to exceed $39 per day. [74:500.8] In Oklahoma County, however, reimbursement for lodging is $81 per night and for meals is $49 per day, and in Creek, Osage, Rogers, and Tulsa Counties, reimbursement for lodging is $73 per night and for meals is $44 per day.~~

230:10-5-7. Inspections

From time to time, representatives of the State Election Board will visit the County Election Board office. The purpose of these visits is to inform and assist, in an effort to achieve uniformity in the administration of election laws. [26:3-109] The representative may be a member of the State Election Board staff or may be a Regional Coordinator. Regional Coordinators are County Election Board Secretaries, Assistant Secretaries or Chief Clerks under contract with the State Election Board to perform such services. ~~Routinely, the visits will occur at least once during each quarter of a year.~~

PART 3. THE PRECINCT ELECTION BOARD

230:10-5-12. Precinct Official training

The County Election Board Secretary conducts training for all Precinct Officials in the county before the regularly scheduled statewide elections in even-numbered years. [26:3-111] Each Inspector, Judge, and Clerk must attend training every two years before working in an election. The Secretary also schedules ~~additional~~ training sessions as needed for Precinct Officials appointed to fill vacancies or named as substitutes. The Secretary of the State Election Board may require additional training sessions for Precinct Officials at any time.

230:10-5-13. Reimbursement for training

(a) Each Inspector, Judge and Clerk who attends a required training session conducted by the County Election Board Secretary is entitled to receive a reimbursement in the amount ~~of $25~~ provided by law. In addition, each Precinct Official required to drive to a training session may be reimbursed for round trip mileage from his or her home to the training site at the rate currently allowed by the Internal Revenue Service for a business expense deduction. However, a Precinct Official who lives in the same town where a training session is held may not receive mileage reimbursement.

(b) The State Election Board pays ~~$25~~ the amount provided by law for each Precinct Official who attends a required training session. Required training is defined as the training conducted every two years prior to statewide elections, ~~and~~ training conducted at other times for Precinct Officials appointed to fill vacancies, and any additional training mandated by the Secretary of the State Election Board. A Precinct Official who chooses to attend additional training sessions ~~as refreshers~~for the purpose of review is not entitled to be paid ~~$25~~ for such review sessions by the State Election Board. Upon completion of a required Precinct Official training session, the County Election Board Secretary shall follow these steps to prepare a claim to submit to the State Election Board.

(1) Enter training credit in ~~OEMS~~ MESA for each person who attended a required training session. Indicate the position or positions for which the person was trained. The system automatically flags the individual to be paid. If a Precinct Official is not entitled to payment as outlined above, override the payment flag.

(2) Request and print the Precinct Official Training Expense Claim. Send the first page of the claim to the State Election Board. Keep the list of Precinct Officials' names as documentation of the claim.

(3) Deposit the warrant received from the State Election Board for Precinct Official training expenses in the Special Depository Account and create vouchers for each Precinct Official who attended training.

(c) The mileage reimbursement for Precinct Officials who attend required training is paid by the county from the County Election Board's budget account. The County Election Board Secretary shall follow the procedure established by the County Clerk to ensure that mileage reimbursement is paid.

(d) The mileage reimbursement for Precinct Officials who attend an additional training session required by the Secretary of the State Election Board may be paid by the State Election Board.

SUBCHAPTER 7. GENERAL ADMINISTRATION OF THE COUNTY ELECTION BOARD

PART 1. MEETINGS OF THE BOARD

230:10-7-1.1. Open Meeting Act shall be observed

All meetings of the State Election Board and of each County Election Board shall be conducted pursuant to the requirements of the Oklahoma Open Meeting Act, Title 25 O.S. 2011, Section 301 et seq.

230:10-7-3. Types of meetings; terms defined [REVOKED]

~~The County Election Board may conduct four different types of meetings.~~

~~(1) **Regularly scheduled meeting.** A regularly scheduled meeting (or a "regular meeting") shall include all meetings at which the regular business of the Board is conducted. [25:304(3)] That includes meetings to canvass returns of elections, meetings to certify the results of elections, meetings to organize the Board, etc. Secretaries shall schedule regular or special meetings only when there is specific business to be considered.~~

~~(2) **Special meeting.** A special meeting shall include any meeting of the Board other than a regular or emergency meeting. [25:304(4)] Secretaries shall schedule a special meeting only when there is specific business to be considered that cannot wait until the next regular meeting.~~

~~(3) **Emergency meeting.** An emergency meeting may be held in only two situations. The first is if a situation involves injury to a person or injury or damage to public or personal property and the second is if a situation involves immediate financial loss. [25:304(5)] In either case, an emergency meeting may be called only when the time requirements for giving public notice of a special meeting would make calling a special meeting impractical and would increase the likelihood of injury, damage, or immediate financial loss. [25:304(5)] In the event an~~

~~emergency meeting is contemplated, the Secretary shall contact the State Election Board immediately.~~

~~(4) **Continued or reconvened meeting.** A continued or reconvened meeting shall include all meetings held to finish business appearing on an agenda of a previous meeting. [25:304(6)]~~

230:10-7-4. Public notice required [REVOKED]

~~All meetings of the County Election Board must be preceded by the filing of a written notice with the County Clerk. A copy of the written notice shall be retained permanently.~~

~~(1) **Regularly scheduled meetings.** No later than December 15 of each year, the Secretary must provide notice in writing to the County Clerk showing the date, time and place of the regularly scheduled meetings of the Board for the following calendar year. [25:311(1)]~~

~~(2) **Special meetings.** The Secretary must provide notice to the County Clerk at least 48 hours prior to any special meeting of the Board. [25:311(11)] Such notice must include the date, time and place of the special meeting. Such notice may be made in person or by telephone, but shall be followed as soon as possible by written notice.~~

~~(3) **Emergency meetings.** In the event of an emergency meeting, the Secretary shall provide as much notice as possible.~~

~~(4) **Continued meetings.** In the event a meeting is to be continued, notice of the continuance shall be given by an announcement at the original meeting. [25:311(10)] The announcement shall include the date, time, and place of the continued meeting. [25:311(10)]~~

230:10-7-5. Additional public notice for special meetings [REVOKED]

~~The Secretary shall provide written notice of all special meetings of the County Election Board *to each person, newspaper, wire service, radio station* or *television station that has filed a written request* for such notice. [25:311(11)] The written notice of a special meeting must be mailed or delivered at least 48 hours prior to the special meeting. The County Election Board may charge a fee of up to $18 a year and may require that the requests for notice of special meetings be renewed annually. [25:311(11)]~~

230:10-7-6. Changes in regularly scheduled meetings [REVOKED]

~~In case any change must be made in the date, time or place of a regularly scheduled meeting, then the Secretary must give notice in writing to the County Clerk at least ten days prior to the date of the changed meeting. [25:311(8)]~~

230:10-7-7. Agendas required [REVOKED]

~~In addition to the advance notice of each meeting, the Secretary must post an agenda for each meeting, except emergency meetings, at least 24 hours prior to the beginning of the meeting, excluding Saturdays, Sundays and legally declared state holidays. [25:311(9)] The agenda must contain the date, time and place of the meeting and must list the items of business to be considered at the meeting. One item which routinely shall appear on each agenda for a regularly scheduled meeting will be titled "new business." New business includes only matters not known about or foreseen at the time the agenda is prepared for a regularly scheduled meeting. New business shall never be included on the agenda for a special meeting. [25:311(9)] Items listed in the agenda shall be referred to in such a manner that a citizen can be expected to understand the business to be discussed. All items to be discussed must appear on the agenda. Items not appearing on the agenda may not be discussed, except items under the heading "new business." If a matter is discussed at a regular meeting under the heading "new business," no action shall be taken on the matter. The matter shall be placed on the agenda of a subsequent meeting and action shall be taken at that time. The agenda must be posted in the office of the County Election Board in a prominent location easily viewed by the public. A copy of the agenda shall be retained permanently.~~

230:10-7-8. Agenda for continued meetings [REVOKED]

~~At a continued meeting, only items on the agenda of the original meeting at which the announcement of the continuance was made may be discussed.~~

230:10-7-9. Meetings must be open [REVOKED]

~~All meetings of the County Election Board must be open to the public. The sole exception, when the Board is permitted to meet in closed or "executive" session, is when the board discusses *the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried employee*. [25:307] Even in that event, however, any action taken by the Board must be taken in a public meeting. It is advisable to notify representatives of the news media whenever a meeting of the Board is scheduled. Since the County Election Board is empowered only to appoint Precinct Officials, there should be no occasion to conduct an executive session.~~

230:10-7-10. Informal meetings prohibited [REVOKED]

~~No informal gatherings or meetings "on the telephone" may be used to decide any action or to take any vote on any business of the County Election Board. [25:306]~~

230:10-7-15. Minutes of meetings required [REVOKED]

~~The Secretary must keep precise minutes of each meeting of the County Election Board. Such minutes must be an official summary of the proceedings showing clearly the members of the Board present and absent, the method of providing notice as required in 230:10-7-4 and 230:10-7-7, all matters considered by the Board, and all actions taken by the Board including the individual vote of each member on each action. [25:312] In the event of an emergency meeting, the nature of the emergency must be included in the minutes. [25:312]~~

PART 3. EQUIPPING THE OFFICE

230:10-7-23. Legal requirements [REVOKED]

~~It is the mandatory duty of the County Commissioners to furnish, at county expense, in the county seat a suitable office for the County Election Board. [26:2-121] The office must provide adequate space for storage of election records, supplies and the exercise of other functions required by law of the County Election Board. [26:2-121] The office must be equipped with suitable furniture, office equipment and a telephone. [26:2-121] The office must be convenient to the public and must be equipped comparably with other county offices within the same county. [26:2-121]~~

230:10-7-27. Voting devices and ballot boxes [REVOKED]

~~The State Election Board shall provide, at state expense, at least one voting device and one ballot box for each precinct. [26:3-104; 26:3-121]~~

PART 5. MAINTAINING THE OFFICE

230:10-7-38. Office hours [REVOKED]

~~The office of the County Election Board shall be open a minimum of six consecutive hours per day, excluding Saturdays, Sundays and holidays. [26:2-122] The County Election Board office shall be open between the hours of 11:30 a.m. and 1:00 p.m. each regular work day. The Secretary of the County Election Board shall establish the office hours. [26:2-122] In establishing the regular office hours, the Secretary shall consider first the hours which would make the office most accessible to the general public. The office hours shall be posted on the door of the office.~~

230:10-7-39. General duties of the Secretary [REVOKED]

~~The Secretary of the County Election Board shall be charged with the operational responsibilities of the Board, including, but not limited to, supervising personnel, defining job positions and responsibilities of the employees, preparing the annual budget, preparing and filing all reports and implementing policies, findings and actions lawfully prescribed or determined by the County Election Board. [26:2-117]~~

230:10-7-40. Cancellation File

The Cancellation File shall hold the cancelled original ~~Registration Forms or original~~ voter registration application forms of voters whose registration has been cancelled for death, conviction of a felony, adjudication as an incapacitated person or as a partially incapacitated person prohibited from voting, or subsequent registration in another county or state. [26:4-120.7] Registrations which are cancelled upon written notice from the voter or upon receipt of an address confirmation return card from the voter indicating a new address outside the county also shall be retained in this file. All forms contained in the Cancellation File may be destroyed 24 months after the date of cancellation. [26:4-120.7] These forms shall be filed alphabetically by month and year. See 230:15-11-1 through 230:15-1-10 and 230:15-11-24.

230:10-7-43. Retention of forms and materials documenting voter registration transactions

(a) **Original registration records removed from Central File.** Original voter registration records that have been removed from the Central File due to cancellation of registration or due to change in registration shall be retained for 24 months following removal. These original registration records shall be filed together by month in alphabetical order. See also 230:10-7-40.

(b) **Materials documenting cancellation of registration.** Materials used to document the cancellation of a voter's registration shall be retained for 24 months following the cancellation. These materials include Cancellation of Registration of Deceased Voter by Next of Kin forms; Request to Cancel Registration of Deceased Voter forms; Notification of ~~Nursing Facility~~ County Resident's Death forms; Potential Deletion Reports; Potential Duplicate Reports; Judgment of Incapacitation Reports, cancellation requests from voters; certified copies of death certificates; notices of felony conviction; Deleted Voters by Reason reports, address confirmation return cards indicating addresses outside the county; ~~and~~ True Duplicates Deleted Reports, and any document used by the Oklahoma National Guard to notify the County Election Board of the death in the line of duty of a member of the Oklahoma National Guard.

(c) **Rejected voter registration applications.** Rejected voter registration applications shall be retained for 24 months following rejection. Rejected applications shall be filed by month in alphabetical order.

(d) **Rejection notices returned by post office.** Rejection notices that have been returned by the post office undelivered shall be retained for 24 months following return. Returned undelivered rejection notices shall be filed by month in alphabetical order.

(e) **Voter identification cards returned by post office.** Voter identification cards that have been returned by the post office undelivered shall be retained for 24 months following return. Returned undelivered voter identification cards shall be filed by month in alphabetical order.

(f) **Insufficient Information Rejection Notices returned by applicant.** An Insufficient Information Rejection Notice returned to the County Election Board by the applicant with the information required to complete the application shall be filed in the Additional Information Correspondence file. Material in this file shall be retained as long as the voter remains registered. An Insufficient Information Rejection Notice that is returned by a voter but still does not contain enough information to complete the application shall be filed by month in alphabetical order and retained for 24 months.

(g) **Address confirmation return cards and undelivered address confirmation notices.** All address confirmation return cards received by the County Election Board shall be retained for 24 months, except return cards used to change

a voter's address in the county. Address confirmation return cards used to change the voter's address in the county shall be filed in the Additional Information Correspondence file and shall be retained as long as the voter remains registered. Undelivered address confirmation notices shall be retained for 24 months.

230:10-7-44. Retention of ballots [REVOKED]

~~All ballots shall be retained in sealed ballot transfer boxes for at least 30 days after an election. [26:7-134] Voted precinct ballots used in an election involving federal candidates, as outlined in 230:10-7-41, shall be retained for 24 months after the election. Unused precinct and unused absentee ballots from elections involving federal candidates may be destroyed 30 days after the election, provided that the unused ballots were retained separately from the used ballots. Voted absentee ballots and all related materials shall be retained for 24 months after the election. [26:14-132] Voted provisional ballots and all related materials shall be retained for 24 months after the election. [26:7-116.1]~~

230:10-7-47. Election results

The County Election Board must maintain results by precinct of each election conducted in the county as a permanent record. [26:3-127] A copy of the ~~Oklahoma~~ Official Certification Report, signed by the members of the County Election Board and bearing the County Election Board seal, shall be retained permanently. ~~In addition to the Oklahoma Certification Report, a copy of the Corrections Log report and a copy of the System Log report for the election also shall be retained permanently.~~

230:10-7-50. Annual reports

No later than January 15 each year the Secretary of the County Election Board shall file with the County Clerk a report stating the total number of registered voters, by party, in the county as of January 1. The report used for this purpose shall be the monthly Administration and Registration Report ~~formatted automatically by OEMS~~ requested in MESA after the first day of January. The Secretary shall retain a copy of this report as a permanent record.

230:10-7-51. Analysis of election [REVOKED]

~~At times specified by the State Election Board, the Secretary shall file with the State Election Board a report on analysis for all elections. The Secretary shall retain a copy of each analysis of election report as a permanent record.~~

PART 7. PUBLIC RECORDS

230:10-7-58. Open Records Act shall be observed

The State Election Board and each County Election Board shall comply with the requirements and provisions of the Oklahoma Open Records Act, Title 51 O.S. 2011, Section 24A et seq.

230:10-7-59. Public records

~~(a) All records of the County Election Board, except as provided in (b), (c) , (d) and (e) of this Section, must be made available for public *inspection, copying and/or mechanical reproduction during regular* office hours. [51:24A.5]~~ All records of the County Election Board, except as specifically designated otherwise in federal or state law, shall be open records and shall be made available for public inspection, copying and/or mechanical reproduction during regular office hours. The County Election Board must provide prompt, reasonable access to its records but may establish reasonable procedures to protect the integrity and organization of its records and to prevent excessive disruptions of its essential functions.

~~(b) *No information relating to a declination to register to vote in connection with an application made at an office designated a voter registration agency may be used for any purpose other than voter registration*. [26:4-109.2(C)] *The identity of a voter registration agency through which a particular voter registered may not be disclosed to the public*. [26:4-109.2(D)] If a person applies for voter registration in connection with the application for, renewal of or change of address for an Oklahoma driver license or state identification card, *the office at which the person submits the voter registration application or the fact that the person declined to register shall remain confidential and will be used only for voter registration purposes*. [26:4-109.3(A)]~~

~~(c) Members of the judiciary, district attorneys, assistant district attorneys, law enforcement personnel, corrections officers, and persons covered by victim's protection orders are entitled by law to apply to the Secretary of the County Election Board for restricted records status. [26:4-115.2] The spouse and/or dependent of a voter entitled to apply for restricted records status also may apply for restricted records status. Restricted records status shall apply to the voter registration form in the Central File, to information in MESA, and to materials used to request and cast absentee ballots. Voter registration information for restricted records voters shall be available only to authorized County Election Board personnel for administrative purposes, with the exception that it may be provided to a candidate or a candidate's representative or other lawful authority in connection with a contest of candidacy, a contest of election, or a petition challenge as provided by law. [26:4-115.2] Restricted records status shall remain in effect until the voter chooses to end it by notifying the Secretary in writing. See 230:15-9-25.~~

~~(d) The name, address, and precinct number of an Address Confidentiality Program (ACP) participant who applies to the Secretary of the State Election Board for ACP voter registration and absentee ballots shall not be released to any person for any purpose except by court order. No information concerning an ACP voter shall be entered in MESA. The name, address and precinct number of an ACP voter shall not appear on any list or report produced by either the State Election Board or the County Election Board.~~

~~(e) An electronic mail address provided by a uniformed services voter or an overseas voter for the purposes of absentee voting as provided in 230:30-9-5 and 230:30-9-5.2, shall not~~

~~constitute public information. [26:14-118] The Secretary of the County Election Board shall ensure that such an electronic mail address is protected from public disclosure. [26:14-118]~~

230:10-7-60. Persons authorized to release records [REVOKED]

~~The Secretary of the County Election Board *shall designate certain persons who are authorized to release records of the* County Election Board *for inspection, copying or mechanical reproduction*. [51:24A.5(6)] *At least one such person shall be available at all times to release records during the regular business hours of the* County Election Board. [51:24A.5(6)] At all times official records of the County Election Board shall be in the possession of the Secretary of the County Election Board or his designee.~~

230:10-7-62. Fees for reproduction of records [REVOKED]

~~The County Election Board *may charge a fee only for recovery of the reasonable, direct costs of document copying and/or mechanical reproduction*. [51:24A.5(3)] *However, if the request is solely for commercial purpose or clearly would cause excessive disruption of the* County Election Board's *essential functions, then the* County Election Board *may charge a reasonable fee to recover the direct cost of document search*. In no event shall the fee charged for copying a document exceed 25 cents per page when the page measures 8 1/2 by 14 inches or smaller. [51:24A.5(3)] The fee charged for a certified copy of a document shall not exceed $1.00 per page. [51:24A.5(3)]~~

230:10-7-63. Written schedule of fees [REVOKED]

~~The Secretary of the County Election Board shall post a written schedule of the fees charged for copying and/or mechanical reproduction of documents and fees for document search at the County Election Board office and with the County Clerk. [51:24A.5(3)]~~

230:10-7-64. Search fees shall not be charged when in public interest [REVOKED]

~~In no case shall a search fee be charged when the release of documents *is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those* persons *entrusted with the affairs of the government are honestly, faithfully and competently performing their duties as public servants*. [51:24A.5(3)]~~

230:10-7-65. Fees not to discourage requests [REVOKED]

~~Fees charged for document search and for copying or mechanical reproduction of documents *shall not be used for the purpose of discouraging requests for information or as obstacles to disclosure of requested information*. [51:24A.5(3)]~~

PART 9. FINANCES

230:10-7-70. Preparation of the budget

No later than the first Monday in July of each year, the Secretary of the County Election Board must submit an Annual Report of Earnings and Expenditures for the previous fiscal year, along with an Estimate of Needs for the next fiscal year. This report must be submitted on a form which is available from the County Clerk or Board of County Commissioners. In preparing the budget, the Secretary shall observe the following:

(1) The Secretary shall refer to the Day Ledger Report in ~~OEMS~~ MESA. The Day Ledger Report is an itemized statement of expenditures by the County Election Board from the budget account for a fiscal year.

(2) The Secretary shall refer to the Report on Earnings and Expenditures and Estimate of Needs for the most recent election year when preparing the budget for an upcoming election year.

(3) The Secretary shall meet with the County Commissioners and the County Excise Board or with the County Budget Board to explain budgetary needs for the coming year.

230:10-7-71. Purchasing supplies

Purchasing of supplies by the County Election Board shall be made through the County Purchasing Agent. The County Election Board shall make purchasing requests on requisition forms required by the County Purchasing Agent. Upon request, the Secretary shall submit to the County Purchasing Agent a list of supplies, materials and equipment used in common with other county departments. The Secretary shall designate two receiving officers in writing, and this written designation shall be filed with the County Clerk. [19:1504] *A receiving officer shall receive all supplies, materials and equipment purchased, lease-purchased or rented* ~~*by* the County Election Board~~ *by his department and shall identify such items received in a manner prescribed by the county road and bridge inventory officer or Board of County Commissioners or designee*. [19:1504] *The receiving officer shall also maintain a record of all supplies, materials and equipment received, disbursed, stored and consumed by* ~~the County Election Board~~*his department*. [19:1504] (In most counties, the County Purchasing Agent is the County Clerk or an employee of the County Clerk.)

230:10-7-73. County Board Member Claims

Claims for compensation owed to the Chairman and Vice Chairman by the State Election Board shall be filed each month with the State Election Board. No claim shall be filed if the County Election Board has no meeting in a particular month. Claims should be filed between the first and tenth day of the month. ~~The white, yellow and pink copies of the claim shall be sent to the State Election Board. The gold copy shall be retained by the Secretary.~~ See 230:10-3-10.

230:10-7-79. Special Depository Account ledger

The Secretary shall maintain a ledger on the Special Depository Account in ~~OEMS~~ MESA. The ledger shall list the date of each transaction, the name of the depositor or claimant,

the purpose of the deposit or expenditure, the voucher number and amount of each voucher issued, the receipt number and amount of each deposit and the balance of the account. Vouchers shall be entered in the ledger on the same day they are registered with the County Treasurer. Expenditures and receipts shall be totaled at the end of each month. The Ledger Sheet-SDA report shall be printed on a regular basis.

230:10-7-81. Election balance sheet

A balance sheet shall be maintained in ~~OEMS~~ MESA for each election. The balance sheet lists by category all funds that flow through the Special Depository Account for an individual election. The amount of funds received must equal the amount of expense incurred, and the balance sheet for each election must end with a zero balance.

230:10-7-82. Expenses paid through Special Depository Account

For statewide elections, the state's and the county's share of compensation for Precinct Officials, the Absentee Voting Boards, and special-purpose precinct workers are paid through the Special Depository Account. ~~Refunds of candidate filing fees also are paid from the Special Depository Account. (See 230:20-3-39.1 and 230:20-3-63)~~ All other expenses are handled by submitting purchase orders to the County Clerk. The purchase orders are paid by the County Clerk with warrants drawn on the County Election Board's budget account. For special county elections, only compensation for Precinct Officials, Absentee Voting Board members, and special-purpose precinct workers are paid through the Special Depository Account. All other expenses for special county elections are paid by submitting purchase orders to the County Clerk. For school district and municipal elections, all warrants received from the entities are deposited in the Special Depository Account and vouchers are written to pay all expenses incurred in the election.

230:10-7-84. State Election Board reimbursed for computer supplies [REVOKED]

~~The Secretary of the County Election Board shall reimburse to the State Election Board all funds collected for Precinct Registries and for specially printed reports. [26:3-108.1] See 230:10-7-66 and 230:35-3-57.1. This reimbursement shall be made on a monthly basis. The funds for Precinct Registries and reports shall be deposited in the County Election Board Special Depository Account immediately upon receipt. Once each month the Secretary shall issue a voucher to the State Election Board. The voucher shall include all funds received by the County Election Board for Precinct Registries and reports during the preceding month.~~

PART 13. PRECINCTS AND SUBPRECINCTS

230:10-7-96. Establishment of precincts [REVOKED]

~~The County Election Board must establish voting precincts throughout the county. [26:3-115] A large map showing the precinct boundaries must be maintained in the County Election Board office at all times. [26:3-115]~~

230:10-7-97. Boundary limitations [REVOKED]

~~No precinct boundary line may *cross the boundary line of any District Court judicial district electoral division or any Congressional, Legislative, or County Commissioner district. Boundaries of all precincts shall enclose a contiguous area.* [26:3-116] All precinct boundaries shall *follow clearly visible, definable and observable physical boundaries which are based upon criteria established and recognized by the Bureau of the Census of the United States Department of Commerce* [26:3-116] for the *purposes of defining census blocks for the decennial census.* [26:3-116] *No municipal boundary that is not such a visible, definable and observable* [26:3-116] boundary shall be used as a precinct boundary.~~

230:10-7-99. Precincts within municipalities

~~(a) *If the governing board of any municipality requests in writing that precinct boundaries be altered to conform to ward boundaries of the municipality, the County Election Board may, at its discretion, make such alterations*, providing such alterations conform to the requirements outlined in 230:10-7-97. [26:3-117] All expenses incurred in making such alterations must be paid for by the municipality. [26:3-117]~~ In all statutory cities, voting in elections is at large~~; thus,~~ . Therefore, there is no added efficiency in making ward boundaries of such cities and precinct boundaries conform. Only in municipalities with home rule charters providing for elections by wards is there increased efficiency in making ward boundaries and precinct boundaries conform.

~~(b) The governing body of a home rule charter municipality, to the extent practicable, shall not subdivide precincts established by a County Election Board in establishing ward or council boundaries. [11:20-101(B)]~~

230:10-7-100. Changes in precincts [REVOKED]

~~The County Election Board may change the boundaries of a precinct, abolish a precinct, or consolidate any precinct, subject to the requirements of Section 230:10-7-97. [26:3-118] When making a change in the boundaries of a precinct, the following procedure must be observed: [26:3-118]~~

~~(1) No precinct boundary changes shall be made between January 1 of any year in which the last digit is nine and December 31 of any year in which the last digit is zero. [26:3-118]~~

~~(2) After January 1, 1992, the County Election Board shall only change a precinct by dividing or consolidating it in a manner consistent with designated census geography. [26:3-118] See 230:10-7-97. However, a part or parts of a precinct may be consolidated without conforming to the designated census geography if it becomes necessary to change a precinct boundary for one of the following reasons:~~

~~(A) *lack of an adequate available polling place.* [26:3-118]~~

~~(B) road conditions that hinder or impede a voter's ability to vote in that precinct. [26:3-118]~~

~~(C) accomplishment of reapportionment. [26:3-118]~~

~~(3) Notify the Secretary of the State Election Board in writing of any changes in precinct boundaries.~~

~~(4) Changes may not become effective until 30 days after notice of change has been posted and mailed. [26:3-118] One notice must be posted at the door of the polling place for the affected precinct, one notice must be posted at the door of the county courthouse, and one notice shall be mailed to the State Election Board. [26:3-118(1)]~~

~~(5) The registration of each registered voter affected by such a change must be transferred, without request by the voter, if such a transfer is necessary. [26:3-118(2)]~~

~~(6) Each registered voter whose registration is transferred must be notified in writing by the Secretary. [26:3-118] At the same time, the voter must be issued a new Voter Identification Card and must be instructed to destroy his former Voter Identification Card. [26:3-118(3)]~~

~~(7) Enter any precinct boundary changes on the appropriate maps.~~

230:10-7-103. Subprecincts [REVOKED]

~~(a) Where fewer than 200 registered voters are affected, an area which otherwise would be a precinct may be designated as a subprecinct provided that it includes the *maximum area possible without crossing boundaries of any District Court judicial district electoral division or any Congressional, Legislative or Commissioner district*. [26:3-119] Registration records for a subprecinct must be maintained in the same manner as for a precinct. [26:3-119] Subprecincts shall not have a separate polling place or Precinct Election Board. Instead, the Secretary of the County Election Board shall authorize registered voters of a subprecinct to vote at a specific adjacent precinct. [26:3-119] Separate voting devices and election materials must be provided for the subprecinct in order that a separate certification can be made of the subprecinct's election results. [26:3-119] Appropriate ballots must be printed and issued to the voters of the subprecinct. [26:3-119]~~

~~(b) *In metropolitan statistical areas, if fewer than 300 registered voters are affected, an area constituting the maximum area possible without crossing boundaries of any district court judicial district electoral division or any congressional, legislative or county commissioner district may be designated as a subprecinct*. [26:3-119(B)] Metropolitan statistical areas are defined by the federal Office of Management and Budget according to standards developed by the interagency Federal Executive Committee on Metropolitan Areas. The following metropolitan statistical areas have been defined in Oklahoma. In counties included in each of these defined metropolitan statistical areas, the Secretary of the County Election Board may designate appropriate areas as subprecincts as provided in this subsection.~~

~~(1) **Lawton.** The Lawton metropolitan statistical area includes all of Comanche County.~~

~~(2) **Oklahoma City.** The Oklahoma City metropolitan statistical area includes all of Canadian, Cleveland, Grady, Lincoln, Logan, McClain, and Oklahoma Counties.~~

~~(3) **Tulsa.** The Tulsa metropolitan statistical area includes all of Creek, Okmulgee, Osage, Pawnee, Rogers, Tulsa, and Wagoner Counties.~~

~~(4) **Fort Smith, Arkansas.** The Fort Smith, Arkansas, metropolitan statistical area includes all of LeFlore and Sequoyah Counties in Oklahoma.~~

PART 15. POLLING PLACES

230:10-7-108. Number and location of polling places

There must be one polling place for each precinct, and that polling place must be located within the geographical boundaries of the precinct. [26:3-120] The State Election Board is authorized to make exceptions to this requirement. However, exceptions will be granted only in those instances in which it can be shown that compliance is impossible. In order to obtain such an exception, the County Election Board Secretary must make written application to the State Election Board setting forth the reasons why compliance is not possible and detailing the actions which have been taken to locate a polling place within the boundaries of the affected precinct. The State Election Board will notify the County Election Board Secretary, in writing, of the decision regarding ~~his~~ the request.

230:10-7-110. Boards to provide polling places [REVOKED]

~~*The Board of Education of any school district may, and the governing board of any municipality, shall furnish a room or rooms in any school building or municipal building for use as a polling place at no cost*. [26:3-123]~~

230:10-7-111. Liability [REVOKED]

~~*Persons, businesses, churches and any other nongovernmental entities providing space for use as a polling place shall not be held liable for any torts* (civil lawsuits) *arising from any incident occurring in such space during the period when such space is used as a polling place*. [26:3-120]~~

PART 17. SPECIAL DUTIES OF THE COUNTY ELECTION BOARD [REVOKED]

230:10-7-119. Verification of audit request petitions [REVOKED]

~~(a) The State Auditor and Inspector is required to audit the books of any subdivision of the State of Oklahoma when petitioned to do so by the requisite number of the subdivision's registered voters. [74:212(I)(1)] *The petition must contain the number of signatures equivalent to ten percent (10%) of the registered voters of the subdivision as determined by the county election board or, if the county election board determines that the number of registered voters in the subdivision cannot be determined due to boundary lines not conforming to precinct*~~

~~*lines, the required number of petitioners shall be twenty five percent (25%) of the total number of persons voting in the last subdivision wide general election held in the subdivision.* [74:212(I)(2)] *Within thirty (30) days of receipt of the petitions, the State Auditor and Inspector shall present the petitions to the county election board located in the county in which the subdivision is located.* [74:212(I)(5)]~~

~~(b) *The county election board shall determine whether the signers of the petition are registered voters of the county in which the subdivision is located and whether the petition has the requisite number of signatures of such registered voters.* [74:212(I)(6)] *The county election board shall certify the petition as having the required number of signatures and return it to the State Auditor and Inspector.* [74:212(I)(6)]~~

PART 19. COUNTY ELECTION BOARD STAFF OVERTIME

230:10-7-132. Reimbursing funds to the Personal Services account

When an entity's payment for the expenses listed on the Record of Expense is received, the Secretary shall deposit the funds in the County Election Board's Special Depository Account and shall pay the various expenses of the election according to routine procedures. The Secretary also shall observe the following procedure to reimburse the County General Fund for the compensation and benefits paid to County Election Board employees for overtime worked in connection with the entity's election. (In a county with a Budget Board, the Secretary shall ask the County Clerk to contact the office of the State Auditor and Inspector for the procedure to reimburse these funds to the County Election Board's Personal Services account.) The County Commissioners first must have adopted a resolution directing such reimbursement before this procedure can be implemented. See 230:10-7-130.

(1) Issue a voucher from the Special Depository Account in the amount of the overtime compensation plus the employer-paid benefits for deposit in the County General Fund.

(2) Fill out a copy of the Reimbursement to General Fund Account form (SA&I Form No. 313).

(A) If the resolution adopted by the County Commissioners directing reimbursement to the County Election Board's Personal Services Account does not have a resolution number, leave that space blank. Be certain to enter the date the resolution was adopted in the appropriate space.

(B) Enter the County Election Board's Personal Services account number in the first column. However, if benefits are paid to a General Fund Account other than the County Election Board's Personal Services account, enter the benefits account number in the first column instead.

(C) Enter the name of the entity or entities for which the election was conducted in the fourth column labeled "Source of Reimbursement."

(D) Enter the total amount to be paid to the County Election Board Personal Services account in the fifth column. Also enter the amount to be paid to the benefits account if it is separate from the Personal Services account.

(3) Attach the voucher to the Reimbursement to General Fund Account form.

(4) Take the completed Reimbursement to General Fund Account form with the voucher attached to the County Treasurer. Ask the Treasurer to issue a receipt for the voucher and to sign and date the Reimbursement to General Fund Account form.

(5) Enter the County Treasurer's receipt number in the second column and the receipt date in the third column.

(6) Make two copies of the completed Reimbursement to General Fund Account form. Deliver the original form to the County Clerk, one of the copies to the County Treasurer, and keep the other copy for the County Election Board's records.

(7) Add a reimbursement transaction to the ~~OEMS~~ MESA Budget Account and document the reimbursement on the Day LedgerBBudget Account.

[OAR Docket #13-1003; filed 6-3-13]

TITLE 230. STATE ELECTION BOARD CHAPTER 15. VOTER REGISTRATION

[OAR Docket #13-1004]

RULEMAKING ACTION:
PERMANENT final adoption

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 [AMENDED]
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 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]
230:15-9-25. Processing applications for restricted records status [AMENDED]
Part 7. Acknowledgment of Voter Registration Applications
230:15-9-31. Rejected applications [AMENDED]

230:15-9-32. Types of rejection notices [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]
230:15-11-29. Identification and notification of voters who may have changed addresses of residence [NEW]

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ANALYSIS:
The Secretary of the State Election Board and experienced State Election Board staff members have conducted a thorough review and analysis of the rules and have determined that since the original drafting, adoption, and implementation of the rules in the mid-1970s, and even since the codification of the rules in the early 1990s, the needs of the election officials that the rules were designed to meet have changed.

The rules formed the foundation of Oklahoma's uniform, unified election system. Still today, Oklahoma is the only state in which every county follows the same uniform procedures, uses the same forms and software to administer voter registration and absentee voting, and also uses the same voting devices and uniformly designed ballots in every precinct.

In the early days of Oklahoma's modern election system, the rules intentionally were drafted to duplicate the content of Title 26 of the Oklahoma Statutes. When Oklahoma's election laws were modernized and recodified in 1974, the first State Election Board rules were created not only as the official "interpretation" of the new laws but also as a means of communicating the requirements of the new laws and the procedures needed to implement them to both county- and precinct-level officials.

Before the implementation of the new election code in 1974, the County Election Board Secretary had only a printed copy of the election laws with which to run his or her office and conduct elections. Now, almost 40 years later, the County Election Board Secretary has access to an array of publications to perform almost every election-related task.

The amendments in Chapter 15 have the following purposes. All rules that only duplicate statutory language and provisions are revoked. Rules are amended to update all references to the election administration software and hardware used by the State Election Board and by the 77 County Election Boards from OEMS B the designation of the legacy system that will be removed from service in July, 2013, B to MESA, OEMS's successor, which by July , 2013, will absorb all the functions of the older system. Some amendments conform certain voter registration dates and deadlines to the current election calendar established by law.

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

SUBCHAPTER 3. VOTER OUTREACH

PART 1. RESPONSIBILITIES FOR VOTER OUTREACH

230:15-3-10. Press releases

The State Election Board shall, from time to time, provide model press releases that can be used to disseminate information to voters and prospective voters of the county. The Secretary of the County Election Board shall cause such press releases to be adapted for the county and distributed to the news media of his county in accordance with the directions accompanying the releases.

PART 3. DISTRIBUTION OF VOTER REGISTRATION APPLICATION FORMS

230:15-3-23. Voter registration application forms available to individuals

(a) The printed Oklahoma Voter Registration Application form generally shall be available to any individual applicant for voter registration or for change of voter registration in the following locations.

(1) **Motor license agencies.** Any individual applicant for voter registration or for change of voter registration may obtain an Oklahoma Voter Registration Application form at any motor license agency in Oklahoma. See 230:15-5-100 and 230:15-5-103.

(2) **Voter registration agencies.** Any individual applicant for voter registration or for change of voter registration may obtain an Oklahoma Voter Registration Application form at any voter registration agency identified in 230:15-5-122 and 230:15-5-123. See 230:15-5-124.

(3) **Public libraries.** Any individual applicant for voter registration or for change of voter registration may obtain an Oklahoma Voter Registration Application in any public library in Oklahoma. Public library personnel shall

have no responsibility either to offer applications to library patrons or to collect completed applications. Applications obtained at a public library shall be mailed to the State Election Board by the applicant.

(4) **United States Post Offices.** Any individual applicant for voter registration or for change of voter registration may obtain an Oklahoma Voter Registration Application form at any United States Post Office in Oklahoma. United States Postal Service employees shall have no responsibility either to offer applications to post office patrons or to collect completed applications. Applications obtained in a United States Post Office shall be mailed to the State Election Board by the applicant.

(b) The printed federal voter registration application form shall be available from the State Election Board and from any County Election Board in Oklahoma to any individual applicant for voter registration who specifically requests the federal form

(c) The Oklahoma Voter Registration Application form is available online at www.elections.ok.gov. The form ~~must~~ may be filled out online but must be downloaded ~~and~~, printed, ~~then must be filled out,~~ signed, and ~~finally,~~ mailed to the State Election Board. It cannot be ~~either filled out or~~ submitted online or by electronic mail. The federal voter registration application form also is available online at www.eac.gov. The federal form also ~~must~~ may be filled out online, but must be downloaded ~~and~~, printed, signed and mailed. It cannot be ~~either filled out or~~ submitted online or by electronic mail.

SUBCHAPTER 5. APPLICATION FOR VOTER REGISTRATION

PART 1. QUALIFICATIONS FOR REGISTRATION

230:15-5-2. Persons who shall become eligible to register to vote

(a) Any person who becomes qualified to register to vote during a period that begins 60 days before an election and ends on election day is entitled to apply for voter registration at any time beginning 60 days before the election. Such applications must be valid and must be postmarked or received by an authorized voter registration agency or by the State Election Board more than 24 days before the election. The election must be one in which the person, once registered, is entitled to vote.

(b) The provision described in (a) most often applies to a person whose eighteenth birthday falls within a period that begins 60 days before an election and ends on election day. However, this provision also may apply to persons who become United States citizens during the same period.

(c) Voter registration applications from persons described in this Section shall be entered into ~~OEMS~~ MESA immediately upon receipt as outlined in 230:15-9-18. Such voter registration applications shall be approved and activated and voter identification cards shall format and print only after one of the following events occurs.

(1) The date (for example, the applicant's eighteenth birthday) on which the applicant becomes eligible to vote passes.

(2) The voter registration application deadline for the election passes.

230:15-5-5. Persons adjudged incapacitated ineligible to register to vote [REVOKED]

~~Persons who are under adjudication as being incapacitated persons may not become registered voters. [26:4-101] Persons who are under adjudication as being partially incapacitated persons prohibited from registering to vote may not become registered voters. [26:4-101] When such persons have been adjudged to be no longer incapacitated, they shall be eligible to become registered voters. [26:4-101]~~

PART 7. TIME FOR REGISTRATION

230:15-5-30. Change of political affiliation

A registered voter may apply to change his or her political affiliation at any time during an odd-numbered year. A registered voter may apply to change his or her political affiliation at any time during an even-numbered year, except during the period from ~~June 1~~ April 1 through August 31, inclusive. Applications to change political affiliation received during this period shall be held by the County Election Board and activated on September 1 as outlined in 230:15-9-22.1. However, if such an application for political affiliation change also includes change of address or of name, the change of address or of name shall be approved and activated if the application is otherwise valid.

PART 17. PUBLIC RECORDS

230:15-5-73. All registration records public

~~(a)~~ All voter registration records, except as ~~provided in (b), (c) and (d) of this Section~~specifically designated otherwise in federal or state law, must be available for public inspection and copying or mechanical reproduction during regular office hours. The Secretary shall cooperate with any individual or group wishing to inspect and copy the registration records, and a uniform policy shall be established so that such inspection and copying will not interfere with normal operations of the office. ~~See 230:10-7-59 through 230:10-7-65.~~

~~(b) *No information relating to a declination to register to vote in connection with an application made at an office designated a voter registration agency may be used for any purpose other than voter registration.* [26:4-109.2(C)] *The identity of a voter registration agency through which a particular voter registered may not be disclosed to the public.* [26:4-109.2(D)] If a person applies for voter registration in connection with the application for, renewal of or change of address for an Oklahoma driver's license or state identification card, *the office at which the person submits the voter registration application or*~~

~~*the fact that the person declined to register shall remain confidential and will be used only for voter registration purposes.* [26:4-109.3(A)]~~

~~(c) Members of the judiciary, district attorneys, assistant district attorneys, law enforcement personnel, corrections officers, and persons covered by victim's protection orders are entitled by law to apply to the Secretary of the County Election Board for restricted records status. [26:4-115.2] The spouse and/or dependent of a voter entitled to apply for restricted records status also may apply for restricted records status. Restricted records status shall apply to the voter registration form in the Central File, to registration information in MESA, and to materials used to request and cast absentee ballots. Voter registration information for restricted records voters shall be available only to authorized County Election Board personnel for administrative purposes, with the exception that it may be provided to a candidate or a candidate's representative or other lawful authority in connection with a contest of candidacy, a contest of election, or a petition challenge as provided by law. [26:4-115.2] Restricted records status shall remain in effect until the voter chooses to end it by notifying the Secretary in writing. See 230:15-9-25.~~

~~(d) The name, address, and precinct number of an Address Confidentiality Program (ACP) participant who applies to the Secretary of the State Election Board for ACP voter registration and absentee ballots shall not be released to any person for any purpose except by court order. No information concerning an ACP voter shall be entered in MESA. The name, address and precinct number of an ACP voter shall not appear on any list or report produced by either the State Election Board or the County Election Board.~~

PART 19. RECOGNIZED POLITICAL PARTIES AND POLITICAL ORGANIZATIONS

230:15-5-77. Recognized political parties [REVOKED]

~~(a) Recognized political parties include those parties whose candidates appeared on the General Election ballot in 1974 and any other parties formed under state law. [26:1-107] Parties recognized as a result of the appearance of their candidates on the ballot of the 1974 General Election are the Democratic Party and the Republican Party.~~

~~(b) A group of persons may form a recognized political party by following the procedure established by law at any time except during the period between June 1 and November 15 of an even numbered year. [26:1-108] The group shall obtain a number of signatures of registered voters equal to at least five percent (5%) of the total votes cast in the last General Election for either Governor or for electors for President and Vice President on petitions requesting recognition as a political party and shall file the petitions with the Secretary of the State Election Board. [26:1-108] If the State Election Board determines that there are a sufficient number of valid signatures of registered voters on the petitions, the group becomes a recognized political party under Oklahoma law. [26:1-108]~~

230:15-5-78. Party ceases to exist

~~(a) *Any recognized political party whose nominee for Governor or nominees for electors for President and Vice President fail to receive at least ten percent of the total votes cast for said offices in any General Election shall cease to be a recognized political party.* [26:1-109] *Said party may regain recognition only by following the procedure prescribed for formation of new political parties.* [26:1-109] *The State Election Board shall proclaim the fact of a party's failure to receive a sufficient number of votes and shall order that said party cease to be recognized.* [26:1-109]~~

~~(b) Within 60 days after a political party loses recognition, the Secretary of the State Election Board shall cause the political affiliation of all voters registered in that party to be changed to Independent in MESA. [26:1-110] After completing the process to change the political affiliations of the party's voters, the State Election Board staff shall prepare and distribute to each County Election Board a report listing all affected voters in the county.~~

~~(c)~~ The State Election Board shall notify the Secretary of the County Election Board when a political party loses recognition and when the process to change the political affiliations of the party's voters is completed. Upon receipt of the report listing affected voters in the county, the Secretary shall cause the following procedure to be observed.

(1) Print new voter identification cards for the affected voters. Mail the cards to the voters along with a copy of a letter provided by the State Election Board that explains why their political affiliations have been changed.

(2) Use the report provided by the State Election Board to locate the affected voters' original registration forms in the Central File.

(3) Cross out the name of the unrecognized political party and write in the word "Independent." Make these changes in a way that clearly distinguishes them as administrative notations. Initial and date the changes.

(4) Replace the voter's registration form in the Central File.

(5) Retain the report received from the State Election Board for 24 months.

PART 21. VOTER REGISTRATION APPLICATION BY MAIL

230:15-5-84. Information required on voter registration application

(a) A person who is eligible to register to vote and who applies for voter registration shall be required to provide the information listed in (b) of this Section on a voter registration application form. Voter registration applications that contain all the required information shall be valid applications and shall be approved by the Secretary of the County Election Board and the applicant shall become a registered voter in the county. An application that does not contain the required information, except as provided in (c) and (d) of this Section, shall not be a valid application and shall be rejected.

(b) A valid voter registration application shall contain the following information.

(1) Applicant's full name.

(2) Applicant's date of birth.

(3) Applicant's county of residence. (See exception provided in (d) of this Section.)

(4) Applicant's residence address. (See (e) of this Section.)

(5) Applicant's mailing address. (See (f) of this Section.)

(6) Applicant's political affiliation. (See exception provided in (c) of this Section.)

(7) Applicant's Oklahoma driver license number, state identification card number, or the last four digits of applicant's Social Security number, or a check mark in the appropriate box to indicate that the applicant does not have an Oklahoma driver license, state identification card, or Social Security number. If the applicant submitted an older version of the Oklahoma Voter Registration Application form that does not include the check box to indicate that he or she does not have these identification numbers, the application shall not be considered valid if one of these numbers is not included. See 230:15-9-18.

(8) Applicant's original signature or applicant's original mark.

(9) Name and address of person who helped applicant complete application if applicant is unable to complete it unassisted.

(10) Check marks in the "yes" boxes that accompany questions concerning applicant's age and citizenship status as required by federal law. [42 USC 15483(b)(4)(A)] If an applicant has checked the "no" boxes that accompany these questions, the application shall not be ~~rejected~~ considered valid. (On older versions of the Oklahoma Voter Registration Application form, these questions appeared in the information and instruction portion of the form.) If an applicant did not answer these two questions but did sign and date the oath, the application shall be accepted if it is otherwise valid.

(11) An oath requiring the applicant to swear or affirm his or her eligibility for voter registration.

(c) An application for new voter registration that is valid in all other respects shall not be rejected because the applicant has made one of the errors listed below when indicating a political affiliation. County Election Board personnel shall be authorized to designate an applicant as an Independent if one of the errors listed below appears on an otherwise valid voter registration application form. A voter designated Independent by County Election Board personnel for one of the following reasons shall be entitled to declare a political affiliation at any time, even during the period beginning ~~June 1~~ April 1 and ending August 31, inclusive, in even-numbered years when changes of political affiliation otherwise are prohibited. Such declarations of political affiliation shall be subject to the voter registration application deadline preceding an election. See 230:15-5-86.

(1) The applicant left the space on the application form for political affiliation blank.

(2) The applicant indicated more than one political affiliation and the applicant's intention cannot be determined.

(3) The applicant wrote the name of a political party or political organization not currently recognized in Oklahoma. See 230:15-5-77 and 230:15-5-79.

(d) An applicant for voter registration shall indicate the name of the county in which he or she resides on the application form. However, if an applicant fails to indicate his or her county of residence, the Secretary of the County Election Board shall not reject the application solely for this reason if the residence address provided by the applicant in fact is located within the county.

(e) An applicant for voter registration must provide his or her address of residence. If the applicant has a street address (a street name and number, an apartment or suite number, if applicable, and zip code), that is the applicant's address of residence. [26:4-112] If the applicant does not have a street address, a physical description of the location of the residence that can be used to pinpoint the residence on a map must be provided. The applicant may provide a 911 address or may provide the legal description (a Section-Township-Range description, including the appropriate quarter section or quarter-quarter section designation). Neither a rural route address nor a post office box address is acceptable as an address of residence for voter registration purposes. A voter registration application that does not include an address of residence sufficient to locate the residence on a map shall be rejected by the Secretary of the County Election Board.

(f) A mailing address must include the city and zip code. An emergency notification address, or 911 address, a rural route and box number, a post office box, or a street address all constitute valid mailing addresses for voter registration purposes. [26:4-112] If an applicant's mailing address is the same as the applicant's residence address, the space for mailing address may be left blank.

SUBCHAPTER 9. RECEIVING AND PROCESSING VOTER REGISTRATION APPLICATIONS

PART 5. PROCESSING VOTER REGISTRATION APPLICATIONS

230:15-9-18. Entering applications for voter registration in MESA

(a) **Entering voter registration application information in MESA.** All information provided by the applicant on the voter registration application form shall be entered into MESA. Follow the appropriate software instructions to enter the voter registration data. Refer to the following rules to resolve questions about individual applications.

(1) **Received date.** The received date is the date stamped or written on a voter registration application form by the agency that first receives it from the applicant.

(A) The received date for an application submitted by mail is the date the State Election Board received and stamped it.

(B) The received date for an application submitted at a motor license agency or at any voter registration agency identified in 230:15-5-122 and 230:15-5-123 is the date stamped or written by agency personnel in the space provided for this purpose on the form.

(C) The received date for a voter registration application bearing no stamped or written date is the application date entered by the applicant beside his or her signature.

(2) **Postmark.** The postmark date from a voter registration application submitted by mail shall be entered in the voter registration software. If there is no postmark or if the date is missing or illegible, leave the postmark field blank.

(3) **Name.** Enter the voter's name exactly as provided on the application form, even if it appears to be incomplete.

(4) **Political affiliation.** An application for new voter registration that is valid in all other respects shall not be rejected because the applicant fails to indicate his or her political affiliation. The political affiliation field on the screen shall be left blank in the following circumstances with the result that the software automatically will record the applicant's affiliation as Independent. See also 230:15-5-84 and 230:15-9-22.

(A) The applicant left the space for political affiliation blank.

(B) The applicant marked more than one political affiliation and his or her intent cannot be determined.

(C) The applicant wrote the name of a political party or a political organization not currently recognized in Oklahoma.

(5) **Date of birth.** An applicant for new voter registration must provide his or her date of birth on the application form. See 230:15-5-84. An application for new registration that does not include the date of birth shall be rejected. See 230:15-9-31. In the event that a registered voter submits an application for change of registration and does not provide his or her date of birth, the application shall be rejected unless both of the following circumstances exist.

(A) The application is valid in all other respects and County Election Board personnel are able to make positive identification of the voter from other information on the application form and from information already recorded in the voter registration database.

(B) The voter's date of birth already is recorded in the voter registration database.

(6) **Identification number.** Enter the Oklahoma driver license number and/or last four digits of the Social Security number. If the applicant does not provide either of these identification numbers, determine whether the applicant has indicated that the applicant does not have either of these numbers by checking the appropriate box on the application form. If the applicant has checked the box, leave these fields blank so that the software can automatically create and assign a unique identification number to the application. <u>If the applicant used an older version of the Oklahoma Voter Registration Application form that does not provide a check box for the applicant to indicate that he or she does not have these identification numbers, allow MESA to reject the application if neither number is provided.</u>

(7) **Duplicates.** When voter registration application information is entered in MESA, the software automatically searches for and identifies duplicate or potential duplicate records in the state. The search criteria are first name, last name, and date of birth and/or an identification number such as the last four digits of the Social Security number or driver license number. If an application appears to duplicate an existing voter registration either in your county or in another county, follow the appropriate software instructions and the procedure described in 230:15-9-23 to investigate and resolve the potential duplication.

(8) **Residence address.** An applicant for voter registration is required to provide his or her residence address on the application form. Enter the applicant's residence address in the appropriate fields on the screen. If the address cannot be assigned in the Street Guide based on the information entered, see 230:15-9-18.1.

(9) **Mailing address.** If the applicant provided a mailing address different from his or her residence address, enter the mailing address. If the applicant's mailing address is the same as the residence address or if the space for mailing address is blank, leave the mailing address field on the screen blank.

(10) **County of Residence.** An applicant for voter registration is required to indicate the county of his or her residence. An application on which the county of residence is not indicated shall be entered in the voter registration software with one of the following results.

(A) If the address is located within the county, the application shall be approved.

(B) If the address is not located within the county, the application shall be rejected with the "OT" ("Other") rejection code. When the blank rejection notice is printed, write or type the following in the space provided: "You did not indicate the county in which you reside on your application for voter registration. Your application cannot be processed without this information. You must submit a new application form that indicates your county of residence. Application forms are available in public libraries, post offices, and tag agencies across the state and also are available online at www.elections.ok.gov."

(11) **Rejection codes.** An application for new voter registration that does not contain all the required information listed in 230:15-5-84 shall be rejected. The software automatically applies a rejection code for insufficient name, insufficient address, insufficient identification number, insufficient date of birth, if the application duplicates an existing registration, and if the applicant is under 18 years

of age. (If an applicant who is under 18 will become eligible on or before election day, as described in 230:15-5-2, follow the software instructions to override the automatic rejection code.) If the application is unsigned or if the application must be rejected for any other reason, County Election Board personnel flag the appropriate rejection code on the screen. See 230:15-9-31.

(12) **Source codes.** A code to identify the source of an application for statistical purposes shall be entered in the voter registration software. If the source of an application is a motor license agency, an agency code also shall be entered. After the source code is entered, the instruction section of the application form bearing the source identification shall be detached and destroyed.

(13) **Previous registration information.** If the applicant provided information about previous voter registration in another state or in another county in Oklahoma, enter the previous registration information in the appropriate fields on the screen. If the applicant was previously registered in another county in Oklahoma, some previous information may be filled in automatically by the software. Do not enter information about former registration in your own county in these fields.

(14) **Eligibility questions and oath.** The applicant shall answer the two eligibility questions and shall sign and date the oath. If an applicant fails to answer the two questions but signs and dates the oath, the application shall be accepted as valid. If the applicant answers either question "No," the application shall be rejected. (On older versions of the Oklahoma Voter Registration Application form, these eligibility questions are located in the instructions area of the form.) If the applicant answers these two questions "Yes," but fails to sign and date the oath, the application shall be rejected.)

(b) **Filing voter registration applications.** If a voter registration application is determined to be valid and approved, place the application form in the appropriate valid application file until voter identification cards are printed. After the voter identification card is mailed to the voter, file the application form in the Central File. If a voter registration application must be rejected, file the application in the appropriate rejected application file.

230:15-9-22.1. Processing application for change of political affiliation during prohibited period

(a) Registered voters are prohibited by law from changing political affiliations from ~~June~~ April 1 through August 31, inclusive, in even-numbered years. The County Election Board Secretary is required by law to hold voter registration applications for change of political affiliation received during this period and to activate the changes on September 1.

(b) Voter registration applications for change of political affiliation received during the prohibited period that include no other voter registration changes shall be processed as follows.

(1) Follow steps 1 through 3 in 230:15-9-22(a). Enter in MESA all the information the voter provided on the application. When the new political affiliation is entered, the voter registration software warns that the political affiliation change is invalid and flags the application to hold for activation on September 1.

(2) From ~~June 1~~ April 1 through August 31, request and print Held Change of Affiliation Notices each time voter identification cards and rejection notices are requested and printed. Held Change of Affiliation Notices are letters to voters explaining that their change of political affiliation will be held and activated on September 1.

(3) From ~~June 1~~ April 1 through August 31, request and print the Held Change of Affiliation List each time voter identification cards are requested. The Held Change of Affiliation List contains the names of all voters whose political affiliation changes have been held since the last time this report was requested. Retain the Held Change of Affiliation List as needed.

(4) Mail the Held Change of Affiliation Notice to the applicant.

(5) File the voter registration application in a special file for Pending Affiliation Change Applications.

(6) On September 1, follow these steps.

(A) Request and print voter identification cards.

(B) When voter identification cards are requested, an Affiliation Change Notice letter also is generated to each voter whose political affiliation change has been held. Use of these letters is optional.

(C) Mail voter identification cards and Affiliation Change Notice letter, if used, to voter.

(D) Request and print the Affiliation Change List and retain it for 24 months.

(E) Move the voter registration application form from the Pending Affiliation Change Applications file to the Central File.

(F) Remove the voter's old voter registration form from the Central File and retain it in the Cancellation File as outlined in 230:10-7-43.

(c) Voter registration applications for change of political affiliation received during the prohibited period that also include other valid voter registration changes shall be processed as follows.

(1) Follow steps 1 through 3 outlined in subsection (a) of 230:15-9-22. Enter in MESA all the information the voter provided on the application. When the new political affiliation is entered, the voter registration software warns that the political affiliation change is invalid and flags the application to hold this change until September 1. Other valid changes, such as changes of name or address, are accepted.

(2) Request and print voter identification cards, rejection notices, and Held Change of Affiliation Notices.

(3) Match the voter's new voter identification card with the Held Change of Affiliation Notice and mail them together to the voter.

(4) Request and print the Held Change of Affiliation List and retain it for 24 months.

(5) Indicate on the new voter registration application form that the political affiliation becomes effective on September 1.

(6) Remove the voter's old voter registration form from the Central File and file it in the Cancellation File unless other information on the old form requires that it remain in the Additional Information Correspondence File.

(7) File the voter's new registration form in the Central File.

(8) On September 1, follow these steps.

(A) Request and print voter identification cards.

(B) When voter identification cards are requested, an Affiliation Change Notice letter also is generated for each voter whose political affiliation change has been held. Use of these letters is optional.

(C) Mail voter identification cards and Affiliation Change Notice letters, if used, to voters.

(D) Print Affiliation Change List and retain it for 24 months.

(d) Request and print a copy of the Pending Political Affiliation Changes List before the Primary Election and again before the Runoff Primary Election to use to help answer questions from voters about their political affiliation on election day. Print a final copy of this report on September 1 and retain it for 24 months.

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

(a) Members of the judiciary, district attorneys, assistant district attorneys, law enforcement personnel, corrections officers, and persons covered by victim's protection orders are entitled by law to apply to the Secretary of the County Election Board for restricted records status. [26:4-115.2] The spouse and/or dependent of a voter entitled to apply for restricted records status also may apply for restricted records status. Restricted records status shall apply to the voter registration form in the Central File, to registration information in the voter registration database, to materials used to request and cast absentee ballots, and if specifically requested by the voter, any Declaration of Candidacy filed by the voter. Voter registration information for a restricted records voter shall be available only to authorized County Election Board personnel for administrative purposes, with the exception that it may be provided to a candidate or a candidate's representative or other lawful authority in connection with a contest of candidacy, contest of election, or a petition challenge as provided by law. [26:4-115.2]

(b) A voter who is eligible for restricted records status may apply for such status by writing a letter to the Secretary of the County Election Board setting forth the following information.

(1) Voter's name as it appears on the voter registration form.

(2) Voter's date of birth.

(3) Last four digits of the voter's Social Security number.

(4) Reason for application for restricted records status. (If voter is covered by victim's protection order, include case number, date of issue and the expiration date of the order.)

(5) A request also to keep a Declaration of Candidacy confidential, if applicable.

(6) Voter's signature.

(7) Date.

(c) Upon receipt of an application for restricted records status, the Secretary of the County Election Board shall follow the appropriate MESA software instructions to enter the restricted records status voter's name, political affiliation, precinct number, school district, and municipality. This will cause the voter's name and district information to print in the appropriate Precinct Registry without the voter's residence address.

(1) Make a placeholder for the Central File. Write only the voter's name, date of birth, and political affiliation on a blank voter registration application form. Write the words "Restricted Records" in the space for item 6, "Street address or directions to your home."

(2) Remove the voter's original voter registration application form from the Central File and replace it with the placeholder form.

(3) Check the Additional Information file. Remove any documentation of the voter's registration and attach it to the original voter registration application form.

(4) Remove the voter's absentee ballot application from the appropriate file and attach it to the voter registration form.

(5) Locate the voter's registration information in MESA and follow the appropriate software instructions to delete the registration information.

(6) Contact the State Election Board to have this voter's voter registration information permanently deleted from the MESA database.

(~~6~~7) Attach the voter's application for restricted records status to the voter's original registration form and other materials and file in the restricted records status file.

(d) The Secretary of the County Election Board shall designate a file cabinet with a lock or any other appropriate container with a lock as the restricted records status file. Access to the restricted records status file shall be restricted to the Secretary, Assistant Secretary or Chief Clerk and other County Election Board employees authorized by the Secretary.

(e) Restricted records status shall be effective immediately upon receipt of an application from a qualified voter, and it shall remain in effect until the voter chooses to end it. The voter's registration information may be removed from restricted records status only upon receipt of written instruction from the voter.

(f) Any subsequent application for change of voter registration initiated by a restricted records voter shall be processed routinely, with the exception that the voter registration application information shall not be entered in MESA and the form shall be filed in the restricted records status file instead of the Central File. If necessary, however, the voter's information shall be modified in the Restricted Records Maintenance area of MESA. Any application for absentee ballots from such a voter also shall be processed manually. The application for absentee ballots shall be filed in the restricted records status file.

(g) A restricted records status voter who votes in person at his or her precinct polling place shall sign the Precinct Registry beside his or her own name. The Secretary shall instruct

Precinct Officials in precincts with restricted records status voters that no address confirmation is required for these voters.

(h) The Secretary shall print the Restricted Records List from MESA and provide it to the in-person Absentee Voting Board on each day of in-person absentee voting. A restricted records status voter who votes at the in-person absentee polling place shall sign the Absentee Voting Board Record.

(i) An ACP Absentee Ballot Application form and ACP Voter History Record form received from the State Election Board shall be filed immediately in the restricted records status file. No entry shall be made in MESA concerning ACP voters and the name, address, and precinct number of an ACP voter shall not appear on any list or report.

PART 7. ACKNOWLEDGMENT OF VOTER REGISTRATION APPLICATIONS

230:15-9-31. Rejected applications

(a) The Secretary of the County Election Board shall prepare and mail rejection notices to each applicant whose voter registration application is rejected. The rejection notice shall include the reason that the application was rejected and shall inform the applicant of steps, if any, that may be taken to provide additional information to complete or to correct the application. If necessary, a new voter registration application form shall be included with the rejection notice when it is mailed to the applicant.

(b) A voter registration application shall be rejected for any of the following reasons.

(1) **Duplicate.** An application that exactly duplicates an existing voter registration or an application that exactly duplicates another pending application shall be rejected.

(2) **Unsigned.** An application that is not signed by the applicant or that does not bear the applicant's mark, except as provided in 230:15-5-36, shall be rejected.

(3) **Under 18 years of age.** An application from a person who has not yet reached the age of 18, except as outlined in 230:15-5-2, shall be rejected.

(4) **Insufficient address.** An application with an incomplete or improper residence address shall be rejected. An application that lists either a post office box number or a rural route box number as a residence address shall be rejected. An application that lists a physical description or a legal description of the residence address that is incomplete or insufficient to locate the residence on a map shall be rejected.

(5) **Insufficient name.** An application with no name or with a name that does not appear to be a sufficient name shall be rejected.

(6) **Insufficient date of birth.** An application for new registration with no date of birth or an incomplete date of birth shall be rejected.

(7) **Insufficient identification number.** An application that does not include either the applicant's Oklahoma driver license or state identification card number or the last four digits of the applicant's Social Security number shall be rejected if the applicant also failed to check the box on the Oklahoma Voter Registration Application form that indicates that the applicant does not have a driver license, state identification card, or a Social Security number.

(8) **Other.** Other reasons for rejecting a voter registration application may include, but shall not necessarily be limited to, the following:

(A) **Application is illegible.** An application that cannot be read due to illegible handwriting shall be rejected.

(B) **Residence address in another jurisdiction.** If the residence address indicated on an application is not located within the boundaries of the county indicated on the application, the County Election Board that received the application immediately shall forward it to the appropriate County Election Board. If the appropriate County Election Board cannot be determined from the information on the application form, the application shall be rejected.

(c) A voter registration application shall not be rejected for an insufficient political affiliation if the application is valid in all other respects. See 230:15-5-84, 230:15-9-18, and 230:15-9-22.

230:15-9-32. Types of rejection notices

Three types of rejection notices are created by MESA. When rejection notices are requested, MESA assigns the appropriate type of rejection notice to each rejected application based upon the reason for the rejection. The types of rejections and reasons for which they are used are described as follows.

(1) **Insufficient Information Rejection Notice.** If a voter registration application is rejected because the applicant failed to provide sufficient information about his or her name, address, or date of birth, MESA will generate a rejection notice that includes spaces for the applicant to provide additional information. The applicant may complete the requested information on this rejection notice, sign and date it and return it to the County Election Board. Rejection notices of this type that are returned to the County Election Board by the applicant with the requested information shall be used by County Election Board personnel to change the application information previously entered into MESA. See 230:15-9-35.

(2) **Rejection Notice.** If an applicant fails to sign his or her application, if an applicant is under 18 (except as provided in 230:15-5-2), if the applicant has failed to provide an identification number as outlined in 230:15-9-18(a)(6), or if the applicant is already registered to vote in the county or has another, identical application pending, MESA will generate a rejection notice that explains the reason that the application was rejected. This rejection notice is used when the existing application cannot be corrected by additional information. When this rejection notice is mailed to the applicant, a new Oklahoma Voter Registration Application form shall be included.

(3) **Blank Rejection Notice.** If an application is rejected for any other reason, MESA generates a rejection notice that contains a statement to the applicant that his or her application has been rejected and that also contains

space in which County Election Board personnel may write the specific reason for the rejection. Some other reasons for rejecting a voter registration application are described in 230:15-9-31(b)(7). When this rejection notice is mailed to the applicant, a new Oklahoma Voter Registration Application form shall be included.

SUBCHAPTER 11. VOTER REGISTRATION LIST MAINTENANCE

PART 1. CANCELLATION OF VOTER REGISTRATION

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

~~A voter's registration may be cancelled only for one of the following reasons: written request by the voter; death of the voter; conviction of a felony; judgment of incapacitation; registration in another county or state; failure to respond to a confirmation mailing and subsequent failure to vote. [26:4-120]~~

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

~~A registered voter may have his registration cancelled by submitting a written, notarized notice to the Secretary of the County Election Board. [26:4-120.1] The notice must state the fact that the voter no longer desires to be a registered voter of the county. The notice must be signed and dated by the voter. The written notice either shall be notarized or shall be witnessed by two persons whose names and addresses are included on the notice. [26:4-120.1]~~

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

~~(a) The registration of a deceased voter shall be cancelled upon execution of a Cancellation of Registration of Deceased Voter form by the voter's next of kin. [26:4-120.3] The form may be executed at the County Election Board office, at the deceased voter's polling place or at the next of kin's own polling place in the same county on any election day or day of in-person absentee voting. [26:4-120.3] The form shall be signed by the next of kin and witnessed by either the County Election Board Secretary, Assistant Secretary or Chief Clerk, or by the Precinct Inspector.~~

~~(b) The registration of a deceased voter shall be cancelled upon execution of a Request to Cancel Registration of Deceased Voter form by the voter's next of kin. The form shall be completed and signed by the next of kin and either notarized by a Notary Public or witnessed by two people who provide their names and addresses. [26:4-120.3] The form shall be returned to the County Election Board in the county of the deceased voter's residence. [26:4-120.3] A letter containing all the same information requested on the form, signed by the next of kin, and either notarized by a Notary Public or witnessed by two people who provide their names and addresses also shall be accepted to cancel the registration of a deceased voter.~~

PART 3. VOTER REGISTRATION ADDRESS CONFIRMATION

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

(a) Address confirmation notices that cannot be delivered as addressed shall be returned to the State Election Board by the postal service. The returned, undelivered address confirmation notices shall be sorted by county and sent to the County Election Boards.

(b) County Election Boards shall receive from the State Election Board all address confirmation notices that were returned undelivered by the postal service. Upon receiving the undelivered address confirmation notices, County Election Board personnel shall process them according to the following procedure.

(1) ~~Record in MESA the date~~ Process receipt of the undelivered address confirmation notice ~~was received at the County Election Board~~ in MESA.

(2) Follow the procedure outlined in 230:15-11-25 if the postal service has provided another address for the voter.

(3) File the notice in the Returned Confirmation Notice file and retain for 24 months.

(c) As an alternative to the process outlined in (a) and (b) of this Sections, the Secretary of the State Election Board may elect to receive information on undelivered address confirmation notices in an electronic format from the United States Postal Service and may process such electronic information directly into the voter registration database so that the notices need not be physically returned and processed. The State Election Board will provide each County Election Board with a report listing the voters whose address confirmation notices were reported undelivered by the United States Postal Service.

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

Address confirmation return cards that are returned by the voter and indicate no change of address shall be processed according to the following procedure.

(1) ~~Record in MESA the date~~ Process receipt of the return card ~~was received at the County Election Board~~ in MESA.

(2) Compare the information on the return card with the voter's registration information in MESA to confirm that the address is the same. If there is a change of address, process according to the instructions in 230:15-11-22.

(3) File the return card in the Returned Confirmation Notice File.

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

Address confirmation return cards that are returned by the voter and indicate a change of address in the county shall be processed according to the following procedure.

(1) ~~Record in MESA the date~~ Process receipt of the return card ~~was received at the County Election Board~~ in MESA.

(2) ~~Process the information on the return card as an application for change of address. See 230:15-9-21.~~Select In County (updated) to access the voter's registration information. Enter all changes indicated by the voter on the return card.

(3) Prepare and mail a request for additional information if necessary. See 230:15-9-32 and 230:15-9-33. Wait for the voter's response before proceeding to step 4.

(4) Locate the voter's voter registration form in the Central File. Write the voter's new address on the form from the Central File and make a note to refer to the Additional Information Correspondence File.

(5) File the address confirmation return card in the Additional Information Correspondence File.

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

A voter may use the address confirmation return card to indicate that his or her name has changed. Information on the return card must clearly indicate that the voter has a new name~~, and the~~. The return card ~~must either~~ may indicate either no change of address or indicate a new address in the county. County Election Board personnel shall process the name change as outlined in ~~230:15-9-20~~ 230:15-11-22.

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

Address confirmation return cards that are returned by the voter and indicate a change of address outside the county shall be processed according to the following procedure.

(1) ~~Record in~~ Process receipt of the return card in MESA ~~the date the return card was received at the County Election Board~~.

(2) ~~Delete the voter's registration information in MESA. Use either the county transfer code or the state transfer code,~~ Select Out of County or Out of State, as appropriate.

(3) Remove the voter's registration form from the Central File and also any documentation in the Additional Information file. Attach the address confirmation return card to the registration form and any other documentation and file in the Cancellation File.

(4) Notify the voter that his or her voter registration in the county has been cancelled and advise the voter to register again in his or her current county or state of residence.

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

(a) If an address confirmation return card is received with indication that it was returned by someone other than the voter to whom it is addressed, ~~County Election Board personnel shall not enter any~~ no information about the return card shall be entered in MESA. The voter's registration shall be allowed to become inactive. The return card shall be filed in the Returned Confirmation Notice File and retained for 24 months. If the Secretary is unable to determine with certainty that a card was returned by the voter to whom it was addressed, no information about the return card shall be entered in MESA.

(b) The Secretary of the County Election Board is authorized to take the following actions to follow up on a return card received from someone other than the voter to whom it is addressed.

(1) If information on the return card indicates a new address in Oklahoma for the voter, the Secretary shall mail to the address provided an Oklahoma Voter Registration Application form and a letter suggesting that the voter update his or her voter registration information.

(2) If information on the return card indicates a new address outside Oklahoma for the voter, the Secretary shall mail to the address provided a letter suggesting that the voter register again in the other state.

(3) If information on the return card indicates that the voter is deceased, the Secretary shall mail a letter to the same address with information about the procedure for next of kin to cancel a deceased voter's registration.

(4) If information on the return card indicates that the voter has moved but provides no new address, the Secretary shall take no further action.

(5) If information on the return card indicates that the voter is unknown, the Secretary shall take no further action.

230:15-11-28. Cancellation of inactive voters

The registrations of all voters who remain in inactive status after two federal General Elections shall be cancelled. The cancellation shall take place ~~immediately~~ as soon as practicable following the second federal General Election after the inactive voters were designated. No additional notice to the voter shall be required prior to the cancellation. An automatic process shall remove the registration information from MESA. County Election Board personnel shall request and print the Deleted Voters by Reason report and shall use it to remove registration forms from the Central File and other registration correspondence from the Additional Information Requested file. The registration forms and correspondence shall be destroyed. The Deleted Voters by Reason report shall be retained for 24 months.

230:15-11-29. Identification and notification of voters who may have changed addresses of residence

(a) The Secretary of the State Election Board shall have the authority to compare the Oklahoma voter registration database with change of address records provided by the United States Postal Service through the National Change of Address system, the Oklahoma Department of Public Safety, the Oklahoma Department of Human Services, or other state or federal agencies to identify voters who may have changed their residence addresses.

(b) If the Secretary of the State Election Board determines that a voter's residence address may have changed, the Secretary shall have the authority to cause the voter to be notified in writing that voter registration information must be updated in the event of a change of residence. Such notification may include any forms prescribed by the Secretary of the State Election Board that are necessary for the voter to update his or her voter registration information.

[OAR Docket #13-1004; filed 6-3-13]

TITLE 230. STATE ELECTION BOARD CHAPTER 20. CANDIDATE FILING

[OAR Docket #13-1005]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Filing for State and County Office
Part 1. When and Where to File
230:20-3-1. Filing period [REVOKED]
Part 3. Qualifications for County Office
230:20-3-10. Qualifications for all county offices [REVOKED]
230:20-3-11. Persons not eligible to be candidates [REVOKED]
230:20-3-12. Additional qualifications for party primaries [REVOKED]
230:20-3-13. Additional qualifications for Independent candidates [REVOKED]
230:20-3-14. Exception to qualifications for party primary [REVOKED]
230:20-3-15. Additional qualifications for County Commissioner [REVOKED]
230:20-3-17. Additional qualifications for County Sheriff [REVOKED]
Part 5. Terms of County Offices
230:20-3-23. Four-year terms [REVOKED]
230:20-3-25. Beginning dates of terms [REVOKED]
Part 7. Procedure for Filing
230:20-3-30. Necessary form [AMENDED]
230:20-3-31. Service to potential candidates [AMENDED]
230:20-3-32. Declarations may be mailed or delivered in person [AMENDED]
230:20-3-33. Filing fees and petitions [AMENDED]
230:20-3-34. Personal checks, cash, money orders not acceptable [AMENDED]
230:20-3-36. Candidate's signature [REVOKED]
230:20-3-37. Checking Declarations [AMENDED]
230:20-3-41. Oklahoma Ethics Commission [REVOKED]
230:20-3-43. Unopposed candidates [REVOKED]
Part 9. Withdrawals of Candidates
230:20-3-47. Withdrawal after filing period [REVOKED]
230:20-3-48. Filing fee forfeited upon withdrawal [REVOKED]
230:20-3-49. Becoming a candidate again [AMENDED]
230:20-3-50. Withdrawals from Runoff Primary [REVOKED]
230:20-3-51. Withdrawals from General Election [REVOKED]
Part 11. Filing Reports to State Election Board
230:20-3-56. Filing reports to State Election Board [REVOKED]
Part 15. Runoff Primary Election
230:20-3-70. Determining candidates for a Runoff Primary Election [REVOKED]
Subchapter 5. Contests of Candidacy
230:20-5-1. Who may file contest; "petitioner" and "contestee" defined [REVOKED]
230:20-5-2. Time for filing contest [REVOKED]
230:20-5-3. Grounds for contest [REVOKED]
230:20-5-4. Deposit required [REVOKED]
230:20-5-5. Date for hearing contest [AMENDED]
230:20-5-8. Striking a candidacy [REVOKED]
230:20-5-9. Declaration may be amended [REVOKED]
230:20-5-10. Contestee may answer [AMENDED]
230:20-5-11. Burden of proof on petitioner [REVOKED]
230:20-5-12. Disposition of deposit [AMENDED]
230:20-5-13. When contestee pays cost [REVOKED]
230:20-5-14. When petitioner pays cost [REVOKED]
230:20-5-15. Filing fee forfeited when candidacy is stricken [REVOKED]
230:20-5-16. Appeals from decision of the Board [REVOKED]
230:20-5-17. Open Meeting Act applies [AMENDED]
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ANALYSIS:

The Secretary of the State Election Board and experienced State Election Board staff members conducted a thorough review and analysis of the rules and determined that since the original drafting, adoption, and implementation of the rules in the mid-1970s, and even since the codification of the rules in the early 1990s, the needs of the election officials that the rules were designed to meet have changed.

The rules formed the foundation of Oklahoma's uniform, unified election system. Still today, Oklahoma is the only state in which every county follows the same uniform procedures, uses the same forms and software to administer voter registration and absentee voting, and also uses the same voting devices and uniformly designed ballots in every precinct.

In the early days of Oklahoma's modern election system, the rules intentionally were drafted to duplicate the content of Title 26 of the Oklahoma Statutes. When Oklahoma's election laws were modernized and recodified in 1974, the first State Election Board rules were created not only as the official "interpretation" of the new laws but also as a means of communicating the requirements of the new laws and the procedures needed to implement them to both county- and precinct-level officials.

Before the implementation of the new election code in 1974, the County Election Board Secretary had only a printed copy of the election laws with which to run his or her office and conduct elections. Now, almost 40 years later, the County Election Board Secretary has access to an array of publications to perform almost every election-related task.

The amendments in Chapter 20 have the following purposes. All rules that only duplicate statutory language and provisions are revoked. Some

rules are amended to remove language that unnecessarily duplicates statutory requirements while leaving intact language that is not statutory but that is necessary for proper implementation of the statutes. Some rules are amended to add language needed for clarification. Rules are amended to update all references to the election administration software and hardware used by the State Election Board and by the 77 County Election Boards from OEMS B the designation of the legacy system that will be removed from service in July, 2013, B to MESA, OEMS's successor system, which by July 1, 2013, will absorb all the functions of the older system. Some proposed amendments conform certain candidate filing and contest of candidacy dates and deadlines to the current election calendar established by law.

CONTACT PERSON:

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

SUBCHAPTER 3. FILING FOR STATE AND COUNTY OFFICE

PART 1. WHEN AND WHERE TO FILE

230:20-3-1. Filing period [REVOKED]

~~The filing period for state and county offices will begin at 8 a.m. on the first Monday in June of an even-numbered year. [26:5-110] The filing period will close at 5 p.m. on the next succeeding Wednesday. [26:5-110]~~

PART 3. QUALIFICATIONS FOR COUNTY OFFICE

230:20-3-10. Qualifications for all county offices [REVOKED]

~~(a) To file as a candidate for any county office, one must have been a registered voter within the county for the six-month period immediately preceding the first day of the filing period. [19:131.1]~~

~~(b) The date of voter registration for candidate filing purposes shall be the earliest time the completed voter registration application is received in person at the State Election Board, at any County Election Board, at any voter registration agency identified in 230:15-5-122 or 230:15-5-123 or at any motor license agency, provided that the completed application subsequently is determined to be valid. In the case of an application for voter registration submitted by mail, the date of voter registration for candidate filing purposes shall be the date that the completed voter registration application is postmarked, provided that the application subsequently is determined to be valid. If an application received by mail does not bear a dated postmark or if the postmark is illegible, the date of voter registration for candidate filing purposes shall be the date the application is received at the State Election Board, providing that it subsequently is determined to be valid.~~

230:20-3-11. Persons not eligible to be candidates [REVOKED]

~~Persons who have been convicted of or who have entered pleas of guilty or nolo contendere to a misdemeanor involving embezzlement or a felony under the laws of this state or of the United States shall not be eligible to be a candidate for any state, county, municipal, judicial or school office or any other elective office of any political subdivision of this state for a period of 15 years following the completion of the sentence or during the pendency of an appeal of such conviction or plea. [26:5-105a(A)] This shall not be construed to prohibit persons who have received pardons from being eligible for or from holding public office. [26:5-105a(B)]~~

230:20-3-12. Additional qualifications for party primaries [REVOKED]

~~(a) To file for nomination by any political party to any county office, one must have been a registered voter in that party and in the county for at least six months immediately preceding the first day of the filing period. [26:5-105(A)]~~

~~(b) The date of voter registration for party affiliation purposes shall be the earliest time the completed voter registration application is received in person at the State Election Board, at any County Election Board, at any voter registration agency identified in 230:15-5-122 or 230:15-5-123 or at any motor license agency, provided that the completed application subsequently is determined to be valid. In the case of an application for voter registration submitted by mail, the date of voter registration for party affiliation purposes shall be the date that the completed voter registration application is postmarked, provided that the application subsequently is determined to be valid. If an application received by mail does not bear a dated postmark or if the postmark is illegible, the date of voter registration for party affiliation purposes shall be the date the application is received at the State Election Board, providing that it subsequently is determined to be valid.~~

230:20-3-13. Additional qualifications for Independent candidates [REVOKED]

~~(a) *To file as an Independent candidate for any state or county office, a person must have been registered to vote as an Independent for the six-month period immediately preceding the first day of the filing period.* [26:5-105(B)]~~

~~(b) The date of voter registration as an Independent voter for candidate filing purposes shall be the earliest time the completed voter registration application is received in person at the State Election Board, at any County Election Board, at any voter registration agency identified in 230:15-5-122 or 230:15-5-123 or at any motor license agency, provided that the completed application subsequently is determined to be valid. In the case of an application for voter registration submitted by mail, the date of voter registration as an Independent voter for candidate filing purposes shall be the date that the completed voter registration application is postmarked, provided that the application subsequently is determined to be valid. If an application received by mail does not bear a dated postmark or if the postmark is illegible, the date of voter registration as~~

~~an Independent voter for candidate filing purposes shall be the date the application is received at the State Election Board, providing that it subsequently is determined to be valid.~~

230:20-3-14. Exception to qualifications for party primary [REVOKED]

~~If one files as a candidate for the nomination of a political party which attains recognition less than six months preceding the first day of the filing period required by law, the candidate shall be required to have registered with the newly recognized party within 15 days after such party recognition was ordered. [26:5-105(A)] The date of registration shall be determined according the requirements of 230:20-3-12(b).~~

230:20-3-15. Additional qualifications for County Commissioner [REVOKED]

~~(a) To file as a candidate for County Commissioner, one must have been a registered voter in the County Commissioner district for at least six months immediately preceding the first day of the filing period.~~

~~(b) The date of voter registration within a County Commissioner district shall be determined as indicated in 230:20-3-10(b).~~

230:20-3-17. Additional qualifications for County Sheriff [REVOKED]

~~To file as a candidate for County Sheriff, one must have been a resident of the state for two years, must be at least 25 years of age and must possess at least a high school education. [19:510] In counties of 80,000 or more population, a prospective candidate also must *have completed a basic police course of 120 hours or more which has been approved by the Council on Law Enforcement Education and Training*. [19:510] These additional qualifications do not apply to any person serving as County Sheriff or to any person who has previously served as County Sheriff. [19:510]~~

PART 5. TERMS OF COUNTY OFFICES

230:20-3-23. Four-year terms [REVOKED]

~~All County Officers serve four year terms. In 1996, and every four years thereafter, the following officers will be elected: Court Clerk, County Clerk, County Sheriff and the County Commissioner for District Two. In 1994, and every four years thereafter, the following officers will be elected: County Assessor, County Treasurer and County Commissioners for District One and for District Three.~~

230:20-3-25. Beginning dates of terms [REVOKED]

~~The term of the County Treasurer begins on the first Monday in July following his or her election. The terms of all other County Officers begin on the first business day in January following their election.~~

PART 7. PROCEDURE FOR FILING

230:20-3-30. Necessary form

Candidates for county office must file a Declaration of Candidacy form. Declaration of Candidacy forms are available on the State Election Board website B www.elections.ok.gov. The form may be filled out online but must be downloaded and printed and must be signed personally by the candidate in the presence of a Notary Public or other person authorized by law to administer oaths.

230:20-3-31. Service to potential candidates

The Secretary ~~shall~~ may furnish the following ~~forms~~ items to any potential candidate who inquires about filing:

(1) Two Declaration of Candidacy forms.

(2) A copy of Instructions for Filing.

230:20-3-32. Declarations may be mailed or delivered in person

Declarations of Candidacy may only be ~~mailed or~~ delivered in person by the candidate or by an agent for the candidate or be sent to the appropriate election board via the United States Postal Service or private parcel delivery service. No filing can be accepted until the filing period opens. [26:5-110] No filing can be accepted unless it is in the hands of the Secretary by 5 p.m. on the last day of the filing period. [26:5-110] This applies even if a Declaration is mailed earlier, but is not received by the Secretary until after the 5 p.m. deadline. The Secretary should check his post office box shortly before 5 p.m. on the last day of the filing period. Each candidate who arrives to file by 5 p.m. on the last day of the filing period is entitled to file. Any candidate who arrives after that time is not entitled to file.

230:20-3-33. Filing fees and petitions

A Declaration of Candidacy must be accompanied by one of the following:

(1) *A cashier's check or certified check in the amount of $200*. [26:5-112] Cashier's checks shall include money orders issued by banks or ~~savings and loan associations~~ credit unions that have been signed by an officer of the institution.

(2) A petition supporting the candidate's Declaration signed by four percent (4%) of the registered voters eligible to vote for the candidate in the first election that the candidate's name could appear on the ballot. [26:5-112] For candidates seeking political party nomination, the first election wherein the candidate's name could appear on the ballot is the party Primary Election. For Independent candidates, the first election wherein the candidate's name could appear on the ballot is the General Election. To calculate the number of signatures required, the following examples are offered:

(A) A Democratic candidate for County Clerk would need four percent of the registered Democrats in the county.

(B) A Republican candidate for County Commissioner would need four percent of the registered Republicans in the County Commissioner district.

(C) An Independent candidate for any county office would need four percent of all registered voters in the county (or County Commissioner district).

230:20-3-34. Personal checks, cash, money orders not acceptable

Personal checks, cash and money orders other than money orders issued by banks or ~~savings and loan associations~~ credit unions are not acceptable as filing fees.

230:20-3-36. Candidate's signature [REVOKED]

~~A Declaration of Candidacy submitted to the Secretary of the County Election Board shall be signed in writing by the candidate to be valid. [26:5-111.1] The candidate personally shall sign his name to the Declaration of Candidacy. [26:5-111.1] No agent, representative or employee of the candidate may sign on the candidate's behalf and no facsimile, reproduction, typewritten or other substitute signature will be valid. [26:5-111.1]~~

230:20-3-37. Checking Declarations

(a) The Secretary shall scrutinize all information on the Declaration of Candidacy form. The Secretary is advised to read each line of the Declaration aloud to the candidate and to spell out the candidate's name. Specifically, the Secretary shall confirm the following facts regarding the Declaration:

(1) The candidate's signature is notarized or witnessed by an appropriate authority. Check to see that both the Notary Public's signature and an impression of the Notary's seal are present on the Declaration of Candidacy form.

(2) The supporting petition bears the required number of signatures or more, or the accompanying cashier's check or certified check is in the proper amount and form. See 230:20-3-33.

(3) The name of the candidate as it appears on the first line of the Declaration of Candidacy conforms identically to the signature of the candidate at the bottom of the form.

(4) The office sought is complete, including district number if required.

(5) The address of residence listed is within the county (or district) of the office sought.

(6) The mailing address is complete, including zip code.

(7) The telephone number, if provided, is accurate.

(8) The e-mail address, if provided, is accurate.

(9) The website address, if provided, is accurate.

(~~7~~10) The box for party candidate, Independent, or Judicial is checked. If the party candidate box is checked, then the name of the political party is written in immediately thereafter. Only the names of political parties recognized as provided by state law may be written on a Declaration of Candidacy. (Judicial candidates file their Declarations of Candidacy only with the Secretary of the State Election Board.)

(~~8~~11) The precinct and county blanks are completed.

(~~9~~12) The date of birth blank is completed.

(b) The Secretary has no authority to reject the filing of any candidate unless the Declaration shows on its face that the candidate does not meet the qualifications to become a candidate for the office as contained in the Oklahoma Constitution, statutes, or the resolution calling the election, or in the case of a home rule charter city, in the charter. [26:5-117] If there are errors on the Declaration, the Secretary shall point out such errors to the candidate. For example, one common error is to indicate the current year in the date of birth instead of the actual year of birth. The candidate then shall correct the errors and sign his initials beside the correction. Only the candidate may make corrections on a Declaration of Candidacy.

(c) If the Declaration of Candidacy was received by mail or was delivered by someone other than the candidate, the Secretary shall indicate on the form that it was not received in person from the candidate by noting the letters "NIP" for "not in person" on the upper right corner.

230:20-3-41. Oklahoma Ethics Commission [REVOKED]

~~Candidates who file with the Secretary of the County Election Board and candidates who file with the Secretary of the State Election Board are responsible for providing certain information and submitting certain documents to the Oklahoma Ethics Commission. The appropriate Election Board Secretary shall make available to candidates copies of the forms required by the Ethics Commission if such forms are supplied to the Secretary by the Ethics Commission. All questions from candidates regarding the requirements of the Ethics Commission shall be referred to the Executive Director of the Ethics Commission.~~

230:20-3-43. Unopposed candidates [REVOKED]

~~(a) Any candidate who is unopposed in a primary election shall be considered to be nominated. [26:6-102] Any candidate who is unopposed in a general election shall be considered to be elected. [26:6-102]~~

~~(b) The name of an unopposed candidate shall not appear on the ballot at any election in which he is so unopposed. [26:6-102]~~

~~(c) The Secretary may issue a Certificate of Election to a candidate who is unopposed for election at any time after 5 p.m. on Friday following the close of the filing period. [26:8-103]~~

PART 9. WITHDRAWALS OF CANDIDATES

230:20-3-47. Withdrawal after filing period [REVOKED]

~~(a) **Time for withdrawal.** Any candidate may withdraw his candidacy only by filing a written notice of withdrawal with the Secretary of the County Election Board no later than 5 p.m. on Friday following the close of the filing period. [26:5-115]~~

~~(b) **Form of withdrawal.** The written notice shall state, "I (Name), hereby withdraw as a candidate for (Office)." The notice shall be signed, dated and notarized by a Notary Public. [26:5-115]~~

~~(c) **Withdrawal of deceased candidate.** In the event a candidate dies after filing a Declaration of Candidacy, but prior to 5 p.m. on Friday following the filing period, a lawfully appointed special administrator may withdraw the deceased candidate's candidacy by filing a written notice as described in subsections (a) and (b) of this Section.~~

230:20-3-48. Filing fee forfeited upon withdrawal [REVOKED]

~~Any candidate who withdraws his candidacy forfeits his filing fee.~~

230:20-3-49. Becoming a candidate again

If a candidate withdraws, in order to become a candidate again, he must file a new Declaration of Candidacy and another filing fee before the filing period ends.

230:20-3-50. Withdrawals from Runoff Primary [REVOKED]

~~(a) A candidate in the Runoff Primary Election may withdraw his candidacy upon filing a written notice of withdrawal with the Secretary of the County Election Board no later than 5 p.m. on Friday following the Primary. [26:5-116] The notice shall be in the same form as outlined in 230:20-3-47(b).~~

~~(b) In the event a candidate in the Runoff Primary Election dies, the deceased candidate's candidacy may be withdrawn by a lawfully appointed personal representative or special administrator for the deceased candidate. The withdrawal of the deceased candidate's candidacy must be filed in the same manner outlined in (a) of this Section.~~

230:20-3-51. Withdrawals from General Election [REVOKED]

~~A candidate in the General Election may withdraw his candidacy upon filing a written notice of withdrawal with the Secretary of the County Election Board no later than *5 p.m. on the Friday following the date of the Runoff Primary Election*. [26:5-116.1] The notice shall be in the same form as outlined in 230:20-3-47(b).~~

PART 11. FILING REPORTS TO STATE ELECTION BOARD

230:20-3-56. Filing reports to State Election Board [REVOKED]

~~At 5 p.m. on Friday following the close of the filing period, the Secretary of the County Election Board shall fax or mail a Filing Report to the Secretary of the State Election Board.~~

PART 15. RUNOFF PRIMARY ELECTION

230:20-3-70. Determining candidates for a Runoff Primary Election [REVOKED]

~~If, at the Primary Election, no candidate for the nomination for office of any political party receives a majority of all votes cast for all candidates of that party for that office, no candidate shall be nominated for that office, but the two candidates receiving the highest number of votes at said election shall be placed on the official ballot as candidates for the nomination at a Runoff Primary Election. [26:1-103] To aid in calculating the number of votes needed to determine whether or not a Runoff Primary is required, the following examples are offered:~~

~~(1) In the Primary Election, the following candidates for County Sheriff received the following votes: Jones, 511; Smith, 438; Johnson, 72. The total votes cast in this race was 1,021. Half of 1,021 is 510.5, so a majority in this case is 511 votes. Jones received a majority; therefore, there is no Runoff Primary Election.~~

~~(2) In the Primary Election, the following candidates for County Clerk received the following votes: Bernard, 1,088; Edwards, 356; Lucas, 321; Evans, 211; Hart, 180; Pruitt, 176; Burns, 92; Lewis, 61. The total votes in this race was 2,485. Half of 2,485 is 1,242.5, so a majority in this case is 1,243 votes. Bernard received less than a majority; therefore, Bernard and Edwards will appear on the Runoff Primary Election ballot.~~

SUBCHAPTER 5. CONTESTS OF CANDIDACY

230:20-5-1. Who may file contest; "petitioner" and "contestee" defined [REVOKED]

~~Any candidate (referred to as petitioner) may contest the candidacy of any other candidate for the same office (referred to as contestee) by filing a written petition with the Secretary of the County Election Board who accepted their Declarations of Candidacy. [26:5-118] In the event of an unopposed candidate, a petition contesting his candidacy may be filed by any registered voter who is eligible to vote for the candidate. [26:5-118]~~

230:20-5-2. Time for filing contest [REVOKED]

~~A contest of candidacy *petition must be filed no later than 5 p.m. on the second day following the close of the filing period*. [26:5-119]~~

230:20-5-3. Grounds for contest [REVOKED]

~~A candidacy may be contested only if the petitioner alleges *that the contestee was not qualified by law to become a candidate for the office*. [26:5-120] The reasons must be stated in the petition. [26:5-120]~~

230:20-5-4. Deposit required [REVOKED]

~~A contest of candidacy petition must be accompanied by a deposit of $250, which must be either a certified check or cashier's check. [26:5-121]~~

230:20-5-5. Date for hearing contest

When a contest of candidacy petition is filed, the Secretary shall ~~consult the other two members of the County Election Board and~~ set a date and hour for a hearing and shall notify the other County Election Board members of the hearing. The Secretary shall make a written Notice of Hearing, setting out the date, hour and subject of the hearing. The contest shall be heard as quickly as possible. However, the hearing may not be held earlier than the fourth day after the petition is filed. To aid in calculating the earliest date that the hearing may be held, the following examples are offered:

(1) For a petition filed on Thursday, the hearing shall not be held earlier than Monday.

(2) For a petition filed on Friday, the hearing shall not be held earlier than Tuesday.

230:20-5-8. Striking a candidacy [REVOKED]

~~If the Board determines that the contestee was not qualified to become a candidate for the office, the Board *may order that his candidacy be stricken and that his name not be placed on the ballot*. [26:5-127]~~

230:20-5-9. Declaration may be amended [REVOKED]

~~If the Board determines that the contestee's Declaration of Candidacy may be amended to conform to the law, the Board may order that that be done. [26:5-128]~~

230:20-5-10. Contestee may answer

(a) If the contestee desires to appear in opposition to the petition, he may file a written answer, or he may appear in person at the hearing. [26:5-129] In the event that occurs, the contestee must post a deposit of ~~$150~~ $250 in cashier's or certified check at the time he either files the written answer or appears in person. [26:5-129]

(b) Neither the State Election Board nor any County Election Board shall hear any contestee's answer unless the appropriate deposit is provided prior to the hearing.

(c) In the event that a more than one contest of candidacy is filed against a contestee, said contestee shall be required to post only one deposit to answer any or all such petitions.

230:20-5-11. Burden of proof on petitioner [REVOKED]

~~The petitioner must prove the allegations in his petition, but if the contestee fails to appear or answer to the petition, he is deemed in default and is considered to have admitted the allegations of the petition. [26:5-130] If the allegations are sufficient to disqualify the contestee, the Board shall strike the contestee's candidacy. [26:5-130]~~

230:20-5-12. Disposition of deposit

(a) The County Election Board Secretary, upon receipt of the deposit or deposits for a contest of candidacy or for an answer to such a contest, shall place the check or checks in the County Election Board's Special Depository Account. After the contest is resolved, the Secretary shall write vouchers for expenses of the hearing from the Depository Account. The person charged with the expenses of the hearing shall receive an itemized statement of the costs.

(b) The Secretary of the State Election Board, upon receipt of the deposit or deposits for a contest of candidacy or for an answer to such a contest, shall place the check or checks in the State Election Board's Revolving Fund. After the contest is resolved, the Secretary shall authorize payment for all expenses of the hearing from the Revolving Fund. The person charged with the expenses of the hearing shall receive an itemized statement of the costs.

230:20-5-13. When contestee pays cost [REVOKED]

~~In the event a contestee answers or makes an appearance and is unsuccessful, costs of the hearing are deducted from his deposit, and the balance returned to him. [26:5-131] In this situation, the petitioner's entire deposit is returned. [26:5-131]~~

230:20-5-14. When petitioner pays cost [REVOKED]

~~If the petitioner is unsuccessful, costs of the hearing are deducted from his deposit, and the balance is returned to him. [26:5-131] If the contestee does not answer or appear, and the petitioner is successful, then costs of the hearing are deducted from the petitioner's deposit, and the balance is returned to the petitioner. [26:5-131]~~

230:20-5-15. Filing fee forfeited when candidacy is stricken [REVOKED]

~~In the event a candidate's candidacy is stricken, his filing fee is forfeited.~~

230:20-5-16. Appeals from decision of the Board [REVOKED]

~~The decision of the County Election Board is final and cannot be appealed. [26:5-126] However, candidates sometimes ask a court to assume "original jurisdiction" and name the Board as a defendant in a lawsuit. If that occurs, the Board is represented by the District Attorney.~~

230:20-5-17. Open Meeting Act applies

~~Whenever the County Election Board meets to resolve a Contest of Candidacy, that meeting is covered by the guidelines listed in the Oklahoma Open Meeting Act. Therefore, the Secretary is responsible for the following:~~

~~(1) Notifying the County Clerk of the meeting in the manner prescribed in 230:10-7-4.~~

~~(2) Providing written notice of the meeting in the manner described in 230:10-7-5.~~

~~(3) Posting an agenda in the manner prescribed in 230:10-7-7.~~

~~(4) Recording minutes of the meeting in the manner prescribed in 230:10-7-15.~~

A contest of candidacy hearing conducted by the State Election Board or by a County Election Board is an official meeting of that board. A meeting to conduct a contest of candidacy hearing shall be called and public notice shall be provided pursuant to the requirements of the Oklahoma Open Meeting Act, Title 25 O.S. 2011, Section 301 et seq.

[OAR Docket #13-1005; filed 6-3-13]

TITLE 230. STATE ELECTION BOARD CHAPTER 25. BALLOT PRINTING

[OAR Docket #13-1006]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Responsibilities for Ballot Printing
230:25-3-1. Ballots printed by State Election Board [REVOKED]
230:25-3-2. Ballots printed by the County Election Board [REVOKED]
230:25-3-3. County Election Board responsibilities for printing ballots [AMENDED]
230:25-3-4. County Election Board certifies names of candidates to State Election Board [REVOKED]
Subchapter 5. determining Quantities and Methods of Printing Ballots
230:25-5-1. Ballot styles [AMENDED]
230:25-5-3. Quantity of regular ballots [AMENDED]
230:25-5-3.1. Quantity of absentee ballots [AMENDED]
230:25-5-4. Safety stock of ballots [REVOKED]
230:25-5-5. Ballot stubs shall be numbered [AMENDED]
Subchapter 7. Competitive Bidding Process for Ballot Printing
230:25-7-1. Competitive bidding required [REVOKED]
230:25-7-2. Submitting requisitions for advertisement for bids [AMENDED]
230:25-7-3. Specifications for printing ~~and preparing~~ ballots [AMENDED]
230:25-7-4. Contract requirements [AMENDED]
Subchapter 9. Providing Copy to the Printer
230:25-9-3. Preparing materials for printer [REVOKED]
230:25-9-4. Creation of ballot print files [NEW]
Subchapter 11. Absentee Ballots
230:25-11-1. Order of names for absentee ballots for Primary [AMENDED]
Subchapter 13. Placing Parties, Candidates on Ballot
230:25-13-1. Separate ballots for parties in Primary and Runoff Primary [AMENDED]
230:25-13-1.1. Separate ~~ballot cards~~ ballots for entities [AMENDED]
230:25-13-1.3. Using color to designate ballots for parties or entities [NEW]
230:25-13-2. Candidate names rotated on regular ballots for Primary and Runoff Primary Elections only [AMENDED]
230:25-13-3. Appearance of candidates' names [REVOKED]
230:25-13-4. Prefixes, suffixes, titles prohibited [REVOKED]
230:25-13-6. Unopposed candidates [REVOKED]
230:25-13-12. Judicial candidates [REVOKED]
Subchapter 15. Sample and Educational Ballots
230:25-15-1. Sample ballots [AMENDED]
Subchapter 17. Proofing of Ballots
230:25-17-1.1. Printer shall provide proof sheets [REVOKED]
230:25-17-2. Proofreading ballots [AMENDED]
230:25-17-3. Examining ~~and proofreading~~ ballots received from the State Election Board [AMENDED]
230:25-17-4. Recording ballot numbers and storing ballots [AMENDED]
Subchapter 19. Demonstration Ballots [REVOKED]
230:25-19-1. Purpose [REVOKED]
230:25-19-2. Requests for ballot printing information [REVOKED]
230:25-19-3. Return of printer's questionnaire [REVOKED]
230:25-19-4. Printing demonstration ballots [REVOKED]
230:25-19-5. Evaluation of demonstration ballots [REVOKED]
230:25-19-6. Cost of printing demonstration ballots [REVOKED]
230:25-19-7. List of printers [REVOKED]
Subchapter 21. Printer Certification for Digital Ballot Printing [NEW]
230:25-21-1. Printer certification for digital ballot printing [NEW]
230:25-21-2. Printer certification process [NEW]
230:25-21-3. Review and testing of certification ballots [NEW]
230:25-21-4. On-site certification review [NEW]
230:25-21-5. List of certified printers [NEW]
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The Secretary of the State Election Board and experienced State Election Board staff members conducted a thorough review and analysis of the rules and determined that since the original drafting, adoption, and implementation of the rules in the mid-1970s, and even since the codification of the rules in the early 1990s, the needs of the election officials that the rules were designed to meet have changed.

The rules formed the foundation of Oklahoma's uniform, unified election system. Still today, Oklahoma is the only state in whichevery county follows the same uniform procedures, uses the same forms and software to administer voter registration and absentee voting, and also uses the same voting devices and uniformly designed ballots in every precinct.

In the early days of Oklahoma's modern election system, the rules intentionally were drafted to duplicate the content of Title 26 of the Oklahoma Statutes. When Oklahoma's election laws were modernized and recodified in 1974, the first State Election Board rules were created not only as the official "interpretation" of the new laws but also as a means of communicating the requirements of the new laws and the procedures needed to implement them to both county- and precinct-level officials.

Before the implementation of the new election code in 1974, the County Election Board Secretary had only a printed copy of the election laws with which to run his or her office and conduct elections. Now, almost 40 years later, the County Election Board Secretary has access to an array of publications to perform almost every election-related task.

The amendments in Chapter 25 have the following purposes. All rules that only duplicate statutory language and provisions are revoked. Some rules are amended to remove language that unnecessarily duplicates statutory provisions while leaving intact language that is not statutory but that is necessary for proper implementation of the statutes. Rules are amended to update all references to the election administration software and hardware used by the State Election Board and by the 77 County Election Boards from OEMS B the designation of the legacy system that will be removed from service in July, 2013, B to MESA, OEMS's successor system, which by July 1, 2013, will absorb all the functions of the older system. Some amendments include

references to the digital ballot printing processes and activities required both by modern printing technology and by the voting device system now in use in Oklahoma.

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

SUBCHAPTER 3. RESPONSIBILITIES FOR BALLOT PRINTING

230:25-3-1. Ballots printed by State Election Board [REVOKED]

~~(a) The State Election Board shall print ballots for statewide Primary, Runoff Primary and General Elections and for statewide special elections. [26:6-103]~~

~~(b) The State Election Board shall print ballots for the following offices: *Electors for President and Vice-President; United States Senators; United States Representatives; state officers; Justices of the Supreme Court; Judges of the Court of Criminal Appeals; Judges of the Court of Appeals; district judges and associate district judges; State Senators; State Representatives; district attorneys; county officers, and other such officers as required by law, in the order they appear in the statutes.* [26:6-103] The State Election Board also shall print ballots for state questions. [26:6-103]~~

~~(c) The State Election Board shall print ballots for the Presidential Preferential Primary Election. [26:20-102(A)]~~

230:25-3-2. Ballots printed by the County Election Board [REVOKED]

~~The County Election Board shall print ballots for county, municipal, school district or other local elections. [26:6-104]~~

230:25-3-3. County Election Board responsibilities for printing ballots

(a) County Election Board responsibilities for printing ballots for county, municipal, school district or other local elections shall include, but shall not be limited to, the following items:

(1) arranging for the necessary bid process to occur. See 230:25-7-1.

(2) ~~providing ballot specifications. See 230:25-7-3.~~

~~(3) providing copy to the printer. See 230:25-9-3.~~

~~(4) supervising ballot printing.~~

~~(5)~~ receiving, proofreading, and approving ~~proofs of ballots~~ ballot proofs before printing begins. See 230:25-17-2.

(b) In the case of municipal elections, school district elections and other local elections the County Election Board shall be responsible for paying the ballot printing bill from the proceeds of the reimbursement for post-election expenses from the entity for which the election was conducted.

(c) In the case of a multi-county election, ~~the Secretary of each affected County Election Board shall contract with a printer for the ballots needed for the election~~ ballots for each affected county in the election shall be printed by the printer holding the affected county's ballot printing contract. Ballots for the control (parent) county shall be printed by the printer holding its ballot printing contract. ~~The~~ Each affected County Election Board shall receive the bill for ballot printing from ~~the~~ its own ballot printer and shall include this expense in the Record of Expense submitted to the control (parent) County Election Board following the election.

230:25-3-4. County Election Board certifies names of candidates to State Election Board [REVOKED]

~~The County Election Board shall certify to the State Election Board the names of candidates who have filed for office in the county as outlined in 230:35-3-20.~~

SUBCHAPTER 5. DETERMINING QUANTITIES AND METHODS OF PRINTING BALLOTS

230:25-5-1. Ballot styles

A ballot style is a unique combination of applicable ~~district boundaries~~ districts or offices appearing on a single ballot. ~~Ballot styles are created by the election programming software. When candidate rotation is used, a separate ballot style is created for each rotation.~~ When candidate names are rotated in partisan primary elections as outlined in 230:25-13-2, each rotation is considered a separate ballot style.

230:25-5-3. Quantity of regular ballots

(a) The Secretary of the State Election Board shall determine the quantity of regular ballots to be printed for ~~statewide~~ elections involving federal, state, and county races. [26:6-115]

(b) The Secretary of the County Election Board shall determine the quantity of regular ballots to be printed for ~~county,~~ school district, municipal, and other local entity elections. [26:6-115]

(c) When determining the quantity of regular ballots to print for an election, the Secretary of the appropriate election board shall consider the highest percentage of registered voters likely to vote in the election. [26:6-104] The Secretary also shall consider historical experience with similar elections and with previous elections held in the jurisdiction. The Secretary shall not necessarily be required to print a ballot for each registered voter, but shall ensure that a sufficient quantity of ballots is printed to provide a ballot to every registered voter who desires to vote in the election. [26:6-104]

(d) ~~When determining the quantity of regular ballots for an election, the Secretary shall include an extra quantity of ballots to provide a safety stock as described in 230:25-5-4 and shall include a minimum of 100 extra ballots of each ballot style for use in the test deck of ballots described in 230:50-3-69.~~ MESA

automatically calculates the quantity of regular ballots for an election based on a percentage of registered voters. This calculation defaults to ninety percent of registered voters. The percentage used can be adjusted as needed by the Secretary of the State Election Board for elections involving federal, state, and county races. The percentage used can be adjusted by the County Election Board Secretary for school district, municipal, and other local entity elections. The Secretary of the County Election Board shall review the ballot quantities calculated automatically by MESA for all elections and shall verify that the quantities are correct and sufficient prior to the creation of ballot print files by the State Election Board staff.

~~(e)~~ Regular ballots shall be printed by precinct and shall be bound in books of ~~50~~ 100 ballots each.

230:25-5-3.1. Quantity of absentee ballots

(a) The Secretary of the State Election Board shall determine the quantity of absentee ballots to be printed for ~~statewide~~ elections involving federal, state, and county races. [26:6-115]

(b) The Secretary of the County Election Board shall determine the quantity of absentee ballots to be printed for ~~county,~~ school district, municipal, and other local entity elections. [26:6-115]

(c) A sufficient quantity of absentee ballots shall be printed to provide a ballot to each voter who requests one. ~~In most cases, a number of absentee ballots equal to from five to~~ MESA automatically calculates absentee ballot quantities at ten percent of the total number of ~~regular ballots printed for the election will be sufficient~~ registered voters. The Secretary shall consider such factors as the type of election, the interest displayed by voters and previous experience with similar elections to determine the number of absentee ballots to be ordered.

~~(d) When determining the quantity of absentee ballots for an election, the Secretary shall include a minimum of 50 extra ballots for use in the test deck of ballots described in 230:50-3-69.~~

~~(e) Additional absentee ballots may be ordered at a later date if the original quantity is exhausted.~~

~~(f) Absentee~~

(d) Unless otherwise authorized by the Secretary of the State Election Board, absentee ballots shall be printed by precinct and bound in books of ~~50~~ 100 ballots each. However, if fewer than 25 absentee ballots are needed for a precinct, the ballots for that precinct shall be bound in a book of 50 ballots.

230:25-5-4. Safety stock of ballots [REVOKED]

~~The Secretary shall order a safety stock of extra ballots for each ballot style at the time the initial order is given to the printer to ensure against a shortage of ballots on election day as a result of late increases in voter registration. Extra ballots shall be bound in books of 50 ballots each.~~

230:25-5-5. Ballot stubs shall be numbered

Ballot stubs shall be numbered consecutively from one through the highest number required for the ~~county~~ precinct. ~~Each ballot face and/or ballot style shall be numbered separately~~.

SUBCHAPTER 7. COMPETITIVE BIDDING PROCESS FOR BALLOT PRINTING

230:25-7-1. Competitive bidding required [REVOKED]

~~(a) All ballots which the County Election Board is responsible for printing shall be printed by a printer selected through the county's competitive bidding process. [26:6-120] The competitive bidding process shall be observed for all ballot printing regardless of the total cost of the printing. [26:6-120] The Secretary shall follow the procedure established by the County Purchasing Agent to cause advertisement for bids for printing of all ballots. A contract for ballot printing shall be awarded to the lowest and best bidder or to the bidder determined to be the best value, according to the Oklahoma Central Purchasing Act. [26:6-120]~~

~~(b) The State Election Board shall maintain a list of printers that have demonstrated the ability to print ballots that can be read accurately by the voting device. See 230:25-19-7. The Secretary of the County Election Board and the County Purchasing Agent are advised to consider these printers when advertising for bids for ballot printing.~~

230:25-7-2. Submitting requisitions for advertisement for bids

(a) **Options for requisitions.** The Secretary of the County Election Board shall consult with the County Purchasing Agent to ~~select one of the following options for submitting requisitions to~~ submit a requisition to request bids for ballot printing in the county.

~~(1) The Secretary may request the County Purchasing Agent to advertise for bids for ballot printing for each election for which the County Election Board is required to print ballots.~~

~~(2)~~ The Secretary may request that the County Purchasing Agent ~~to~~ advertise for bids for all ballot printing required by the County Election Board in a specific six-month or twelve-month period.

(b) **Form of requisition.** The Secretary shall prepare and submit the requisition for advertisement for bids in the form required by the County Purchasing Agent. A copy of the ~~summary of specifications for printing and preparing ballots described in 230:25-7-3(c)~~ ballot specifications shall be included as part of the requisition. [26:6-120]

(c) **Time for requisition.** ~~If the Secretary and County Purchasing Agent agree to advertise for bids for each election, as outlined in (a)(1) of this Section, the Secretary shall prepare and submit the requisition as soon as possible after receiving a resolution calling for an election.~~ If the Secretary and the County Purchasing Agent ~~agree to~~ advertise for bids for a six-month period or for a twelve-month period, as outlined in (a)~~(2)~~ of this Section, the Secretary shall prepare and submit the requisition according to a schedule established by the County Purchasing Agent.

230:25-7-3. Specifications for printing ~~and preparing~~ ballots

~~(a) **Printer's Manual.** The complete specifications for printing and preparing ballots for use in the electronic vote tabulating devices utilized by the Oklahoma Election Management System (OEMS) are contained in a publication prepared by Business Records Corporation, the manufacturer of the devices. The publication, entitled "Ballot Specification and Printer's Manual for OPTECH III-P Eagle and OPTECH IV-C Ballot Tabulators," is hereby incorporated by reference as provided by Title 75 O.S. 1991, Section 251(D). The publication is commonly referred to by election officials and by Business Records Corporation personnel as "the Printer's Manual." (Business Records Corporation is now Election Systems and Software. The referenced publication is now produced by Election Systems and Software.) Copies of the Printer's Manual shall be available for public inspection in the offices of the State Election Board. The State Election Board shall provide ballot specifications to printers as outlined in Subchapter 19 of this Chapter.~~

~~(b) **Adherence to specifications required.** Printers who obtain a contract to print ballots for elections conducted by the State Election Board or by the County Election Board shall be required to adhere strictly to the specifications for printing and preparing ballots that are set forth in the Printer's Manual, in the materials provided by the State and/or County Election Board and in the rules contained in this Chapter.~~

~~(c) **Summary of Specifications.** The State Election Board shall provide an appropriate summary of ballot printing specifications for use by County Election Boards. The summary of specifications shall be included for informational purposes with requisitions for advertisement for bids for ballot printing, as outlined in 230:25-7-2. The summary of specifications also shall be included with the ballot printing contract and other materials that the Secretary of the County Election Board is required to provide to the printer at the time ballot printing begins for an election. See 230:25-9-3. The summary of specifications shall not be considered a substitute for the complete specifications contained in the Printer's Manual.~~

The Secretary of the State Election Board shall develop specifications for digital ballot printing for all ballots used with the voting device system in place in Oklahoma. Said specifications shall identify appropriate paper and inks to be used for ballot printing and also shall include pre-production, production, and post-production processes. The ballot printing specifications shall be available upon request from the State Election Board or from any County Election Board.

230:25-7-4. Contract requirements

The Secretary shall consult the County Purchasing Agent regarding the county's requirements for drawing up a contract with the successful bidder. The contract shall include, but shall not be limited to, the printer's responsibilities insofar as the quantity, size and types of ballots to be printed, delivery dates and the conditions for making a claim against the printer's insurance. ~~If the election involves candidates, the contract shall allow the Secretary and the successful bidder to meet following the filing period to determine the actual layout of the ballot, the number of races that will appear on the ballots and the quantity of regular and absentee ballots that will be required for the election.~~ The State Election Board shall provide a model contract for use by County Election Board Secretaries.

SUBCHAPTER 9. PROVIDING COPY TO THE PRINTER

230:25-9-3. Preparing materials for printer [REVOKED]

~~(a) The names of candidates who have filed for office shall be entered into the election programming software utilized by OEMS as soon as possible following the close of the contest period at 5 p.m. on Friday following the filing period. See 230:50-3-52 through 230:50-3-58. Candidates who are unopposed shall not be entered and offices for which candidates are unopposed or for which no candidate filed shall be deleted. See 230:25-13-6 and 230:25-13-7. If a contest of candidacy is pending for any office, the appropriate information shall be entered as soon as possible following resolution of the contest.~~

~~(b) The Secretary shall notify the State Election Board when all ballot-related information has been entered into the system. See 230:50-3-54 and 230:50-3-55. After receiving notification from the State Election Board to continue election programming, the Secretary shall prepare the following items for immediate delivery to the printer.~~

~~(1) **Ballot Layout Report.** The Secretary shall print a copy of the Ballot Layout Report which illustrates each ballot style that is to be printed. This report provides a "picture" of each ballot style created for the election and includes security codes,and the correct order of all candidate races and questions.~~

~~(2) **Ballot heading and question text.** The Secretary shall prepare on a separate piece of paper the exact text which will appear in the ballot heading. The Secretary also shall provide a photocopy of the original question text which was provided with the election resolution. The Secretary shall make any modifications to the Ballot Layout Report that should be reflected on the ballot.~~

~~(3) **Completed Ballot Quantities form.** The Secretary shall complete a Ballot Quantities form, which identifies absentee ballot styles and includes instructions about ballot colors and ballot quantities.~~

~~(c) The Secretary shall transmit these items to the printer immediately.~~

230:25-9-4. Creation of ballot print files

The Secretary of the State Election Board shall cause ballot print files to be created from information that has been entered in MESA by each County Election Board and subsequently imported into ballot creation software by the State Election Board staff. The ballot print files shall be transmitted to the appropriate commercial printers holding ballot printing contracts for the State Election Board and for each County Election Board.

SUBCHAPTER 11. ABSENTEE BALLOTS

230:25-11-1. Order of names for absentee ballots for Primary

(a) Immediately following the close of the ~~contest~~ filing period ~~at 5 p.m. on Friday following the filing period the~~ , County Election Board shall determine the order in which the name of each candidate for each county office shall appear on the absentee ballots for the Primary Election. [26:6-107] The determination shall be made by drawing the names of all candidates for each office of each political party one at a time from a receptacle as described in (b) of this Section. [26:6-107] The Secretary of the County Election Board shall be authorized to conduct the drawing for the order of names, and an official meeting of the County Election Board shall not be required. However, the drawing shall be conducted publicly with witnesses, such as representatives of the local news media or representatives of the Democratic or Republican county central committees, in attendance.

(b) The drawing for the order of names for absentee ballots for the Primary Election shall be conducted according to the following procedure.

(1) The Secretary of the County Election Board shall type or write the name of each candidate of a particular party for a particular office on a slip of paper.

(2) All the names for that party and that office shall be placed in the receptacle and the receptacle shall be shaken to mix the slips of paper.

(3) The Secretary shall designate a person to draw out the slips of paper.

(4) The slips of paper shall be drawn out, one at a time, and the names shall not be visible to the person who draws them.

(5) The Secretary shall record the names of the candidates in the order they are drawn. The name of the candidate selected first shall appear first on the absentee ballots for the Primary Election; the name of the candidate selected second shall appear second and so on.

(6) This procedure shall be repeated for each office for each political party.

(c) The Secretary of the State Election Board shall be authorized to determine the order of names of candidates for absentee ballots to be printed by the State Election Board for the Primary Election at the same time and according to the same procedure outlined in Subsections (a) and (b) of this Section. [26:6-107]

SUBCHAPTER 13. PLACING PARTIES, CANDIDATES ON BALLOT

230:25-13-1. Separate ballots for parties in Primary and Runoff Primary

~~The ballots for the candidates of all~~ Separate ballots shall be prepared and printed for each recognized political ~~parties~~ party fielding candidates in the Primary and Runoff Primary Elections ~~shall appear on separate ballot cards and shall be printed on different colors of card stock~~ The ballots for each recognized political party in a Primary or Runoff Primary Election shall be designated by a different color as outlined in 230:25-13-1.3. [26:6-110]

230:25-13-1.1. Separate ~~ballot cards~~ ballots for entities

(a) ~~The ballot for county~~ County offices at the Primary, Runoff Primary, and General Elections shall appear on the same ballot ~~card~~ with federal and state offices and state questions. The ballot for county questions also shall appear on the state ballot ~~card~~ if space allows. If there is not enough space on the state ballot ~~card~~ to accommodate the county question or questions, ~~they~~ such questions shall appear on a separate ballot ~~card~~. The cost to print the separate county question ballot ~~card~~, if needed, shall be ~~printed by the County Election Board~~ paid by the county.

(b) The ballots for school districts, municipalities, and other entities, with the exception of a county question as outlined in (a) of this Section, shall appear on separate ~~ballot cards~~ ballots. The ~~ballot cards~~ ballots for each entity involved in an election shall be ~~printed on different colors of card stock if possible~~ designated by color as outlined in 230:25-13-1.3. ~~The County Election Board is responsible for printing these separate ballot cards.~~

230:25-13-1.3. Using color to designate ballots for parties or entities

(a) Ballots for the various recognized political parties with candidates in Primary and Runoff Primary Elections are required by state law to be different colors. The Secretary of the State Election Board shall designate the colors to be used for ballots of each recognized political Primary or Runoff Primary Elections. The designation of color for party ballots shall be in effect until changed by the Secretary. These colors shall not be used for any other entity holding elections on the same date as a federal, state, or county Primary or Runoff Primary Election.

(b) The County Election Board Secretary may choose to use different colors for the various entities holding elections on the same date. There are two options for using color to designate ballots for political parties or for entities holding elections on the same date.

(1) Ballots may be printed on paper of different colors.

(2) Ballots may be printed with a colored bar imposed on the ballot stub.

(b) The decision to use paper of different colors or a colored bar shall be made by the Secretary of the County Election Board in consultation with the printer to whom the county's ballot printing contract is awarded. Only colored paper that has been tested and approved by the State Election Board for use in ballot printing may be used. Only ink colors that have been tested and approved by the State Election Board for use in ballot printing may be used. The list of approved colored papers and inks is included in the specifications for ballot printing.

230:25-13-2. Candidate names rotated on regular ballots for Primary and Runoff Primary Elections only

~~(a) *On all Primary and Runoff Primary Election ballots C except absentee ballots C the names of the candidates for each office shall be rotated in such a manner that all candidates' names appear in each position on said ballots an equal number of times.*~~The names of candidates for all partisan offices on regular ballots for Primary and Runoff Primary Elections shall, to the extent practicable, be rotated so that each candidate's name in each partisan race shall appear in each position an equal number of times. [26:6-109] Rotation of candidate names ~~is~~ shall be accomplished by the election programming software. If any adjustment to the rotation created by the software is needed, it ~~may~~ shall be performed only by the State Election Board staff.

(b) The names of candidates for judicial, school, and nonpartisan municipal offices shall be placed on the ballot by lot and shall not be rotated. [26:6-109]

230:25-13-3. Appearance of candidates' names [REVOKED]

~~The name of any candidate for office shall be printed on the official ballot as the candidate signed his Declaration of Candidacy. [26:6-101]~~

230:25-13-4. Prefixes, suffixes, titles prohibited [REVOKED]

~~No candidate shall be permitted to have any prefix, suffix or title appear before or after his name on any official ballot. [26:6-101] See 230:20-3-38.~~

230:25-13-6. Unopposed candidates [REVOKED]

~~*Any candidate who is unopposed in any election shall be deemed to have been nominated or elected, as the case may be, and his name will not appear on the ballot at any election in which he is so unopposed.* [26:6-102] The names of candidates unopposed in the General Election shall not appear on the ballot.~~

230:25-13-12. Judicial candidates [REVOKED]

~~(a) *If two persons file for the same judicial office, their names shall appear on the ballot only at the time of the General Election.* [26:11-110] The order in which the candidates' names appear on the ballot at the General Election is determined by a drawing conducted as outlined in 230:25-11-1(b). *If, at the time of the Primary Election, more than two persons have filed for the same judicial office, their names shall appear on the ballot at the time of the Primary Election.* [26:11-111] The order in which the candidates' names appear on the Primary Election ballot is determined by a drawing conducted as outlined in 230:25-11-1(b).~~

~~(b) *If no candidate for the office of an associate district judge, or district judge, if the nominating district is coextensive with the entire judicial district, receives a majority of the votes cast for that office at the Primary Election, the two candidates who receive the highest number of votes will have their names placed on the ballot for the General Election. In the case of district judges, if the nominating district is not coextensive with the whole judicial district or electoral division of a judicial district, the two candidates who receive the highest number of votes at the Primary Election will have their names placed on the ballot for the General Election, whether or not one received a majority of votes cast for that office at the Primary Election.* [26:11-112] The candidate who received the most votes at the Primary Election shall appear first on the General Election ballot.~~

~~(c) *If one candidate for the office of an associate district judge receives a majority of all votes cast for that office at the Primary Election and, in the case of district judges, if the nominating district is coextensive with the whole judicial district or electoral division of a judicial district, the candidate who received the majority of all votes cast at the Primary Election shall be deemed to have been elected to that office, and that office shall not be listed on the ballot for the General Election.* [26:11-113]~~

~~(d) Judicial retention candidates shall appear on the ballot at the General Elections. Such candidates shall appear in order by district number and by office number.~~

SUBCHAPTER 15. SAMPLE AND EDUCATIONAL BALLOTS

230:25-15-1. Sample ballots

Sample ballots shall be exact duplicates of the ~~absentee~~ regular ballots for each precinct. [26:6-117] Sample ballots shall be printed ~~with a diagonal line drawn through both security codes~~ in such a manner that they cannot be scanned and counted by a voting device. The words "SAMPLE BALLOT" shall be printed ~~in letters at least one-half inch high across~~ on the face of the ballot. [26:6-117] ~~A minimum of three sample ballots shall be printed for each precinct, and a sufficient quantity shall be printed for purposes of voter information.~~

SUBCHAPTER 17. PROOFING OF BALLOTS

230:25-17-1.1. Printer shall provide proof sheets [REVOKED]

~~(a) The printer shall provide proof sheets to the Secretary of the County Election Board or to the State Election Board staff before actual printing begins. The proof sheets shall be true proofs C exact duplicates of each ballot style C and shall include deciphered security codes.~~

~~(b) The printer shall be required to make any changes, corrections or adjustments to the ballot required by either the County Election Board Secretary or the State Election Board staff following the first proof. The printer shall provide a new proof sheet, which also shall be a true proof, of each ballot style that required correction.~~

~~(c) The printer shall receive approval from the County Election Board Secretary or from the State Election Board staff before commencing press runs.~~

230:25-17-2. Proofreading ballots

It shall be the responsibility of the Secretary of the County Election Board to insure correctness of all ballots printed by the County Election Board. The Secretary shall ~~require~~ verify a perfect proof from the State Election Board before the ballots are printed. The Secretary shall verify the accuracy of all information on the ballots as outlined below.

(1) Use copies of the resolution and the Declarations of Candidacy to verify that the correct offices appear on the ballots, that each candidate's name is spelled correctly, and that questions appear on the ballot exactly as in the resolution.

(2) ~~Use the Ballot Layout Report to verify that all ballot styles are accounted for, that all races and candidate names appear in the correct position on the ballot, that the text of the ballot headings is correct and that the security codes are correct~~.

~~(3) Any~~ Mark any errors ~~shall be marked~~ on the proof ~~sheet~~ and write the correct information ~~written~~ on the proof ~~sheet~~ if necessary.

(~~4~~3) Notify the ~~printer~~State Election Board immediately of the corrections required.

230:25-17-3. Examining ~~and proofreading~~ ballots received from the State Election Board

Immediately upon receipt of ballots ~~from the State Election Board~~ from the ballot printer, the Secretary shall be responsible for examining ~~and proofreading those~~ the ballots ~~in the same manner as for proofreading ballots for which the County Election Board has printing responsibilities.~~ If an error ~~is detected, the Secretary immediately shall notify the State Election Board. If~~ or a shortage of ballots is detected, the Secretary immediately shall notify both the State Election Board and the ballot printer.

230:25-17-4. Recording ballot numbers and storing ballots

After ballots are received from the printer ~~or from the State Election Board~~, ~~have been~~ they shall be examined ~~and proofread,~~ for accuracy. ~~the~~ The Secretary of the County Election Board shall record the ballot numbers ~~assigned to~~ to be issued to each precinct on the Precinct Checklist. After recording the numbers on the checklist, the Secretary shall place the ballots in numerical sequence inside a ballot transfer box labeled for the appropriate precinct and shall store the filled ballot transfer boxes in a secure place. Extra ballots also shall be stored securely, but shall not necessarily be placed in transfer boxes.

SUBCHAPTER 19. DEMONSTRATION BALLOTS [REVOKED]

230:25-19-1. Purpose [REVOKED]

~~The purpose of the rules in this Subchapter is to establish a procedure for printing companies to demonstrate to the State Election Board the ability to produce ballots that can be read accurately by the electronic vote tabulating devices in use in the state of Oklahoma. These rules include instructions for printers and specify the process used by the State Election Board staff to evaluate the demonstration ballots.~~

230:25-19-2. Requests for ballot printing information [REVOKED]

~~Printers may request initial information about printing ballots from the State Election Board. Upon receipt of such a request, it shall be the responsibility of the Secretary of the State Election Board to provide to the printer the following materials.~~

~~(1) A copy of the "Optech Ballot Printing Demonstration Process" form which describes the steps that the printer must take to demonstrate the ability to produce readable Optech ballots.~~

~~(2) A questionnaire that requests information concerning the printer's facilities, equipment and personnel.~~

230:25-19-3. Return of printer's questionnaire [REVOKED]

~~Printers who desire to print demonstration ballots shall complete the questionnaire provided by the State Election Board in the initial information packet. The completed questionnaire shall be returned to the State Election Board. Upon receipt of the completed questionnaire, the State Election Board shall provide the following items to the printer.~~

~~(1) Introduction to Optech Ballots and Specifications.~~

~~(2) Instructions for printing Optech demonstration ballots.~~

~~(3) Mylar overlays of ballot components.~~

~~(4) Computer reports illustrating text for each demonstration ballot.~~

~~(5) Example of a two-sided sample ballot.~~

~~(6) Oklahoma Specifications for Optech Ballot Printing.~~

~~(7) ES&S "Ballot and Ballot Printing Specifications" manual.~~

~~(8) Optech III-PE Ballot Evaluation Form.~~

230:25-19-4. Printing demonstration ballots [REVOKED]

~~The printer shall produce 1,500 demonstration ballots according to the specifications and instructions provided. The completed demonstration ballots shall be delivered to the State Election Board within three weeks. The Mylar overlay of ballot components shall be returned to the State Election Board with the demonstration ballots.~~

230:25-19-5. Evaluation of demonstration ballots [REVOKED]

~~The State Election Board staff shall evaluate the demonstration ballots to determine compliance with the ballot specifications. After completing the physical evaluation of the demonstration ballots, a test deck of ballots shall be prepared as outlined in 230:50-3-69. The test deck shall be tested in a voting device as outlined in 230:50-3-68. The printer shall be notified of the results of the evaluation. If the demonstration ballots are of acceptable quality, the printer shall be added to the list of printers who have demonstrated the ability to produce ballots that can be read accurately by voting devices. If the ballots are not of acceptable quality, the deficiencies shall be explained and the printer shall be invited to produce another run of 1,500 demonstration ballots. There shall be no limit on the number of attempts a printer may make to produce acceptable demonstration ballots.~~

230:25-19-6. Cost of printing demonstration ballots [REVOKED]

~~The entire cost of producing demonstration ballots and shipping them to the State Election Board shall be borne by the printer. The State Election Board shall not reimburse the printer for any costs relating to the production of demonstration ballots. Demonstration ballots submitted to the State Election Board for evaluation shall become the property of the State Election Board.~~

230:25-19-7. List of printers [REVOKED]

~~The State Election Board shall maintain a list of printers that have demonstrated the ability to produce ballots that can be read accurately by voting devices. This list shall be made available to County Election Board Secretaries and to County Purchasing Agents for use in evaluating bids for ballot printing supervised by the County Election Board. The appearance of a printer on this list shall not be considered an endorsement of the printer by the State Election Board.~~

SUBCHAPTER 21. PRINTER CERTIFICATION FOR DIGITAL BALLOT PRINTING

230:25-21-1. Printer certification for digital ballot printing

Printers that provide digital ballot printing services to the State Election Board or to a County Election Board must successfully complete a two-part certification process to demonstrate the ability to produce ballots that can be used with the State of Oklahoma's voting device system. Such ballots are printed digitally from print files created by the State Election Board staff. A commercial printer that wishes to bid on ballot printing contracts for the State Election Board or for any County Election Board shall contact the State Election Board to initiate the printer certification process.

230:25-21-2. Printer certification process

(a) A commercial printer participating in the printer certification process first shall be required to produce a quantity of ballots determined by the Secretary of the State Election Board from .pdf files supplied by the State Election Board. Production of these certification ballots shall be accomplished using the digital printing press on which ballots will be printed if a ballot printing contract is awarded to the printer. All ballots are 8 and one-half inches wide. Certification ballot print files shall include the following:

(1) A specified quantity of 14-inch ballots (11-inch ballot with a 3-inch stub).

(2) A specified quantity of 17-inch ballots (14-inch ballots with a 3-inch stub).

(3) A specified quantity of 19-inch ballots (17-inch ballots with a 2-inch stub).

(b) All ballots produced during the certification process shall be printed only on paper that has been tested and approved by the State Election Board for use with voting device system. A listing of all such tested and approved paper is included in the specifications for ballot printing.

(c) All certification ballots shall meet the post-production requirements included in the specifications for ballot printing , including but not limited to trim lines, stub, perforations, stitching, shrink-wrapping, and packaging.

(d) All certification ballots shall be submitted to the Secretary of the State Election Board and shall be delivered no later than the date established at the beginning of the certification process.

230:25-21-3. Review and testing of certification ballots

State Election Board personnel shall review and test the certification ballots submitted by the printer. The ballots shall be marked and processed through voting device. The ballots also shall be processed through a high-speed scanner controlled by the voting device system software. The results then shall be tabulated in the voting device system software, and all necessary reports shall be printed and examined.

(1) If the ballots cannot be read by the voting device or by the high-speed scanner or if the tabulated results are not as expected, the printer shall be determined to have failed the first part of the certification process. A printer who fails the first part of the certification process may repeat the process one time. If the printer also fails the second time, the printer shall be disqualified from continuing the certification process.

(2) If the ballots are read by the voting device and by the high-speed scanner and if the tabulated results are as expected, the printer shall be determined to have passed the first part of the certification process. The printer then shall proceed to the second part of the certification process, and the State Election Board staff will conduct an on-site review to observe the digital ballot printing process.

230:25-21-4. On-site certification review

(a) Following a printer's successful completion of the first part of the certification process, the State Election Board ballot printing staff shall conduct a certification review on site at the printer's printing facility. The printer shall be required to produce an additional quantity ballots from .pdf files provided by the State Election Board with the State Election Board ballot printing staff observing the process. The ballots shall be produced as follows:

(1) A specified quantity of 14-inch ballots (11-inch ballot with a 3-inch stub).

(2) A specified quantity of 17-inch ballots (14-inch ballots with a 3-inch stub).

(3) A specified quantity of 19-inch ballots (17-inch ballots with a 2-inch stub).

(b) The State Election Board staff will evaluate the ballots according to the following criteria.

(1) The ballots meet all requirements included in the ballot printing specifications.

(2) The ballots meet all component specifications, including but not limited to, ballot length, printing text area restrictions, and front-to-back registration.

(3) The ballots meet post-production specifications, including but not limited to, trim lines, stub, perforation, stitching, shrink-wrapping, packaging, and shipping of ballots.

(c) The ballots produced during the on-site certification review shall be marked and processed through a voting device and through a high-speed scanner controlled by the voting device system software. The results then shall be tabulated and all necessary reports shall be printed and examined.

(1) If the ballots cannot be read by the voting device or by the high-scanner or if the tabulated results are not as expected, the printer shall be determined to have failed the second part of the certification process. A printer who fails the second part of the certification process may repeat the process one time. If the printer also fails the second time, the printer shall be disqualified from bidding on ballot printing contracts for the State Election Board or a County Election Board.

(2) If the ballots are read by the voting device and the high-speed scanner and if the tabulated results are as expected, the printer shall be determined to have passed the second part of the certification process. At this point, the printer shall be certified to print ballots for the eScan A/T in Oklahoma and to bid on ballot printing contracts for the State Election Board and for a County Election Board.

230:25-21-5. List of certified printers

The Secretary of the State Election Board shall maintain a list of commercial printers who have successfully completed the certification process described in 230:25-21-1 through 230:25-21-4. The list of certified printers shall be made available to each County Election Board Secretary and to County Clerks and/or County Purchasing Agents for use as needed in requesting and evaluating bids for ballot printing. The appearance of a commercial printer on the list of certified printers shall indicate only that the printer has successfully produced ballots that can be read by the voting device system and not be considered an endorsement or a recommendation of the printer.

[OAR Docket #13-1006; filed 6-3-13]

TITLE 230. STATE ELECTION BOARD
CHAPTER 30. ABSENTEE VOTING

[OAR Docket #13-1007]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 1. General Provisions
230:30-1-2. Definitions [AMENDED]
Subchapter 3. Authorization for Absentee Voting
230:30-3-1. Absentee voting authorized in all elections [REVOKED]
230:30-3-2. Absentee voting required in home rule charter cities [REVOKED]
230:30-3-3. Voters eligible for absentee ballots [REVOKED]
Subchapter 5. Applications for Absentee Ballots
230:30-5-1.1. Applications for absentee ballots [REVOKED]
230:30-5-8.1. Time for absentee ballot applications [REVOKED]
Subchapter 7. Absentee Voting Boards
230:30-7-2. Parties submit lists of names by July 1 [REVOKED]
230:30-7-3. Secretary confined to lists of names [REVOKED]
230:30-7-3.1. Disqualification of Absentee Voting Board member [REVOKED]
230:30-7-4. Appointments shall be made promptly [AMENDED]
230:30-7-5. Compensation for Absentee Voting Board members [REVOKED]
230:30-7-6.1. Training for Absentee Voting Board members [AMENDED]
230:30-7-6.3. Designation of voting devices for in-person absentee voting [AMENDED]
230:30-7-7. Supplies for Absentee Voting Board [AMENDED]
230:30-7-9. Procedure for the nursing home Absentee Voting Board [AMENDED]
230:30-7-11. Procedure for in-person Absentee Voting Board to receive applications and issue ballots [AMENDED]
230:30-7-11.1. Preparation of polling place and voting device for in-person absentee voting [AMENDED]
230:30-7-11.3. Sheriff provides security for ~~memory pack~~ election results storage media and voted ballots [AMENDED]
230:30-7-13. In-person absentee voting procedure for uniformed services or overseas voter [AMENDED]
230:30-7-14. Verifying voter registration information and status of in-person absentee voters [AMENDED]
230:30-7-14.1. Closing the in-person absentee polling place [AMENDED]
230:30-7-14.2. Secretary's procedure at end of in-person absentee voting day [AMENDED]
Subchapter 9. Processing Applications
230:30-9-5.2. Transmitting absentee ballots to uniformed services voters and overseas voters by electronic mail [AMENDED]
Subchapter 11. Receiving and Processing Absentee Ballots
230:30-11-2. Opening outer envelopes and examining affidavits [REVOKED]
230:30-11-6. Transmitting absentee ballots [REVOKED]
230:30-11-7. Undeliverable absentee ballots returned by postal service to County Election Board [AMENDED]
Subchapter 15. State Write-in Absentee Ballots
230:30-15-1. Voters eligible to use state write-in absentee ballot [REVOKED]
230:30-15-2. Applications for state write-in absentee ballot [REVOKED]
230:30-15-3. Time for state write-in absentee ballot applications [REVOKED]
230:30-15-4. State write-in absentee ballot provided by State Election Board [REVOKED]

230:30-15-5. Processing applications for state write-in absentee ballots [REVOKED]
230:30-15-6. List of candidates [REVOKED]
230:30-15-7. Voters who request both regular and state write-in absentee ballots [REVOKED]
230:30-15-8. Time for return of state write-in absentee ballots [REVOKED]
230:30-15-9. Rules for counting state write-in absentee ballots [REVOKED]
Subchapter 17. Replacement of Lost or Undelivered Absentee Ballots
230:30-17-1. Replacement of lost or undelivered absentee ballots [REVOKED]
230:30-17-2. Applications for replacement absentee ballots [REVOKED]
230:30-17-3. Voter's agent [REVOKED]
230:30-17-4. Transmittal of replacement absentee ballots [REVOKED]
Subchapter 19. Counting the Ballots
Part 1. Counting Absentee Ballots on Election Day
230:30-19-4. Procedure for counting absentee ballots on election day [AMENDED]
230:30-19-5. Procedure for counting mutilated ballots [AMENDED]
230:30-19-6. Marking substitute ballot to count write-in ballots, faxed ballots, and ballots transmitted to voters by electronic mail [AMENDED]
Part 3. Receiving and Counting Overseas Absentee Ballots for Runoff Primary Election after Election Day [REVOKED]
230:30-19-15. Absentee ballots from overseas voters shall be received and counted after election day for Runoff Primary Elections for federal offices [REVOKED]
230:30-19-16. Determining outstanding overseas absentee ballots on Runoff Primary Election night [REVOKED]
230:30-19-17. Receiving, processing, and counting overseas absentee ballots for Runoff Primary Election after election [REVOKED]
Subchapter 21. Recording Absentee Voting
230:30-21-1. List of ~~Absentee Voter Applications~~ absentee voter applications available [AMENDED]
230:30-21-2. Credit for absentee voting [AMENDED]

AUTHORITY:
Title 26 O.S., Section 2-107. Secretary of the State Election Board

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n/a

ANALYSIS:
The Secretary of the State Election Board and experienced State Election Board staff members conducted a thorough review and analysis of the rules and determined that since the original drafting, adoption, and implementation of the rules in the mid-1970s, and even since the codification of the rules in the early 1990s, the needs of the election officials that the rules were designed to meet have changed.

The rules formed the foundation of Oklahoma's uniform, unified election system. Still today, Oklahoma is the only state in which every county follows the same uniform procedures, uses the same forms and software to administer voter registration and absentee voting, and also uses the same voting devices and uniformly designed ballots in every precinct.

In the early days of Oklahoma's modern election system, the rules intentionally were drafted to duplicate the content of Title 26 of the Oklahoma Statutes. When Oklahoma's election laws were modernized and recodified in 1974, the first State Election Board rules were created not only as the official "interpretation" of the new laws but also as a means of communicating the requirements of the new laws and the procedures needed to implement them to both county- and precinct-level officials.

Before the implementation of the new election code in 1974, the County Election Board Secretary had only a printed copy of the election laws with which to run his or her office and conduct elections. Now, almost 40 years later, the County Election Board Secretary has access to an array of publications to perform almost every election-related task.

The amendments in Chapter 30 have the following purposes. All rules that only duplicate statutory language and provisions are revoked. Some rules are amended to remove language that unnecessarily duplicates statutory provisions while leaving intact language that is not statutory but that is necessary for proper implementation of the statutes. Some rules are amended to add language needed for clarification. Rules are amended to update all references to the election administration software and hardware used by the State Election Board and by the 77 County Election Boards from OEMS B the designation of the legacy system that will be removed from service in July, 2013, B to MESA, OEMS's successor system. By July 1, 2013, MESA will absorb all the functions of the older system. Some amendments conform certain absentee voting dates and deadlines to the current election calendar established by law. Some amendments refer to the titles of new or significantly revised publications and/or forms used by County Election Board personnel, by Precinct Officials, and by Absentee Voting Board members. Rules that established procedures for issuing, processing and counting state write-in absentee ballots are revoked. The law concerning the fail-safe voting instrument for uniformed services and overseas absentee voters was repealed in 2011. Rules that established procedures for accepting and counting absentee ballots received from uniformed services absentee voters and from overseas absentee voters for a certain number of days following the biennial Runoff Primary Election are revoked. The new election calendar established by law allows sufficient time for such absentee ballots to be received by these voters, voted, and returned in time to be counted for the Runoff Primary Election, making these described processes no longer necessary.

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

SUBCHAPTER 1. GENERAL PROVISIONS

230:30-1-2. Definitions

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

"Federal election" means ~~an~~ a regular or special election involving candidates for federal offices ~~held on the last Tuesday in July; the fourth Tuesday in August; and the first Tuesday after the first Monday in November in even numbered years; the first Tuesday in February of an even numbered year in which the President and Vice President of the United States are to be elected; and the date of a special election called at any other time to fill a vacancy in the office of United States Senator or United States Representative~~.

"Member of the merchant marine" means a person employed as an officer or crew member of a vessel as identified in 42 U.S.C. 1973ff-6.

"MESA" means the Modern Election Support Application software used by County Election Board personnel for voter registration, absentee voting, and election administration and maintenance.

"Nursing home" means a nursing facility as defined in Title 62 O.S. 2001, Section 1-1902.

"PDF" means portable document format, a type of computer file used for document exchange.

"Proof of identity" means a form of personal identification that meets the requirements listed in 26 O.S., Section 7-114, as amended by State Question 746.

"Uniformed services" means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard, the merchant marine, the commissioned corps of the Public Health Service, the commissioned corps of the National Oceanic and Atmospheric Administration, and the Oklahoma National Guard.

"Veteran center" means a facility established as outlined in Title 72 O.S., Section 221 et seq of the Oklahoma Statutes.

SUBCHAPTER 3. AUTHORIZATION FOR ABSENTEE VOTING

230:30-3-1. Absentee voting authorized in all elections [REVOKED]

~~Absentee voting is authorized for any election conducted by a County Election Board and absentee ballots must be provided. [26:14-101]~~

230:30-3-2. Absentee voting required in home rule charter cities [REVOKED]

~~(a) Absentee voting is required in cities with home rule charters.~~

~~(b) A home rule charter city may adjust the dates of its filing period and elections to allow sufficient time for printing, mailing, and return of absentee ballots. [26:14-101(A)]~~

~~(c) When a home rule charter city schedules an election on the same date as an election for any other entity that shares territory with the municipality, the home rule charter city shall be required to provide no less time for the mailing and return of absentee ballots than the least time provided by the other entity. [26:14-1-1(B)]~~

230:30-3-3. Voters eligible for absentee ballots [REVOKED]

~~(a) A registered voter may request absentee ballots for any election in which the voter is eligible to vote. An absentee voter shall not be required to state any reason for the request. [26:14-105]~~

~~(b) Registered voters may apply for absentee ballots by stating one of the following reasons.~~

~~(1) **Nursing home voters.** Nursing home voters are registered voters who swear or affirm that they are physically incapacitated and confined to a nursing home within the county in which they are registered to vote. [26:14-115] They may vote by absentee ballot.~~

~~(2) **Physically incapacitated voters.** Physically incapacitated voters are registered voters who swear or affirm that they are physically unable to vote in person at their precinct polling places on the day of an election because they are physically incapacitated but are not confined to a nursing home within the county in which they are registered to vote. [26:14-110.1(1)] They may vote by absentee ballot.~~

~~(3) **Voters charged with the care of physically incapacitated persons.** Voters charged with the care of physically incapacitated persons are registered voters who swear or affirm that they are physically unable to vote in person at their precincts on the day of the election because they are charged with the care of a physically incapacitated person who cannot be left unattended. [26:14-110.1] They may vote by absentee ballot.~~

~~(4) **Emergency incapacitated voters.** Emergency incapacitated voters are registered voters who become incapacitated after 5 p.m. on Tuesday preceding an election and are unable to vote at their precinct polling places on election day. [26:14-115.1] They may vote by absentee ballot.~~

~~(5) **Uniformed services voters.** Uniformed services voters are residents of Oklahoma who are members of one of the uniformed services of the United States or of the merchant marine and their spouses and dependents who are 18 years of age or older. They may vote by absentee ballot. These persons need not be registered to vote, but they must be qualified to be registered. [26:14-116]~~

~~(6) **Overseas voters.** Overseas voters are residents of Oklahoma who are living outside the territorial limits of the United States, and their spouses and dependents, who are 18 years of age or older, and uniformed services voters and their spouses and dependents who, by reason of active duty, are absent from the United States on election day. They may vote by absentee ballot. These persons need not be registered to vote, but they must be qualified to be registered. [26:14-116]~~

~~(7) **Veteran center voters.** Veteran center voters are registered voters who swear or affirm that they are physically incapacitated and confined to a veteran center in the county in which they are registered to vote. [26:14-115] They may vote by absentee ballot in the same manner as nursing home voters.~~

~~(c) Any registered voter may apply for an in-person absentee ballot at the in-person absentee polling place on Friday or Monday preceding all elections, and also on Saturday preceding state and federal elections. [26:14-115.4(A)] An in-person absentee voter shall not be required to state a reason for the request but shall be required to swear or affirm that he has not voted a regular absentee ballot and that he will not vote at the polling place on election day. [26:14-115.4(A)]~~

SUBCHAPTER 5. APPLICATIONS FOR ABSENTEE BALLOTS

230:30-5-1.1. Applications for absentee ballots [REVOKED]

~~(a) **Application forms.** Applications for absentee ballots may be made by using the following forms.~~

~~(1) **Yellow Application for Absentee Ballots form.** Voters may apply for absentee ballots by completing a yellow Application for Absentee Ballots form and mailing or faxing it to the County Election Board office. Voters also may appear personally at the County Election Board office to complete the form. [26:14-105]~~

~~(2) **Pink Application for Absentee Ballots form.** Nursing home voters, physically incapacitated voters, voters charged with the care of physically incapacitated persons who cannot be left unattended, and veteran center voters may apply for absentee ballots by completing the pink Application for Absentee Ballots form and mailing or faxing it to the County Election Board office. [26:14-110.1, 14-114]~~

~~(3) **Federal Post Card Application.** Uniformed services voters and overseas voters may apply for absentee ballots by completing a Federal Post Card Application, also known as a Department of Defense Form 76, and mailing, faxing, or e-mailing it to the County Election Board office. [26:14-117] Federal Post Card Applications may be obtained from the voting service officer in a military unit and from United States Embassies and Consulates. The form also is available online at www.fvap.gov. All completed Federal Post Card Applications must be transmitted to the County Election Board by mail, by fax, or by e-mail. [26:14-117]~~

~~(4) **Green Application for In-Person Absentee Ballots.** Voters may apply for an in-person absentee ballot by completing a green Application for In-Person Absentee Ballots form at the in-person absentee polling place. [26:14-115.4(A)]~~

~~(5) **Application from emergency incapacitated voter.** Emergency incapacitated voters may apply for absentee ballots by making a written request. [26:14-115.1] The written request must be signed by the voter or, if the voter is unable to sign, by a witness. [26:14-115.1] The request must be accompanied by a sworn statement from a duly licensed physician. [26:14-115.1] The request must be transmitted to the County Election Board office by an agent designated by the voter. [26:14-115.1] The white Request for Emergency Incapacitated Absentee Ballot and Sworn Statement by Physician form may be used but is not required.~~

~~(b) **Letter suffices.** In all cases, with the exception of the in-person absentee voter, a letter from a voter requesting absentee ballots shall be considered a sufficient application if it contains the information needed to determine the voter's eligibility to vote in the election and to determine where to send the ballots. [26:14-105, 14-110.1, 14-117]~~

~~(c) **Telegram suffices in some cases.** In the case of absentee voters, nursing home voters, physically incapacitated voters, voters charged with the care of physically incapacitated persons, and veteran center voters, a telegram shall be considered a sufficient application if it contains the information needed to determine the voter's eligibility to vote in the election and to determine where to send the ballots. [26:14-105, 14-110.1]~~

~~(d) **Facsimile applications accepted.** Absentee voters, nursing home voters, physically incapacitated voters, voters charged with the care of physically incapacitated persons, veteran center voters, uniformed services voters, and overseas voters may submit applications for absentee ballots to the County Election Board by electronic facsimile device (a "fax" machine). Voters may transmit one of the absentee ballot application forms described in (a) of this Section or they may transmit a letter as described in (b) of this Section.~~

~~(e) **Electronic mail applications accepted from uniformed services voters and overseas voters only.** Uniformed services voters and overseas voters, including the eligible spouses and dependents of both groups, may apply for absentee ballots by electronic mail. They may send a completed Federal Post Card Application form by e-mail or they may send a written request, as described in (b) of this Section, by electronic mail to the County Election Board in the county of their residence.~~

~~(f) **Applications received by State Election Board.** In the event that applications for absentee ballots are received at the State Election Board office by mail, by fax, or by electronic mail, they immediately shall be forwarded to the appropriate County Election Board.~~

230:30-5-8.1. Time for absentee ballot applications [REVOKED]

~~(a) All absentee voters, except in-person absentee voters and emergency incapacitated voters, may apply any time prior to 5 p.m. on the Wednesday preceding the election. [26:14-103] The application must be in the hands of County Election Board personnel by that time. An application received after 5 p.m. on Wednesday preceding the election B even if postmarked prior to that time B must be rejected.~~

~~(b) Applications for in-person absentee ballots may be made only at the in-person absentee polling place from 8 a.m. to 6 p.m. on Friday and Monday preceding all elections and also from 8 a.m. to 1 p.m on Saturday immediately preceding state and federal elections . [26:14-115.4]~~

~~(c) Applications for emergency incapacitated absentee ballots may be made any time after 5 p.m. on Tuesday preceding an election through 7 p.m. on election day. [26:14-115.1]~~

~~(d) The County Election Board office shall remain open until 5 p.m. on Wednesday preceding an election so that applications may be made in person until that time. The Secretary shall cause the County Election Board's post office box, if applicable, to be checked no later than 5 p.m. The Secretary also shall cause the inbox for each County Election Board electronic mail address and any applicable spam or junk mail folders to be checked no later than 5 p.m. for Federal Post Card Application forms.~~

SUBCHAPTER 7. ABSENTEE VOTING BOARDS

230:30-7-2. Parties submit lists of names by July 1 [REVOKED]

~~No later than July 1 of each even-numbered year, the Chairmen of the county central committees of the two recognized political parties with the largest number of registered voters in the state are required to submit a list of ten names to the Secretary of the County Election Board. [26:14-115] The list must contain the names of registered voters in the county and can include members of the County Election Board and the Precinct Election Boards. [26:14-115.5] The list cannot contain the name of the Secretary of the County Election Board. [26:14-115.5]~~

230:30-7-3. Secretary confined to lists of names [REVOKED]

~~The Secretary of the County Election Board is confined to the names on the lists described in 230:30-7-2 in appointing members of an Absentee Voting Board. [26:14-115(1)] Each Absentee Voting Board consists of two members C one member from each political party. If a party fails to submit a list, or if all persons on a party's list are unwilling or unable to serve, the Secretary shall appoint Absentee Voting Board members from the ranks of that party. [26:14-115(1)] Under no circumstance shall both members of an Absentee Voting Board be members of the same political party.~~

230:30-7-3.1. Disqualification of Absentee Voting Board member [REVOKED]

~~No person shall serve on an Absentee Voting Board at any election in which he is a candidate for office, is a deputy or regular employee of a candidate for office or is related within the third degree by either consanguinity or affinity to a candidate for office. [26:2-132] Any person so disqualified from serving on an Absentee Voting Board shall resign by notifying the Secretary of the County Election Board no later than ten days following the close of the filing period during which the relative's candidacy was filed. [26:2-132] The Secretary shall appoint a suitable replacement.~~

230:30-7-4. Appointments shall be made promptly

As soon after ~~July~~ June 1 as possible, the Secretary of the County Election Board shall appoint an Absentee Voting Board and shall consult with the two members to make certain that both are willing and able to serve. The Chairman and Vice Chairman of the County Election Board shall be appointed, if possible, but their names must appear on the lists described in 230:30-7-2 before they can become eligible. In some cases, it may be necessary to appoint more than one Absentee Voting Board.

230:30-7-5. Compensation for Absentee Voting Board members [REVOKED]

~~Members of the Absentee Voting Boards shall be compensated at the same rate as the Precinct Judge or Clerk. See 230:35-3-30. [26:14-115.5] One member of each nursing home Absentee Voting Board also may be allowed mileage reimbursement for the round trip between the nursing home and the County Election Board office at the rate currently allowed by the Internal Revenue Service for a business expense deduction. [26:14-115.5] Each Absentee Voting Board member shall sign the Absentee Voting Board Claim form for the election before receiving his or her compensation. Absentee Voting Board members shall not be entitled to compensation for attending training for their duties.~~

230:30-7-6.1. Training for Absentee Voting Board members

(a) The Secretary of the County Election Board shall train the Absentee Voting Board members in their duties before the Absentee Voting Board makes its first visit to a nursing home or veteran center or first provides service to in-person absentee voters. The State Election Board provides the County Election Board Secretary with instructions for conducting training for both nursing home and in-person Absentee Voting Board members.

(1) **Nursing home Absentee Voting Board.** Training for members of a nursing home Absentee Voting Board shall include a review of the blue Instructions for Absentee Voting Board sheet. The Secretary also shall review the types of ballots and the potential combinations of ballots, the contents of the pink absentee voter packet, and the use of the Absentee Voting Board Record, the Spoiled Ballot Affidavit~~, and the PRECINCT PROBLEM SOLVER~~ located in the Precinct Problem Solver section of the Precinct Official Notebook.

(2) **In-person Absentee Voting Board.** Training for members of an in-person Absentee Voting Board shall include a review of the green Instructions for Absentee Voting Board for In-Person Absentee Ballots sheet. The Secretary shall provide instructions for ~~using the Central File or~~ a computer with access to the Internet and the MESA software to verify a voter's registration information and registration status and shall review the types of ballots and potential combinations of ballots. The Secretary also shall review the uses of the Spoiled Ballot Affidavit, the Voter Assistance Form, the Ballot Accounting Forms~~, and the PRECINCT PROBLEM SOLVER~~ located in the Precinct Problem Solver section of the Precinct Official Notebook. The Secretary also shall provide instructions on the use of the voting device, the procedures for opening and closing the in-person absentee polling place and the disposition of the ~~memory pack~~election results storage device, ballots and other items. If the in-person Absentee Voting Board uses a computer with access to the Internet and the MESA software, the Secretary shall instruct the Board members to obtain updated voter registration information from inactive voters.

(b) Following the initial training for Absentee Voting Board members, the Secretary shall provide a review of the Absentee Voting Board's duties, if necessary, before it serves in any election.

230:30-7-6.3. Designation of voting devices for in-person absentee voting

The Secretary of the County Election Board shall determine the number of ~~absentee precincts~~ voting devices needed for ~~the election during election programming~~ in-person absentee voting for th election and shall ~~designate a voting device for in-person absentee voting for each absentee precinct~~ prepare the devices for use. ~~The Secretary also shall burn a memory pack for each absentee precinct and shall install the memory pack into the designated voting device. If more than one voting device is to be used for in-person absentee voting, the Secretary shall instruct the Absentee Voting Board members to direct voters to deposit their ballots in the appropriate voting device.~~

230:30-7-7. Supplies for Absentee Voting Board

(a) **Supplies for nursing home Absentee Voting Board.** The Secretary shall assemble the necessary supplies for the nursing home Absentee Voting Board. Necessary supplies include, but are not limited to, a pink Incapacitated Voter Packet with ballots for each voter; a ballot box; ink pens; ballot markers; the Absentee Voting Board Additional Ballot Accounting Form; the Absentee Voting Board Record; Instructions for Absentee Voting Board; ~~Spoiled Ballot Affidavit; Notification of Nursing Facility Resident's Death forms; a PRECINCT PROBLEM SOLVER~~ a copy of the Precinct Official Notebook; Oklahoma Voter Registration Application forms; Address Information Requested handouts; and an adequate number of extra ballots for each type of ballot to replace ballots that may be spoiled by the voter.

(b) **Supplies for in-person Absentee Voting Board.** The Secretary shall assemble the supplies necessary for the Absentee Voting Board to provide service to in-person absentee voters. These supplies include, but are not limited to, green Applications for In-Person Absentee Ballots forms, copies of Instructions for Voting by In-Person Absentee Ballot; ballots; secrecy folders; a voting device; plastic seals for the ~~ballot box and memory pack door~~ election results storage medium compartment cover; one voting device key envelope; a padded bag or an envelope for the ~~memory pack~~ election results storage medium; an Envelope for ~~Totals Printout~~ Tally Report; ballot transfer boxes; a long white State Election Board seal for each ballot transfer box; ~~ink~~ black ballpoint pens; ~~ballot markers;~~ the In-Person Absentee Ballot Accounting Form; ~~FORMS FOR USE BY PRECINCT ELECTION OFFICIALS booklet;~~ a quantity of Oklahoma Voter Registration Application forms; Address Information Requested handouts; ~~a PRECINCT PROBLEM SOLVER; and a VOTING DEVICE HANDBOOK FOR PRECINCT OFFICIALS~~ and a copy of the Precinct Official Notebook.

230:30-7-9. Procedure for the nursing home Absentee Voting Board

(a) On the day scheduled for the Absentee Voting Board to visit nursing homes and veteran centers, the Board shall meet with the Secretary of the County Election Board at the County Election Board office. The members shall sign the Absentee Voting Board Record. The ballot box shall be prepared as outlined in 230:30-7-8 and issued to the nursing home Absentee Voting Board members. Adequate supplies and ballots shall be provided to anticipate voter assistance requirements and spoiled ballots. Precautions shall be taken to insure accounting for each ballot. The Secretary shall instruct the Absentee Voting Board as to the type of ballots each voter shall receive in case a voter spoils a ballot and a new ballot must be issued.

(b) The Absentee Voting Board shall observe the following procedure:

(1) The two members of the Absentee Voting Board shall travel together in one automobile, taking all necessary forms and supplies.

(2) Upon arrival at a nursing home or veteran center, the Absentee Voting Board shall make arrangements for those incapacitated voters listed on the Absentee Voting Board Record to vote. Only those persons whose names are on the Absentee Voting Board Record shall be permitted to vote. If the message "Confirm Address" or "Insufficient Address" appears on the Absentee Voting Board Record, the Absentee Voting Board members shall give the voter a copy of the Address Information Requested handout and shall ask the voter to complete an Oklahoma Voter Registration Application form.

(3) The voter must mark his ballots with a ~~ballot marking~~ black or blue ballpoint pen in the presence of the Absentee Voting Board, but in such a manner as to make it impossible for anyone but the voter to tell how the ballots are marked. [26:14-115(3)]

(4) *Insofar as is possible, the voting procedure shall be the same as if the voter were casting his ballot in person at a precinct.* [26:14-115(3)] This includes providing assistance, as provided by law, to persons who are unable to mark their ballots due to physical or visual disabilities or illiteracy. The procedures outlined in the ~~PRECINCT PROBLEM SOLVER~~ Precinct Problem Solver section of the Precinct Official Notebook shall be followed. However, the Voter Assistance Form shall not be used. The person who marks the voter's ballot shall complete and sign the "Assistant's Oath" on the absentee affidavit envelope. [26:14-113.2]

(5) While a voter may receive assistance, only the voter himself may determine how the ballots are to be marked. If the voter is unable to instruct the person providing assistance, the voter shall not be permitted to vote. If necessary, the voter also may receive assistance to complete the Oklahoma Voter Registration Application.

(6) The procedure outlined in the ~~PRECINCT PROBLEM SOLVER~~ Precinct Problem Solver section of the Precinct Official Notebook shall be followed if a voter spoils a ballot. The Spoiled Ballot Affidavit shall be used as required.

(7) When the voter has marked his ballots, he shall fold them and seal them in the white ballots envelope. [26:14-115(4)] He then shall seal the white ballots envelope inside the pink affidavit envelope. [26:14-115(4)]

(8) The voter then shall complete and sign the affidavit. [26:14-115(4)] The voter's signature must be

witnessed by both members of the Absentee Voting Board. [26:14-115(4)] The members shall sign the affidavit in the space for witnesses but shall not be required to provide their addresses.

(9) The affidavit envelope then shall be placed in the outer envelope and sealed. [26:14-115(5)]

(10) Each outer envelope containing absentee ballots immediately shall be placed in the absentee ballot box.

(11) A member of the Absentee Voting Board shall check either the "Did Vote" column or the "Did Not Vote" column, as appropriate.

(12) All Oklahoma Voter Registration Application forms completed by voters to update their voter registration information shall be placed with other voting supplies for return to the County Election Board office.

(13) When the Absentee Voting Board has completed its visit to each nursing home or veteran center scheduled for that particular day, the members shall return to the County Election Board office and leave the ballot box in the custody of the Secretary. [26:14-115(5)] The Absentee Voting Board shall account for all supplies and unused ballots. The ballot box shall be removed from the County Election Board office only when the Absentee Voting Board is performing its duties. The ballot box, once locked, shall not be unlocked again until it is time for the County Election Board members to remove the outer envelopes. See 230:30-11-2.

(c) In the event that members of the nursing home Absentee Voting Board learn that a nursing home voter listed on the Absentee Voting Board Record has died, the Absentee Voting Board members shall ask the nursing home administrator to fill out and sign a Notification of ~~Nursing Facility~~ County Resident's Death form. One member of the Absentee Voting Board ~~shall~~ may witness the administrator's signature, or the administrator may sign the form in the presence of a Notary Public. The Absentee Voting Board shall return the signed form to the County Election Board Secretary along with the ballot box and supplies when their duties are concluded.

230:30-7-11. Procedure for in-person Absentee Voting Board to receive applications and issue ballots

The Absentee Voting Board members shall observe the following procedure when a voter appears and requests an in-person absentee ballot.

(1) Ask the voter to fill out and sign a green Application for In-Person Absentee Ballots form.

(2) Check the voter's registration information and registration status using a computer with access to the Internet and the MESA software or the Central File as instructed by the County Election Board Secretary. See 230:30-7-14. If the applicant's voter registration information cannot be located in MESA, check the Central File, or ask a County Election Board staff member to do so. If the applicant's voter registration cannot be verified in either MESA or the Central File, issue a provisional ballot to the applicant. See 230:30-7-15.

(3) If the voter tells you that his or her residence address has changed, give the voter an Oklahoma Voter Registration Application and ask the voter to fill it out and sign it.

(4) If the "Voter Status" field indicates the voter is inactive, ~~if the number in the section field is greater than "36,"~~ or if the "SD" (school district) or "MU" (municipality) field on the ~~OEMS~~ MESA screen is blank, give the voter a copy of the Address Information Requested handout and an Oklahoma Voter Registration Application form. Ask the voter to use the form to update his or her voter registration information. The voter may either return the voter registration application form to you or mail it at a later time.

(5) Ask the voter for proof of identity.

(A) Check to see that the voter's name on the proof of identity substantially conforms to the voter's name in MESA and that the proof of identity has an expiration date later than election day. (Exception: a state identification card issued to a person 65 years of age or older does not have an expiration date but is valid proof of identity under the law.) All documents used for proof of identity, except the voter identification card or temporary voter identification document issued by the County Election Board, must include a photograph of the voter.

(B) The voter may present any of the following documents as proof of identity.

(i) a valid Oklahoma driver license

(ii) a voter identification card issued by the County Election Board

(iii) a temporary voter identification document issued by the County Election Board

(iv) a state identification card

(v) a United States passport

(vi) a United States military identification

(vii) any other such document issued by the State of Oklahoma, the United States government, or a federally recognized tribal government which includes the person's name, a photograph of the person, and an expiration date that is later than election day.

(C) Indicate that the voter presented valid proof of identity by writing "YES" in the space provided in the "For Absentee Voting Board Use" section of the green Application for In-Person Absentee Ballot.

(D) If the voter's proof of identity is not valid ~~or~~ , if the voter has no proof of identity, or if the voter refuses to provide proof of identity, offer the voter a provisional ballot. See 230:30-7-15 and 230:35-5-177. If the voter refuses the offer of a provisional ballot, record the incident on the Provisional Ballot Refusal form.

(6) ~~Record the date received, the voter's precinct number, and political affiliation in the spaces provided on the Application for In-Person Absentee Ballots form.~~

~~(A) If this is a school election, also write the voter's school district on the application form. If the school~~

~~district field on the MESA screen is blank, see (4) of this Section and follow the steps outlined in 230:35-5-113.2(c) to help the voter determine the correct school district. If the voter tells you that the school district listed on the MESA screen is not correct, follow the steps outlined in 230:35-5-113.2(d).~~

~~(B) If this is a municipal election, also write the voter's municipality on the application form. If the municipality field is blank, see (4) of this Section and follow the steps outlined in 230:35-5-113.2(c) to help the voter determine the correct municipality. If the voter tells you that the municipality listed on the MESA screen is incorrect, follow the steps outlined in 230:35-5-113.2(d).~~

~~(7) Record the voter's precinct number and political affiliation on the Absentee Voting Board Record for In-Person Absentee Ballots and ask the voter to sign it.~~

(7) Print a label and apply it to the application form in the space provided "For Office Use Only."

(8) Issue the ballots indicated by the voter's registration information in MESA or in the Central File and give the voter a ~~ballot marker~~ black ballpoint pen. [26:14-115.4]

(9) Offer the voter a secrecy folder. Use a sample ballot to demonstrate a valid marking and use of the secrecy folder, if necessary.

(10) Direct the voter to a voting booth to mark the ballots.

(11) Provide assistance as outlined in the ~~PRECINCT PROBLEM SOLVER~~ Precinct Problem Solver section of the Precinct Official Notebook to voters who need help reading and/or marking their ballots. Disregard references to the Precinct Registry. Use the Voter Assistance Form.

(12) Follow the procedure outlined in the ~~PRECINCT PROBLEM SOLVER~~ Precinct Problem Solver section of the Precinct Official Notebook if a voter spoils a ballot. Use the Spoiled Ballot Affidavit.

(13) Tell the voter to insert the voted ballot in the voting device. [26:14-115.4(4)] ~~If more than one voting device is in use, tell the voter which device to use.~~

(14) Take the ~~ballot marker~~ ballpoint pen and the secrecy folder, if used, back from the voter.

(15) If the voting device returns the voter's ballot, ask the voter to wait until the voting device message prints. Follow the appropriate instructions in the ~~VOTING DEVICE HANDBOOK FOR PRECINCT OFFICIALS~~ voting device instructions section of the Precinct Official Notebook. Ask County Election Board personnel for help if necessary.

230:30-7-11.1. Preparation of polling place and voting device for in-person absentee voting

(a) **Receiving supplies and setting up polling place on first day.** On each in-person absentee voting day, the Absentee Voting Board members meet in the County Election Board office at the time set by the County Election Board Secretary to receive their supplies for the day. The Absentee Voting Board members then go together to the in-person absentee polling place. A table and chairs, one or more voting devices, voting booths, and a computer with access to the Internet and the MESA software or the Central File should already be in place at the in-person absentee polling place when the Absentee Voting Board members arrive. The Absentee Voting Board members unpack the supplies and prepare each voting device as outlined in (b) of this Section. The Absentee Voting Board members must be ready to receive applications from in-person absentee voters at 8 a.m.

(b) **Preparing voting device on first day.** The Absentee Voting Board ~~prepares each in-person voting device as outlined in 230:35-5-32~~ shall turn on the voting device and prepare it to accept ballots as outlined in the voting device instructions section of the Precinct Official Notebook. .

(c) **Receiving supplies and setting up polling place on second and third days.** On the second and third days of in-person absentee voting, the members of the Absentee Voting Board meet at the County Election Board office at the time specified by the Secretary to receive their supplies for the day. The Absentee Voting Board members also must receive the ~~memory pack~~ election results storage device for each voting device from the Sheriff no later than 7:45 a.m. [25:14-115.4] The Absentee Voting Board members then follow the instructions in the voting device instruction section of the Precinct Official Notebook and in (d) of this Section to prepare each voting device

(d) **Preparing voting device on second and third days.** On the second ~~and~~ and/or third days of in-person absentee voting, the Absentee Voting Board receives the ~~memory pack~~ election results storage device from the Sheriff and prepares the voting device as follows.

~~(1)~~ Follow the procedure ~~outlined in 230:35-5-32(a)(1) through (9)~~ provided by the Secretary of the County Election Board to open the polls on each voting device designated for in-person absentee voting.

~~(2) After unlocking the back panel, insert the memory pack into the voting device. Secure the memory pack door with a seal provided by the Secretary of the County Election Board. Verify that the number on the seal is the same as the number recorded on the Voting Device Report. Check the voting device serial number printed on the back of the voting device and verify that it is the same as the serial number recorded on the Voting Device Report. If either of these numbers does not match the numbers recorded on the Voting Device Report, tell the Secretary of the County Election Board immediately.~~

~~(3) Plug the voting device into the electrical outlet. The voting device will immediately begin printing the message RESTARTED WITHOUT ZEROING TOTALS. The voting device is then ready to accept ballots. DO NOT tear off the voting device tape at any time during in-person absentee voting.~~

~~(4) If the message does not print out automatically when the device is plugged in, try plugging the voting device into a different electrical outlet. If the message still does not print, tell the Secretary of the County Election Board immediately.~~

~~(5) Check the front panel of the voting device. The red light indicates the power is on. The green light indicates the voting device is ready to accept ballots.~~

~~(6) Close and lock the rear panel door. Replace the keys in the voting device key envelope, but do not seal the envelope.~~

~~(7) Repeat steps (1) through (6) of this subsection for each additional in-person absentee voting device.~~

230:30-7-11.3. Sheriff provides security for ~~memory pack~~ election results storage media and voted ballots

The Sheriff is required to provide security for the ~~memory pack~~ election results storage device from ~~the~~ each in-person absentee voting device and for the voted ballots in the same manner as for mail and nursing home absentee ballots and regular ballots on election night. [26:14-115.4] See 230:35-3-86. The Sheriff shall receive the ~~memory pack~~ election results storage device, sealed inside the appropriate envelope, and the voted ballots, sealed inside a ballot transfer box, at the end of each day of in-person absentee voting. The Sheriff shall return the ~~memory pack~~ election results storage device to the in-person Absentee Voting Board members no later than 7:45 a.m. on each following day of in-person absentee voting. On election day, the Sheriff shall return the ~~memory pack~~ election results storage device to the Secretary in the presence of the members of the County Election Board when it is time to begin counting absentee ballots received through the mail or from the nursing home Absentee Voting Board. The Sheriff retains custody of the voted in-person absentee ballots unless an election night recount is required. [26:14-115.4] See 230:30-19-4(8) and 230:35-3-85.1.

230:30-7-13. In-person absentee voting procedure for uniformed services or overseas voter

If voter registration information for an in-person absentee ballot applicant cannot be found in the Central File or in MESA and that applicant informs the Absentee Voting Board members that he or she is on leave or has recently been honorably discharged from the uniformed services of the United States or has recently been terminated in service or employment overseas, the applicant may be entitled to vote without being registered. [26:14-121] The spouse or dependent of such a person also is entitled to vote without being registered. [26:14-121] Refer to the Uniformed Services or Overseas Voter ~~section of the PRECINCT PROBLEM SOLVER~~ Precinct Problem Solver section of the Precinct Official Notebook (230:35-5-114) and follow those instructions to assist this applicant to cast a provisional ballot. Ask a County Election Board employee for help to determine the correct absentee ballot to issue to the voter, if necessary.

230:30-7-14. Verifying voter registration information and status of in-person absentee voters

(a) The Absentee Voting Board members are required to verify the registration information of each voter who applies for an in-person absentee ballot. The County Election Board Secretary shall instruct the Absentee Voting Board members to use a computer with access to the Internet and the MESA software to verify voter registration information and status.

(b) County Election Board personnel shall place a computer with access to the Internet and MESA the software at the in-person absentee polling place location and shall prepare the terminal for use. County Election Board personnel shall teach the Absentee Voting Board members to use ~~the terminal~~ MESA to find voter registration information about each applicant for in-person absentee ballots. In the event that a voter's registration information cannot be found in MESA, the Absentee Voting Board members may refer to the Central File to verify voter registration. The Absentee Voting Board member shall locate the voter's original registration form in the Central File. If an applicant's eligibility is confirmed in the Central File, ask a County Election Board staff member for assistance to determine the correct ballot style to issue. If the applicant's voter registration cannot be verified either in MESA or the Central File, issue a provisional ballot as outlined in 230:30-7-15 and 230:35-5-177.

230:30-7-14.1. Closing the in-person absentee polling place

At the end of each day of in-person absentee voting, the Absentee Voting Board members observe the following procedure.

(1) Fill out the In-Person Absentee Ballot Accounting Form.

(2) Sign the Absentee Voting Board Record for In-Person Absentee Ballots.

(3) ~~Do not obtain a Totals Printout~~ Suspend the polls on the voting device and print three copies of the Detail Report.

(4) ~~Unplug~~ Turn off the voting device and unplug it. Break the seal on the ~~memory pack door~~ election results storage device compartment cover and remove the ~~memory pack from the voting device~~ the storage device. Place the ~~memory pack~~ election results storage device inside the padded bag or an envelope.

(5) Place the padded bag or envelope and the broken seal from the memory pack door inside ~~a black lettered~~ an envelope. Seal the envelope. Both members of the Absentee Voting Board sign the sealed envelope flap.

(6) Unlock and open the emergency compartment door of the ballot box. Release the security latch on the underside of the voting device. Close and lock the voting device case. Lift the voting device off the ballot box and set it aside.

(7) Unlock and open the lower front door of the ballot box. Secure the door open with the bungee cord. Remove the counted ballots from the ~~voting device~~ ballot box. Place them inside a ballot transfer box. Using a flashlight, carefully inspect the ballot box to verify that all ballots have been removed.

(8) Seal the ballot transfer box with the long white State Election Board seal. Both members of the Absentee Voting Board shall sign and date the seal.

(~~7~~ 9) Give the sealed ~~black-lettered~~ envelope containing the election results storage device and the sealed ballot transfer box to the County Sheriff.

(~~8~~ 10) ~~Secure~~ Return the voting device and ballot box to the County Election Board office or other secure location as instructed by the Secretary.

(~~9~~ 11) Return the unused ballots, all filled out absentee ballot and voter registration application forms, and all other supplies to the County Election Board office as instructed by the Secretary.

230:30-7-14.2. Secretary's procedure at end of in-person absentee voting day

At the end of each day of in-person absentee voting, the Secretary shall observe the following procedure.

(1) Receive voting device, ballot box, unused ballots, all filled out absentee ballot and voter registration application forms, and all other supplies from the Absentee Voting Board members. Put the ~~unused ballots and other~~ the ballots and supplies in a secure place.

(2) Make one copy of the day's Absentee Voting Board Record for In-Person Absentee Ballots available to the public in the County Election Board office.

(3) Store the other copy of the Absentee Voting Board Record for In-Person Absentee Ballots with the filled out Applications for In-Person Absentee Ballots forms until the applications and voting information can be entered into MESA.

(4) Check to see that the voting device and ballot box are properly secured.

(5) Stamp the received date on all voter registration application forms received by the in-person Absentee Voting Board. As soon as possible, process the voter registration applications and enter in MESA. See 230:15-9-19 through 230:15-9-22 and 230:15-9-24.

SUBCHAPTER 9. PROCESSING APPLICATIONS

230:30-9-5.2. Transmitting absentee ballots to uniformed services voters and overseas voters by electronic mail

(a) The Secretary of the County Election Board is authorized to transmit absentee ballots and related balloting materials by electronic mail to uniformed services and overseas voters for any election ~~involving state or federal candidates~~ under the following specific circumstances. [26:14-118(B)]

(1) The voter has provided a residence address located within the county and the voter is eligible to vote in the election.

(2) The voter has a valid Federal Post Card Application (FPCA) form, or other valid application as described in 230:30-5-1.1, on file with the County Election Board and is eligible to receive an absentee ballot. [26:14-118(B)]

(3) The voter provides an electronic mail address. [26:14-118(B)]

(4) The voter specifically requests that ballots and balloting materials be transmitted by electronic mail. [26:14-118]

(b) Upon receipt of an FPCA that includes a request for ballots to be transmitted by electronic mail, the Secretary shall process the application as outlined in 230:30-9-5. However, instead of preparing ballots to be mailed or faxed as described in that Section, the Secretary shall cause the following procedures to be observed.

(1) The Secretary shall determine the correct absentee ballot style for the voter.

(2) The Secretary shall prepare an electronic mail message to the voter and shall attach each of the following electronic documents to the message.

(A) The PDF of the appropriate ballot style for the voter

(B) The PDF of the Affidavit

(C) The PDF of the Instructions for Returning Voted Ballot to County Election Board.

(3) The Secretary shall enter manually the date the ballot is transmitted by electronic mail in the voter's application information in MESA. This step must be completed prior to requesting absentee mailing labels to prevent a label from formatting for this voter.

(4) The Secretary shall complete the Ballot Accounting Form for Electronic Mail Ballots.

~~(c) The Secretary shall review any FPCAs received prior to January 1, 2010, that are valid for state and federal elections after January 1, 2010, for requests for ballots to be transmitted by electronic mail and for electronic mail addresses. Any such requests shall be honored as outlined in this Section.~~

SUBCHAPTER 11. RECEIVING AND PROCESSING ABSENTEE BALLOTS

230:30-11-2. Opening outer envelopes and examining affidavits [REVOKED]

~~The County Election Board may meet any time after 10 a.m. on the Thursday preceding the election to remove outer envelopes. [26:14-123] Unless the number of absentee ballots is extremely high, this meeting shall be scheduled on the day of the election. Upon meeting, the Board shall unlock each ballot box containing absentee ballots. Each envelope shall be removed from the ballot box. The outer envelopes shall be opened and removed and the affidavit envelopes examined. If an inactive voter has enclosed the Oklahoma Voter Registration Application form inside the outer envelope, set the application aside to be processed later. The examination shall determine whether or not the affidavit is properly executed. The following requirements shall be observed:~~

~~(1) The signature on a pink affidavit submitted by a physically incapacitated voter, a voter charged with the care of a physically incapacitated person or an emergency incapacitated voter must be witnessed by two other persons. [26:14-113.2]~~

~~(A) No one may witness signatures on more than five of these pink affidavits per election.~~

~~[26:14-113.2(B)] If someone witnesses signatures on more than five of these pink affidavits, the absentee ballots shall be counted but the witness shall be reported to the District Attorney. See 230:30-23-1.~~

~~(B) No one who is a candidate for an office on the ballot may witness a pink absentee ballot affidavit. [26:14-113.2]~~

~~(C) No one who is related within the third degree by consanguinity or affinity to a candidate for an office on the ballot may witness a pink absentee ballot affidavit. [26:14-113.2]~~

~~(2) The signature on a yellow affidavit submitted by an absentee voter must be witnessed by a Notary Public. [26:14-108] Affidavits from states other than Oklahoma may be notarized by a person other than a Notary Public who is authorized to administer oaths.~~

~~(A) The Notary Public must sign and impress the notarial seal on the affidavit for the attestation to be valid.~~

~~(B) The number and expiration date of a Notary Public in Oklahoma should be included in the attestation. However, the attestation shall be considered valid even if this information is missing.~~

~~(C) No one who is a candidate for an office on the ballot may notarize a yellow absentee ballot affidavit. [26:14-108]~~

~~(D) No one who is the chairman or treasurer of the campaign of a candidate for an office on the ballot may notarize a yellow absentee ballot affidavit. [26:14-108]~~

~~(E) No one who is related to a candidate within the third degree of consanguinity or affinity may notarize a yellow absentee ballot affidavit. [26:14-108]~~

~~(3) The signature on a pink affidavit submitted by a nursing home voter or a veteran center voter must be witnessed by two members of the nursing home Absentee Voting Board, who shall not be required to show their addresses. [26:14-115]~~

~~(4) Voters using the red and white affidavit need not have their signatures witnessed.~~

~~(5) The Voter's Declaration/Affirmation accompanying a federal write-in absentee ballot shall be examined. The voter's signature need not be witnessed. See 230:30-13-2 for more information about the Voter's Declaration/Affirmation.~~

~~(6) The cover sheet used by uniformed services and overseas voters to return voted ballots by fax must include the voter's signature on the affidavit and must include a waiver of right to secret ballot statement. The voter's signature need not be witnessed.~~

~~(7) The Affidavit sheet used by a uniformed services voter or an overseas voter to whom ballots and balloting materials were transmitted by electronic mail must include the voter's signature. The signature need not be witnessed. If the Affidavit is properly signed and dated, such ballots shall be accepted and counted, even if they are not enclosed in official election materials envelopes.~~

230:30-11-6. Transmitting absentee ballots [REVOKED]

~~(a) **Transmitting absentee ballots to voter.** The County Election Board shall transmit absentee ballots to all absentee voters — except nursing home absentee voters, veteran center voters, in person absentee voters, and emergency incapacitated absentee voters — by United States mail. [26:14-106; 26:14-111.1; 26:14-118] Absentee ballots for nursing home absentee voters and veteran center voters shall be delivered to the voters in person by the nursing home Absentee Voting Board as outlined in 230:30-7-9. [26:14-115] Absentee ballots for in person absentee voters shall be issued to the voter by the in person Absentee Voting Board at the in person absentee polling place as outlined in 230:30-7-11. [26:14-115] Absentee ballots for emergency incapacitated absentee voters shall be delivered to the voter by the voter's agent as outlined in 230:30-9-6. [26:14-115.1]~~

~~(b) **Transmitting voted absentee ballots from voter to the County Election Board.** All absentee voters — except nursing home absentee voters, veteran center voters, in person absentee voters, and emergency incapacitated absentee voters — shall transmit their voted absentee ballots back to the County Election Board by United States mail. [26:14-108; 26:14-113.2; 26:14-120] Express delivery service provided by the United States Postal Service (Express MailJ) is considered United States mail. Voted absentee ballots from nursing home or veteran center absentee voters shall be delivered to the County Election Board office by the nursing home Absentee Voting Board as outlined in 230:30-7-9. [26:14-115] Voted absentee ballots from in person absentee voters shall be deposited by the voter directly into the appropriate voting device as outlined in 230:30-7-11. [26:14-115.4] Voted absentee ballots from emergency incapacitated absentee voters are delivered to the County Election Board by the voter's agent as outlined in 230:30-9-6. [26:14-115.1]~~

~~(c) **Voters may use private mail service.** Absentee ballots may be returned by a private mail service (such as Federal ExpressJ) that provides delivery documentation. The decision to use such a private mail service to return voted absentee ballots, as well as the expense of such service, shall be the voter's.~~

~~(d) **Transmitting overseas absentee ballots by fax.** Absentee ballots for federal offices only may be faxed to uniformed services and overseas voters only as outlined in 230:30-11-5.1. Uniformed services voters and overseas voters may return voted absentee ballots by fax only as outlined in 230:30-11-6.1.~~

~~(e) **Transmitting absentee ballots by electronic mail.** Absentee ballots for state or federal elections only may be transmitted by electronic mail to uniformed services voters and to overseas voters only as outlined in 230:30-9-5.2. Absentee voters who receive their ballots by electronic mail shall return the voted ballots by regular mail or by fax.~~

230:30-11-7. Undeliverable absentee ballots returned by postal service to County Election Board

(a) In the event that absentee ballots mailed to a voter are returned to the County Election Board by the postal service

because they are undeliverable as addressed, County Election Board personnel shall note on the envelope the date the undeliverable ballots were received and shall set them aside in a secure place. Such returned undeliverable absentee ballots shall be retained for 24 months with other absentee voting materials for the election. ~~No entry concerning the undelivered ballots shall be made in the voter's absentee application in OEMS.~~ Do not mail the ballots to another address unless it is provided in writing by the voter in the form of a new application for absentee ballots. If the voter's application includes additional upcoming elections, the application shall be considered cancelled and shall be deleted from ~~OEMS~~ MESA. See 230:30-5-8.2.

(b) When the postal service returns undeliverable absentee ballots to the County Election Board, the Secretary is not required to try to contact the voter to obtain a new or a corrected mailing address. The Secretary may choose to do so, however, if there is sufficient time for such communication before the election, or if the voter has applied for absentee ballots for additional upcoming elections. If the Secretary chooses to contact the voter, the following guidelines should be observed. See (c) of this Section for the suggested contents of a letter to the voter.

(1) If the postal service has provided a forwarding address on the returned mailing envelope, mail a letter to the voter at that address.

(2) If the ballots were not mailed to the voter's residence address, mail a letter to the voter at the residence address or to the mailing address provided on the voter's voter registration application.

(3) If the ballots were mailed to a uniformed services voter or an overseas voter and were returned with a forwarding address, mail a letter to the voter at that address.

(c) Prepare a letter to the voter explaining that the absentee ballots could not be delivered to the voter by the postal service at the address provided on the absentee ballot application form and that ballots cannot be mailed again to that address. Enclose a new application form and ask the voter to fill it out with a new or a corrected mailing address and to return it. Include the deadline for absentee ballot applications for the affected election, or for the next election covered by the original application.

(d) If a voter whose absentee ballots were returned undelivered by the postal service contacts the County Election Board to inquire about the ballots, follow the procedures outlined in 230:30-17-1 through 230:30-17-4 to replace the ballots.

SUBCHAPTER 15. STATE WRITE-IN ABSENTEE BALLOTS [REVOKED]

230:30-15-1. Voters eligible to use state write-in absentee ballot [REVOKED]

~~Uniformed services voters and overseas voters who cannot vote by regular mail absentee ballot because of the time required for ballot transit may request the state write-in absentee ballot. The state write-in absentee ballot may be used to vote only for statewide and federal candidates in the Primary, Runoff Primary and General Elections. It also may be used in the Presidential Preferential Primary Election.~~

230:30-15-2. Applications for state write-in absentee ballot [REVOKED]

~~Uniformed services voters and overseas voters may apply for the state write-in absentee ballot with the Federal Post Card Application (FPCA) or by writing a letter setting forth substantially the same facts as included on the FPCA. The FPCA or letter may be submitted by regular mail, by electronic facsimile device (a "fax" machine), or by electronic mail as outlined in 230:30-9-5.2. The voter must specifically request the state write-in absentee ballot. The remarks section (Section 5) on the FPCA may be used by the voter to request the state write-in absentee ballot. The voter also may request regular absentee ballots. See 230:30-5-5. The voter may request that the state write-in absentee ballot be transmitted by electronic mail. See 230:30-9-5.2.~~

230:30-15-3. Time for state write-in absentee ballot applications [REVOKED]

~~Uniformed services voters and overseas voters eligible to use the state write-in absentee ballot may apply for it within 90 days before an election that involves candidates for statewide or federal offices.~~

230:30-15-4. State write-in absentee ballot provided by State Election Board [REVOKED]

~~(a) The State Election Board will provide the Secretary of the County Election Board with atemplate of each state write-in absentee ballot not less than 90 days before an election involving candidates for statewide offices and/or candidates for federal offices.~~

~~(b) Upon receipt of the state write-in absentee templates from the State Election Board, the following procedure shall be observed:~~

~~(1) Save the file or files on the County Election Board computer.~~

~~(2) Write or stamp "Special Write-In Ballot" on several red-and-white outer envelopes.~~

~~(3) Place the prepared outer envelopes in a secure place until an application for the state write-in absentee ballot is received.~~

230:30-15-5. Processing applications for state write-in absentee ballots [REVOKED]

~~(a) When an application for a state write-in absentee ballot is received from a uniformed services voter or an overseas voter, the following procedure shall be observed to prepare and transmit the ballot by regular mail:~~

~~(1) If the application is for a Primary or Runoff Primary Election, determine the voter's political affiliation. See item 7 on the FPCA. If the voter does not indicate a political affiliation in the application for a Primary, Runoff Primary, or Presidential Preferential Primary Election, the voter will not receive the state write-in absentee ballot for~~

~~the Primary, Runoff Primary, or Presidential Preferential Primary Election.~~

~~(2) Select and prepare the appropriate state write-in absentee ballot for the voter.~~

~~(A) Open the appropriate ballot template.~~

~~(B) Enter the correct ballot number in the space provided on the ballot stub.~~

~~(C) Enter the county name in the spaces provided on the stub and on the ballot.~~

~~(D) Enter the correct United States Representative District number in the space provided on the ballot.~~

~~(3) Print one copy of the appropriate state write-in absentee ballot.~~

~~(4) Cut the ballot from the stub.~~

~~(5) Prepare and print the followingdocuments:~~

~~(A) Dear Voter letter.~~

~~(B) Instructions for Voting by Write-In Absentee Ballot.~~

~~(C) aCandidate List, if available. See 230:30-15-6.~~

~~(6) Prepare a red and white uniformed services/overseas voter packet for the voter, using the outer envelopes labeled "Special Write-in Ballot." See 230:30-15-4.~~

~~(7) Mail the prepared packet, with the ballot, to the voter.~~

~~(b) When an application for a state write-in absentee ballot is received from a uniformed services voter or an overseas voter, and when the voter has requested to receive the state write-in absentee ballot by electronic mail, the procedure outlined in 230:30-9-5.2 shall be observed to transmit the ballot and related balloting materials listed in (a)(5) of this Section by electronic mail.~~

230:30-15-6. List of candidates [REVOKED]

~~The State Election Board will provide each County Election Board with a list of candidates for each statewide or federal office on the ballot as soon as it is available before an election. The list of candidates shall be sent either by regular or electronic mail to voters who request the state write-in absentee ballot. If the list is available when the state write-in absentee ballot is sent, it shall be sent with the ballot. If the list is not available at the time the ballot is sent, the list shall be sent to the voter as soon as it becomes available by the same method the ballot was sent.~~

230:30-15-7. Voters who request both regular and state write-in absentee ballots [REVOKED]

~~Uniformed services voters and overseas voters are entitled by law to apply for both the state write-in absentee ballots and regular absentee ballots for the same election. The two requests may be made in the same application or may be made separately. If a uniformed services voter or an overseas voter requests both regular and state write-in absentee ballots, the state write-in absentee ballot shall be mailed in one set of absentee envelopes as outlined in 230:30-15-5, and the regular absentee ballots shall be mailed in a separate set of absentee envelopes as outlined in 230:30-9-2. The request for regular ballots shall be processed as outlined in 230:30-9-5. In the event that a voter requests that the state write-in absentee ballot be transmitted by electronic mail, the ballot shall be sent according to the procedure outlined in 230:30-9-5.2 and the state write-in absentee ballot shall not be sent by regular mail.~~

230:30-15-8. Time for return of state write-in absentee ballots [REVOKED]

~~Voted state write-in absentee ballots must be received by the County Election Board no later than 7 p.m. election day in order to be counted, except in the Runoff Primary Election. State write-in absentee ballots cast by uniformed services and overseas voters in the Runoff Primary Election may be accepted and counted through the fourteenth day following the election. See 230:30-19-15.~~

230:30-15-9. Rules for counting state write-in absentee ballots [REVOKED]

~~A state write-in absentee ballot shall be opened and counted only if regular absentee ballots from the voter are not received prior to 7 p.m. election day, except for the Runoff Primary Election. See 230:30-19-15. If regular absentee ballots are received from the voter prior to 7 p.m. election day, those regular absentee ballots shall be counted and the state write-in absentee ballots shall be rejected without being opened. If only the state write-in absentee ballot is received by the County Election Board prior to 7 p.m. election day, it shall be opened and shall be counted, provided that the affidavit is properly executed. When counting state write-in absentee ballots, the following provisions shall be observed:~~

~~(1) The requirements for the affidavit are the same as those for a regular absentee ballot from a uniformed services voter or an overseas voter. See 230:30-9-5.~~

~~(2) The voter may write in the names of specific candidates or the name of the party that the voter prefers.~~

~~(3) In the General Election, the voter may write in a party preference for each office.~~

~~(4) State write-in absentee ballots shall be counted as outlined in 230:30-19-6.~~

SUBCHAPTER 17. REPLACEMENT OF LOST OR UNDELIVERED ABSENTEE BALLOTS

230:30-17-1. Replacement of lost or undelivered absentee ballots [REVOKED]

~~Absentee voters who lose or do not receive the absentee ballots mailed to them by the County Election Board may apply for a second set of absentee ballots to replace the original set. [26:14-121.1] An application for replacement absentee ballots cannot be made earlier than seven days after the ballots were mailed by the County Election Board. [26:14-121.1]~~

230:30-17-2. Applications for replacement absentee ballots [REVOKED]

~~(a) An application for replacement absentee ballots must be made in writing. [26:14-121.1] The voter is required to swear~~

~~or affirm that the first set of absentee ballots either was received but subsequently lost by the voter or that it was not received and that the voter will vote and return only one set of absentee ballots. [26:14-121.1] The voter shall personally sign the written request and the voter's signature shall be acknowledged in the same manner as required on the affidavit envelope that accompanies the voter's ballots. [26:14-121.1]~~

~~(1) If the voter receives a yellow affidavit envelope, the voter's signature must be notarized.~~

~~(2) If the voter receives a pink affidavit envelope, the voter's signature must be witnessed by two persons whose names and addresses must be included on the application.~~

~~(3) If the voter receives a red and white affidavit envelope, the voter's own signature is sufficient.~~

~~(b) The voter may use the Application for Replacement Absentee Ballots form, but use of the form is not required. [26:14-121.1] A letter setting forth the same facts shall be a sufficient application, provided that it is signed by the voter and acknowledged in the same manner as required on the affidavit envelope that accompanies the voter's ballots. [26:14-121.1] See (a) of this Section. The application for replacement absentee ballots may be transmitted to the County Election Board in person by the voter, by United States mail or by an agent designated by the voter. [26:14-121.1]~~

230:30-17-3. Voter's agent [REVOKED]

~~A voter who applies for replacement absentee ballots may designate an agent to transmit the application to the County Election Board. [26:14-121.1] This agent may be anyone of the voter's choosing who is at least 16 years of age, provided that the agent is not employed by nor related within the third degree of consanguinity or affinity to any person whose name appears on the ballot. [26:14-121.1] No person may be an agent for more than one voter at any election. [26:14-121.1]~~

230:30-17-4. Transmittal of replacement absentee ballots [REVOKED]

~~The replacement absentee ballots shall be transmitted to the voter in the same manner as was the original set of absentee ballots. The voter shall return the voted replacement ballots to the County Election Board in the same manner as required for the original set of absentee ballots. [26:14-121.1]~~

SUBCHAPTER 19. COUNTING THE BALLOTS

PART 1. COUNTING ABSENTEE BALLOTS ON ELECTION DAY

230:30-19-4. Procedure for counting absentee ballots on election day

(a) On the day of the election at such time as the Secretary of the County Election Board may prescribe, the County Election Board shall meet to count absentee ballots. The following procedure shall be observed to count ballots received by mail or private delivery service.

(1) Outer envelopes first shall be removed and the affidavits examined as outlined in 230:30-11-2.

(2) The properly executed affidavit envelopes shall be opened by the County Election Board, and the ballot envelopes shall be removed as outlined in 230:30-11-3. [26:14-125(A)(1)]

(3) The unopened ballot envelopes shall be placed inside a ballot box. [26:14-125(A)(2)] The ballot box shall be shaken to mix the ballot envelopes. [26:14-125(A)(3)]

(4) The ballot envelopes shall be removed from the box. [26:14-125(A)(3)] The ballot envelopes shall be opened, and the ballot cards removed. [26:14-125(A)(3)] If an Oklahoma Voter Registration Application form has been enclosed by an inactive voter inside the ballot envelope, remove it and set it aside to be processed later. Proceed to the next step.

(5) ~~If more than one absentee precinct has been created for the election, the ballots shall be sorted by ballot style into the appropriate absentee precinct before counting begins.~~

~~(6)~~ The Secretary shall assign an employee of the County Election Board to each voting device or high-speed scanner to be used ~~for in-person absentee voting~~ to count the absentee ballots. ~~The voting device tape generated during the in-person absentee voting period shall remain attached to the voting device. [26:14-125(A)(3)] The memory pack used for in-person absentee voting shall be received from the Sheriff and shall be installed in the voting device. [26:14-115.4(B)(6)] Seals shall be installed on the ballot box as described in 230:35-5-32(7).~~ The County Election Board Chairman and Vice Chairman shall be present and shall observe the counting process. ~~Counties that use the Optech IV-C, a high-speed ballot counting device, shall not be required to use the same voting device and memory pack used for in-person absentee voting to count regular absentee ballots.~~

(~~7~~ 6) The person assigned to operate the voting device shall insert the absentee ballot cards one at a time into the voting device until all absentee ballots received to that point have been counted. This procedure shall be repeated as necessary as additional absentee ballots are received until 7 p.m. The following factors shall be considered. Counties using high-speed scanners to count mail absentee ballots shall follow the specific instructions provided for operation of those machines scan ballots and to resolve, if possible, any problems with ballots the scanner rejects.

(A) In no event shall fewer than 12 absentee ballot cards be counted at any one time, unless fewer than 12 ballot cards are received in total or after the first count is completed. [26:14-125(B)]

(B) If the voting device returns a ballot because of an overvote or other error made by the voter when marking the ballot, ~~use the override key to~~ accept the ballot. See 230:35-5-162. [26:14-125(B)]

(C) In the event that a ballot ~~card~~ is ~~so badly damaged or mutilated~~ damaged or defaced, as outlined in

230:30-19-5(a), to the extent that it cannot be read and counted by the voting device, the procedure described in 230:30-19-5(b) shall be observed.

(D) If the first count of absentee ballots is completed prior to 7 p.m., the memory pack shall be removed from the voting device, placed inside the padded bag, and sealed inside a black-lettered envelope. The person operating the voting device, the Chairman and the Vice Chairman each shall sign the envelope flap. The person operating the voting device shall indicate on the envelope flap the time the count was completed as follows: "Absentee ballot count ended at 5:20 p.m. 11/5/96." The envelope shall be placed in the Sheriff's custody until it is needed to count additional absentee ballots received before 7 p.m.

~~(E) In no event shall the Totals Printout for absentee ballots be obtained until after 7 p.m. on election day.~~

(~~8~~7) In the event that ~~the voting device or memory pack~~ the election results storage device in a voting device used during in-person absentee voting ~~malfunctions in such a way that a Totals Printout cannot be obtained,~~fails and results cannot be read into the tabulation computer, the tabulation computer operator shall contact the State Election Board for instructions to access the backup memory device in the voting device. If, for any reason, the backup memory in the voting device cannot be accessed, an election night recount of all ballots cast on that voting device during in-person absentee voting shall be conducted as outlined in 230:35-3-85.1. If an election night recount of ~~absentee~~ ballots cast during in-person absentee voting is required, the Secretary shall obtain the sealed ballot transfer cases containing voted ~~in-person~~ absentee ballots from the Sheriff before beginning the recount procedure. [26:14-115.4(B)(7)]

(~~9~~8) As soon as possible after 7 p.m. and after all absentee ~~ballot cards~~ ballots received prior to 7 p.m. have been processed through the voting device, ~~the Totals Printout for absentee ballots shall be obtained. See 230:35-5-75.1. At least three copies of the Totals Printout shall be generated~~ the election results storage device shall be removed from each voting device or high-speed scanner used to count mail and nursing home absentee ballots and the election results storage device or devices used during in-person absentee voting shall be returned by the Sheriff.

~~(10) The Totals Printouts shall be signed by the person assigned to operate the voting device and by the County Election Board members.~~

(9) These election results storage devices shall be given to the tabulation computer operator to be read and tabulated as soon as possible after 7 p.m. The tabulation computer operator shall print a Cumulative Report and a Precinct Report from Tally immediately after reading and tabulating the election results for in-person absentee voting and for mail and nursing home absentee ballots. One copy of each report shall be posted on the door of the County Election Board office and additional copies shall be made available to the news media and other interested persons as requested.

(~~11~~10) The person assigned to operate the voting device ~~shall break the seals on the~~ shall open the main compartment of the ballot box, remove the ballots, and ~~shall~~ place them inside a ballot transfer case. ~~If the election required more than one absentee precinct, a separate ballot transfer case shall be used for ballots from each absentee precinct. One copy of the Totals Printout shall be placed inside the ballot transfer case with the ballot cards.~~ The ballot transfer case shall be sealed with a long white State Election Board seal and the seal shall be signed by the person who operated the voting device and by the County Election Board members.

~~(12) One copy of the Totals Printout for each absentee precinct shall be posted on the door of the County Election Board office~~.

(b) ~~State or federal~~ Federal write-in absentee ballots submitted by uniformed services and overseas voters, ballots issued by electronic mail to uniformed services and overseas voters, and ballots ~~received~~ returned by fax from uniformed services or overseas voters shall be counted by following the procedure described in 230:30-19-6.

230:30-19-5. Procedure for counting mutilated ballots

(a) In the event that a ballot is mutilated, defaced, or damaged in one of the following ways so that it cannot be read by the voting device, the procedure outlined in (b) of this Section shall be observed.

(1) The ballot is mutilated by the voting device during the counting process.

(2) The ballot is damaged by County Election Board personnel when the ballot envelope is opened.

(3) The ballot is damaged ~~because the voter folded it incorrectly or~~ because the voter altered the ballot's original size and/or shape, marked through a bar code, or attempted to correct an error by using correction fluid.

(b) If the ballot was damaged in one of the ways outlined in (a) of this Section, County Election Board members are authorized to mark a substitute ballot to replace the damaged ballot. The substitute ballot shall be marked by two members of the County Election Board of different political affiliations. The substitute ballot shall be marked exactly as the damaged ballot was marked insofar as it is possible. If the ballot is damaged so extensively that the two County Election Board members cannot agree on how the ballot was marked, no substitute ballot shall be marked, and the damaged ballot shall be invalidated. The substitute ballot shall then be inserted into the voting device to be counted. The County Election Board members shall make a written record of their actions and the damaged ballot shall be retained with such record.

(c) The procedure outlined in (b) of this Section shall not be applied to ballots that are ~~incorrectly~~ marked by the voter with a pencil or with ink that the voting device cannot read or to ballots that are marked outside the voting targets. ~~The override button of the voting device shall be used to accept such ballots as outlined in 230:30-19-4(8)(B).~~ Such ballots shall be accepted as marked.

230:30-19-6. Marking substitute ballot to count write-in ballots, faxed ballots, and ballots transmitted to voters by electronic mail

In the event that the County Election Board must count a federal write-in absentee ballot, ~~a state write-in absentee ballot,~~ a regular ballot received by fax, or an absentee ballot transmitted to the voter by electronic mail, the following procedure shall be observed.

(1) The Secretary shall verify that regular mail absentee ballots from the voter or voters were not received by 7 p.m. on election day.

(2) A federal ~~or state~~ write-in ballot may be counted for federal and statewide offices only.

(A) The Secretary shall provide a blank absentee ballot ~~of~~ for the appropriate ~~style~~ precinct.

(B) The Chairman of the County Election Board shall read the voter's write-in ballot and the Vice Chairman shall mark the blank ballot for the voter's choice for federal and statewide offices only.

(C) The Chairman, Vice Chairman, and Secretary shall review the substitute ballot and shall agree that it is marked exactly as the voter's write-in ballot was marked.

(D) The Secretary shall write identical numbers on the back of each original write-in ballot and on the back of the substitute ballot, being careful to avoid the area of the voting tracks. For example, the first such ballot and its substitute shall be marked "1," the second, "2," etc.

(E) The Secretary shall direct a County Election Board staff member to insert the substitute ballot in the appropriate absentee voting device.

(3) A regular ballot returned by fax shall be counted for all offices and questions for which the voter's markings can be discerned.

(A) The Secretary shall provide a blank absentee ballot ~~identical to the style originally mailed, e-mailed, or faxed to~~ for the ~~voter~~ voter's precinct.

(B) The Chairman of the County Election Board shall read the voter's choice for each office and question on the ballot and the Vice Chairman shall mark the ballot.

(C) The Chairman, Vice Chairman, and Secretary shall review the substitute ballot and shall agree that it is marked exactly as the faxed copy of the voter's ballot is marked.

(D) The Secretary shall write identical numbers on the back of each faxed ballot and on the back of the substitute ballot, being careful to avoid the area of the voting tracks. For example, the first such ballot and its substitute shall be marked "1," the second, "2," etc.

(E) The Secretary shall direct a County Election Board staff member to insert the substitute ballot in the appropriate ~~absentee~~ voting device.

(4) A regular ballot transmitted to a voter by electronic mail and returned either by mail or by fax shall be counted for all offices and questions for which the voter's markings can be discerned. Follow the steps outlined in (3) (A) through (E) of this Section to count the ballot.

(5) In the event that a federal ~~or state~~ write-in ballot is marked for a candidate or a political party not on the ballot in Oklahoma, no substitute ballot shall be marked. The minutes of the County Election Board meeting shall indicate both that the ballot could not be counted and the reason.

(6) In the event that a ballot received by fax is illegible and the voter's markings cannot be discerned, no attempt shall be made to mark a substitute ballot. The minutes of the County Election Board meeting shall indicate both that the ballot could not be counted and the reason.

(7) The Secretary shall document in the minutes of the County Election Board meeting the number of substitute ballots marked and inserted in the absentee voting device~~, and the~~. The original federal write-in absentee ballot, ~~state write-in absentee ballot,~~ or faxed ballot shall be retained with all other absentee ballots for the election. The voter's affidavit and any other accompanying materials shall be retained with other similar absentee voting materials.

PART 3. RECEIVING AND COUNTING OVERSEAS ABSENTEE BALLOTS FOR RUNOFF PRIMARY ELECTION AFTER ELECTION DAY

230:30-19-15. Absentee ballots from overseas voters shall be received and counted after election day for Runoff Primary Elections for federal offices [REVOKED]

~~(a) Absentee ballots cast by overseas voters, including uniformed services voters who are absent from the United States on election day by reason of active duty, and received by the County Election Board Secretary no later than 5 p.m. on the fourteenth day following the Runoff Primary Election shall be accepted, counted, and included in the final election results for federal offices only. Only ballots from such voters received by mail or by private delivery service shall be counted. In the event a ballot from an overseas voter is received by fax prior to 7 p.m. on election day, it shall be counted. See 230:30-11-6.1. A ballot received by mail from the same voter after election day through the fourteenth day following the Runoff Primary Election shall not be counted.~~

~~(b) If there is no Runoff Primary Election for a federal office in the county, no absentee ballots received after election day shall be counted. The County Election Board shall certify the results of all offices on the ballot to the State Election Board at 5 p.m. on Friday following the election as outlined in 230:35-3-91.~~

230:30-19-16. Determining outstanding overseas absentee ballots on Runoff Primary Election night [REVOKED]

~~(a) After 7 p.m. on the night of the Runoff Primary Election, the Secretary of the County Election Board shall take the following steps.~~

~~(1) Determine the number of absentee ballots mailed to overseas voters, including overseas uniformed services voters, that have not been returned.~~

~~(2) Determine whether any ballots from overseas voters were received by fax prior to 7 p.m.~~

~~(3) Subtract the number of ballots received by fax from overseas voters from the total number of overseas ballots to determine the total number of outstanding overseas absentee ballots.~~

~~(4) Complete the report form provided by the State Election Board and fax to State Election Board.~~

~~(b) If there are no outstanding overseas absentee ballots for the Runoff Primary Election, the County Election Board shall certify the results of the Runoff Primary Election for all offices, including federal offices, at 5 p.m. on Friday as outlined in 230:35-3-91.~~

230:30-19-17. Receiving, processing, and counting overseas absentee ballots for Runoff Primary Election after election [REVOKED]

~~(a) If the Secretary determines that there are outstanding absentee ballots from overseas voters for the Runoff Primary Election, as outlined in 230:30-19-16, the Secretary shall prepare and lock a ballot box as instructed in 230:30-11-1. When absentee ballots for the Runoff Primary Election are received from overseas voters after election day, enter the received date in MESA. The computer will indicate rejection of the ballot because of the late date, but the ballot must be counted. However, if a ballot received by fax from the voter was counted on election night, the late mail ballot shall not be counted.~~

~~(b) At 5 p.m. on the fourteenth day following the Runoff Primary Election, the County Election Board shall meet to count any late absentee ballots and to certify the county's final Runoff Primary Election results for federal offices. Follow the procedures in 230:30-19-4 and in 230:30-11-2 to open outer envelopes, to examine the affidavits, and to open affidavit and secrecy envelopes.~~

~~(1) Late absentee ballots shall be counted and tallied manually. Only validly cast votes for federal offices shall be counted. See 230:45-5-19 and 230:45-5-20 for instruction for counting ballots manually.~~

~~(2) After the ballots have been counted, results shall be entered manually in MESA. Follow the appropriate software instructions to add the results of late overseas absentee ballots for federal offices only.~~

~~(3) Follow the appropriate software instructions to prepare and print two copies of the Official Certification Report for federal offices. Certify the results as outlined in 230:35-3-91.~~

~~(4) Immediately fax the Official Certification Report to the State Election Board. Also, mail one of the signed and sealed copies to the State Election Board. Retain the second copy for the County Election Board records.~~

~~(5) Follow the appropriate software instructions to complete the election in MESA.~~

~~(6) Complete the report form provided by the State Election Board and mail or fax it to the State Election Board as instructed.~~

SUBCHAPTER 21. RECORDING ABSENTEE VOTING

230:30-21-1. List of ~~Absentee Voter Applications~~ absentee voter applications available

On Monday prior to the election the Secretary shall print a copy of the ~~List of~~ Absentee Voter ~~Applications~~ List report compiled by ~~OEMS~~ MESA and shall make the ~~list~~ report available for public inspection in the County Election Board office. [26:14-130] If additional applications for emergency incapacitated absentee ballots are received after the ~~list~~ report is printed, a new copy ~~of the list~~ shall be printed and posted.

230:30-21-2. Credit for absentee voting

Absentee voters receive credit for voting in the election when the date their voted ballots were received by the County Election Board is entered into their application information in ~~OEMS~~ MESA.

[OAR Docket #13-1007; filed 6-3-13]

TITLE 230. STATE ELECTION BOARD
CHAPTER 35. ELECTION CONDUCT

[OAR Docket #13-1008]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
230:35-1-2. Definitions [AMENDED]
Subchapter 3. County Election Board Responsibilities
Part 1. Before the Filing Period
230:35-3-2. Orders for election supplies required by May 1 [REVOKED]
230:35-3-2.1. Election supplies provided by the State Election Board [NEW]
230:35-3-3. Assembling precinct supplies [AMENDED]
230:35-3-6. Ballot quantity reports [REVOKED]
230:35-3-7. Ballot numbers on Precinct Check List [REVOKED]
Part 3. Ballots
230:35-3-17. Ballots to be examined [AMENDED]
230:35-3-18. Recording ballot numbers and storing state ballots [AMENDED]
230:35-3-20. County Election Board certifies names [REVOKED]
Part 5. Precinct Official Payroll
230:35-3-31.1. Secretary shall determine mileage for Precinct Officials [AMENDED]
230:35-3-33. Funds for Precinct Official compensation [AMENDED]
230:35-3-41. Itemized claim for election expenses [AMENDED]
230:35-3-49. Audit of the Special Depository Account [AMENDED]
Part 9. Distributing Supplies and Ballots
230:35-3-68. Assembly line distribution of supplies to Inspectors [AMENDED]
230:35-3-68.1. Issuing voting devices and voting device materials [AMENDED]
230:35-3-68.2. Special ballot box preparation instructions when heavy voter turnout is anticipated [AMENDED]
230:35-3-70. Pollsters [REVOKED]

230:35-3-71. Voting device not issued to precinct polling place [AMENDED]
Part 11. Election Day
230:35-3-75. Precinct procedures in ~~MANUAL~~ The Manual for Precinct Election Officials section of Precinct Official Notebook [AMENDED]
230:35-3-76. Familiarity with procedure necessary [AMENDED]
Part 13. After the Polls Close
230:35-3-83. Smooth flow of returns necessary [AMENDED]
230:35-3-84. Assembly line required for receiving returns and materials from Inspectors [AMENDED]
230:35-3-84.1. Determining number of signatures on Provisional Ballot Rosters [AMENDED]
230:35-3-85.1. Election night recounts [AMENDED]
230:35-3-85.2. Addressing voting device printer failure, election results storage device failure, and/or backup memory device failure [NEW]
230:35-3-85.3. Removing election results storage device from voting device [NEW]
230:35-3-85.4. Obtaining and securing cast vote records for ATI ballots [NEW]
230:35-3-86. Sheriff to provide security for voted ballots [REVOKED]
230:35-3-87. Accumulating and ~~producing~~ verifying election results [AMENDED]
Part 15. Certification of Results
230:35-3-91. Certifying county election results [AMENDED]
230:35-3-91.1. Certificates of Election for unopposed candidates [AMENDED]
230:35-3-92. Tie votes [REVOKED]
230:35-3-93. Credit for voting [AMENDED]
Part 17. Disposition of Materials
230:35-3-98. Disposing of ballots [AMENDED]
230:35-3-100. Disposing of ~~Totals Printouts~~ Tally Reports [AMENDED]
230:35-3-101. Processing ~~FORMS FOR USE BY PRECINCT OFFICIALS booklets~~ forms used on election day by Precinct Officials [AMENDED]
230:35-3-103. Disposing of supplies [AMENDED]
Part 19. Verifying and Counting Provisional Ballots
230:35-3-126. Criteria for verification of provisional ballot affidavit information [AMENDED]
230:35-3-128. Provisional ballot verification procedure for voter without proof of identity [AMENDED]
230:35-3-130. Provisional ballot verification procedure for voter who disagrees with school district, technology center district, or municipal assignment [AMENDED]
230:35-3-131. Opening provisional ballot affidavit envelopes and counting provisional ballots [AMENDED]
230:35-3-132. Obtaining provisional ballot results [AMENDED]
Part 21. Proof of Identity
230:35-3-140. Proof of identity required for voting [AMENDED]
230:35-3-141. Documents that may be used for proof of identity [AMENDED]
Subchapter 5. Instructions for Precinct Election Officials
Part 1. Precinct Election Board
230:35-5-1. Purpose [AMENDED]
230:35-5-2. Publication of ~~THE MANUAL FOR PRECINCT ELECTION OFFICIALS~~ The Manual for Precinct Election Officials [AMENDED]
230:35-5-8. Authority of Inspector [AMENDED]
Part 3. Preparations for Election Day
230:35-5-17. Receiving supplies and ballots [AMENDED]
230:35-5-17.1. ~~Voting device and ballot~~ Ballot box, voting booths, and signs [AMENDED]
Part 5. Preparations on Election Day
230:35-5-28. Preparation of polling place [AMENDED]
230:35-5-29. Location and materials for Judge [AMENDED]
230:35-5-31. Location and materials for Inspector [AMENDED]
230:35-5-32. Preparation of voting device [AMENDED]
230:35-5-32.1. Special instructions for preparing ballot box when heavy voter turnout is expected [REVOKED]
Part 7. General Guidelines
230:35-5-36. Primary function [AMENDED]
230:35-5-37. No member may leave polling place [AMENDED]
230:35-5-38. Election results reported to news media [AMENDED]
230:35-5-39. Violations of the law [AMENDED]
230:35-5-40. Problems [AMENDED]
230:35-5-41. Inspector's Notes to Secretary [AMENDED]
Part 9. Opening the Polls
230:35-5-47. Before processing first voter [AMENDED]
Part 11. Processing the Voter
230:35-5-53. Order of voting [REVOKED]
230:35-5-54. Time limit [AMENDED]
230:35-5-55. Routine for Judge [AMENDED]
230:35-5-56. Routine for Clerk [AMENDED]
230:35-5-57. Routine for Inspector [AMENDED]
230:35-5-58. Additional duties of Inspector [AMENDED]
230:35-5-59. Voter assistance [AMENDED]
Part 15. After the Polls Close
230:35-5-70. Closing the polls [AMENDED]
230:35-5-75.1. Obtaining ~~Totals Printout~~ Detail Report and Tally Report [AMENDED]
230:35-5-75.2. Securing the voting device [AMENDED]
230:35-5-75.3. Completing election night tasks [AMENDED]
230:35-5-76. Repacking supplies [AMENDED]
230:35-5-79. Inspector returns to the County Election Board office [AMENDED]
230:35-5-81. Inspector shall not leave [AMENDED]
Part 19. Precinct Problem Solver
230:35-5-105. Publication of ~~PRECINCT PROBLEM SOLVER~~ Precinct Problem Solver [AMENDED]
Part 21. Voters Listed in Precinct Registry Who Have Problems with Eligibility
230:35-5-113.2. Determining voter's school district or municipality [AMENDED]
Part 23. Voter Assistance
230:35-5-119. Assistance outside the polling place for physically disabled or infirm voter [AMENDED]
230:35-5-120.1. Assistance inside the polling place for blind or visually disabled voters, physically disabled voters, or illiterate voters [AMENDED]
Part 25. Special Services
230:35-5-127. Spoiled ballots [AMENDED]
230:35-5-129. Cancellation of registration of deceased voter [AMENDED]
Part 27. Watchers and Pollsters
230:35-5-134. Watchers [AMENDED]
230:35-5-136. Pollsters [AMENDED]
Part 29. Violations of the Law
230:35-5-141. Electioneering prohibited [REVOKED]
230:35-5-142. Disclosure of vote prohibited [REVOKED]
230:35-5-143. Intoxicating liquor prohibited [REVOKED]
230:35-5-144. Voting ballots issued [REVOKED]
230:35-5-145. Persons authorized inside election enclosure [REVOKED]
230:35-5-146. Action when laws are violated [AMENDED]
Part 31. Malfunction of Voting Device
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230:35-5-151. Voting device stops accepting ballots [REVOKED]
230:35-5-153. Emergency compartment of ballot box [REVOKED]
230:35-5-154. Removing ballots from emergency compartment [REVOKED]
Part 33. Operation of Voting Device
230:35-5-159. Voting device messages [REVOKED]
230:35-5-160. Responding to voting device messages [REVOKED]
230:35-5-161. Ballots returned by voting devices [REVOKED]
230:35-5-162. Override button [REVOKED]
Part 34. Provisional Voting Procedures
230:35-5-172. Voter with no proof of identity [AMENDED]
230:35-5-174. Voter disputes school district, technology center district, or municipal assignment in Precinct Registry [AMENDED]
230:35-5-176. Filling out a Provisional Ballot Voucher [AMENDED]
230:35-5-177. Provisional voting procedure [AMENDED]
230:35-5-177.1. Provisional voting procedure for voter using the ATI [NEW]
Subchapter 9. Hava Requirements
Part 3. Provisional Voting
230:35-9-7. Voters who may cast a provisional ballot [AMENDED]
Part 5. Voter Identification
230:35-9-16. Some voters required to present identification when voting for first time in election for federal office [REVOKED]
Subchapter 11. Election Law Violations [REVOKED]

230:35-11-1. Purpose [REVOKED]
230-35-11-2. Misdemeanors [REVOKED]
230:35-11-3. Failure to perform duty [REVOKED]
230:35-11-4. Expenditure of public funds [REVOKED]
230:35-11-5. Electioneering prohibited [REVOKED]
230:35-11-6. Intoxicating liquors [REVOKED]
230:35-11-7. Interference with voter or conduct of election [REVOKED]
230:35-11-8. Disclosure by voter [REVOKED]
230:35-11-9. Disclosure by election official [REVOKED]
230:35-11-10. Disclosure of count [REVOKED]
230:35-11-11. Felonies [REVOKED]
230:35-11-12. Illegal printing or possession of certain voting materials [REVOKED]
230:35-11-13. Voting illegally [REVOKED]
230:35-11-14. Unauthorized persons transporting ballots [REVOKED]
230:35-11-15. False applications for absentee ballots [REVOKED]
230:35-11-16. False swearing [REVOKED]
230:35-11-17. Unauthorized registration of voters [REVOKED]
230:35-11-18. False notarization [REVOKED]
230:35-11-19. Fraud [REVOKED]
230:35-11-20. Bribes to influence votes [REVOKED]
230:35-11-21. Bribe for withdrawal of candidacy [REVOKED]
230:35-11-22. Coercion prohibited [REVOKED]

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Title 26 O.S., Section 2-107. Secretary of the State Election Board

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SUPERSEDED EMERGENCY ACTIONS:
n/a

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n/a

ANALYSIS:
The Secretary of the State Election Board and experienced State Election Board staff members conducted a thorough review and analysis of the rules and determined that since the original drafting, adoption, and implementation of the rules in the mid-1970s, and even since the codification of the rules in the early 1990s, the needs of the election officials that the rules were designed to meet have changed.

The rules formed the foundation of Oklahoma's uniform, unified election system. Still today, Oklahoma is the only state in whichevery county follows the same uniform procedures, uses the same forms and software to administer voter registration and absentee voting, and also uses the same voting devices and uniformly designed ballots in every precinct.

In the early days of Oklahoma's modern election system, the rules intentionally were drafted to duplicate the content of Title 26 of the Oklahoma Statutes. When Oklahoma's election laws were modernized and recodified in 1974, the first State Election Board rules were created not only as the official "interpretation" of the new laws but also as a means of communicating the requirements of the new laws and the procedures needed to implement them to both county- and precinct-level officials.

Before the implementation of the new election code in 1974, the County Election Board Secretary had only a printed copy of the election laws with which to run his or her office and conduct elections. Now, almost 40 years later, the County Election Board Secretary has access to an array of publications to perform almost every election-related task.

The amendments in Chapter 35 have the following purposes. All rules that only duplicate statutory language and provisions are revoked. Some rules are amended to remove language that duplicates statutory language or provisions while leaving intact language that is not statutory but that is necessary for proper implementation of the statutes. Rules are amended to update all references to the election administration software and hardware used by the State Election Board and by the 77 County Election Boards from OEMS B the designation of the legacy system that will be removed from service in July, 2013, B to MESA, OEMS's successor system. By July 1, 2013, MESA will absorb all the functions of the older system. Some amendments conform certain election conduct dates and deadlines to the current election calendar established by law. Some amendments concern the use of new and/or significantly revised publications and forms used by County Election Board personnel and by Precinct Officials on election day. Some amendments concern procedural changes necessitated by the specific functions and capabilities of the new voting device system and/or the new election management software.

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

SUBCHAPTER 1. GENERAL PROVISIONS

230:35-1-2. Definitions

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

"Federal election" means ~~an~~ a regular or special election involving candidates for federal offices ~~held on the last Tuesday in July; the fourth Tuesday in August; and the first Tuesday after the first Monday in November in even-numbered years; the first Tuesday in February of an even-numbered year in which the President and Vice President of the United States are to be elected; and the date of a special election called at any other time to fill a vacancy in the office of United States Senator or United States Representative~~.

"MESA" means the Modern Election Support Application software used by County Election Board personnel for voter registration, absentee voting, and election administration and maintenance.

"Proof of identity" means a form of personal identification that meets the requirements listed in 26 O.S., Section 7-114, as amended by State Question 746.

SUBCHAPTER 3. COUNTY ELECTION BOARD RESPONSIBILITIES

PART 1. BEFORE THE FILING PERIOD

230:35-3-2. Orders for election supplies required by May 1 [REVOKED]

~~The Secretary of the County Election Board shall conduct a thorough inventory of all election supplies and shall order additional supplies, if needed, from the State Election Board no later than May 1 in even-numbered years.~~

230:35-3-2.1. Election supplies provided by the State Election Board

The State Election Board prints and/or purchases supplies for conducting elections and distributes them to the County Election Boards. The State Election Board staff, with the assistance of County Election Board personnel, conducts an inventory review of all election supplies during odd-numbered years. The State Election Board staff determines the quantity of election supplies needed by each county for a two-year election cycle and ships those supplies prior to the first regularly scheduled statewide election in even-numbered years. In the event that an unusually large number of special elections depletes the county's election supply inventory, additional supplies may be ordered from the State Election Board as needed.

230:35-3-3. Assembling precinct supplies

(a) Well in advance of any election, the Secretary shall assemble supplies for every precinct and shall pack them in an envelope, a box, a bag, a binder, or another container. The Secretary may use the Supply Envelope and the Supply Box provided by the State Election Board or any other adequate container. Each election supply container shall be labeled for the appropriate precinct. (Some materials cannot be included in the supplies until after ballots are printed.) The Secretary shall prepare and use a Precinct Check List for each precinct to verify that all necessary supplies are included.

(b) The following items shall be included in the election supplies for each precinct. The quantities listed are recommended minimum quantities.

(1) ~~**Publications.**~~ **Precinct Official Notebook.** ~~One each of the following publications shall be included in the election supplies for each precinct.~~

~~(A) THE MANUAL FOR PRECINCT ELECTION OFFICIALS~~

~~(B) PRECINCT PROBLEM SOLVER~~

~~(C) VOTING DEVICE HANDBOOK FOR PRECINCT OFFICIALS~~ One Precinct Official Notebook containing The Manual for Precinct Election Officials, the Precinct Problem Solver, the eScan Election Day Desk Reference, and forms needed by Precinct Officials on election day.

(2) **Forms and handouts.** ~~The~~ In addition to the forms contained inside the Precinct Official Notebook, the following forms and handouts shall be included in the election supplies for each precinct. These items may be included inside the Precinct Official Notebook or in another notebook or container according to the preferences of the Secretary of the County Election Board.

(A) Address Information Requested handouts

(B) ATI Session Log form

(C) Attention All Voters B Proof of Identity Required to Vote sign

(D) Attention Judge notice for proof of identity

(E) Ballot Accounting Form

~~(C) FORMS FOR USE BY PRECINCT ELECTION OFFICIALS booklet~~

(~~D~~ F) Closing the Polls checklist

(G) Oklahoma Voter Registration Application forms

(~~E~~ H) Procedure for Watchers

(~~F~~ I) Secrecy folders

~~(G) Voting Device Report~~

(~~H~~ J) List of ballot codes

(~~I~~ K) Opening the Polls checklist

~~(J) Closing the Polls checklist~~

(~~K~~ L) Packing Supplies checklist

(~~L~~ M) Provisional Ballot Refusal form

(N) Voter Registration Application checklist

(O) Voting Device Report form

(3) **Envelopes.** One of each of the following envelopes shall be included in the election supplies for each precinct.

(A) Envelope for Totals ~~Printout~~ Tally Report

(B) Green envelope for mailing ~~Totals Printout~~ Tally Report to State Election Board (statewide elections only)

(C) Precinct Expense Claim Envelope

(D) Voting Device Key Envelope (and key chain with keys)

(4) **Signs and Maps.** The following signs and maps shall be included in the election supplies for each precinct.

(A) One Attention Voter poster for each voting booth in the precinct

(B) One Oklahoma Election Procedures B Important Voter Information sign (English)

(C) ~~One Oklahoma Election Procedures B Important Voter Information sign (Spanish)~~

~~(D)~~ One Election Law Violations sign

(~~E~~ D) One Vote Here sign

(~~F~~ E) One Voter Eligibility B Municipal Elections

(~~G~~ F) One Voter Eligibility B School Elections

(~~H~~ G) Precinct Map B municipality

(~~I~~ H) Precinct Map B school districts

(~~J~~ I) Precinct Map B other entity

(5) **Other Supplies.** The following additional supplies shall be included in the election supplies for each precinct.

(A) American flag

(B) ~~Twenty ballot marking pens~~ Thirty black ballpoint pens

(C) ~~Twenty ink pens~~

~~(D)~~ One long white State Election Board seal for each ballot transfer box required for the precinct

(~~E~~ D) Official Exit Poll stickers, as needed

~~(F) Two plastic seals for ballot box sides~~

(~~G~~ E) Paper clips

(~~H~~ F) Magnifier

(~~I~~ G) Memory pack bag

(~~J~~ H) Rubber bands

(~~K~~ I) Scissors

(~~L~~ J) Tape
(~~M~~ K) Thumbtacks

(6) **Provisional voting supplies.** The following provisional voting supplies shall be included in the election supplies for each precinct.

(A) Checklist for Provisional Voting Officer
(B) Provisional Voting Information handouts
(C) ~~Identification Required information sheet~~
~~(D)~~ Provisional Ballot Voucher forms
(~~E~~ D) Oklahoma Provisional Ballot Affidavit envelopes
(~~F~~ E) Provisional Ballot Rosters
(~~G~~ F) Orange Provisional Ballot Bag
(~~H~~ G) Blue plastic seal for provisional ballot bag

(7) **Precinct Registry, Voting Device, and ballots.** The Precinct Registry, voting device, and ballots are issued to the Inspector along with the election supplies for each precinct. See 230:35-3-6, 230:35-3-7, 230:35-3-57, and 230:35-3-68.1.

230:35-3-6. Ballot quantity reports [REVOKED]

~~The Secretary shall cause the Ballot Quantity Listing by Style report and the Ballot Quantities by Precinct report to be prepared and printed. The two reports shall be printed at the time ballot specifications are transmitted to the printer and retained with precinct supplies for the election. When ballots are received from the printer or from the State Election Board, the information contained in these reports shall be used to assign ballots to precincts.~~

230:35-3-7. Ballot numbers on Precinct Check List [REVOKED]

~~The ballot numbers that are assigned to each precinct shall be entered by the Secretary on the appropriate Precinct Check List for each precinct in the appropriate space.~~

PART 3. BALLOTS

230:35-3-17. Ballots to be examined

It shall be the duty of the Secretary of the County Election Board to examine ~~each group of~~ all ballots immediately upon receipt from the printer ~~or from the State Election Board~~. Any errors or shortages that are detected shall be reported immediately to the ~~printer or to the~~ State Election Board ~~as appropriate~~ and to the printer.

230:35-3-18. Recording ballot numbers and storing state ballots

After examining the ~~state~~ ballots, the Secretary shall place the ballots in numerical sequence. The Secretary then shall ~~refer to the Ballot Quantities by Precinct report to assign ballots to the appropriate precincts in the~~ appropriate quantities of ballots to each precinct. The ballots shall be placed inside ~~the appropriate~~ ballot transfer box. The ballot transfer box shall be labeled for the precinct and shall not be sealed.

230:35-3-20. County Election Board certifies names [REVOKED]

~~During the week following the filing period, the County Election Board will certify to the State Election Board the names of candidates who have filed for office in the county. In the event a contest develops for one or more of these candidacies, such contest will be noted on the certification, and a final certification will be made upon resolution of the contest.~~

PART 5. PRECINCT OFFICIAL PAYROLL

230:35-3-31.1. Secretary shall determine mileage for Precinct Officials

(a) The Inspector shall be reimbursed for mileage for two round trips from home to the County Election Board office to receive and return election supplies and materials. ~~Mileage is reimbursed at the rate currently allowed by the Internal Revenue Service for a business expense deduction.~~ The Secretary shall determine the total number of miles traveled by all Inspectors and shall include the appropriate ~~amount~~ number of miles in the Pre-Election Expense Claim for the election.

(b) A Precinct Official or special-purpose precinct worker assigned to work at a polling place located ten miles or more from his or her home may be reimbursed for mileage on election day. The Secretary shall determine whether the polling place to which the Precinct Official is assigned is located ten miles or more from the Precinct Official's home. The Secretary may consider not only the straight-line distance between the assigned polling place and the Precinct Official's home but also the distance along the most reasonable route likely to be traveled by the Precinct Official to reach the assigned polling place.

(c) If the Secretary determines that a Precinct Official or special-purpose precinct worker is entitled to receive mileage as outlined in (b), the ~~mileage shall be reimbursed at the rate currently allowed by the Internal Revenue Service for a business expense deduction. The~~ amount of such mileage reimbursement shall be included on the Pre-Election Expense Claim if a reasonable estimate of the amount can be made when the claim is prepared. Otherwise, it shall be included as an item on the Record of Expense following the election.

(1) The Inspector assigned to work at a polling place located ten miles or more from his or her home shall receive mileage reimbursement for a one-way trip from home to the polling place on election day. This shall be in addition to the mileage reimbursement specified in (a) of this Section.

(2) The Judge, Clerk, or a special-purpose precinct worker shall receive mileage reimbursement for a round trip from home to the polling place on election day.

(d) The State Election Board shall maintain the correct mileage rate in MESA.

230:35-3-33. Funds for Precinct Official compensation

(a) **Funds to be submitted to County Election Board.** Not less than 15 days before the election, the entity authorizing an election shall submit funds equal to the estimated amount of

compensation for Precinct Officials, special-purpose precinct workers, and Absentee Voting Board members to the County Election Board Secretary. [26:3-105.1(B)] If the entity fails to submit the funds, the Secretary shall ~~notify~~ call the State Election Board ~~by telephone~~ as soon as possible. ~~The telephone call shall be followed by a letter to the State Election Board verifying that the funds have not been received.~~ No further action shall be taken until directed by the State Election Board.

(b) **Deposit funds in Special Depository Account.** Upon receipt of the funds, the Secretary shall deposit them in the County Election Board Special Depository Account. [26:3-105.1(B)]

230:35-3-41. Itemized claim for election expenses

As soon as possible following the election, the Secretary shall submit an itemized claim for all election expenses to the entity for which the election was conducted. The itemized claim shall be prepared in ~~OEMS~~ MESA and shall show the amount prepaid by the entity for Precinct Official, special-purpose precinct worker, and Absentee Voting Board member compensation deducted from the total amount of election expenses. [26:3-105.1(D)] The appropriate Record of Expense report in ~~OEMS~~ MESA shall be used for all authorizing entities.

230:35-3-49. Audit of the Special Depository Account

Due to the volume of activity in the County Election Board Special Depository Account, this account will be inspected by the State Election Board and audited by the office of the State Auditor and Inspector on a periodic basis. The Secretary shall maintain a record in ~~OEMS~~ MESA of all deposits to the account and all vouchers issued from the account.

PART 9. DISTRIBUTING SUPPLIES AND BALLOTS

230:35-3-68. Assembly line distribution of supplies to Inspectors

Before the first Inspector arrives, an assembly line system shall be established for distributing the materials. The Secretary or clerical employees of the Board may be involved in distribution. In distributing the materials, the following procedure shall be observed:

(1) The Inspector shall receive the Precinct Check List and the election supply container. The Inspector shall verify each item in the container, enter check marks in the appropriate column on the Precinct Check List and close and secure the container as instructed by the Secretary.

(2) The Inspector shall receive the voting device prepared for the precinct. See 230:35-3-68.1.

(~~2~~ 3) The Inspector shall receive the Precinct Registry or Registries.

(~~3~~ 4) The Inspector shall receive the ballots in ballot transfer boxes. The Inspector shall verify the quantities and numbers of each type of ballot and shall enter check marks in the appropriate columns on the Precinct Check List. The Inspector shall replace the ballots in the ballot transfer box.

(~~4~~ 5) If a Watcher is appointed for the precinct, the Secretary shall provide the Inspector with necessary materials and instructions.

(~~5~~ 6) If a Pollster has been authorized to conduct an exit poll in the precinct, the Secretary shall provide the Inspector with all necessary information.

(~~6~~ 7) The Secretary shall give the Inspector any specific instructions for the election.

(~~7~~ 8) The Inspector shall sign the Precinct Check List in the appropriate space.

(~~8~~ 9) Assistance may be provided to the Inspector in transporting supplies and materials to his automobile.

230:35-3-68.1. Issuing voting devices and voting device materials

(a) **Options for issuing voting device and ballot box.** The Secretary shall select one of the following options for issuing the voting device, ballot box and related materials for an election.

(1) The voting device and ballot box may be delivered directly to the polling place by an agent of the County Election Board prior to the day of the election. ~~The voting device shall be locked inside the ballot box.~~ A secure place for the items must be available at the polling place.

(2) The voting device may be issued to the Inspector at the time supplies are issued and the ballot box may be delivered directly to the polling place by an agent of the County Election Board prior to election day. In some cases, the ballot box may be stored at the polling place. If the ballot box is stored at the polling place, the Secretary shall inform the Inspector of its location and shall take steps to ensure that the Inspector has access to that location upon arrival at the polling place on election day.

(3) The voting device and the ballot box both may be issued to the Inspector at the same time that other election supplies and materials are issued.

(b) **Instructions for Inspector.** The Secretary shall provide the Inspector with all necessary instructions and information concerning the voting device and ballot box at the time other election supplies are issued.

(c) **Record of ballot box stored at precinct.** In the event that a ballot box is stored permanently at a polling place, the Secretary shall make a written record of the precinct number, the name, address and telephone number of the polling place, and the name of a person who can provide access to the stored ballot box at any time. A copy of the written record shall be made available to State Election Board personnel upon request.

230:35-3-68.2. Special ballot box preparation instructions when heavy voter turnout is anticipated

(a) The ballot box may become too full in some precincts on election days when more than one ~~three-column~~ seventeen-inch ballot is being issued and voter turnout is heavy. The voting device may jam if more than ~~1500~~ 3000 ballots are in

the ballot box. The Secretary of the County Election Board shall be prepared to implement the procedure outlined in (b) of this Section when the following circumstances converge.

(1) Voters in a precinct will receive more than one ~~three-column~~ seventeen-inch ballot.

(2) The number of registered voters in a precinct is large and/or heavy voter turnout is expected.

(b) When the circumstances outlined in (a) of this Section exist, the Secretary of the County Election Board shall take the following steps.

(1) Determine the precincts in which it is likely that the ballot box will become too full.

(2) Prepare copies of the Notice to Precinct Officials handout ~~containing instructions for inserting only one divider inside the ballot box. Include~~ and include a copy of ~~the Notice to Precinct Officials handout~~ it in the supplies for the affected precincts ~~and discuss the instructions with the Inspectors when supplies are distributed~~.

(3) ~~Include extra plastic seals for the ballot box in the supplies for these precincts.~~ Discuss the instructions with the Inspector of each affected precinct when he or she picks up supplies for the election.

(4) Instruct the Inspector to call the County Election Board office when the public counter on the ~~front of the voting devices indicates~~ voting device console screen indicates that ~~1500~~ 3000 ballots have been inserted.

(5) Give the following instructions when the Inspector calls.

(A) Stop the voting process briefly. The Inspector shall perform the following tasks while the Judge and Clerk observe.

(B) ~~Remove the voting device from the top of the ballot box. Do not unplug the voting device from the electrical outlet.~~ Use the round key to unlock both locks on the main ballot box door and lift it open. Secure the door open with the bungee cord hidden under the top rim of the ballot box.

(C) ~~Break the plastic seals on the ballot box and unlock and open it.~~

~~(D)~~ Remove all the voted ballots from the main compartment and put them in ballot transfer cases. Do not attempt to move or tilt the ballot box with the voting device still seated on top.

(~~E~~ D) Seal each ballot transfer case with a long white State Election Board seal.

(~~F~~ E) The Inspector, Judge, and Clerk all must sign the long white State Election Board seal on each ballot transfer case.

(~~G~~ F) Put the sealed ballot transfer cases in a secure location where only the Precinct Officials have access to them.

(~~H~~ G) Close the main ballot box door and lock ~~it~~ both locks with the round key. ~~Seal it with new plastic seals. Put the voting device back in place on top of the ballot box.~~

(~~I~~ H) Resume the voting process.

230:35-3-70. Pollsters [REVOKED]

~~(a) *Any person desiring to conduct an exit poll within 300 feet of any ballot box shall notify the Secretary of the County Election Board of his intention to do so no later than 5 p.m. on the Wednesday preceding the election*. [26:7-108.1] A Pollster conducting an exit poll shall display identification provided by the Secretary of the County Election Board at all times while conducting the poll. [26:7-108.2] When a Pollster is authorized for a precinct, the Secretary shall inform the Inspector of the precinct at the time the Inspector receives his supplies for the election.~~

~~(b) A Pollster who violates the law prescribed for Pollsters shall be deemed guilty of a misdemeanor. [26:7-108.3] Any person deemed guilty of a misdemeanor under provisions of state election law shall, upon conviction, be confined to the county jail for not more than one year or fined not more than $10,000.00 or both. [26:16-110]~~

230:35-3-71. Voting device not issued to precinct polling place

(a) The Secretary of the County Election Board shall have the authority not to issue a voting device to a precinct polling place on election day only when all of the following circumstances exist.

(1) Only one entity is holding an election in the precinct.

(2) Voter registration records indicate that there are no registered voters assigned to the entity in the precinct.

(3) The County Election Board Secretary and entity officials believe that no one resides within the entity's boundaries in the precinct.

(4) The entity has not exercised its option to close the polling place for the election.

(b) The Precinct Election Board shall be assigned to the precinct polling place on election day. The Inspector shall receive appropriate precinct supplies, which shall include ballots, a Ballot Accounting Form, provisional voting supplies, and a copy of the special instructions for Precinct Officials outlined in (f) of this section. A voting device shall not be issued for the precinct polling place.

(c) In the event that a voter appears at the polling place on election day and claims to be eligible to vote in the election being held, Precinct Officials shall issue a provisional ballot to the voter according to the procedure outlined in 230:35-5-177.

(d) At 7 p.m., the Inspector shall indicate the number of provisional ballots, if any, cast on each copy of the Provisional Ballots Cast sheet included in the precinct supplies. The Precinct Officials each shall sign the copies. The copies shall be distributed as follows.

(1) One copy shall be posted on the polling place door.

(2) One copy shall be placed inside the ballot transfer box.

(3) One copy shall be placed inside the clear plastic sleeve on the orange Provisional Ballot Bag.

(e) At the County Election Board office on election night, in the presence of the other County Election Board members, the Secretary shall observe the following procedure. These tasks may be completed prior to 7 p.m.

(1) ~~Insert the memory pack for the precinct in~~ Prepare a voting device for the precinct to which a voting device was not issued, open the polls on that voting device, ~~and~~ print the ~~zero printout as outlined in 230:35-5-75.1.~~ Zero Report, and then close the polls on the voting device and print the Detail Report and the Tally Report.

(2) ~~After the zero printout prints, insert one blank ballot for the precinct in the voting device. The voting device will return the blank ballot and will print the "un-voted blank ballot!" message.~~

~~(3) Do not remove the blank ballot from the voting device. Press the override key to accept the blank ballot.~~

~~(4) Follow the procedure outlined in 230:35-5-75.1 to close the polls and obtain the Totals Printout. The Totals Printout will show zero votes for all candidates and one undervote (the blank ballot).~~

~~(5)~~ Tear off the ~~Totals Printout~~ voting device tape , which includes the ~~zero printout~~Zero Report, ~~off the voting device~~ , the Detail Report, and the Tally Report. The Secretary and the other two Board members shall sign the ~~Totals Printout~~ Tally Report in the spaces indicated for the Inspector, Judge, and Clerk. Set ~~the~~ this original ~~Totals Printout~~ voting device tape aside in a secure place. Print at least ~~two~~ one additional ~~copies~~ copy of the ~~Totals Printout~~ of each report to make available for public inspection after 7 ~~p.m. and to enclose in the ballot transfer case.~~

~~(6) Indicate on the Ballot Accounting Form for the precinct that one blank ballot from the reserve stock was processed through the voting device.~~

(3) Remove the election results storage device from the voting device. See 230:35-3-85.3. Give the storage device to the tabulation computer operator to be read and tabulated after 7 p.m.

(f) ~~The following special~~ Provide a printed copy of the following instructions ~~shall be provided to the~~ to Precinct Officials for use on election day when a voting device is not issued to a precinct polling place.

(1) Although the polling place must be open for today's election, County Election Board records indicate that there are no voters in this precinct eligible to participate in the election. Therefore, a voting device has not been issued for this polling place.

(2) In the event that a voter appears and claims to be eligible to vote in the election today, ~~Precinct Officials shall~~ issue a provisional ballot to the voter following the provisional voting procedure in 230:35-5-177. Indicate either that the voter's name does not appear in the Precinct Registry or that the voter disputes the school district, technology center district, or municipal assignment indicated in the Precinct Registry.

(3) At 7 p.m., the Inspector shall indicate the number of provisional ballots cast, if any, on each copy of the Provisional Ballots Cast sheet included in the precinct supplies. The Precinct Officials each shall sign all the copies. The copies shall be distributed as follows:

(A) One copy shall be posted on the polling place door.

(B) One copy shall be placed inside the ballot transfer box.

(C) One copy shall be placed inside the clear plastic sleeve on the orange Provisional Ballot Bag.

(4) If a provisional ballot is cast, follow the instructions in 230:35-5-75.3(g) to secure the orange Provisional Ballot Bag for return to the County Election Board office.

(5) Complete the Ballot Accounting Form and pack the ballots as outlined in 230:35-5-75.3. Pack all remaining supplies as outlined in 230:35-5-76.

PART 11. ELECTION DAY

230:35-3-75. Precinct procedures in ~~MANUAL~~ The Manual for Precinct Election Officials section of Precinct Official Notebook

Procedures for conduct of elections at the precinct level are contained in The Manual for Precinct Election Officials section of the Precinct Official Notebook (Subchapter 5 of this Chapter). Every Inspector, Judge and Clerk is required to observe these procedures.

230:35-3-76. Familiarity with procedure necessary

The Secretary and Assistant Secretary or Chief Clerk of the County Election Board shall be thoroughly familiar with the procedures outlined in The Manual for Precinct Election Officials section of the Precinct Official Notebook (Subchapter 5 of this Chapter).

PART 13. AFTER THE POLLS CLOSE

230:35-3-83. Smooth flow of returns necessary

Prior to the election, the County Election Board shall make plans for canvassing returns on election night. The Secretary shall consult with representatives of the news media to discuss their needs for election night. ~~In making plans, access to the official Totals Printout shall be limited to members and employees of the County Election Board.~~

230:35-3-84. Assembly line required for receiving returns and materials from Inspectors

Before the first Inspector arrives, an assembly line shall be established for receiving the returns. The Chairman and Vice Chairman of the County Election Board, the Secretary or ~~clerical~~ employees of the Board may be involved in reception of voting devices, election supplies, and ballot transfer cases from Inspectors. When receiving returns, the following procedure shall be observed:

(1) Representatives of the news media shall be assigned to a separate office or area. ~~If the County Election Board has more than one OEMS terminal, one terminal may be placed in a public area to display precinct results as they are accumulated.~~ If available, a computer shall be placed in the media area to display the county's election results.

(2) Appropriate receptacles shall be prepared and arranged for receiving items from Inspectors.

(3) Inspectors shall form a line as they arrive, and shall be processed one at a time.

(4) Receive the voting device. Verify that the luggage tag (or other means of identification if the luggage tag is not used) showing the precinct number is attached to the voting device.

(5) ~~The Envelope for Totals Printout shall be received first. The envelope shall be opened and its contents examined in the following order.~~Receive the Envelope for Tally Report. Open the envelope, verify that the following items are present, and examine them as necessary.

(A) ~~The Totals Printout shall be examined. If it appears to be in order, it shall be set aside in a secure place. If, however, the Totals Printout appears to be incorrect in any way, the Secretary and the County Election Board members shall confer to determine whether an election night recount of the ballots cast in the precinct, as outlined in 230:35-3-85.1, is warranted.~~ Examine the original voting device tape, which includes all information printed from the time the were opened, including the Zero Report, the Detail Report printed when the polls were closed, and the first Tally Report. If the Tally Report is not included on the tape, open the voting device case, turn on the power and print the report. Attach it to the voting device tape received in the Envelope.

(B) ~~The Ballot Accounting Form shall be examined.~~ Examine the Ballot Accounting Form or Forms. Verify that they have been completed and signed by Precinct Officials.

(C) ~~The memory pack shall be given to the person responsible for reading it into the computer.~~

~~(D)~~ The voting device key envelope shall be examined to be certain that the precinct number is written on it. The key envelope shall be set aside in a secure place.

(D) If uncounted ballots from the emergency compartment are found in the Envelope for Tally Report, ask the Inspector to step aside and wait until the ballots can be scanned on the election night recount voting device and then be properly secured.

~~(5) The voting device, if returned by the Inspector, shall be received and immediately transferred to secure storage.~~ Ask the Inspector if the ATI device was used by any voter to cast an audio ballot during the day. Examine the Detail Report, the Ballot Accounting Form or Forms, and the ATI Session Log form to verify that an ATI ballot was cast. If the ATI device was used, make note on the front of the Envelope for Tally Report. See 230:35-3-85.4

(6) If all the necessary items from the Envelope for Tally Report are accounted for, transfer the voting device, the voting device tape, and the Ballot Accounting Form or Forms to the tabulation computer operator.

(~~6~~7) The sealed ballot transfer boxes shall be received and transferred to secure storage.

(A) Examine the ballot transfer boxes to ensure that they have been properly sealed. If the long white State Election Board seal is missing or broken, immediately affix a short turquoise State Election Board seal to the ballot transfer box. The new seal shall be signed by the County Election Board members and the box for "Other" shall be checked. Write the reason the seal is being applied in the space provided.

(B) In the event that the County Election Board must open a ballot transfer box on election night to retrieve an item enclosed in error inside the box by Precinct Officials, the Board members shall affix a short turquoise State Election Board seal to the box. The new seal shall be signed by the County Election Board members and the box for "Other" shall be checked. Write the reason the seal is being applied in the space provided.

(~~7~~8) ~~The~~ Receive the sealed orange provisional ballot bag ~~shall be received~~.

(A) Remove the Provisional Ballot Roster from the clear plastic pocket on the bag. Make certain that the precinct number is indicated on the Provisional Ballot Roster before separating it from the bag.

(B) Place the provisional ballot bag in a secure receptacle. Access to the provisional ballot bags shall be restricted to authorized County Election Board personnel.

(C) Paperclip or staple the Provisional Ballot Roster pages together and set aside in a secure location. Access to these forms shall be restricted to authorized County Election Board personnel.

(9~~8~~) ~~The~~ Receive and examine the Precinct Registries ~~shall be received and examined~~.

(10~~9~~) ~~The~~ Receive and examine the Precinct Expense Claim Envelope and any unclaimed vouchers ~~shall be received and examined~~.

(11~~10~~) The Inspector shall sign the Precinct Expense Claim Envelope and receive his voucher for compensation and mileage if all other vouchers are accounted for.

(12~~11~~) ~~The~~ Receive the election supply container and the Precinct Official Notebook ~~shall be received and placed~~ and place them in ~~an~~ appropriate ~~receptacle~~ receptacles.

(13~~12~~) ~~The~~ Receive and store the American flag ~~shall be received and stored~~.

230:35-3-84.1. Determining number of signatures on Provisional Ballot Rosters

The number of signatures on the Provisional Ballot Rosters from each precinct in the county shall be determined by the Secretary of the County Election Board on election night. The total number of signatures on Provisional Ballot Rosters may be made public, but no additional information concerning provisional ballots shall be released prior to 1 p.m. on Friday following the election.

(1) Count the signatures on each page of the Provisional Ballot Roster for a precinct and record the total number of signatures for the precinct on the Provisional

Ballot Precinct Log. If there were no provisional ballots cast in a precinct, enter a zero on the Log.

(2) When all precinct returns have been received and canvassed, determine the total number of provisional ballots cast in the county by adding the precinct totals together. Enter the total in the space provided on the Provisional Ballot Precinct Log.

(3) ~~If this is a state election, fax~~ Fax or e-mail a copy of the Provisional Ballot Precinct Log to the State Election Board.

(4) If this is a multi-county school or municipal election and yours is an affected county, fax or e-mail a copy of the Provisional Ballot Precinct Log to the parent County Election Board.

(5) Make a copy of the Provisional Ballot Precinct Log available for public inspection in the County Election Board office. Copies may be distributed to any interested party.

230:35-3-85.1. Election night recounts

(a) **Precinct ballots.** ~~The ballots from a precinct may be recounted at the County Election Board office on election night if Precinct Officials are unable to obtain a Totals Printout at the polling place or if an examination of the Totals Printout from the precinct reveals an abnormality that may indicate that the voting device has malfunctioned.~~ Election night recounts are allowed only under the following circumstances.

~~(1) The Ballot Statistics information on the Totals Printout indicates that the number of ballots not counted exceeds 2% of the total ballots cast. [26:7-134.1]~~

~~(2) The voting device has malfunctioned in such a way that there are no totals on the Totals Printout or the Totals Printout is illegible. [26:7-134.1]~~

~~(3) Uncounted ballots from the emergency compartment were mixed with counted ballots before the uncounted ballots could be processed through the voting device.~~

~~(4)~~ Precinct Officials failed to remove and count ballots from the emergency compartment before obtaining the Totals Printout.

~~(5) An insufficient amount of voting device tape remains on the paper roll to print the first Totals Printout.~~

~~(6) The State Election Board staff instructs the County Election Board to conduct an election night recount to resolve a problem not anticipated in this Section.~~

(1) Precinct Official failed to remove and count ballots in the emergency compartment of the ballot box before they closed the polls on the voting device.

(A) If Precinct Officials properly segregated the uncounted ballots from the counted ballots by placing the uncounted ballots inside the Envelope for Tally Report, only the uncounted ballots will be included in the election night recount. See 230:35-5-75.3(e)(6).

(B) If Precinct Officials mixed uncounted ballots from the emergency compartment with the counted ballots from the main compartment of the ballot box by placing them in the ballot transfer case, all ballots cast at the polling place will be included in the election night recount.

(2) Both the election results storage device and the backup memory device from a voting device have failed and no results can be obtained from either device. If this occurs, all ballots cast on that voting device included in the election night recount.

(3) Comparison of the Detail Report with the Ballot Accounting Form(s), Spoiled Ballot Affidavit, and the ATI Session Log reveals a discrepancy of 2% or greater between the number of ballots issued and the number of ballots processed by the voting device.

(4) The Secretary of the County Election Board is directed by the State Election Board to conduct an election night recount of all ballots cast at a precinct polling place in order to resolve a problem not referenced in this Section.

(b) **Absentee ballots from early voting or mail and nursing home absentee ballots.** Absentee ballots cast during early voting may be recounted on election night only under the circumstances described in (a) of this section. Mail and nursing home absentee ballots may be recounted on election night only under the circumstance outlined in (a)(2) of this Section.

(c) **Procedure for election night recount.** An election night recount shall be conducted on a voting device especially designated and prepared for election night recounts. (Counties with a high-speed ballot scanner for counting mail and nursing home absentee ballots also may perform election night recounts on the high-speed scanner.) If all the ballots for a large precinct or for a precinct where voters received more than one ballot must be included in an election night recount, more than one voting device may be prepared and used. The ballots shall be divided as evenly as possible among all the voting devices being used to perform the election night recount. The election night recount shall be conducted in public view and in the presence of the County Election Board members and a representative of the County Sheriff. [26:7-134.1] If possible, members of the news media also shall be present. The recount shall be conducted according to the following procedure.

(1) ~~The memory pack from the precinct in question shall be inserted into the designated voting device.~~

~~(2) The memory pack shall be initialized and a new Zero Printout shall be printed. Do not tear off the Zero Printout tape.~~

~~(3) The ballot transfer case from the precinct shall be opened and the ballots removed.~~

~~(4)~~ The Secretary shall designate one person to ~~feed~~ insert the ballots included in the election night recount, one at a time, into the voting device designated for election night recounts.

(~~5~~2) After all the ballots included in the election night recount for the precinct have been inserted into the device~~, a new Totals Printout shall be generated~~.

~~(6) When the Totals Printout has finished printing, it shall be torn off and signed by the County Election Board members and also by the person who fed the ballots into~~

~~the voting device. At least three more copies of the Totals Printout shall be printed.~~

~~(7) After the required number of Totals Printouts has been printed, the memory pack shall be removed from the voting device.~~

~~(8) The~~ the ballots shall be removed from the main compartment of the ballot box and shall be replaced in the ballot transfer case. ~~One copy of the new Totals Printout shall be placed inside the ballot transfer case. The Totals Printout from the polling place also shall be placed in the case.~~

(~~9~~ 3) The ballot transfer case shall be resealed and a short turquoise State Election Board seal shall be affixed to the box. [26:7-134.1] The new seal shall be positioned so that it can be distinguished from the broken ~~precinct~~ long white State Election Board seal signed by the Precinct Officials. The members of the County Election Board and the person who fed the ballots into the voting device all shall sign the short turquoise seal. The Secretary shall check the "Election Night Recount" box on the seal.

(4) Any additional election night recounts shall be conducted on the same voting device.

(5) After all precinct returns are received and canvassed and the Secretary verifies that no additional election night recounts are needed, the polls shall be closed on the election night recount voting device. A Detail Report and a Tally Report shall be printed. The Secretary and the County Election Board Chairman and Vice Chairman shall sign the Tally Report in the spaces provided for Precinct Officials' signatures. An additional number of Tally Reports shall be printed as instructed by the Secretary.

(6) The election results storage device shall be removed from the voting device and shall be given to the tabulation computer operator to be read and tabulated.

(d) **Obtaining cast vote records for ATI ballots.** In the event that all ballots from a precinct must be recounted on election night, and if the ATI device was used by any voter to cast a ballot during the day, the Secretary shall cause the cast vote record for each audio ballot to be retrieved and printed from the precinct MBB. The precinct MBB then shall be set aside to ensure that it is not read and tabulated. The Secretary and the County Election Board Chairman and Vice Chairman shall use the printed cast vote record of the ATI ballot to mark a substitute ballot to be inserted in the voting device during the election night recount. The procedure outlined in 230:30-19-6 shall be observed to mark the substitute ballot.

230:35-3-85.2. Addressing voting device printer failure, election results storage device failure and/or backup memory device failure

(a) In the event that a voting device printer fails and Precinct Officials are unable to print the required Detail Report and Tally Reports at the polling place, Precinct Officials shall be instructed to post a notice on the door of the polling place that voting device results are unavailable and that results for the precinct will be available from the County Election Board later in the evening. When the election results storage device is read and tabulated in the Tally program, a Precinct Report can be printed to show the results. The Inspector may be asked to take a copy of this report back to the polling place to post on the door before he or she returns home.

(b) In the event that County Election Board personnel are unable to download the results from an election results storage device used in voting device on election day into the tabulation computer, the County Election Board Secretary immediately shall contact the State Election Board staff for instructions to access the backup memory device in the voting device. In the event that County Election Board personnel are also unable to download results from the backup memory device from a voting device into the tabulation computer, an election night recount of all ballots cast at the precinct polling place shall be conducted as outlined in 230:35-3-85.1.

230:35-3-85.3. Removing election results storage device from voting device

Upon receipt of the voting device from the Inspector, County Election Board personnel immediately shall transfer the voting device to the designated secure work area for removal of the election results storage device. The following procedure shall be observed.

(1) Unlock and open the voting device case with the square key.

(2) Verify the seal number on the cover of the compartment containing the storage device against the Voting Device Report. Cut and remove the seal.

(3) Unlock and remove the compartment cover with the square key.

(4) Remove the election results storage device.

(5) Verify that the correct precinct number is recorded on the storage device label.

(6) Transfer the election results storage device to the tabulation computer operator to be read and tabulated.

230:35-3-85.4. Obtaining and securing cast vote records for ATI ballots

In the event that a voter used the ATI device to cast an audio ballot during in-person absentee voting or at a precinct polling place, the Secretary shall cause the cast vote record of such audio ballot to be retrieved and printed from the appropriate election results storage device. The printed cast vote record report shall be sealed in an envelope and shall be handed over to the Sheriff along with other voted ballots to be secured as required by law. In the event of a recount, the Sheriff shall deliver the envelope to the courtroom along with all other ballots.

230:35-3-86. Sheriff to provide security for voted ballots [REVOKED]

~~It is the duty of the County Sheriff to provide security for the ballot transfer boxes for all elections from election night until the county's final election results are certified or until the ballot transfer boxes are delivered to the District Courtroom for a recount, whichever is later. [26:8-110] The Secretary shall inform the Sheriff when there will be an election.~~

230:35-3-87. Accumulating and ~~producing~~ verifying election results

(a) **Prior to 7 p. m. election night.** Prior to 7 p.m. on election night, and preferably on the day before the election, the Secretary of the County Election Board shall cause the tabulation computer to be prepared to read and tabulate election results.

(b) ~~**Election night.**~~ **After 7 p.m. on election night.** The Secretary shall ~~assign a County Election Board employee to be responsible for reading the voting device memory packs~~ cause the election results storage devices to be read into the tabulation computer in order to accumulate election results ~~on election night~~. ~~This person also shall be responsible for manual entry of results from affected counties, if applicable.~~ The following procedure shall be observed.

(1) The election results storage devices from the voting device or devices used for in-person absentee voting and from the voting device or devices used to count mail and nursing home absentee ballots may be read into the Tally computer immediately after 7 p.m. In all counties except Oklahoma and Tulsa Counties, these absentee results must be read and tabulated before any precinct results.

(2) As ~~the memory packs~~ voting devices are received from Inspectors as described in 230:35-3-84, the election results storage devices shall be removed from the voting device as outlined in 230:35-3-85.3, and shall be transferred to the ~~person assigned to~~ tabulation computer computer. ~~accumulate results shall insert the memory packs into the memory pack reader and shall cause them to be read by the computer.~~ The tabulation computer operator shall read and tabulate election results storage devices as they are received. The operator should manually start and stop the tabulation process at least once every 10 minutes to ensure that all results read have been tabulated and uploaded to the State Election Board.

~~(2) Affected counties involved in the election will report results by telephone or by fax on election night. The results from precincts in affected counties shall be entered manually into the computer.~~

~~(3) When the memory pack from every precinct has been read and the results from all affected county precincts have been entered manually, if applicable, the Precinct Report shall be printed. The Precinct Report shall be proofread against the Totals Printout tapes from every precinct and against the handwritten results recorded from the affected county's telephone call to verify the Precinct Report's accuracy. When written results are received from the affected county, the Precinct Report also shall be proofread against the written results.~~

(3) Periodically throughout the evening, the tabulation computer operator shall print appropriate reports with current results. Copies of the updated reports shall be made available to the County Election Board members, to the news media, and other interested person as needed.

~~(4) When proofreading of the Precinct Report is completed, print the Election Summary Report.~~

~~(5) Print the appropriate unofficial Certification Report as outlined in 230:35-3-91. The unofficial Certification Report also shall be proofread.~~

~~(6) Request the Pre-Provisional Results Extract process. This process preserves election night results to allow comparisons after provisional ballot results are added. This process must be completed successfully before provisional ballots are processed.~~

~~(7) If this is a state election, request the State Election Results Process.~~

~~(8) The Corrections Log report and the System Log report also shall be printed on election night after all other tasks have been completed.~~

(c) **Verifying election results in MESA and on State Election Board website.** After all election results storage devices have been read and tabulated, including from the voting device designated and prepared for election night recounts, the tabulation computer operator shall take the following steps.

(1) Request, print, and label final copies of all reports.

(2) Close the tabulation program and follow the appropriate software instructions signal the State Election Board that no additional results will be received from the county on election night.

(3) Access the certification reporting system in MESA.

(A) Request and print the Election Summary Results by County report and the Precinct Report from MESA.

(B) If yours is the control (parent) county for a multi-county school district or municipality, also request and print the Election Summary Results report to include results from affected counties.

(C) Request and print the Unofficial Pre-provisional Report

(4) Access the State Election Board's election results reporting website and go the page displaying the county's results. Verify that the vote totals shown for the county on the reports printed from the tabulation computer and the results shown on the Election Summary Results by County report from MESA match the totals shown on the website.

(5) If the county is the control (parent) county for a multi-county school district or municipality, go to the multi-county results page and select the multi-county entity from the drop-down list. Verify that the results shown for the entity on the Election Summary Results report, which includes results from affected counties, match the results shown on the website. The control(parent) county does not have a report from the tabulation computer that includes results from affected counties.

(~~b~~ d) **Friday following election.** ~~After all the verified provisional ballots have been counted and the required number of Totals Printouts have been obtained, County Election Board personnel shall follow the steps in (a) of this section to enter the provisional ballot results in OEMS. Under no circumstances shall the results of the provisional ballot count be made public prior to 1 p.m. on Friday following the election. Print and proofread the appropriate Certification Report.~~ The Secretary of the County Election Board shall cause a voting device to be designated and prepared for counting provisional ballots.

All provisional ballots that have been verified and approved for counting shall be counted in the presence of the members of the County Election Board on the designated voting device. When all provisional ballots have been counted, the following steps shall be performed.

(1) Close the polls on the voting device and print the Detail Report and Tally Report. Print additional copies of the Tally Report as instructed by the Secretary.

(2) Remove the election results storage device from the voting device as instructed in 230:35-3-85.3

(3) Read and tabulate the election results storage device in the tabulation computer as outlined in (b) of this Section.

(4) Request, print, and label all appropriate reports.

(5) Compare the results shown on the reports from the tabulation computer with the results shown on the Tally Report from the voting device used to count the provisional ballots. Verify that all vote totals match.

(6) Close the tabulation program and follow the appropriate software instructions signal the State Election Board that the election results are complete.

(7) Access certification reporting system in MESA.

(A) Request and print the Election Summary Results by County report and the Precinct Report from MESA. Verify that vote total shown include changes resulting from the counted provisional ballots

(B) If yours is the control (parent) county for a multi-county school district or municipality, also request and print the Election Summary Results report to include complete results from affected counties.

(C) Request and print the Unofficial Post-provisional Report. Verify the vote totals shown are correct.

(D) Request and print the appropriate number of Official Certification Reports.

PART 15. CERTIFICATION OF RESULTS

230:35-3-91. Certifying county election results

(a) **Election night activities.** On election night, the County Election Board shall canvass the precinct and absentee results for all ~~candidate~~ elections~~, for all questions, and for all~~ including elections for which the county is an affected county. ~~When all election results have been accumulated as outlined in 230:35-3-87, a copy of the unofficial Certification Report shall be printed. The unofficial Certification Report shall be proofread.~~ The County Election Board shall not, under any circumstances, certify ~~any~~ election results on election night. ~~The Secretary of the County Election Board shall cause the following tasks to be completed on election night.~~

~~(1) Determine the number of signatures on the Provisional Ballot Roster using the Provisional Ballot Precinct Log. See 230:35-3-84.1. Post a copy of the completed Provisional Ballot Precinct Log on the office door and, if this is a state election, fax or e-mail a copy of the Log to the State Election Board. If any provisional ballots are cast in involved in an election for which this is an affected county, also fax the Log to the parent county.~~

~~(2) If the county is an affected county for a multi-county school district or municipal election, report the unofficial precinct and absentee results and the number of provisional ballots which may have been cast in the election to the parent County Election Board.~~

~~(3) On the night of the Runoff Primary Election only, follow the specific instructions received from the State Election Board to determine the number of outstanding absentee ballots from overseas uniformed services voters and overseas voters. Report that number to the State Election Board. See 230:30-19-16.~~

(b) **Friday following election.** The County Election Board shall meet on Friday following each election at the time set by the Secretary to ~~open and~~ count verified provisional ballots and to certify the final election results. If the Board meets prior to 5 p.m. to count provisional ballots and finishes the count before 5 p.m., the meeting ~~shall~~ may be recessed ~~until~~ and reconvened after 5 p.m. ~~The Board then shall reconvene after~~ After the close of the contest period at 5 p.m., the Board shall ~~to~~ certify the final election results for all candidate races and ~~questions~~ all propositions, providing no contests have been filed. The Secretary shall prepare the following materials to certify the election.

(1) ~~After all verified provisional ballots have been counted and results updated in OEMS and after final election results from affected counties of multi-county school districts and municipalities have been entered manually into OEMS, print at least two copies of the Official Certification Report. Proofread the Certification Report. Each copy of the Certification Report shall be signed by the members of the County Election Board and by the Secretary. The County Election Board seal shall be affixed to each signed copy of the Certification Report in the area of the signatures. For races and questions that cannot be certified due to a contest, print one copy of the unofficial Certification Report.~~ The required number of copies of the Official Certification Report for each entity involved in the election.

(2) ~~The Secretary of an affected County Election Board in a multi-county school district or municipal election shall fax a copy of the signed Official Certification Report to the parent County Election Board as soon as possible after 5 p.m. on Friday.~~ The County Election Board members shall sign each copy of the Official Certification Report in the area provided for signatures.

(3) ~~If this is an election involving state or federal candidates or state questions, request the State Election Results process in OEMS, print the System Log and Corrections Log, and run an election backup.~~ The Secretary shall apply the official County Election Board seal to each signed copy of the Official Certification Report.

(c) ~~**5 p. m. Tuesday next following election.** The State Election Board meets at 5 p.m. on Tuesday next following an election involving state or federal candidates or state questions to certify the final election results. The County Election Board, however, shall not be required to meet again on Tuesday next~~

~~following the election, unless final election results were not certified on Friday evening for a reason other than a contest of election being filed.~~

~~(d)~~ **Disposition of signed and sealed Official Certification Reports.** One copy of each signed~~, official~~ and sealed Official Certification Report shall be maintained permanently by the County Election Board. Other copies shall be distributed as follows.

(1) In statewide elections, one copy of the signed and sealed Official Certification Report for all races and state questions that must be certified by the State Election Board shall be mailed to the State Election Board after 5 p.m. on Friday following the election.

(2) In multi-county elections for which the county is an affected county, one signed and sealed copy of the Official Certification Report shall be mailed to the control (parent) county after 5 p.m. Friday following the election.

(3) In all ~~other~~ county, school district, or municipal elections, ~~one copy~~ the required number of copies of the signed and sealed Official Certification Report shall be provided to the entity for which the election was conducted. In some instances, an entity may request more than one copy of the Official Certification Report. The Secretary shall provide the number of copies, within reason, requested by the entity.

(d) **5 p. m. Tuesday next following federal or state election.** The State Election Board meets at 5 p.m. on Tuesday next following an election involving federal or state candidates and/or state questions to certify the final election results.

(e) **List of nominees.** Following Primary and Runoff Primary Elections, the County Election Board shall authorize the Secretary to certify the nominees of each party for each county office on the ballot by preparing an official list of nominees. The original copy of the list of nominees shall be signed by the Secretary and maintained in the minutes of the County Election Board meeting at which the election results were certified. A copy of the list of nominees shall be posted on the door of the County Election Board office.

(f) **List of successful candidates and Certificates of Election.** Following General Elections, the Secretary shall compile a list of successful candidates for each county office on the ballot and shall issue a Certificate of Election to each successful candidate.

~~(g)~~ ~~**Runoff Primary Election.** Absentee ballots from overseas absentee voters, including both overseas uniformed services voters and overseas voters, who made timely applications for ballots for the Runoff Primary Election that are received by the Secretary of the County Election Board by 5 p.m. on the fourteenth day following the Runoff Primary Election shall be accepted, counted, and included in the final election results for federal offices only. [26:14-104.1] If no absentee ballots from overseas uniformed services or overseas voters remain outstanding at 5 p.m. on Friday following the Runoff Primary Election, the County Election Board may certify the final results for federal offices to the State Election Board as outlined in (b) of this Section. However, if any overseas uniformed services or overseas absentee ballots remain outstanding at 5 p.m. on Friday following the Runoff Primary Election, the County Election Board shall only canvass the county's precinct, absentee, and provisional ballot totals for federal offices and shall follow the specific instructions received from the State Election Board to report the results of the provisional ballot count. The County Election Board shall certify the final results for federal offices after 5 p.m. on the fourteenth day following the Runoff Primary Election.~~

230:35-3-91.1. Certificates of Election for unopposed candidates

The Secretary is authorized to issue a Certificate of Election to an unopposed candidate for county office at any time after 5 p.m. on ~~Friday~~ the second business day following the close of the filing period at which the candidate filed his or her Declaration of Candidacy.

230:35-3-92. Tie votes [REVOKED]

~~(a)~~ ~~*When a tie vote is certified in the nomination or election of any candidate for county office in any* Primary, Runoff Primary or *General Election, the County Election Board shall, at a public meeting of the Board and in the presence of the* tied candidates or the tied candidates' designees, if they desire to be present, select the nominee or electee by lot. [26:8-105(A)] When *there are three or more candidates in a Primary Election for which a Runoff Primary will be held and a tie occurs for first place, the names of the tied candidates shall be placed on the Runoff Primary ballot.* [26:8-105(C)]~~

~~(b) In the event that a nominee or electee is to be selected by lot, the following procedure shall be observed.~~

~~(1) Not later than the tenth day following the election at which a tie vote occurs, the Secretary of the County Election Board shall notify, in writing, each of the candidates for which the vote was tied of the date, time and location of the County Election Board meeting at which the nominee or electee shall be selected by lot. [26:8-105(B)(1)] The notice shall be transmitted to each candidate by certified mail, and must *be postmarked not fewer than five days prior to the meeting.*~~

~~(2) The meeting to select a nominee or electee by lot shall be held on a weekday, excepting holidays, between the hours of 7 a.m. and 7 p.m. [26:8-105(B)(5)]~~

~~(3) Each candidate may designate, in writing, one person as a witness to attend the meeting on his behalf. The designation of the witness shall be presented to the Secretary of the County Election Board. [26:8-105(B)-(2)]~~

~~(4) *In full view of all persons present at the meeting,* the Secretary shall *write or print the name of each candidate* involved in the tied vote *on separate pieces of paper.* [26:8-105(B)(3)] The pieces of paper used must be the same color and type and must be of approximately equal size. *The papers shall be folded in half one time so that the names are not visible.* [26:8-105(B)(3)] The papers shall be placed inside a container that has been selected by the Secretary. [26:8-105(B)-(3)]~~

~~(5) *The Secretary shall draw, or may designate a person other than the candidates, witnesses or other person*~~

~~*directly interested in the election to draw*, one piece of paper from the container. [26:8-105(B)(4)] The candidate whose name is written on the paper shall be declared the winner of the election. After announcing the name of the winner, the Secretary shall expose the other pieces of paper to all persons present at the meeting.~~

~~(c) In the event that a recount involving candidates results in a tie, the nominee or electee shall be determined by lot at the same meeting called to conduct the recount. [26:8-115] The procedure outlined in (b)(4) and (5) of this Section shall be observed.~~

230:35-3-93. Credit for voting

Credit for voting shall be given to every registered voter who casts a ballot in an election. Credit for voting in an election shall be recorded in ~~OEMS~~ MESA.

PART 17. DISPOSITION OF MATERIALS

230:35-3-98. Disposing of ballots

Voted ballots for Presidential Electors, U.S. Senator, U.S. Representative and from the Presidential Preferential Primary Election shall be retained for 24 months after the election at which they were cast. Unused ballots for Presidential Electors, U.S. Senator, U.S. Representative and from the Presidential Preferential Primary Election shall be retained for 30 days after the election. Both voted ballots and unused ballots for all other elections shall be retained for 30 days after the election at which they were cast. The ballots shall be maintained in the sealed ballot transfer boxes throughout the ballot retention period unless the court orders the transfer boxes opened for a recount. Ballot transfer cases opened for a recount shall be resealed by the County Election Board following conclusion of the recount. When the ballot retention period for an election has expired, the ballot transfer boxes shall be opened and the ballots shall be destroyed.

230:35-3-100. Disposing of ~~Totals Printouts~~ Tally Reports

~~Totals Printouts~~ Tally Reports shall be retained until ballots are destroyed. At that time, the ~~Totals Printouts~~ Tally Reports also may be destroyed.

230:35-3-101. Processing ~~FORMS FOR USE BY PRECINCT OFFICIALS booklets~~ forms used on election day by Precinct Officials

(a) The Secretary shall remove ~~the FORMS FOR USE BY PRECINCT OFFICIALS booklet~~ forms used on election day by Precinct Officials from the Forms section of the Precinct Official Notebook and all used Oklahoma Voter Registration Applications from the election supply container from each precinct. ~~Examine the FORMS booklet, tear out all used forms, and process them according to the following procedure.~~

(1) The Secretary shall cancel the registrations of deceased voters indicated by used Cancellation of Registration of Deceased Voter forms as outlined in 230:15-5-63 and 230:15-5-65.

(2) The Secretary shall read the Inspector's Notes to Secretary sheets and shall take any necessary action.

(3) The Secretary shall examine the Absentee Voter Affidavit. If ~~OEMS~~ MESA identifies voters who voted both by mail or in-person absentee ballot and at a precinct polling place in the election, the Secretary shall notify both the District Attorney and the State Election Board. The Secretary shall follow any instructions concerning the Absentee Voter Affidavit given by either the District Attorney or the State Election Board.

(b) All voter registration application forms shall be processed according to the procedure outlined in 230:15-9-18 and in 230:15-9-24.

(c) After the used election day forms from the ~~FORMS booklet~~ have been processed as outlined in (a) of this Section they shall be retained for 24 months following the date of the election. ~~The booklet covers and any unused forms remaining inside the covers shall be retained for 30 days following the election and then either shall be destroyed or, if possible, saved for reuse.~~ The Secretary shall cause the Forms section of the Precinct Official Notebook to be replenished before the next election.

230:35-3-103. Disposing of supplies

The Secretary shall examine all supplies for serviceability. Supplies that can be reused, such as signs and unused forms ~~that are not bound in the FORMS booklet,~~ in the forms section of the Precinct Official Notebook shall be returned to the inventory. Supplies that cannot be reused shall be discarded. Other supplies, such as ~~ink~~ ballpoint pens, thumbtacks, rubber ~~bands, ballot marker pens,~~ scissors, paper clips, and tape, shall be replenished as necessary and stored permanently in the election supply container for each precinct. When ballots are destroyed, the Secretary shall examine the ballot transfer boxes. If they are still serviceable, the old seals shall be removed and the boxes shall be retained for future use.

PART 19. VERIFYING AND COUNTING PROVISIONAL BALLOTS

230:35-3-126. Criteria for verification of provisional ballot affidavit information

(a) **Voter not in Precinct Registry.** A provisional ballot cast by a voter whose name is not in the Precinct Registry shall be considered verified and approved for counting if evidence of the voter's valid and timely voter registration is found and if:

(1) the provisional ballot was cast in the precinct of the voter's residence as indicated in the voter registration record or other evidence found; and

(2) in the case of a partisan primary election, the voter cast a provisional ballot for the same party as that of the voter's political affiliation in the voter registration record or other evidence found.

(b) **Voter without proof of identity.** A provisional ballot cast by a voter who is unable to provide or who refused to provide a valid form of proof of identity shall be considered verified and approved for counting if all ~~the~~ following circumstances are met.

(1) The voter's name on the affidavit substantially conforms to the voter's name in MESA~~,~~. If a voter has legally changed his or her name but has not updated the name on his or her voter registration, the voter may note this fact on the affidavit and may submit an Oklahoma Voter Registration Application form to change his or her name for voter registration purposes with the affidavit. Such a voter shall be deemed to have met this requirement.~~and if the~~

(2) The voter's residence address on the affidavit substantially conforms to the voter's residence address in the voter registration database~~,~~. A voter who has changed his or her residence address within the county, but has not updated the address on his or her voter registration may note this fact on the affidavit and also submit an Oklahoma Voter Registration Application form to change residence address within the county. Such a voter shall be deemed to have met this requirement.

(3) The voter's date of birth~~,~~ on the affidavit matches the date of birth recorded for the voter in MESA.

(4) The voter's Oklahoma driver license number~~,~~ as shown on the affidavit or the last four digits of the voter's Social Security number as shown on the affidavit match the information in recorded for the voter in MESA. However, if the voter's original voter registration occurred prior to January 1, 2004, the registration predates any requirement to provide either an Oklahoma driver license number or the last four digits of the Social Security number and this requirement shall not apply.

(c) **Political affiliation dispute.** In the event a voter in the Primary or Runoff Primary Election casts a provisional ballot after disputing the political affiliation indicated in the Precinct Registry, the provisional ballot shall be counted only if evidence of a timely and valid change of political affiliation is found.

(d) **Uniformed services voters.** Uniformed services voters are those identified in 230:30-3-3 and in 230:35-5-175. Provisional ballots cast by these voters shall be counted if they are cast in the correct precinct for the voter's residence address. [26:7-116.1; 26:14-121]

(e) **Overseas voters.** Overseas voters are those voters identified in 230:30-3-3 and 230:35-5-175. Provisional ballots cast by these voters shall be counted if they are cast in the correct precinct for the voter's residence address. [26:7-116.1; 26:14-121]

(f) **School district or municipal assignment dispute.** Voters listed in the Precinct Registry who disagree with their assignment to a particular school district or municipality may cast a provisional ballot for their preferred school district or municipality. Provisional ballots cast by these voters shall be counted only if evidence is found that the assignment indicated in the Precinct Registry is incorrect.

(g) **Voter Who Disputes Credit for Absentee Voting B In-Person Absentee Voting ONLY.** In-person absentee voters who have received credit for voting by mail or on an earlier day of in-person absentee voting and who deny having voted may cast a provisional ballot. Their provisional ballot shall be counted only if evidence is found that the credit for absentee voting for this voter was recorded in error or that evidence is found indicating that the earlier absentee ballot was submitted by someone other than the voter.

230:35-3-128. Provisional ballot verification procedure for voter without proof of identity

The following steps shall be observed to verify the eligibility of a provisional voter who was unable or unwilling to provide proof of identity at the polls.

(1) Look for the voter's registration information in MESA and verify that ~~the name, date of birth, Oklahoma driver license number or last four digits of the Social Security number are the same~~ all the information provided by the voter on the affidavit matches the information recorded in MESA as required in 230:35-3-126(b).

(2) Indicate the disposition of the provisional ballot in the "For CEB Office Use Only" space on the affidavit envelope by placing a check mark beside "Count" or "Reject" as appropriate

(3) If a provisional ballot is verified and approved for counting, place the affidavit envelope, unopened, in a locked ballot box or other locked container until the County Election Board meets to open the affidavit envelopes.

(4) If the ballot is rejected, indicate the reason for the rejection in the space provided on the affidavit envelope. Place all rejected provisional ballot affidavits aside in a secure location completely separate from affidavits not yet verified and from those that are verified and approved for counting.

230:35-3-130. Provisional ballot verification procedure for voter who disagrees with school district, technology center district, or municipal assignment

When an application for voter registration is entered in MESA, the Street Guide automatically assigns the residence address to the appropriate precinct, and within the precinct, the appropriate school district, technology center district, if applicable, and municipality. See 230:15-9-18.1. In the event that a voter disagrees with the school district, technology center district, or municipal assignment indicated in the Precinct Registry, the voter is entitled to cast a provisional ballot in the school district, technology center district, or municipal election in which the voter claims eligibility. Such a provisional ballot may be counted only if evidence is found that confirms that the voter's residence address is in fact located within the appropriate school district, technology center district, or municipal boundary. The following steps shall be observed to investigate a provisional ballot cast as outlined in this section.

(1) Compare the voter's original registration form from the Central File with the voter registration information in MESA to be certain that the address was entered correctly.

(2) If the voter submitted a new voter registration application form at the polling place, compare the address information on that new application with the information already in MESA. If the address on the new application contains additional details, such as the quarter-quarter section designation, a 911 address, or a more specific physical description, check the Street Guide to determine if the address is assigned to the voter's preferred school district or municipality.

(A) If the address is assigned to the school district, technology center district, or municipality, the ballot shall be counted. Update the voter's registration address information in MESA with the new address.

(B) If the address is not assigned to the school district, technology center district, or municipality, the ballot shall not be counted.

(3) Contact school district, technology center district, or municipal officials for any additional information which may be available.

230:35-3-131. Opening provisional ballot affidavit envelopes and counting provisional ballots

(a) The County Election Board members shall meet on Friday next following the election at such time as the Secretary may prescribe to open the verified provisional ballot affidavit envelopes and to count the provisional ballots. The Board members shall follow these steps to remove the provisional ballots from the envelopes.

(1) The Board members shall receive the verified provisional ballot affidavit envelopes~~, sorted by precinct,~~ from the Secretary or a designated County Election Board employee.

(2) The Board members shall open the affidavit envelopes and remove the ballot secrecy envelopes. If an affidavit envelope indicates that the voter received two or more ballots, but that not all the ballots enclosed are to be counted, see (c) of this Section.

(A) Set the affidavit envelope aside.

(B) Place the ballot secrecy envelope in an appropriate container.

(3) When all the affidavit envelopes ~~from a single precinct~~ have been opened, the secrecy envelopes shall be mixed together.

(4) The Board members shall open the ballot secrecy envelopes and remove the ballots.

(A) Set the secrecy envelope aside.

(B) Unfold the ballot and place it in the designated container ~~for the precinct~~.

(b) When all the verified provisional ballot envelopes ~~for a single precinct~~ have been opened, the ballots shall be counted. The following procedure shall be observed.

(1) The Secretary shall assign a County Election Board employee to count the provisional ballots using a voting device designated and prepared for the purpose. The members of the County Election Board shall observe the counting process.

(2) The employee assigned to count the ballots shall take the following steps.

(A) ~~The memory pack for the precinct shall be inserted in the voting device.~~

~~(B) Press the Print Totals key to obtain a Totals Printout. Verify that the totals match exactly the Totals Printout from election night.~~

~~(C) The polls shall be reopened so that the memory pack can read additional ballots.~~

~~(D)~~ Insert the ballots, one at a time, into the device. ~~If the device returns a ballot, do not remove the ballot from the voting device. Use the override key to accept the ballot, then continue inserting ballots.~~

(~~E~~ B) After all the provisional ballots have been counted, ~~obtain a new Totals Printout~~. ~~(Set the first new Totals Printout aside in a safe place. Do not put it in a ballot transfer box.) Print at least three more copies of the Totals Printout. The following message will print after each race on the Totals Printout: "Test Results Only. Results Are Not Official." However, these are official results and this message should be disregarded.~~ close the polls on the voting device and print the Detail Report and Tally Report. An additional number of Tally Reports shall be printed as instructed by the Secretary.

(3) The employee who counted the ballots and the members of the County Election Board each shall sign all the copies of the ~~Totals Printout~~ Tally Report.

(4) The employee shall remove the counted provisional ballots and place them in a ballot transfer case. If ballots from more than one precinct are placed in the same ballot transfer case, the ballots ~~shall~~ should be sorted and separated by precinct. ~~(The counted provisional ballots may be placed in the same ballot transfer case as any counted telephone ballots which also shall be separated by precinct.)~~ One signed copy of the ~~Totals Printout~~ Tally Report shall also be placed in the ballot transfer case. The ballot transfer case shall be sealed with a short turquoise State Election Board seal signed by the County Election Board members and the employee who counted the ballots. The Secretary shall check the "Counted Provisional Ballots" box on the seal and shall indicate the precinct numbers included in the ballot transfer case.

(5) The sealed ballot transfer case shall be given to the Sheriff, who shall provide security for the counted ballots until 5 p.m. on Friday following the election or until the ballots are delivered to the district courtroom for a recount.

(6) One copy of the provisional ballots ~~Totals Printout~~ Tally Report shall be made available for inspection in the County Election Board office after 1 p.m. on Friday following the election.

~~(7) Follow the appropriate software instructions to read the memory packs into the computer.~~

~~(8) Print a Precinct Report for each precinct in which provisional ballots were counted. Proof the Precinct Report against the Totals Printout.~~

(c) If a provisional voter was issued two or more ballots and, upon verification of the voter's information, it is determined

that one or more of the ballots cannot be counted, the County Election Board members shall follow these steps when opening the affidavit envelope.

(1) Open the affidavit envelope and remove the secrecy envelope.

(2) Write "Count (BALLOT TYPE OR CODE) ballot only" on the secrecy envelope in red ink.

(3) Place secrecy envelope in the container with other secrecy envelopes.

(4) When opening the secrecy envelopes, remove from the marked envelopes only the specific ballot or ballots to be counted. Put the ballots that cannot be counted back in the secrecy envelope and set it aside with the other uncounted provisional ballot materials.

230:35-3-132. Obtaining provisional ballot results

After all the provisional ballots have been counted ~~and the required number of Totals Printouts obtained for each precinct, County Election Board personnel shall follow the appropriate hardware and software instructions to enter the provisional ballot results in into the computer.~~ follow the steps outlined in 230:35-3-87 to obtain the final election results. Under no circumstances shall the results of the provisional ballot count be made public prior to 1 p.m. on Friday following the election.

PART 21. PROOF OF IDENTITY

230:35-3-140. Proof of identity required for voting

(a) Each person appearing to vote at the precinct polling place on election day or at the in-person absentee polling place on a day designated for in-person absentee voting shall provide proof of identity. [26:7-114] "Proof of identity" shall be a document that satisfies all of the following requirements. [26:7-114]

(1) *The document shows the name of the person to whom the document was issued, and the name substantially conforms to the name in the Precinct Registry*. [26:7-114 (1)]

(2) *The document shows a photograph of the person to whom the document was issued*. [26:7-114 (2)]

(3) *The document includes an expiration date, which is after the date of the election in which the person is appearing to vote. The provisions of this paragraph shall not apply to an identification ~~card issued to a person sixty five (65) years of age or older which~~ that is valid indefinitely~~, as provided in Section 6-105.3 of Title 47 of the Oklahoma Statutes~~*. [26:7-114(3)]

(4) *The document was issued by the United States, the State of Oklahoma or the government of a federally recognized Indian tribe or nation*. [26:7-114(4)]

(b) A voter identification card or a temporary voter identification document issued by the County Election Board in the county of the voter's residence shall serve as proof of identity without meeting the requirements listed in (a) (2) and (3) of this Section. [26:7-114]

(c) A state identification card issued to a person 65 years of age or older is valid indefinitely and does not have an expiration date. [26:7-114] Such a card is by law a valid proof of identity for the person to whom it was issued. [26:7-114]

(d) A document that includes a space for an expiration date but that displays in that space an indication that the document, in fact, does not expire shall be valid proof of identity for voting purposes. For example, if the document displays "Indefinite" or "Does Not Expire" or some other similar message in the space labeled for an expiration date, the document shall be accepted.

(e) If a person declines to provide proof of identity or is unable to produce proof of identity, the person may sign an Oklahoma Provisional Ballot Affidavit swearing or affirming to be the same person identified in the Precinct Registry and shall be allowed to cast a provisional ballot as outlined in 230:35-5-177. [26:7-114(B)]

(~~e~~ f) False swearing or affirming under oath shall be punishable as a felony and the penalty for such false swearing or affirming, upon conviction, shall be five years in the state penitentiary, a fine of not more than $50,000.00, or both. [26:7-114]

230:35-3-141. Documents that may be used for proof of identity

(a) Any document that meets all the requirements listed in 230:35-3-140 may be used as proof of identity for voting purposes. Documents that may be used for proof of identity for voting purposes shall include, but ~~may not be~~ are not necessarily limited to, the following.

(1) a valid Oklahoma driver license

(2) a valid Oklahoma state identification card

(3) a voter identification card issued by the County Election Board in the county of the voter's residence

(4) a temporary voter identification document issued by the County Election Board in the county of the voter's residence

(5) a United States passport

(6) a United States military identification

(7) any other document issued by the state of Oklahoma, the United States government, or a federally recognized tribal government which includes the person's name, a photograph of the person, and an expiration date that is later than election day.

(b) The name on a document used for proof of identity for voting purposes shall substantially conform to the name on the voter registration record.

SUBCHAPTER 5. INSTRUCTIONS FOR PRECINCT ELECTION OFFICIALS

PART 1. PRECINCT ELECTION BOARD

230:35-5-1. Purpose

The rules in this Subchapter establish policies and procedures to be observed by Precinct Officials during elections.

These rules detail the organization of the Precinct Election Board, preparations for the election, conduct of election day duties and the return of election results and supplies to the County Election Board office. The rules contained in Parts 1 through 17 are published for distribution to County Election Board personnel and Precinct Officials ~~under the title THE MANUAL FOR PRECINCT ELECTION OFFICIALS~~ as The Manual for Precinct Election Officials section of the Precinct Official Notebook. The rules contained in Parts 19 through 29 are published for distribution to County Election Board personnel and Precinct Officials ~~under the title PRECINCT PROBLEM SOLVER~~ as the Precinct Problem Solver section of the Precinct Official Notebook. ~~The rules contained in Parts 31 and 33, along with certain other Sections from Parts 5 and 17, are published for distribution to County Election Board personnel and Precinct Officials under the title VOTING DEVICE HANDBOOK FOR PRECINCT OFFICIALS. THE MANUAL FOR PRECINCT ELECTION OFFICIALS,~~ The Manual for Precinct Election Officials and the ~~PRECINCT PROBLEM SOLVER, and the VOTING DEVICE HANDBOOK FOR PRECINCT OFFICIALS~~ Precinct Problem Solver are essential parts of Oklahoma's uniform statewide election system.

230:35-5-2. Publication of ~~THE MANUAL FOR PRECINCT ELECTION OFFICIALS~~ The Manual for Precinct Election Officials

Prepared by the staff of the State Election Board for use by County Election Board Secretaries, Precinct Officials and other election personnel, ~~THE MANUAL FOR PRECINCT ELECTION OFFICIALS~~ The Manual for Precinct Election Officials is published as a section within the Precinct Official Notebook and is intended to complement other publications of the State Election Board. ~~THE MANUAL FOR PRECINCT ELECTION OFFICIALS~~ The Manual for Precinct Election Officials includes the rules contained in Parts 1 through 17 of this Subchapter.

230:35-5-8. Authority of Inspector

~~The Inspector is the *administrative officer of the Precinct Election Board*. [26:2-126]~~The Inspector is the administrative officer of the Precinct Election Board and is in charge of the operations of the polling place on election day. It is the Inspector's duty to receive election materials from the Secretary of the County Election Board and to ensure that the procedures contained in ~~THE MANUAL FOR PRECINCT ELECTION OFFICIALS, the PRECINCT PROBLEM SOLVER, and THE VOTING DEVICE MANUAL FOR PRECINCT OFFICIALS~~ The Manual for Precinct Election Officials and the Precinct Problem Solver sections of the Precinct Official Notebook are followed correctly on election day. At times, the Inspector also may be responsible for relaying special instructions or new information from the County Election Board Secretary to the Judge and the Clerk.

230:35-5-17. Receiving supplies and ballots

(a) **Notification.** The Inspector picks up election supplies and ballots at the County Election Board office before election day. About ten days before the election, the County Election Board Secretary notifies the Inspector of the date, time and place to receive supplies and ballots for the precinct.

(b) **Precinct Check List.** When picking up election supplies, the Inspector uses a Precinct Check List form to verify that all the supplies are included in the correct quantity. The Inspector places a check mark beside each item in the shaded column labeled "Insp." ~~beside each item.~~

(c) **Items received.** The Inspector receives these items.

(1) **Election supplies.** The Inspector receives the election supplies. The election supplies may be packed in a box, an envelope, a bag, a binder or other container. The election supplies include the Precinct Official Notebook, signs, ~~forms, publications,~~ envelopes, keys, ~~ink~~ ballpoint pens, ~~ballot markers,~~ and other items Precinct Officials need on election day.

(2) **Precinct Registry.** The Inspector receives the Precinct Registry or Registries for the precinct. The Precinct Registry is a computer printout containing the names and addresses of all the registered voters in the precinct. The Precinct Registry is arranged in alphabetical order and separated by political affiliation for Primary and Runoff Primary Elections. For General Elections, the Precinct Registry is arranged in alphabetical order but it is not separated by political affiliation.

(3) **Keys.** The Inspector receives two keys C the round ballot box key and the voting device key. The round ballot box key unlocks both ~~sides of~~ locks on the main compartment of the ballot box, ~~the ballot box flap and~~ the door of the emergency compartment of the ballot box and the rear door of the ballot box. The square voting device key unlocks the ~~door of the back panel of~~ both locks on the voting device case. The keys are together on a key ring and enclosed in the unsealed voting device key envelope.

(4) **Ballots.** The Inspector receives the ballots for the precinct. The precinct's ballots are listed on the Precinct Check List form. There may be only one ballot or several ballots depending on the type of election or elections being conducted on a particular date. Ballots are bound in books of ~~50~~ 100 ballots. The Inspector must be sure that the ballot quantities listed on the Precinct Check List are included in the supplies.

(5) **Voting Device.** The Inspector receives the voting device that has been prepared for the precinct.

(d) **Inspector signs form.** After verifying that all items listed on the Precinct Check List are present in the correct quantities, the Inspector signs the form in the space provided at the bottom and returns the signed form to the Secretary. [26:7-103]

(e) **Inspector takes custody of supplies.** The Inspector takes the supplies ~~and~~, ballots, and voting device with him or her from the County Election Board office and keeps them in a safe place until election day.

PART 3. PREPARATIONS FOR ELECTION DAY

230:35-5-17.1. ~~Voting device and ballot~~ Ballot box, voting booths, and signs

The County Election Board provides ~~one voting device,~~ one ballot box, and at least two voting booths for each precinct. The County Election Board also may provide signs to designate the location of the door nearest the polling place within a large building and signs to designate parking areas or entrances that are accessible to the disabled. The County Election Board Secretary has several options for distributing ~~voting devices,~~ ballot boxes~~, and~~ , voting booths, and signs to precinct polling places. The Inspector receives instructions from the Secretary about the ~~voting device,~~ ballot box~~, and~~ , voting booths, and signs when picking up election supplies and ballots.

PART 5. PREPARATIONS ON ELECTION DAY

230:35-5-28. Preparation of polling place

The Inspector, Judge, and Clerk meet at the polling place at 6:30 a.m. on election day and follow these steps to prepare for the election. [26:7-105]

(1) Display the American flag either inside or outside the polling place as instructed by the County Election Board Secretary.

(2) Open the election supplies container and remove the supplies as directed in the following steps.

(3) Display the Oklahoma Election Procedures C Important Voter Information sign and the Election Law Violations sign outside the polling place so that voters can read the information before entering. Use either thumbtacks or tape to secure the sign to a door, window, wall, or other surface.

(4) Post the Vote Here sign in a conspicuous place outside the polling place.

(5) Display at least three copies of each sample ballot. Post one set of the sample ballots near the Oklahoma Election Procedures C Important Voter Information sign and the Election Law Violations sign.

(6) Make sure that all the ink pens work.

(7) Set up the voting booths so that you can tell whether more than one person is in a booth at any given time, but also so that voters may mark their ballots in secrecy.

(8) Post one Attention Voter poster inside each voting booth. This poster may be attached permanently to some voting booths.

(9) Put the ~~FORMS FOR USE BY PRECINCT ELECTION OFFICIALS booklet on the table. This booklet contains forms that will be used during the day. Do not tear any forms out of the booklet.~~

~~(10) Put THE MANUAL FOR PRECINCT ELECTION OFFICIALS and the PRECINCT PROBLEM SOLVER on the table.~~ Precinct Official Notebook on the table.

(~~11~~ 10) Put some Oklahoma Voter Registration Application forms on the table at both the Inspector's position and the Judge's position. It is also a good idea to put some of the Oklahoma Voter Registration Application forms in a visible location away from the Precinct Officials' table, if possible.

(~~12~~ 11) Set aside the remaining supplies. They will be used after the polls close.

230:35-5-29. Location and materials for Judge

The Judge is the first Precinct Official the voter sees. Position the Judge closest to the entrance. Put these items at the Judge's position.

(1) Precinct Registry or Registries.

(2) ~~Ink~~ Ballpoint pens.

(3) Oklahoma Voter Registration Application forms.

(4) Address Information Requested handouts.

(5) Provisional Ballot Voucher forms

230:35-5-31. Location and materials for Inspector

The Inspector is positioned beside the Clerk and near the voting device. Put these items at the Inspector's position.

(1) ~~Ballot markers~~Ballpoint pens.

(2) Voting device.

~~(3) VOTING DEVICE HANDBOOK FOR PRECINCT OFFICIALS.~~

230:35-5-32. Preparation of voting device

Before the polls open, the Inspector follows these steps, with the help of the Judge and Clerk as needed, to prepare the voting device.

(1) Place the ballot box near an electrical outlet.

(2) ~~Unlock both sides of the ballot box with the ballot box key. Open ballot box and remove the voting device, if voting device is locked inside ballot box, and the ballot box dividers.~~ Follow the instructions in the voting device instructions section of the Precinct Official Notebook to set up the ballot box, to attach the voting device to the ballot box, and to close and lock the emergency compartment of the ballot box.

(3) ~~In view of the Judge, Clerk and any registered voters present, the Inspector confirms that the ballot box is empty. Turn the ballot box upside down or turn it on its side toward the witnesses so that they can see inside it.~~ Follow the instructions in the voting device instructions section of the Precinct Official Notebook to open the voting device case and to attach and plug in the power cord.

(4) ~~Insert the dividers in the slots inside the ballot box. Make sure that the emergency compartment is closed and locked~~. Follow the instructions in the voting device instructions section of the Precinct Official Notebook to turn on the voting device, open the polls on the voting device, and to prepare the voting device to accept ballots.

~~(5) Close the ballot box. Lock both sides of the ballot box with the ballot box key~~.

~~(6) Unlock and open the flap on top of the ballot box that covers the openings for the center and rear compartments.~~

~~(7) Put a seal through the holes on the sides of the ballot box.~~

~~(8) Set the voting device on top of the ballot box and align it with the sides of the ballot box. Be sure that the ballot entry slot on the device faces the same direction as the front of the ballot box. Push the voting device back against the ballot slot tab. Lower the front of the voting device down onto the two alignment pins on the front corners of the ballot box. Be sure that the voting device is firmly seated on top of the ballot box.~~

~~(9) Unlock the door of the back panel of the voting device with the voting device key.~~

(~~10~~5) Check the number printed on the seal on the ~~memory pack door~~election results storage device compartment cover and verify that it is the same as the number recorded on the Voting Device Report.

(6) Check the ~~voting device~~ precinct number ~~printed on the back of the voting device and~~ on the luggage tag attached to the voting device and verify that it is the same as the precinct number ~~recorded on the Voting Device Report~~ that printed at the beginning of the Zero Tape. If either of these numbers ~~does not match the numbers recorded on the Voting Device Report~~ is not the correct number for this precinct, call the County Election Board office immediately.

~~(11) Plug the voting device into the electrical outlet. The voting device immediately starts printing the Zero Printout. DO NOT tear off the Zero Printout. It must remain attached to the voting device throughout the day.~~

~~(12) Verify that the Zero Printout contains a complete listing of all candidates and offices in the same order as on the sample ballot. Verify that all totals are "zero."~~

~~(13) If any vote totals appear on the Zero Printout, or if the candidates listed do not match those on the sample ballot, call the County Election Board office immediately.~~

~~(14) If the Zero Printout does not print automatically when the device is plugged in, try plugging the voting device into a different electrical outlet. If the Zero Printout still does not print, call the County Election Board office immediately.~~

~~(15) Check the front panel of the voting device. The red light indicates the power is on. The green light indicates the voting device is ready to accept ballots.~~

~~(16) Close and lock the rear panel door. Put the voting device keys back in the voting device key envelope, but do not seal envelope.~~

(7) Verify that the voting device console screen displays the Ready to Scan message.

230:35-5-32.1. Special instructions for preparing ballot box when heavy voter turnout is expected [REVOKED]

~~If voter turnout for the election is expected to be heavy and more than one three-column ballot is to be issued to voters in the precinct, the Secretary of the County Election Board may give the Inspector the following special instructions for preparing the ballot box when he or she receives supplies and ballots for the election. (See 230:35-5-17 and 230:35-5-17.1.) These instructions result in a larger space inside the ballot box for voted ballots.~~

~~(1) Insert the first divider in the set of slots inside the ballot box marked "Emergency Bin." These slots are located closest to the front of the ballot box. This divider forms the emergency bin.~~

~~(2) If the second divider is enclosed in the ballot box, do not insert it in the second set of slots. (The second divider may not have been enclosed inside the ballot box.) Omitting the second divider creates a larger space for voted ballots inside the ballot box.~~

~~(3) Put aside the unused second divider, if it was enclosed, in a secure place. Be certain to put the unused second divider back inside the ballot box at the end of the election day.~~

~~(4) Check the public counter on the front of the voting device periodically during the day. This counter shows the number of ballots that have been inserted in the voting device since the polls opened. If the number on the public counter reaches 1500, call the County Election Board office immediately. If you fail to call the County Election Board when the public counter reaches 1500, the ballot box may become too full and cause the voting device to jam.~~

~~(5) Follow carefully the instructions given by the County Election Board staff.~~

PART 7. GENERAL GUIDELINES

230:35-5-36. Primary function

The primary duty of a Precinct Official is to serve voters C to help eligible voters to vote and to make sure that all votes on properly marked ballots are cast and counted.

230:35-5-37. No member may leave polling place

Once the Precinct Officials arrive at the polling place, they may not leave until the Inspector is ready to ~~go~~ return to the County Election Board office that night after the polls close. However, if a telephone is not available at the polling place, the Inspector may need to leave to call the County Election Board office. With this one exception, all three Precinct Officials must remain on duty at the polling place from the time they arrive in the morning until all the day's work is completed after the polls close.

230:35-5-38. Election results reported to news media

Sometimes ~~the~~ news media representatives contact Precinct Officials to report election results on election night. It is permissible, but not required, for Precinct Officials to do this. Under no circumstances may any election results be reported until after a ~~Totals Printout~~ Tally Report has been posted on the door of the polling place. If the Secretary of the County Election Board includes a special form in the election supplies to be used to report the precinct's results for the local news media, the Inspector completes it as instructed and returns it to the County Election Board office with the other election materials.

230:35-5-39. Violations of the law

If members of the Precinct Election Board observe an election law being violated, it would be proper for the Inspector to inform the violator that his action is against the law. However, under no circumstances shall the Precinct Election Board be involved in enforcement of the violations. If violators persist in their actions, the Inspector immediately shall notify the Secretary of the County Election Board. ~~Specifically, the following actions are prohibited by law:~~

~~(1) **Electioneering.** The law prohibits any person from electioneering *within 300 feet of any ballot box while an election is in progress.* [26:7-108] The law also prohibits any person, except election officials and persons who are voting or waiting to vote, from being allowed *within 50 feet of any ballot box while an election is in progress.* [26:7-108] The law further prohibits the posting or exposing of any printed material, other than that material provided by the County Election Board *within 300 feet of any ballot box while an election is in progress.* [26:7-108]~~

~~(2) **Disclosure of vote.** It is unlawful for a voter to disclose to any other person how he voted or to expose his ballot to any person within the election enclosure. [26:7-109]~~

~~(3) **Intoxicating liquors.** It is unlawful to take *intoxicating liquors of any kind or quantity to within one-half mile of any polling place on election day*. [26:7-110] The law prohibits any person from being *within 300 feet of a polling place in an intoxicated condition on election day*. [26:7-110]~~

~~(4) **Voting ballots issued.** *No person shall vote any ballot except such ballot issued to him by the Precinct Election Board, and each ballot cast must be voted without removing same from the polling place.* [26:7-111] *Any unauthorized person who knowingly removes a ballot from a polling place or who knowingly carries a ballot into a polling place shall be deemed guilty of a felony.* [26:16-102.1]~~

~~(5) **Persons authorized inside election enclosure.** *At no time during the hours of voting shall any person, other than the election officials and other persons authorized by law, be allowed inside the election enclosure except for one registered voter in each voting booth and one other registered voter for each voting booth.* [26:7-112] However, a news reporter or photographer may enter the election enclosure for no more than five minutes. [26:7-112]~~

230:35-5-40. Problems

When questions arise during the day, consult ~~THE MANUAL FOR PRECINCT ELECTION OFFICIALS~~ The Manual for Precinct Election Officials and the ~~PRECINCT PROBLEM SOLVER~~ Precinct Problem Solver sections of the Precinct Official Notebook for solutions. If the answer cannot be found in these publications, or if the Precinct Officials are uncertain how to apply the information in these publications to the situation at hand, the Inspector should call the County Election Board office for advice.

230:35-5-41. Inspector's Notes to Secretary

The Inspector uses the Inspector's Notes to Secretary sheet in the ~~FORMS FOR USE BY PRECINCT OFFICIALS booklet~~ Forms section of the Precinct Official Notebook to record problems or questions that arise during the day. Even problems that are referred to the County Election Board Secretary for immediate remedy should be recorded on this sheet.

PART 9. OPENING THE POLLS

230:35-5-47. Before processing first voter

The Inspector, Judge and Clerk each show their proof of identity, sign the Precinct Registry, and cast their ballots before processing the first voter. If a Provisional Voting Officer or a Registration Official has been assigned to the precinct, that person also votes before the first voter is processed. If a Precinct Official is not a registered voter in the precinct, however, that Precinct Official cannot vote.

PART 11. PROCESSING THE VOTER

230:35-5-53. Order of voting [REVOKED]

~~Voters are processed in the order in which they arrive in the voting enclosure. [26:7-113] While the polls are open, there should be at no time more than one voter in each voting booth and one voter waiting for each voting booth inside the voting enclosure. [26:7-112] The Inspector must keep order in the lines of voters outside the voting enclosure.~~

230:35-5-54. Time limit

A voter who is voting without assistance may stay in the voting booth for only five minutes. A voter who is voting with the help of an assistant may stay in the voting booth no longer than ten minutes. [26:7-121] A voter using the ATI device to vote an audio ballot may stay in the voting booth for as long as necessary to vote, review, and cast the audio ballot. Voters must leave the voting enclosure immediately after they finish voting.

230:35-5-55. Routine for Judge

(a) The Judge follows these routine steps to process voters. Refer to the ~~PRECINCT PROBLEM SOLVER~~ Precinct Problem Solver section of the Precinct Official Notebook for instructions in non-routine situations.

(1) Greet the voter and ask the voter's name. If this is a Primary or Runoff Primary, also ask the voter's political party.

(2) Find the voter's name in the Precinct Registry.

(3) Ask to see the voter's proof of identity. The person's name on the proof of identity must substantially conform to the name listed in the Precinct Registry. The voter may present any of the following documents as proof of identity.

(A) an Oklahoma driver license

(B) a voter identification card issued by the County Election Board

(C) a temporary voter identification document issued by the County Election Board

(D) a state identification card

(E) a United States passport

(F) a United States military identification

(G) any other such document issued by the state of Oklahoma, the United States government, or a federally recognized tribal government which includes the person's name, a photograph of the person, and an expiration date that is later than election day or an indication that the document does not expire.

~~(3) Find the voter's name in the Precinct Registry.~~

(4) If the voter does not have or refuses to provide proof of identity, the voter may vote only by provisional ballot. See 230:35-5-177.

(5) If there is a message printed in the "Signature of Voter" column, follow the instructions in 230:35-5-113 or 230:35-5-113.1.

(~~5~~6) Tell the voter to sign the Precinct Registry. [26:7-114; 26:7-117]

(~~6~~7) If this is a school district election, look in the "School ~~Dist~~" column in the Precinct Registry for the voter's school district ~~assignment~~ code. An asterisk beside the school district code indicates that the voter also is entitled to a ballot for a vocational-technical school district. Refer to the legend on the precinct school district map to determine the correct vocational-technical school district for this voter. If the is a technology center district election, look in the "TC" column for the voter's technology center district code. If either the "School ~~Dist~~"or "TC" column is blank, see 230:35-5-113.2(a). If the voter believes that the wrong school district or technology center district is ~~indicated~~ listed, see 230:35-5-113.2(b).

(~~7~~8) If this is a municipal election, look in the "Muni" column in the Precinct Registry for the voter's municipal assignment code. If the "Muni" column contains the word "None," this voter's residence address is not located within the boundaries of a municipality in this precinct and the voter is not eligible to vote in a municipal election. If the "Muni" column is blank or if the voter disagrees with the municipal assignment, see 230:35-5-113.2.

~~(8) Write~~

(9) Refer to the Ballot Codes List provided by the County Election Board and write the code for each ballot the voter will receive in the "Ballots Issued" column of the Precinct Registry.

(~~9~~10) Tell the Clerk the voter's political affiliation, as it appears in the Precinct Registry, and the elections in which the voter is voting.

(b) If the voter's name is not in the Precinct Registry or if the voter does not have ~~an acceptable form of identification~~ or refuses to provide proof of identity, the voter is entitled by law to cast a provisional ballot. Refer the voter to the Inspector or to the Provisional Voting Officer. See 230:35-5-171. If a voter who is eligible to cast a provisional ballot refuses the offer of the provisional ballot and leaves the polling place without voting, record the incident on the Provisional Ballot Refusal form.

230:35-5-56. Routine for Clerk

The Clerk follows these routine steps to process voters. Refer to the ~~PRECINCT PROBLEM SOLVER~~ Precinct Problem Solver section of the Precinct Official Notebook in non-routine situations.

(1) Give the voter a ballot for each election in which he or she is voting. [26:7-117]

(2) Offer the voter a secrecy folder. Use of secrecy folders is not required.

230:35-5-57. Routine for Inspector

The Inspector follows these routine steps to process voters. Refer to the ~~PRECINCT PROBLEM SOLVER~~ Precinct Problem Solver section of the Precinct Official Notebook for instructions in non-routine situations.

(1) Give the voter a ~~ballot marker~~ ballpoint pen.

(2) Direct the voter to a vacant voting booth and ask the voter to read the Attention Voter poster in the voting booth.

(3) Tell the voter that after marking the ballots in the privacy of the voting booth, he should place the voted ballot inside a secrecy folder, if used, and return to the voting device. [26:7-120]

(4) When the voter returns to the voting device, tell the voter to feed the ballot into the voting device. Either end of the ballot may be fed first and the ballot may face up or down.

(5) Retrieve the ~~ballot marker~~ ballpoint pen and secrecy folder, if used, from the voter.

(6) If the voting device returns a ballot, ~~ask~~ the voter ~~to wait until the voting device message prints and the problem is resolved. See 230:35-5-159 through 230:35-5-162 for more information.~~ may be able to resolve the problem himself by following the instructions on the voting device console screen and pressing the appropriate buttons. However, the Inspector should always be prepared to answer questions and to assist the voter if necessary.

(7) If the voting device console screen displays an error code and a message indicating that the ballot has already been counted, follow the instructions in the voting device instructions section of the Precinct Official Notebook to resolve the problem.

230:35-5-58. Additional duties of Inspector

In addition to Inspector's duties when processing voters, the Inspector also performs the following tasks on election day.

(1) Inspect voting booths and other areas of the voting enclosure periodically for ~~unmarked~~ discarded ballots. If you find unmarked ballots discarded in a voting booth or other location within the voting enclosure, show them to the Judge and Clerk and then feed them into the voting device.

(2) If you find marked ballots, show them to the Judge and Clerk and attach them to the Inspector's Notes to Secretary sheet. Explain on the sheet that the ballot was found

discarded in a voting booth or other location within the voting enclosure.

(3) Inspect voting booths and other areas within the voting enclosure periodically for campaign literature and remove any that you find.

(~~3~~4) Call the County Election Board office immediately if the ballot supply seems low.

(5) Check the public counter on the voting device console screen periodically through the day. Call the County Election Board office immediately if the public counter reaches 3000. Follow the instructions given by the County Election Board staff.

230:35-5-59. Voter assistance

Some voters are entitled to special assistance while voting. Procedures for assisting these voters are located in "Assistance outside polling place for disabled voter" and the "Blind, physically disabled, or illiterate voter" ~~sections of the PRECINCT PROBLEM SOLVER~~ in the Precinct Problem Solver section of the Precinct Official Notebook (230:35-5-119 and 230:35-5-120.1).

PART 15. AFTER THE POLLS CLOSE

230:35-5-70. Closing the polls

At precisely 7 p.m. on election day, the Inspector announces that the polls are closed. Any registered voters who are in line to vote at 7 p.m. must be permitted to vote. [26:7-104] The Inspector must keep lines of voters orderly and secure. The Inspector shall make certain that all voters have finished voting and have fed their ballots into the voting device before obtaining the ~~Totals Printout~~ closing the polls on the voting device and obtaining the required Detail Report and the Tally Report. Follow the instructions in the voting device instructions section of the Precinct Official Notebook to close the polls on the voting device and to print the required reports.

230:35-5-75.1. Obtaining ~~Totals Printout~~ Detail Report and Tally Report

After all voters who are in line at 7 p.m. have finished voting and have fed their ballots into the voting device, the Inspector unlocks the emergency compartment of the ballot box, takes out any ballots deposited there during the day, and feeds them into the voting device. See 230:35-5-154. The Inspector then follows ~~these steps to obtain the Totals Printout~~ the steps in the voting device instructions section of the Precinct Official Notebook to obtain the required copies of the Detail Report and Tally Report.

(1) ~~Unlock the back panel of the voting device to reveal the key pad.~~

~~(2) Press the "Print Totals" key. The device prints this message: "REQUEST TO CLOSE POLLS. (Print totals, no more ballots). PRESS 0 KEY IF THIS IS O.K. PRESS 9 KEY IF THIS IS NOT O.K."~~

~~(3) Verify again that all voted ballots have been fed into the voting device and that it is after 7 p.m. The device cannot take any more ballots after this process starts.~~

~~(4) Press the "0" key. The Totals Printout begins to print immediately.~~

~~(5)~~ Tear the tape off the voting device when it finishes printing the ~~Totals Printout~~ first Tally Report.

(~~6~~2) The Inspector, Judge, and Clerk sign the ~~Totals Printout~~ first Tally Report in the spaces provided at the end of the tape. ~~This tape, which includes the Zero Printout from the morning, all messages printed during the day, the first Totals Printout, and the signatures of the Precinct Officials is the Official Election Returns for the precinct.~~

~~(7) Press the "Print Totals" key again to print another copy of the Totals Printouts. Print at least three more copies for a statewide election and at least two more copies for all other elections.~~

(3) Print at least three more copies of the Tally Report for a statewide election and at least two more copies for all other elections. Print additional copies of the Detail Report only if so instructed by the Secretary of the County Election Board.

(~~8~~4) Tear ~~the~~ each additional ~~copies~~ copy of the ~~Totals Printout~~ Tally Report off the device as ~~they finish printing and~~ as it finishes printing and sign ~~them~~ each copy in the spaces provided at the end of each report tape.

230:35-5-75.2. Securing the voting device

After printing the required number of ~~Totals Printouts~~ Tally Reports, the Inspector follows ~~these steps~~ the instructions in the voting device instructions section of the Precinct Official Notebook, with the help of the Judge and Clerk as needed, to secure the voting device, to remove all voted ballots from the ballot box and secure them in the ballot transfer case for return to the County Election Board office. Prepare the ballot box for transport or for storage on-site at the polling place as instructed by the Secretary.

~~(1) Unplug the voting device.~~

~~(2) Break the seal on the memory pack door and place it in the supply container.~~

~~(3) Open the memory pack door. Lift the memory pack lever and move it to the right. Pull the memory pack out of the voting device. Put the memory pack inside the padded bag and put the padded bag inside the Envelope for Totals Printout.~~

~~(4) Fold the electrical cord and store it under the cover below the key pad area.~~

~~(5) Close and lock the door on the back panel.~~

~~(6) Remove the voting device from the ballot box by lifting it straight up off the alignment pins and set it aside in a safe place.~~

~~(7) Break the seals on the ballot box and place them in the supply container.~~

~~(8) Unlock and open the ballot box. Take out all the ballots and pack them in ballot transfer cases. If any ballots are found in the emergency compartment, immediately contact the County Election Board for instructions.~~

~~(9) Follow the instructions provided by the Secretary of the County Election Board concerning the voting device and ballot box.~~

~~(10) Put the voting device key ring in the voting device key envelope and seal it. Put the voting device key envelope in the Envelope for TotalsPrintout.~~

230:35-5-75.3. Completing election night tasks

(a) **Distribution of ~~Totals Printout~~ Tally Report.** Distribute the ~~Totals Printouts~~ Tally Reports as follows.

(1) Put the original ~~Totals Printout~~ Tally Report, which includes the Zero ~~Printout, all messages,~~ Report and the ~~first Totals Printout~~ Detail Report and the first Tally Report, inside the Envelope for ~~Totals Printout~~ Tally Report.

(2) ~~Put~~ Post one copy on the polling place door.

(3) Put one copy inside ~~a~~ the ballot transfer case.

(4) If this is a statewide election, put one copy in the green envelope to mail to the State Election Board.

(b) **Voting Device Report.** The Inspector fills out the Voting Device Report and signs it. The Judge and Clerk also sign it. Put the ~~finished~~ signed Voting Device Report in the Envelope for ~~Totals Printout~~ Tally Report.

(c) **Ballot Accounting Form.** The Clerk fills out and signs the Ballot Accounting Form or Forms ~~and signs it~~. The Inspector and Judge also sign ~~it~~the Ballot Accounting Form or Forms. Put the finished Ballot Accounting Form or Forms in the Envelope for ~~Totals Printout~~ Tally Report.

(d) **Packing ~~unused~~ ballots and sealing ballot transfer cases.** Pack all used and unused ballots in ballot transfer cases. If possible, pack unused ballots in a ballot transfer case separate from the voted ballots. Seal each ballot transfer case with clear packing tape and attach a long white State Election Board seal. Indicate on the seal ~~if~~ whether the case contains voted ballots, unused ballots, or a combination of voted and unused ballots. The Inspector, Judge, and Clerk all sign the long white State Election Board seal on each ballot transfer case.

(e) **Sealing the Envelope for ~~Totals Printout~~ Tally Report.** The Inspector verifies that the following items are inside the Envelope for ~~Totals Printout~~ Tally Report and then seals the envelope. The Inspector, Judge, and Clerk all sign the envelope flap.

(1) Original ~~Totals Printout~~ Tally Report, which includes the Zero ~~Printout, all messages printed during the election,~~ Report, the ~~first Totals Printout~~ the Detail Report, the Tally Report, and the signatures of the Inspector, Judge, and Clerk.

(2) ~~Memory pack in the padded bag.~~

~~(3)~~ Voting device key envelope.

(~~4~~ 3) Ballot Accounting Form or Forms.

(~~5~~ 4) Voting Device Report.

(5) Uncounted ballots that were found in the emergency compartment of the ballot box after the polls were closed on the voting device and the Detail and Tally Reports were printed.

(6) Any other forms or materials as instructed by the Secretary of the County Election Board.

(f) **Precinct Expense Claim Envelope.** The Judge and Clerk sign the Precinct Expense Claim Envelope and receive their vouchers from the Inspector. Vouchers may not be distributed under any circumstance until after the polls close. [26:3-105.1(c)]

(g) **Provisional Ballot Bag.** The Inspector or the Provisional Voting Officer shall complete the following steps.

(1) Put the Provisional Ballot Roster in the large, clear plastic pocket on the orange Provisional Ballot Bag.

(2) Make certain that all completed Provisional Ballot Affidavit Envelopes are inside the Provisional Ballot Bag.

(3) Zip the bag and seal it with the blue plastic seal.

(4) Pack any unused provisional ballot materials and supplies as instructed by the County Election Board Secretary.

(5) Place the sealed Provisional Ballot Bag, the packed supplies, and any Oklahoma Voter Registration Application forms completed by provisional voters with the other materials that the Inspector returns to the County Election Board office.

230:35-5-76. Repacking supplies

The Inspector, Judge, and Clerk repack all election supplies into the same container in which they were received. Use the following list while repacking to verify that all supplies and materials are accounted for.

(1) Used signs (Vote Here, Oklahoma Election Procedures C Important Voter Information, Election Law Violations, and Attention Voter, if applicable) and sample ballots.

(2) ~~FORMS FOR USE BY PRECINCT ELECTION OFFICIALS booklet.~~

~~(3) THE MANUAL FOR PRECINCT ELECTION OFFICIALS.~~

~~(4) PRECINCT PROBLEM SOLVER.~~

~~(5) VOTING DEVICE HANDBOOK FOR PRECINCT OFFICIALS.~~ Precinct Official Notebook.

(~~6~~ 3) Used and unused Oklahoma Voter Registration Application forms.

(~~7~~ 4) Secrecy folders.

~~(8) Ink~~

(5) Ballpoint pens.

(~~9~~ 6) Remaining paper clips, rubber bands, thumbtacks, and tape.

(~~10~~ 7) Scissors.

~~(11) Broken seals from memory pack door and ballot box sides.~~

(~~12~~ 8) Unused Oklahoma Provisional Ballot Affidavit envelopes, secrecy envelopes, handouts and other materials and supplies.

(~~13~~ 9) Flashlight.

(10) All other remaining reusable supplies.

230:35-5-79. Inspector returns to the County Election Board office

(a) **Inspector's items.** After all the work is completed, the Inspector returns to the County Election Board office with the following items.

(1) Voting device ~~(only if instructed by Secretary)~~.

(2) Envelope for ~~Totals Printout~~Tally Report.
(3) Election supplies.
(4) American flag.
(5) Precinct Registry or Registries.
(6) Precinct Expense Claim Envelope and any unclaimed vouchers.
(7) Sealed ballot transfer cases.
(8) Sealed orange Provisional Ballot Bag.
~~(9) Green Envelope with Totals Printouts (statewide elections only).~~

(b) **Green Envelope.** If this is a statewide election, the Inspector mails the green envelope to the State Election Board on the way to the County Election Board office.

(c) **At the County Election Board office.** At the County Election Board office, the Inspector turns over ~~all~~ the voting device, the ballots, and the election supplies and materials to County Election Board personnel. [26:7-133]

230:35-5-81. Inspector shall not leave

The Inspector may not leave the County Election Board office until the all the supplies and materials for his precinct have been received and verified by County Election Board personnel.

PART 19. PRECINCT PROBLEM SOLVER

230:35-5-105. Publication of ~~PRECINCT PROBLEM SOLVER~~ Precinct Problem Solver

Prepared by the staff of the State Election Board for use by County Election Board Secretaries, Precinct Officials and other election personnel, the ~~PRECINCT PROBLEM SOLVER~~ Precinct Problem Solver section of the Precinct Official Notebook is intended to complement other publications of the State Election Board. The ~~PRECINCT PROBLEM SOLVER~~ Precinct Problem Solver includes the rules contained in Parts 19 through 29 of this Subchapter.

PART 21. VOTERS LISTED IN PRECINCT REGISTRY WHO HAVE PROBLEMS WITH ELIGIBILITY

230:35-5-113.2. Determining voter's school district or municipality

(a) The school district in which a voter is eligible to vote is listed in the column labeled "School ~~Dist~~" in the Precinct Registry. ~~An asterisk beside the school district indicates that the voter also is entitled to a ballot for the corresponding technology center school district. A list of school districts and corresponding technology center school districts in the precinct is included in the legend on the precinct school district map.~~ The technology center district in which the voter is eligible to vote is listed in the column labeled "TC." The Judge refers to the Ballot Codes List provided by the Secretary and writes the appropriate school district and technology center school district ~~ballot~~ codes in the "Ballot Issued" column in the Precinct Registry and tells the Clerk the elections in which the voter is voting.

(b) The municipality in which a voter is eligible to vote is listed in the column labeled "Muni" in the Precinct Registry. If the word "None" appears in the "Muni" column, the voter does not reside within the boundaries of a municipality and is not eligible to receive a municipal ballot. If the municipality nominates and elects its officers by ward, the municipal code in the "Muni" column will include a numeral to indicate the ward number to which the voter's residence is assigned. The Judge writes the municipal code and the appropriate municipal ballot codes in the "Ballot Issued" column in the Precinct Registry and tells the Clerk the elections in which the voter is voting.

(c) The "School ~~Dist~~" "TC," and/or the "Muni" column in the Precinct Registry is blank for some voters. The Judge follows these steps when the voter's school district or municipal code is not indicated.

(1) Show the voter the precinct school district or municipal map.
(2) Ask the voter to find his residence on the map and to determine from the map the school district and/or municipality in which he or she lives.
(3) If a technology center school district also is holding an election in the precinct, determine the corresponding technology center district from the information in the legend on the map.
(4) If the municipality is holding an election in one or more wards, ask the voter also to determine from the municipal map the ward in which he or she lives.
(5) Tell the voter to sign the Precinct Registry ~~over the message in the signature space~~.
(6) Write the school district, technology center district, and/or municipal ballot codes in the "Ballot Issued" column.
(7) Tell the Clerk the elections in which the voter is voting.
(8) Return to the routine procedure.

(d) If a voter tells you that the school district, technology center district, or municipality indicated in the Precinct Registry is incorrect, the Judge follows these steps.

(1) Show the voter the ~~precinct~~ school district or municipal map for the precinct.
(2) Ask the voter to find his residence on the map and to determine from the map the school district, technology center district, or municipality in which he or she lives.
(3) If the voter says that the map is incorrect, the voter is entitled to cast a provisional ballot. Fill out a Provisional Ballot Voucher indicating the school district, technology center district, or municipality in which the voter claims to reside and tell the voter to take it to the Inspector or the Provisional Voting Officer.

PART 23. VOTER ASSISTANCE

230:35-5-119. Assistance outside the polling place for physically disabled or infirm voter

(a) A voter who comes to the polling place but who cannot come inside to vote because of a physical disability or infirmity is entitled to vote outside the polling place assisted by two Precinct Officials. [26:7-123.1] If the voter is only visually disabled, this procedure does not apply. [26:7-123.1]

(b) Precinct Officials use this procedure when they learn that a physically disabled or infirm voter is outside wanting to vote. Before going outside to help the voter, the Precinct Officials must stop processing voters inside the polling place.

(1) The Inspector tells the Judge to stop allowing voters to sign the Precinct Registry.

(2) After all the voters who already have signed the Precinct Registry finish voting, the Inspector and one of the other Precinct Officials go outside to help the voter. The Inspector and the other Precinct Official must be registered to vote in different political parties.

(3) The Inspector and the other Precinct Official take these items outside with them to assist the voter.

(A) Precinct Registry

(B) Ballots

(C) Secrecy folder

(D) ~~FORMS FOR USE BY PRECINCT ELECTION OFFICIALS booklet~~

~~(E) MANUAL FOR PRECINCT ELECTION OFFICIALS~~

~~(F) PRECINCT PROBLEM SOLVER~~ Precinct Official Notebook

(~~G~~ E) Oklahoma Voter Registration Application form

(~~H~~ F) Address Information Requested handout

(4) The Precinct Official who stays inside the polling place does not allow any voters to ~~vote~~sign the Precinct Registry or receive ballots while the Inspector and the other Precinct Official are outside.

(c) The Inspector and the other Precinct Official follow this procedure when they go outside to help the voter.

(1) The Inspector reads this oath to the voter: "Do you swear or affirm that you cannot enter the polling place to cast your ballot today because of a physical disability or infirmity? Do you further swear or affirm that the disability or infirmity is not a visual disability?"

(2) The other Precinct Official finds the voter's name in the Precinct Registry, asks to see the voter's proof of identity, and places a checkmark in the ID box beside the voter's name. The voter signs the Precinct Registry if able to do so. If the voter cannot sign the Precinct Registry, the other Precinct Official prints the voter's name in the Precinct Registry and writes his own initials beside the voter's printed name.

(3) If the Precinct Registry contains either the "Confirm Address" or "Insufficient Address" message, give the voter the Address Information Requested handout and the Oklahoma Voter Registration Application form. See 230:35-5-113.1.

(4) If the voter can mark the ballot without assistance, the Precinct Officials allow the voter to do so. The Precinct Officials allow the voter as much privacy as possible to mark the ballot in secret. The voter puts the ballot in the secrecy folder.

(5) If the voter cannot mark the ballot, the voter chooses an assistant. The voter's assistant may be the other Precinct Official or any other person the voter wants. However, the Inspector cannot be the voter's assistant.

(6) The Inspector reads this oath to the voter's assistant. "Do you swear or affirm that you are not the voter's employer or an agent of the voter's employer? [26:7-123.3] Do you swear or affirm that you are not an officer or agent of the voter's union? [26:7-123.3] Do you swear or affirm that you will mark the voter's ballot or help the voter mark the ballot according to the voter's wishes?" [26:7-123.3]

(7) The voter's assistant marks the voter's ballot as the voter instructs. The Precinct Officials allow the voter and the voter's assistant as much privacy as possible to mark the ballot in secret. The voter's assistant puts the ballot in the secrecy folder.

(8) The Inspector prints the names of the voter and the voter's assistant on the Voter Assistance Form and puts a check mark in the "Physically Disabled Voter (Other Than Visual) Who Cannot Enter Polling Place" column.

(9) If the voter marked his or her own ballot, the other Precinct Official signs the Voter Assistance Form. If the voter did not mark his or her own ballot, the voter's assistant and the other Precinct Official shall sign the Voter Assistance Form. If the other Precinct Official served as the voter's assistant, he or she shall sign the Voter Assistance Form only in the column labeled "Precinct Official Who Takes Ballots Outside Polling Place." The Inspector signs the Voter Assistance Form in the space provided at the bottom of the form.

(10) The Precinct Officials go back inside the polling place. The Inspector, using the secrecy folder and with the other two Precinct Officials watching, immediately puts the ballot in the voting device.

(11) Return to the routine procedure.

230:35-5-120.1. Assistance inside the polling place for blind or visually disabled voters, physically disabled voters, or illiterate voters

Some voters need assistance to vote because they are blind or visually disabled, physically disabled or infirm, or illiterate. Such voters must always be offered the opportunity to vote privately and independently using the ATI device attached to the voting device. ~~When a voter needs assistance to vote,~~ If a voter chooses not to use the ATI, however, the Precinct Officials follow this procedure.

(1) The Inspector reads the one of the following oaths that is appropriate for the voter.

(A) **Oath for blind or visually disabled voter.** "Do you swear or affirm that you need assistance to vote because you are blind or visually disabled?"

(B) **Oath for physically disabled voter.** "Do you swear or affirm that you need assistance to vote because you are physically disabled?"

(C) **Oath for illiterate voter.** "Do you swear or affirm that you need assistance to vote because you are unable to read or write?"

(2) The voter chooses an assistant. The assistant may be anyone the voter wants, including the Judge or the Clerk, but not the Inspector.

(3) The Inspector reads this oath to the voter's assistant. "Do you swear or affirm that you are not the voter's employer or an agent of the voter's employer? Do you swear or affirm that you are not an officer or agent of the voter's union? Do you swear or affirm that you will mark the ballot or help the voter mark the ballot according to the voter's wishes?

(4) The voter signs the Precinct Registry if he can. If the voter cannot sign the Precinct Registry, the Judge prints the voter's name in the Precinct Registry and then writes his own initials beside the voter's printed name.

(5) The Clerk issues the appropriate ballot to the voter.

(6) The Inspector prints the names of the voter and the voter's assistant on the Voter Assistance Form and puts a check mark in the appropriate column to describe the reason the voter needed assistance.

(7) The Inspector and the voter's assistant both sign the Voter Assistance Form.

(8) The voter and the voter's assistant go into a voting booth to mark the voter's ballot.

(9) The voter and the assistant return to the voting device after marking the ballot and put the ballot in the voting device.

PART 25. SPECIAL SERVICES

230:35-5-127. Spoiled ballots

(a) A spoiled ballot is a ballot that the voter marks incorrectly, ~~a ballot that the voting device cannot read,~~ or a ballot that is defaced or damaged by the voter ~~or by the voting device~~. Before spoiling a ballot, the Inspector must follow the steps in the voting device instructions section of the Precinct Official Notebook to determine whether the ballot already has been counted.

(b) When a ballot is spoiled because the voter either has made an error marking it or has damaged or defaced it in some way, such as making a mark in a security bar code, the Clerk uses this procedure.

(1) Ask the voter to fold the spoiled ballot. If more than one ballot was issued to the voter, tell the voter to put all correctly marked ballots in the voting device.

(2) Take the folded ballot from the voter, tear it into small pieces, and discard it. [26:7-132]

(3) Tell the voter to read the oath printed on the gold Spoiled Ballot Affidavit and to sign the form. [26:7-122]

(4) Write the ballot code in the "Ballot Spoiled" column beside the voter's signature.

(5) Issue a new ballot to replace the spoiled ballot. [26:7-122]

(6) Tell the voter to go back to the voting booth, mark the new ballot and put the new ballot in the voting device.

230:35-5-129. Cancellation of registration of deceased voter

The next of kin of a deceased voter may cancel the deceased voter's registration at the polling place on election day. [26:4-120.3] The decision to cancel such a registration belongs to the next of kin. The Inspector follows this procedure if the next of kin chooses to cancel the registration.

(1) Print the following information on the green Cancellation of Registration of Deceased Voter form.

(A) Precinct number.

(B) Today's date.

(C) The deceased voter's name, residence address, and birth date.

(2) Ask the next of kin to read the Cancellation of Registration of Deceased Voter form and to sign it if all the information is correct.

(3) Sign the form, and indicate your title~~, and date the form~~.

PART 27. WATCHERS AND POLLSTERS

230:35-5-134. Watchers

(a) Watchers sometimes are commissioned by a candidate or a political party to watch the voting device used in the precinct. [26:7-130] The Secretary of the County Election Board tells the Inspector that a Watcher will be in the precinct when the Inspector picks up the ballots and supplies for the election. If the Secretary does not tell the Inspector about a Watcher, then no one can be a Watcher in the precinct.

(b) ~~The Watcher follows these rules.~~

~~(1) The Watcher must arrive at the polling place no later than 6:30 a.m. to watch the voting device before the polls open.~~

~~(2) The Watcher must take an oath.~~

~~(3) The Watcher only watches the voting device before the polls are opened and after the polls are closed.~~

~~(A) Before the polls open, the Watcher may watch the Precinct Officials prepare the voting device and watch while the zero tape prints.~~

~~(B) After the polls close, the Watcher may watch the Totals Tapes print and may watch while the Precinct Officials secure the voting device, memory pack and ballots.~~

~~(4) The Watcher cannot stay at the polling place all day.~~

~~(5) The Watcher must return to the polling place by 7 p.m. to watch the voting device after the polls close.~~

~~(6) The Watcher cannot give any information about the voting device count to anyone before the Inspector posts a copy of the Totals Printout on the polling place door.~~

~~(c) The~~ When the Watcher arrives at the polling place, the Inspector places the Watcher under this oath. "Do you swear or affirm that you will abide by all the laws and rules prescribed for Watchers? Do you swear or affirm that you will limit yourself to watching the voting device before the polls are opened and after the polls are closed? Do you swear or affirm that you will not stay at the polling place at other times?"

(~~d~~ c) A Watcher may come to the polling place with County Election Board personnel to watch any voting device repairs made during the election day. A Watcher who comes to the polling place to watch voting device repairs already has been placed under oath by the County Election Board Secretary.

~~(e) Any Watcher who violates the law prescribed for Watchers shall be deemed guilty of a misdemeanor. [26:7-130] Any person deemed guilty of a misdemeanor under the provisions of state election law shall, upon conviction, be confined to the county jail for not more than one year or fined not more than $10,000.00 or both. [26:16-110]~~

230:35-5-136. Pollsters

~~(a)~~ A Pollster is someone authorized to conduct an exit poll on election day within 300 feet of a ballot box. [26:7-108.1] The Secretary of the County Election Board tells the Inspector when the Inspector picks up ballots and supplies for the election that a Pollster will be at the polling place. If the Secretary does not tell the Inspector about a Pollster, no one can conduct an exit poll within 300 feet of the ballot box. ~~The Inspector should have no contact with a Pollster unless it seems the Pollster violates one of the following rules.~~

~~(b) A Pollster follows these rules.~~

~~(1) The Pollster wears the orange Pollster identification badge provided by the Secretary of the County Election Board at all times while conducting the exit poll. [26:7-108.2]~~

~~(2) The Pollster obeys Oklahoma laws against electioneering. [26:7-108.3] See 230:35-5-141 through 230:35-5-146.~~

~~(3) The Pollster stays more than 50 feet away from the ballot box at all times. [26:7-108.3]~~

~~(4) The Pollster uses only written polling materials within 150 feet of the ballot box. [26:7-108.4]~~

~~(5) The Pollster conducts oral interviews with voters and/or electronically records comments of voters more than 150 feet from the ballot box.~~

~~(6) The Pollster approaches only voters who have finished voting about participating in the exit poll.~~

~~(c) Participation in an exit poll by a voter is voluntary. [26:7-108.5]~~

~~(d) A Pollster who violates the law prescribed for Pollsters shall be deemed guilty of a misdemeanor. [26:7-108.3] Any person deemed guilty of a misdemeanor under provisions of state election law shall, upon conviction, be confined to the county jail for not more than one year or fined not more than $10,000.00 or both. [26:16-110]~~

PART 29. VIOLATIONS OF THE LAW

230:35-5-141. Electioneering prohibited [REVOKED]

~~*No person shall be allowed to electioneer within 300 feet of any ballot box while an election is in progress, nor shall any person or persons, except election officials and other persons authorized by law, be allowed within 50 feet of any ballot box while an election is in progress.* [26:7-108] *No printed material other than that provided by the Election Board shall be publicly placed or exposed within 300 feet of any ballot box, while an election is in progress.* [26:7-108]~~

230:35-5-142. Disclosure of vote prohibited [REVOKED]

~~*No person shall, within the election enclosure, disclose to any other person how he voted; nor shall any person expose his ballot to any other person.* [26:7-109]~~

230:35-5-143. Intoxicating liquor prohibited [REVOKED]

~~*No person shall take intoxicating liquors of any kind or quantity to within one half mile of any polling place on an election day.* [26:7-110] *No person shall attend an election or be within 300 feet of a polling place in an intoxicated condition on an election day.* [26:7-110]~~

230:35-5-144. Voting ballots issued [REVOKED]

~~*No person shall vote any ballot except such ballot issued to him by the Precinct Election Board, and each ballot cast must be voted without removing same from the polling place.* [26:7-111] *Any unauthorized person who knowingly removes a ballot from a polling place or who knowingly carries a ballot into a polling place shall be deemed guilty of a felony.* [26:16-102.1]~~

230:35-5-145. Persons authorized inside election enclosure [REVOKED]

~~(a) *At no time during the hours of voting shall any person, other than the election officials and other persons authorized by law, be allowed inside the election enclosure except for one registered voter in each voting booth and one other registered voter for each voting booth.* [26:7-112]~~

~~(b) A news reporter or photographer may enter the election enclosure for no more than five minutes. [26:7-112] While inside the election enclosure, the reporter or photographer shall not interfere with Precinct Officials performing their duties or with voters waiting in the line or voting. [26:7-112] The reporter or photographer may neither observe nor photograph a voter while the voter marks the ballot. [26:7-112] A reporter may not see a voter's marked ballot and a marked ballot may not be photographed in such a way that the voter's choices can be determined. See 230:35-5-142. [26:7-109]~~

230:35-5-146. Action when laws are violated

If a Precinct Official sees or suspects an election law violation, the Inspector takes only the following steps. The Inspector never attempts to enforce the law under any circumstances.

(1) If ~~THE MANUAL FOR PRECINCT ELECTION OFFICIALS describes~~ If the suspected violation is described in The Manual for Precinct Election Official section of the Precinct Official Notebook, take only these steps.

(A) Tell the person involved that the action is against the law.

(B) Read what ~~THE MANUAL FOR PRECINCT ELECTION OFFICIALS~~ The Manual for Precinct Election Officials section of the Precinct Official Notebook says about the violation, if necessary. Tell the person that this is the law.

(C) Call the Secretary of the County Election Board immediately if the person continues the action that violates the law.

(2) If ~~THE MANUAL FOR PRECINCT ELECTION OFFICIALS~~ The Manual for Precinct Election Officials section of the Precinct Official Notebook does not describe the possible violation, the Inspector calls the Secretary of the County Election Board immediately.

PART 31. MALFUNCTION OF VOTING DEVICE

230:35-5-150. Publication of VOTING DEVICE HANDBOOK FOR PRECINCT OFFICIALS [REVOKED]

~~The State Election Board staff has prepared the VOTING DEVICE HANDBOOK FOR PRECINCT OFFICIALS for use by County Election Board Secretaries, Precinct Officials, and other election personnel. This publication contains instructions for Precinct Officials to follow to operate the voting device and to resolve problems with the voting device during the course of the election day. The VOTING DEVICE HANDBOOK FOR PRECINCT OFFICIALS includes rules from Parts 5, 17, 31 and 33 of this Subchapter.~~

230:35-5-151. Voting device stops accepting ballots [REVOKED]

~~(a) If the voting device malfunctions, the green "ready" light goes off and it stops accepting ballots. The Inspector follows this procedure if the voting device stops accepting ballots.~~

~~(1) Check to see if the voting device printed a message relating to the malfunction. If it printed a message, follow any instructions included in the message. If the voting device did not print a message, open the emergency compartment of the ballot box. See 230:35-5-153.~~

~~(2) Tell voters to put their voted ballots in the emergency compartment of the ballot box. Use the emergency compartment and continue processing voters until the device is repaired.~~

~~(3) Call the County Election Board office to report the malfunction. Report any message printed by the voting device about the malfunction.~~

~~(b) If both the green "ready" light and the red "power" light go off, the voting device is no longer receiving electricity. Check to see that the power cord is still properly plugged into the electrical outlet. If the device is plugged in, follow the procedure outlined in (a) of this Section.~~

230:35-5-153. Emergency compartment of ballot box [REVOKED]

~~(a) If the voting device malfunctions, open the emergency compartment of the ballot box and use it until the voting device is repaired.~~

~~(1) Unlock and open the emergency compartment door with the ballot box key. Open the emergency compartment ballot slot, then relock the emergency compartment.~~

~~(2) Tell voters to put their voted ballots in the emergency compartment until the voting device is repaired.~~

~~(3) When the voting device is repaired and both the green and red lights are on, unlock the emergency compartment, close the ballot slot and relock it.~~

~~(b) Leave all ballots deposited in the emergency compartment in the emergency compartment until it is after 7 p.m. and the last voter has finished voting. After7 p.m. and after the last voter has finished voting, open the emergency compartment again, remove all the ballots and insert them in the voting device. See 230:35-5-154.~~

230:35-5-154. Removing ballots from emergency compartment [REVOKED]

~~If the emergency compartment of the ballot box is used at any time during the day, follow this procedure after 7 p.m. and after the last voter has finished voting.~~

~~(1) The Inspector unlocks and opens the emergency compartment.~~

~~(2) The Judge removes all ballots in the emergency compartment.~~

~~(3) The Inspector relocks the emergency compartment.~~

~~(4) The Clerk inserts the ballots one at a time into the voting device.~~

~~(5) If the voting device returns a ballot, the Clerk activates the override button to accept the ballot.~~

PART 33. OPERATION OF VOTING DEVICE

230:35-5-159. Voting device messages [REVOKED]

~~The voting device may print messages on the device tape during the day. These messages usually concern a problem with the ballot just inserted into the device. If the voting device returns a ballot or starts to print a message, ask the voter who inserted the ballot to wait. Most voting device messages describe the problem and include steps to solve the problem. The Inspector responds to all voting device messages. The most common voting device messages are listed in 230:35-5-160. If the instructions included in the voting device message and in 230:35-5-160 do not seem to solve the problem, the Inspector should call the County Election Board office for further instructions.~~

230:35-5-160. Responding to voting device messages [REVOKED]

~~(a) The Inspector responds to all voting device messages. These are the most common voting device messages.~~

~~(1) **Messages concerning ballot readability.** Some common voting device messages concern ballots that the voting device cannot read.~~

~~(A) ***un-voted blank ballot!***This message means that the voting device cannot detect any valid markings on the ballot. The voting device returns the ballot. The voter either did not vote the ballot or the voter marked the ballot incorrectly. Explain valid markings to the voter and ask the voter to correct the ballot.~~

~~(B) ***over-voted ballot!*** This message means that the voting device detects too many valid markings for a single office or question. The voting device returns the ballot. Tell the voter that he apparently voted for more than one candidate for the same office or voted both "yes" and "no" on a question. Tell the voter to take the spoiled ballot back to the Clerk and get a new ballot.~~

~~(C) ***security code id does not match.*** This message means that the security code on the ballot does not match the voting device's programming. The voter may have marked in the ballot's security code area. Tell the voter to take the spoiled ballot back to the Clerk and get a new ballot.~~

~~(D) ***startbar detect: error reading ballot. (startbar detect)* or (*startbar gapped*).** The cause of this message is unknown. The voting device returns the ballot. When this message prints, remove the ballot and insert it again in another orientation. DO NOT use the override button to accept the ballot when this message prints. (The voting device will not count this ballot if the override button is used.) If the message prints again when the ballot is reinserted, treat the ballot like a spoiled ballot. Tell the voter to take the spoiled ballot back to the Clerk and get a new ballot.~~

~~(2) **Ballots stuck inside the voting device.** If ballots stick inside the voting device often, call the County Election Board office for instructions. Some common messages concern ballots that stick inside the voting device.~~

~~(A) ***there is probably a ballot stuck in the ballot path. turn off the power, remove the ballot, turn the power back on, and re-feed the ballot.***Before removing this stuck ballot, unplug the voting device as a safety precaution. The device will not be damaged and the vote tally will not be affected by the brief loss of power. Remove the stuck ballot and examine it for damage before reinserting it. If the ballot is damaged, tell the voter to take the spoiled ballot back to the Clerk and get a new ballot. Plug the voting device in again. It will print messages about the power interruption and then will print the following message: *ballot removed. return to voter or issue new ballot and have voter re-make the ballot. * * * ballot has not been processed * * **~~

~~(B) ***ballot appears to be stuck in the rear output slot. it could be stuck or the bin may be full. make sure the ballot has cleared the machine and is in the rear bin*****ballot has been processed!!!*****~~Lift the voting device off the ballot box. The ballot may fall into the bin when the device is lifted. If it does not, remove the ballot and put it in the rear bin. If this message prints frequently, call the County Election Board office for further instructions.~~

~~(b) Most voting device messages include instructions for solving the problem. Read the entire message before taking any action. Call the County Election Board office for more instructions if the steps described in the message do not solve the problem. If ballots stick frequently during the day, call the County Election Board office.~~

230:35-5-161. Ballots returned by voting devices [REVOKED]

~~(a) **Reasons for returned ballots.** The voting device returns a ballot to the voter in certain circumstances. If the voting device detects no valid marking on the ballot, it returns the ballot immediately. Also, if the voting device detects arrows marked for more than one candidate in the same race or arrows marked for both "yes" and "no" for a question, the voting device returns the ballot immediately.~~

~~(b) **Message printed.** When the voting device returns a ballot, it also prints a message on the device tape describing the reason for returning the ballot.~~

~~(c) **Inspector's role.** The Inspector follows this procedure when the voting device returns a ballot.~~

~~(1) Ask the voter to wait.~~

~~(2) Read the message and refer to the VOTING DEVICE HANDBOOK FOR PRECINCT OFFICIALS if necessary.~~

~~(3) Tell the voter the reason the ballot was returned and explain to the voter how to correct the problem.~~

~~(4) Ask the voter to remove the ballot from the voting device and to return to the voting booth to correct the ballot.~~

~~(5) Tell the voter to obtain a new ballot from the Clerk, if necessary.~~

~~(d) **Ballot secrecy maintained.** Maintain the secrecy of the voter's ballot at all times. Most problems can be solved without looking at the voter's marked ballot. Do not handle the ballot or look at the ballot without the voter's permission.~~

230:35-5-162. Override button [REVOKED]

~~(a) **Use of override button.** If the voting device returns a ballot to the voter because it is blank or because it is over-voted, and if the voter insists that the ballot be accepted as it is, the override button may be activated. Use the override button only in the event that a voter insists that a ballot returned by the device be accepted unchanged.~~

~~(b) **Procedure.** Follow these steps to use the override button.~~

~~(1) Leave the returned ballot in the voting device.~~

~~(2) Press the "3" key on the back panel of the voting device. The voting device accepts the ballot and prints the following message: "REQUEST TO READ AND ACCEPT O.K."~~

~~(3) Return to the routine procedure.~~

PART 34. PROVISIONAL VOTING PROCEDURES

230:35-5-172. Voter with no proof of identity

A voter who does not have or who refuses to provide proof of identity is entitled by law to cast a provisional ballot. Follow the provisional voting procedure in 230:35-5-177.

230:35-5-174. Voter disputes school district, technology center district, or municipal assignment in Precinct Registry

A voter who disputes the school district, technology center district, or municipal assignment indicated in the Precinct Registry is entitled to cast a provisional ballot for the school or technology center district or municipality in which the voter claims to reside. Follow the provisional voting procedure in 230:35-5-177.

230:35-5-176. Filling out a Provisional Ballot Voucher

The Judge shall fill out a Provisional Ballot Voucher for every voter who will cast a provisional ballot. Do not send a voter to the Inspector or Provisional Voting Officer without a voucher. Write ~~the ballots to be issued to the voter~~ all the information requested on the voucher in the spaces provided for it.

(1) Write the voter's name exactly as it appears in the Precinct Registry.

(2) Write the voter's residence address exactly as it appears in the Precinct Registry.

(3) Write the ballot codes for ballots to be issued to the voter in the space provided.

230:35-5-177. Provisional voting procedure

The Inspector or the Provisional Voting Officer greets the voter and follows these steps to help the voter cast a provisional ballot.

(1) Take the Provisional Ballot Voucher from the voter. If the voter did not receive a Provisional Ballot Voucher from the Judge, send the voter to the Judge for a Provisional Ballot Voucher.

(2) Give the voter a copy of the Provisional Voting Information handout.

(3) Tell the voter that if County Election Board personnel cannot verify the voter's registration in this precinct, the provisional ballot will not be counted.

(4) Give the voter an Oklahoma Voter Registration Application form and ask the voter to fill it out and sign it. A voter is not required to complete the registration application to receive a provisional ballot but should be encouraged to do so. Tell the voter that filling out and turning in a new voter registration application may prevent the need to vote by provisional ballot in future elections. If the voter completes the application, set it aside in a secure place.

(5) Fill out an Oklahoma Provisional Ballot Affidavit envelope for the voter.

(A) Write the county name, election date, ~~county name,~~ and precinct number in the spaces provided at the top of the affidavit.

(B) Write the voter's name and residence address on the affidavit exactly as they appear on the Provisional Ballot Voucher.

(C) Ask the voter for the following information and write it on the affidavit in the appropriate spaces.

~~(i) name~~

~~(ii) residence address~~

(~~iii~~ i) date of birth

(~~iv~~ ii) Oklahoma driver license number, if available

(~~v~~ iii) last four digits of Social Security number

(~~vi~~ iv) political affiliation

(~~C~~ D) Place a checkmark beside the appropriate statement of the reason the voter is casting a provisional ballot. Note the following special instructions for some of the listed reasons.

(i) **Voter with proof of identity problems.** If the voter does not have proof of identity, or refuses to provide proof of identity, or if the voter's current name on an otherwise valid proof of identity document does not substantially conform to the name in the Precinct Registry, ask the voter to read the appropriate statement on the affidavit and the oath on the affidavit before signing.

(I) If the voter's current name on his or her otherwise valid proof of identity document does not substantially conform to the voter's name in the Precinct Registry, ask the voter to complete and submit an Oklahoma Voter Registration Application form to change his or her name for voter registration purposes.

(II) If the voter indicates that his or her current residence address is different from the residence address shown in the Precinct Registry, ask the voter to complete and submit an Oklahoma Voter Registration Application form to change his or her residence address for voting purposes.

(~~i~~ ii) **Voter Not in Precinct Registry.** If the voter offers any information about where and when ~~he/she~~ he or she may have registered, last voted, or another name under which ~~he/she~~ he or she may be registered, record the information in the spaces provided. If the voter has a voter identification card, take it and attach it with a paperclip to the voter registration application form. Ask the voter to complete and turn in a new Oklahoma Voter Registration Application form.

~~(ii) **Voter without proof of identity.** Ask the voter to read the statement on the affidavit envelope and the oath before signing the affidavit.~~

(iii) **Voter disputes political affiliation indicated in Precinct Registry.** Write the political affiliation claimed by the voter in the space provided.

(iv) **Voter disputes school district or municipal assignment in Precinct Registry.** Write the name of the school district or municipality in which the voter claims to reside.

(v) ~~**Voter Who Disputes Credit for Absentee Voting B Use during In-Person Absentee Voting ONLY.**~~**Voter who disputes credit for absentee voting.** Check this reason only during in-person absentee voting if ~~an in-person absentee~~ a voter who has already received credit for voting by absentee ballot in this election ~~by absentee ballot~~ denies having voted in this election.

(vi) **Other.** Record any explanation the voter offers concerning the reason ~~he/she~~ he or she may be eligible to vote.

(D) Record the ~~ballot style or styles~~ ballot codes indicated on the voter's Provisional Ballot Voucher in the spaces provided on the Affidavit.

(6) Ask the voter to review the information on the affidavit. Tell the voter to read the oath and to sign it. Also ask the voter to write ~~his/her~~ his or her daytime telephone number in the space provided.

(7) Sign the affidavit in the space provided for the Provisional Voting Officer.

(8) Print the voter's name on the Provisional Ballot Roster and record the codes for the ballots issued to the voter in the space provided. Tell the voter to sign the roster.

(9) Issue the appropriate ballots indicated on the voucher. Fold each ballot in half before giving it to the voter. Put the voucher inside the affidavit envelope. Give the voter the affidavit envelope, a secrecy envelope, and the ballot or ballots.

(10) Tell the voter to go to the provisional ballot voting booth to mark the ballot. Tell the voter to follow these steps to secure the ballot.

(A) Fold the ballot in half.

(B) Put the folded ballot inside the secrecy envelope and seal the envelope.

(C) Put the sealed secrecy envelope inside the affidavit envelope and seal the affidavit envelope.

(D) Return to the table with the sealed affidavit envelope.

(11) If necessary, follow the procedures for spoiled ballots (230:35-5-127) or voter assistance (230:35-5-120.1), using the ~~PRECINCT PROBLEM SOLVER~~ Precinct Problem Solver section of the Precinct Official Notebook.

(12) When the voter returns the sealed affidavit envelope, put it in the orange Provisional Ballot Bag immediately.

(13) Tell the voter that information concerning disposition of the provisional ballot may be obtained from the County Election Board after 5 p.m. on Friday. Make sure the voter takes a copy of the Provisional Voting Information handout.

230:35-5-177.1. Provisional voting procedure for voter using the ATI

If a voter who is using the ATI device attached to the voting device to cast an audio ballot needs to vote provisionally for one of the reasons listed in 230:35-9-7, follow the provisional voting procedure as outlined in 230:35-5-177 (1) through (8). Read both the information you have recorded on the Affidavit and the oath to a visually disabled voter. Follow the steps in the voting device instructions section of the Precinct Official Notebook to prepare the ATI device and activate the appropriate audio ballot for the voter. Once the audio ballot is activated, other voters can continue scanning paper ballots while the voter uses the ATI device.

SUBCHAPTER 9. HAVA REQUIREMENTS

PART 3. PROVISIONAL VOTING

230:35-9-7. Voters who may cast a provisional ballot

Voters in the circumstances described as follows may cast provisional ballots.

(1) **Persons not listed in the Precinct Registry.** Persons who are not listed in the Precinct Registry for the precinct of their residence but who believe themselves to be registered voters eligible to vote in the election shall be entitled to cast a provisional ballot. [26:7-116.1]

(2) **Voters required to show ~~identification~~ proof of identity.** ~~Registered voters who are required to show identification when voting for the first time in a federal election and who do not have one of the acceptable forms of identification are entitled to cast a provisional ballot. [26:7-116.1]~~ All registered voters who appear to vote in-person at a precinct polling place on election day or during in-person absentee voting are required to show proof of identity before receiving a ballot. Voters who do not have or who refuse to provide valid proof of identity are entitled by law to cast a provisional ballot. [26:7-116.1] A voter whose name on his or her otherwise valid proof of identity document does not substantially conform to his or her name as listed in the Precinct Registry is entitled to cast a provisional ballot . [26:7-116.1]

(3) **Voters who dispute political affiliation indicated in Precinct Registry.** Registered voters who dispute the political affiliation indicated in the Precinct Registry for a primary election are entitled to cast a provisional ballot for their preferred political party. [26:7-116.1]

(4) **Uniformed services voters.** Uniformed services voters who have been honorably discharged or who are on authorized leave, and the spouses and eligible dependents of such voters, and who returned home too late to register to vote shall be entitled to cast a provisional ballot in the precinct of their residence and to have that ballot counted. [26:7-116.1; 26:14-121]

(5) **Overseas voters.** Overseas voters who have been terminated in their overseas service or employment or who are on leave from their overseas service or employment,

and the spouses and eligible dependents of such voters, and who returned home too late to register to vote are entitled to cast a provisional ballot in the precinct of their residence and to have that ballot counted. [26:7-116.1; 26:14-121]

(6) **Voters who dispute school district or municipality indicated in Precinct Registry.** Registered voters who dispute the school district or municipality indicated for them in the Precinct Registry or on the map are entitled to cast a provisional ballot for the school district or municipality in which they claim to reside.

PART 5. VOTER IDENTIFICATION

230:35-9-16. Some voters required to present identification when voting for first time in election for federal office [REVOKED]

~~(a) Voters who applied by mail for new voter registration in the county on or after January 1, 2003, are required by law to present identification when they vote for the first time in person, either at a precinct polling place or an in-person absentee polling place, in a federal election. A voter who does not present one of the forms of identification described in (b) of this Section shall be required to cast a provisional ballot. A provisional ballot cast by such a voter shall be verified and approved for counting by 5 p.m. on Friday following the election.~~

~~(b) A registered voter required to present identification as outlined in (a) of this section may present any one of the following forms of identification.~~

~~(1) a currently valid photo identification~~

~~(2) a voter identification card issued by the County Election Board in this county~~

~~(3) a copy of a current utility bill, bank statement, paycheck, government check or any other government document that shows the voter's name and address~~

~~(c) A person who applies by mail for new voter registration in the county may avoid the requirement for presenting identification when voting for the first time in a federal election by submitting a copy of a currently valid photo identification or a copy of a current utility bill, bank statement, paycheck, government check, or any other government document that shows the voter's name and address along with the voter registration application. A person who applies for voter registration is not required to present identification in order to become a registered voter.~~

~~(d) A person who applies by mail for new voter registration in the county who votes for the first time in a federal election by regular mail absentee ballot is deemed to have provided adequate identification for the purposes of this Section by having signed the absentee ballot affidavit in the presence of a Notary Public or other person authorized by law to administer oaths or in the presence of two witnesses if the voter is incapacitated.~~

SUBCHAPTER 11. ELECTION LAW VIOLATIONS [REVOKED]

230:35-11-1. Purpose [REVOKED]

~~The purpose of the rules in this subchapter is to identify certain actions that are deemed violations of Oklahoma election law and the penalties for such violations. Actions that violate the election laws are generally divided into two categories: violations that are punishable as misdemeanors and violations that are punishable as felonies.~~

230:35-11-2. Misdemeanors [REVOKED]

~~Any person deemed guilty of a misdemeanor under Oklahoma election law shall, upon conviction, be confined to the county jail for not more than one (1) year, or fined not more than Ten Thousand Dollars ($10,000.00), or both. [26:16-110]~~

230:35-11-3. Failure to perform duty [REVOKED]

~~Any member or employee of a County Election Board or precinct election board who willfully fails to perform his or her lawful duty shall be deemed guilty of a misdemeanor. [26:16-114]~~

230:35-11-4. Expenditure of public funds [REVOKED]

~~Any official of this state who shall direct or authorize the expenditure of any public funds under his or her care, except as specifically authorized by law, to be used either in support of, or in opposition to, any measure which is being referred to a vote of the people by means of the initiative or referendum, or which citizens of this state are attempting to have referred to a vote of the people by the initiative or referendum, shall be deemed guilty of a misdemeanor, and the office held by such party shall be adjudged vacant and shall be filled in the manner prescribed by law. [26:16-119]~~

230:35-11-5. Electioneering prohibited [REVOKED]

~~Any person who electioneers within 300 feet of any ballot box while an election is in progress, and any person except election officials and other persons authorized by law who remains within 50 feet of any ballot box while an election is in progress shall be deemed guilty of a misdemeanor. [26:16-111]~~

230:35-11-6. Intoxicating liquors [REVOKED]

~~Any person who takes intoxicating liquors of any kind or quantity to within one half mile of any polling place on an election day shall be deemed guilty of a misdemeanor. [26:16-112]~~

230:35-11-7. Interference with voter or conduct of election [REVOKED]

~~Any person, including a Watcher appointed as outlined in 230:35-3-69 or an Exit Pollster authorized as outlined in 230:35-3-70, who interferes with a registered voter who is attempting to vote, or any person who attempts to influence the~~

~~vote of another by means of force or intimidation, or any person who interferes with the orderly and lawful conduct of an election shall be deemed guilty of a misdemeanor. [26:16-113]~~

230:35-11-8. Disclosure by voter [REVOKED]

~~Any person who, within the election enclosure, discloses to any other person how he or she voted shall be deemed guilty of a misdemeanor. [26:16-115]~~

230:35-11-9. Disclosure by election official [REVOKED]

~~Any election official who discloses how any voter may have voted shall be deemed guilty of a misdemeanor. [26:16-116]~~

230:35-11-10. Disclosure of count [REVOKED]

~~Any person who discloses the count during an election prior to the time such disclosure is authorized by law shall be deemed guilty of a misdemeanor. [26:16-117]~~

230:35-11-11. Felonies [REVOKED]

~~*Any person deemed guilty of a felony under Oklahoma election law shall, upon conviction, be confined in the State Penitentiary for not more than five years or fined not more than Fifty Thousand Dollars ($50,000.00), or both.* [26:16-101]~~

230:35-11-12. Illegal printing or possession of certain voting materials [REVOKED]

~~Any person who causes to be printed, or who has in his or her possession ballots or blank or fraudulent voter identification cards not authorized by law shall be deemed guilty of a felony. [26:16-120]~~

230:35-11-13. Voting illegally [REVOKED]

~~*Any person who votes more than once at any election, who votes in a precinct after having transferred voter registration to a new precinct, or who, knowing that he or she is not eligible to vote at an election, willfully votes at said election shall be deemed guilty of a felony.* [26:16-102] Any uniformed services or overseas absentee voter who willingly votes and submits an absentee ballot later than the day of the Runoff Primary Election shall be deemed guilty of a felony. [26:16-102] *Any person who knowingly votes and submits an absentee ballot issued to another person shall be deemed guilty of a felony.* [26:16-102]~~

230:35-11-14. Unauthorized persons transporting ballots [REVOKED]

~~*Any unauthorized person who knowingly removes a ballot from a polling place or who knowingly carries a ballot into a polling place shall be deemed guilty of a felony.* [26:16-102.1]~~

230:35-11-15. False applications for absentee ballots [REVOKED]

~~*Any person who knowingly executes a false application for an absentee ballot shall be deemed guilty of a felony.* [26:16-102.2]~~

230:35-11-16. False swearing [REVOKED]

~~*Any person who knowingly swears or affirms a false affidavit in order to become eligible to vote, to obtain and vote a provisional ballot, to obtain and vote an absentee ballot, or to cause the cancellation of a qualified elector's voter registration, shall be deemed guilty of a felony.* [26:16-103]~~

230:35-11-17. Unauthorized registration of voters [REVOKED]

~~Any person who knowingly causes any qualified elector to be invalidly registered or anyone who knowingly causes an unqualified person to be registered to vote shall be deemed guilty of a felony. [26:16-103.1] Any person who knowingly causes the collection or submission of voter registration forms containing false, fraudulent, or fictitious information shall be deemed guilty of a felony. [26:16-103.1]~~

230:35-11-18. False notarization [REVOKED]

~~*Any person, notary public or other official authorized to administer oaths who notarizes, verifies, acknowledges or attests to the signature on the affidavit of an absent voter or on the attestation of an incapacitated voter, without the person whose affidavit or attestation is being taken actually appearing in person before said person, notary public or official authorized to administer oaths, shall be deemed guilty of a felony.* [26:16-104]~~

230:35-11-19. Fraud [REVOKED]

~~*Any person who knowingly conspires to commit fraud or perpetrates fraud, or who steals supplies used to conduct an election, in order to change a voter's vote, or to change the composition of the official ballot or ballots, or to change the counting of the ballots, or to change the certification of the results of an election shall be deemed guilty of a felony.* [26:16-105]~~

230:35-11-20. Bribes to influence votes [REVOKED]

~~*Any person who offers, solicits or accepts something of value intended to directly or indirectly influence the vote of the person soliciting or accepting same shall be deemed guilty of a felony.* [26:16-106]~~

230:35-11-21. Bribe for withdrawal of candidacy [REVOKED]

~~(a) **Offer of bribe.** *Any person who shall offer or give to another anything of value to induce or cause such other person to withdraw from a political contest as a candidate or nominee at any election shall be deemed guilty of a felony.* [26:16-107]~~

~~(b) **Acceptance of bribe.** *Any person who shall solicit or accept from another anything of value for withdrawing from any political contest as a candidate or nominee for any office at any election shall be deemed guilty of a felony.* [26:16-108]~~

230:35-11-22. Coercion prohibited [REVOKED]

~~*Any person who, by means of coercion or any other method knowingly attempts to prevent a qualified elector from becoming registered, or a registered voter from voting, shall be deemed guilty of a felony.* [26:16-109]~~

[OAR Docket #13-1008; filed 6-3-13]

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

[OAR Docket #13-1009]

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RULES:
Subchapter 3. Special Elections
Part 1. Calling Special Elections
230:40-3-1. Who may call special election [AMENDED]
230:40-3-1.1. Times for special elections [REVOKED]
Part 3. Vacancies [REVOKED]
230:40-3-7. Vacancies in Congress [REVOKED]
230:40-3-8. Vacancies in the Legislature [REVOKED]
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Title 26 O.S., Section 2-107. Secretary of the State Election Board

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n/a

ANALYSIS:
The Secretary of the State Election Board and experienced State Election Board staff members have conducted a thorough review and analysis of the rules and have determined that since the original drafting, adoption, and implementation of the rules in the mid-1970s, and even since the codification of the rules in the early 1990s, the needs that the rules were designed to meet have changed.

The rules formed the foundation of Oklahoma's uniform, unified election system. Still today, Oklahoma is the only state in which every county follows the same uniform procedures, uses the same forms and software to administer voter registration and absentee voting, and also uses the same voting devices and uniformly designed ballots in every precinct.

In the early days of Oklahoma's modern election system, the rules intentionally were drafted to duplicate the content of Title 26 of the Oklahoma Statutes. When Oklahoma's election laws were modernized and re-codified in 1974, the first State Election Board rules were created not only as the official "interpretation" of the new laws but also as a means of communicating the requirements of the new laws and the procedures needed to implement them to both county- and precinct-level election officials.

Before the implementation of the new election code in 1974, the County Election Board Secretary had only a printed copy of the election laws with which to run his or her office and conduct elections. Now, almost 40 years later, the County Election Board Secretary has access to an array of publications to perform almost every election-related task.

The amendments in Chapter 40 have the following purposes. All rules that only duplicate statutory language and provisions are revoked. Rules are amended to update all references to the election administration software and hardware used by the State Election Board and by the 77 County Election Boards from OEMS B the designation of the legacy system that will be removed from service in July, 2013, B to MESA, OEMS's successor system. By July 1, 2013, MESA will absorb all the functions of the older system. Some amendments conform certain existing processes and procedures to the specific functions and capabilities of the new voting system and/or the new election management software.

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

SUBCHAPTER 3. SPECIAL ELECTIONS

PART 1. CALLING SPECIAL ELECTIONS

230:40-3-1. Who may call special election

A special election may be called by the Governor to fill vacancies in Congress, in the State Senate or the State House of Representatives, or the office of County Commissioner and to vote on state questions. County Commissioners may call a special election to vote on county questions~~, and, in certain circumstances,~~ In counties with population exceeding 600,000 according to the most recent federal Census, County Commissioners may call special elections~~,~~ to fill vacancies in other county offices. In addition, the governing boards of school districts, municipalities and certain special purpose districts, such as fire protection districts, may call special elections to fill vacancies and to vote on questions. No other entities are authorized to call special elections to be conducted by the County Election Board.

230:40-3-1.1. Times for special elections [REVOKED]

~~(a) Special elections may be held by a county, school district, technology center school district, municipality or other entity authorized to call elections only on the following days unless otherwise provided by law. [26: 3-101(B)]~~

~~(1) **Odd-numbered years.** In odd-numbered years, special elections may be held on the second Tuesday in January, February, May, June, July, August, September, October, November and December; and on the first Tuesday in March and April. [26:3-101(B)]~~

~~(2) **Even-numbered years.** In even-numbered years, special elections may be held on the second Tuesday in January, February, May, and December; on the first Tuesday in March and April; on the last Tuesday in July; on the fourth Tuesday in August; and on the first Tuesday after the first Monday in November. [26:3-101(B)] In any year when a Presidential Preferential Primary Election is held in February, the date for special elections shall be the same date as the Presidential Preferential Primary Election. [26:3-101(B)]~~

~~(b) *In the event that a regular or special election date occurs on an official state holiday, the election shall be scheduled for the next following Tuesday.* [26:3-101(C)]~~

PART 3. VACANCIES [REVOKED]

230:40-3-7. Vacancies in Congress [REVOKED]

~~(a) **State Election Board responsibilities.** Whenever a vacancy occurs in the office of a member of the United States Senate or United State House of Representatives from Oklahoma, the vacancy shall be filled at a Special Election called by the Governor. Filing shall be with the State Election Board and ballots shall be printed by the State Election Board.~~

~~(b) **County Election Board responsibilities.** In the event of a Special Election for a vacancy in Congress, each County Election Board shall perform the duties prescribed for it for regular Primary, Runoff Primary and General Elections.~~

230:40-3-8. Vacancies in the Legislature [REVOKED]

~~(a) **Special election called within 30 days.** Within 30 days after a vacancy occurs in the office of a member of the State Senate or the State House of Representatives, the Governor shall call a Special Election to fill the vacancy.~~

~~(b) **Proclamation to State Election Board.** *In calling such an election, the Governor shall issue a proclamation, a copy of which* shall *be filed with the Secretary of the State Election Board*. [26:12-107]~~

~~(c) **Dates for filing period, elections.** In the proclamation, the following facts must be contained:~~

~~(1) *A filing period of three days, on a Monday, Tuesday and Wednesday, not less than ten days from the date of* the *proclamation*. [26:12-108(1)]~~

~~(2) *The date of the Special Primary Election, not less than 20 days* from the last day of the filing period. [26:12-108(2)]~~

~~(3) *The date of the Special General Election, not less than 20 days after the date of the Primary Election.* [26:12-108(3)]~~

~~(d) **Vacancies between March 1 and June 1.** Should such a vacancy occur between March 1 and June 1 of an even-numbered year, the proclamation shall contain dates as outlined in (c) that are required by law for the regular filing period, Primary Election, Runoff Primary Election and General Election, unless the term of the office expires the same year, in which case no Special Elections shall be held. [26:12-108]~~

~~(e) **No Runoff Primary.** There shall be no Runoff Primary Election in filling vacancies, unless the vacancy occurs as outlined in (d). [26:12-109]~~

~~(f) **General laws apply.** The Special Elections shall be conducted under the laws applicable to the regular Primary and General Elections. [26:12-104]~~

~~(g) **County Election Board responsibilities.** The County Election Board shall be charged with the same responsibilities as it would be if the Special Elections were regular Primary and General Elections for the State Senate or State House of Representatives.~~

230:40-3-9. Vacancies for County Commissioner [REVOKED]

~~(a) **Special election called within 30 days.** Within 30 days after a vacancy occurs for the office of County Commissioner, the Governor shall call a Special Election to fill the vacancy. [26:12-111]~~

~~(b) **Proclamation to State, County Election Board.** In calling such an election, the Governor shall issue a proclamation, a copy of which shall be filed with the Secretary of the State Election Board and the Secretary of the County Election Board in whose county the vacancy occurs. [26:12-112]~~

~~(c) **Dates for filing period, elections.** In the proclamation, the following facts must be contained:~~

~~(1) *A filing period of three days, on a Monday, Tuesday and Wednesday, not less than ten days from the date of* the *proclamation*. [26:12-113(1)]~~

~~(2) *The date of the Special Primary Election, not less than 20 days* from the last day of the filing period. [26:12-113(2)]~~

~~(3) *The date of the Special General Election, not less than 20 days after the date of the Primary Election.* [26:12-113(3)]~~

~~(d) **Vacancies between March 1 and June 1.** Should such a vacancy occur between March 1 and June 1 of any even-numbered year, the proclamation shall contain dates as outlined in (c) that are required by law for the regular filing period, Primary Election, Runoff Primary Election and General Election, unless the term of the office expires the following year, in which case no Special Election shall be held, and the candidate elected to the office at the regular General Election shall be appointed by the Governor to fill the unexpired term. [26:12-113]~~

~~(e) **No Runoff Primary.** There shall be no Runoff Primary Election in filling vacancies, unless the vacancy occurs as outlined in (d).~~

~~(f) **General laws apply.** The Special Elections shall be conducted under the laws applicable to the regular Primary and General Elections. [26:12-114]~~

~~(g) **County Election Board responsibilities.** The County Election Board shall be charged with the same responsibilities as it would be if the Special Elections were regular Primary and General Elections for County Commissioner.~~

~~(h) **Unopposed nominees.** *If the nominee of a political party is unopposed in the Special General Election, he shall be issued a Certificate of Election after the expiration of the contest period following the Primary or Runoff Primary*~~

~~*Election, if no contest is filed, and he immediately shall assume the duties of the office*. [26:12-114]~~

230:40-3-10. Vacancies in other county offices [REVOKED]

~~(a) In the event a vacancy occurs for any county office other than for County Commissioner in any county having a population of less than 600,000, according to the latest Federal Decennial Census, the vacancy shall be filled as follows:~~

~~(1) If a vacancy occurs prior to the filing period for regular county elections and the vacated office is not scheduled to be on the ballot at that election, the vacancy shall be filled at a Special Election proclaimed by the County Commissioners. [51:10(b)] The filing period and the election dates contained in the proclamation shall be the same as for the regular county Primary, Runoff Primary and General Elections. [51:10(b)] At the time they call the elections, the Commissioners also shall appoint someone to hold the office until the Special Election. [51:10(b)]~~

~~(2) If a vacancy occurs in an office that is scheduled to be on the ballot at the next regular county election, the Commissioners shall fill the vacancy by appointment for the unexpired term, and no Special Election shall be held.~~

~~(b) In a county having a population of more than 600,000, according to the latest Federal Decennial Census, a vacancy in any elective county office shall be filled by special election in the same manner as a vacancy in the office of County Commissioner. See 230:40-3-9.~~

230:40-3-11. Irrevocable resignation of incumbent [REVOKED]

~~(a) An incumbent United States Senator, United States Representative, State Senator, State Representative, or County Commissioner may file an irrevocable resignation that will not become effective immediately but on a specified date in the future. An irrevocable resignation must be made in writing and filed with the Oklahoma Secretary of State. The Governor is authorized to proceed as if the office already were vacant and to call a special election to fill the vacancy. The special election shall be held as required by law for the office to be filled. (See 230:40-3-7 through 230:40-3-10.) The person elected at the special election shall take office on the date the election is certified or on the date the irrevocable resignation becomes effective, whichever is later.~~

~~(b) An incumbent in any elective county office in any county with a population of more than 600,000, according to the most recent federal decennial census, may file an irrevocable resignation as outlined in (a) of this section. See 230:40-3-10(b).~~

PART 5. SPECIAL COUNTY ELECTIONS [REVOKED]

230:40-3-15. Dates cannot conflict [REVOKED]

~~No county shall schedule an election on any date during the 20 days immediately preceding a statewide Primary, Runoff Primary or General Election. [26:1-101; 1-102; 1-103]~~

230:40-3-16. Special elections for county questions [REVOKED]

~~A special election on any county question shall be held not less than 60 days from the date the election is called by the Board of County Commissioners. [26:12-116]~~

PART 7. STATISTICAL REPORTS [REVOKED]

230:40-3-23. Report on Analysis of Special Elections [REVOKED]

~~Within ten days following a special election, the Secretary shall submit a report of said election to the State Election Board. The State Election Board shall furnish a Report on Analysis of Special Election form at the appropriate time.~~

PART 9. SUBSTITUTE NOMINEES [REVOKED]

230:40-3-29. Death prior to General Election [REVOKED]

~~*In the event of the death of a political party's nominee for office prior to the date of the General Election, a substitute candidate shall be permitted to have his name placed on the General Election ballot*. [26:1-105]~~

230:40-3-30. Notification of State Election Board [REVOKED]

~~(a) **Substitutes for offices filing with State Election Board.** *If the deceased nominee was a candidate who filed his Declaration of Candidacy with the State Election Board, the state central committee of the party affected shall notify the Secretary of the State Election Board of the name of an alternative candidate to be placed on the General Election ballot*. [26:1-105(2)] The notice shall be made in writing within fifteen days after the death occurs but not later than 60 days prior to the General Election for statewide or federal offices and not later than 55 days prior to the General Election for all other offices. [26:1-105(2)] The notice shall be signed by at least two duly authorized members of the party's state central committee. [26:1-105(2)]~~

~~(b) **Substitutes for county office.** If the nominee was a candidate for county office, the county central committee of the political party affected *shall notify the Secretary of the County Election Board of the name of an alternative candidate to be placed on the General Election ballot*. [26:1-105(1)] The notice shall be made in writing within fifteen days after the death occurs but not later than 55 days prior to the General Election. [26:1-105(1)] The notice shall be signed by at least two duly authorized members of the party's county central committee. [26:1-105(1)]~~

230:40-3-31. Death after Runoff Primary Election [REVOKED]

~~If a political party's nominee for office dies more than five days after the date of the Runoff Primary Election, a special General Election shall be called by the Governor. [26:1-~~

~~105(3)] The special General Election shall be conducted as provided in 230:40-3-1 through 230:40-3-9, except that there shall be no filing period and no special Primary Election. The candidates in the special General Election shall be the substitute candidate named as provided in 230:40-3-54, the nominees of other political parties elected in the Primary or Runoff Primary, and any independent candidates. [26:1-105(3)]~~

230:40-3-32. Death of unopposed candidate [REVOKED]

~~*In the event of the death of a candidate who was unopposed for election, a special election shall be called by the Governor*. [26:1-105(4)] The special election shall be conducted as provided in 230:40-3-1 through 230:40-3-9.~~

PART 11. SPECIAL JUDICIAL ELECTIONS [REVOKED]

230:40-3-37. Death of a judicial candidate prior to Primary Election [REVOKED]

~~(a) In the event a judicial candidate whose name should be on the ballot at the Primary Election dies before ballot printing has begun, the deceased candidate's name shall not be printed on the ballot. [26:11-116(A)] If the death occurs after ballot printing for the Primary has begun, votes cast for the deceased candidate shall not be certified by the County Election Board.~~

~~(b) If the death of a judicial candidate leaves only two surviving candidates, their names shall appear only on the General Election ballot. [26:11-116(A)]~~

230:40-3-38. Death of a judicial candidate prior to General Election [REVOKED]

~~(a) If a judicial candidate whose name should appear on the General Election ballot dies before ballot printing for the General Election has begun, neither candidate's name shall be printed on the ballot. [26:11-116(B)]~~

~~(b) If the death of a judicial candidate occurs after ballot printing has begun, the votes cast for that office shall not be certified by the County Election Board. [26:11-116(B)]~~

~~(c) The Governor shall call a special election to fill the vacancy in the judicial office. [26:11-116(B)] The Governor shall prescribe a special filing period followed in not less than 45 days by a Special Primary Election. [26:11-116(B)] The Special Primary Election shall be followed not less than 45 days by a Special General Election. [26:11-116(B)]~~

SUBCHAPTER 5. MUNICIPAL ELECTIONS

PART 1. CITIES WITH HOME RULE CHARTERS [REVOKED]

230:40-5-1. Charter may provide election procedures [REVOKED]

~~Cities that have home rule charters may specify procedures for the conduct of municipal elections. Such procedures may be different than the general election laws. [11:16-102]~~

230:40-5-2. Copy of charter required [REVOKED]

~~Cities that have home rule charters are required by law to furnish a copy of the charter, as it applies to conduct of elections, to the Secretary of the County Election Board in the county wherein the municipality's central offices are located. [26:13-109] Any changes in a charter, as it applies to the conduct of elections, must be provided immediately to the appropriate County Election Board.~~

230:40-5-3. Home rule charter cities may follow state law [REVOKED]

~~Cities with home rule charters may choose to follow any provision of state election law when the charter is silent on the matter addressed by the provision of law. [11:16-102] The municipality must indicate in its resolution to the County Election Board those provisions of state election law it chooses to follow. [11:16-102]~~

230:40-5-4. Absentee voting required in home rule charter cities [REVOKED]

~~(a) Absentee voting is required in all municipal elections C including elections for home rule charter cities C conducted by the County Election Board. [26:14-101]~~

~~(b) A home rule charter city may adjust the dates of its filing period and elections to allow sufficient time for the County Election Board to print and mail absentee ballots to voters and for voters to return their voted absentee ballots. [26:14-101(A)]~~

~~(c) When a home rule charter city schedules an election on the same date as an election for any other entity that shares territory with the municipality, the home rule charter city shall be required to provide no less time for the mailing and return of absentee ballots than the least time provided by the other entity. [26:14-101(B)]~~

230:40-5-4.1. Provisional voting required in home rule charter cities [REVOKED]

~~Provisional voting is required by state law in all municipal elections B including elections for home rule charter cities B conducted by the County Election Board. Provisional voting in a municipal election shall be conducted under the same procedures as for a state or county election.~~

230:40-5-5. Statutory election dates required for home rule charter cities [REVOKED]

~~Effective July 1, 2005, no County Election Board shall be required to conduct elections for any municipality, including home rule charter municipalities, on any date other than an election date specified in state election law. [26:13-101.1]~~

~~In addition to scheduling elections on statutory election dates, all municipalities that hold both primary and general elections shall provide no fewer than 35 days between the elections. [26:13-101.1] However, a home rule charter city may schedule primary and general elections on the identified election dates in March and April when there are fewer than 35 days between the election dates. [26:13-101.1]~~

PART 3. NONPARTISAN MUNICIPAL ELECTIONS [REVOKED]

230:40-5-9. Municipal elections shall be nonpartisan [REVOKED]

~~Municipal elections held by statutory municipalities shall be nonpartisan and all candidates shall file without any indication of political party affiliation. [11:16-105.1] *No primary election shall be held in a nonpartisan election.* [11:16-105.1]~~

230:40-5-10. Partisan elections authorized by ordinance [REVOKED]

~~A statutory municipality may hold partisan elections if, prior to the date for submitting to the County Election Board the resolution calling for the election, an ordinance providing for partisan elections is in effect. [11:16-105.1]~~

230:40-5-11. Ordinance must be attached to resolution [REVOKED]

~~A copy of an ordinance providing for partisan elections must be attached to the resolution submitted to the County Election Board. [11:16-105.1] If a copy of the ordinance is not attached, the election shall be held in a nonpartisan manner and the candidates shall appear on the ballot without any indication of political party affiliation . [11:16-105.1]~~

PART 5. STATUTORY MUNICIPALITIES [REVOKED]

230:40-5-16. Statutory municipalities [REVOKED]

~~Municipalities that do not have home rule charters are statutory municipalities. The general election laws for municipalities are applicable. [11:16-104] A statutory municipality has one of the following forms of government described in state law.~~

~~(1) Town~~
~~(2) Aldermanic City~~
~~(3) Strong Mayor-Council City~~
~~(4) Council-Manager City~~

230:40-5-18. Notice of elections [REVOKED]

~~A statutory municipality shall submit a resolution to the Secretary of the County Election Board conducting the election not fewer than 15 days before the filing period. [26:13-102] In the event of a special election, such a resolution shall be submitted no fewer than 60 days before the election. [26:13-102] The resolution shall contain the following information:~~

~~(1) *The dates of the election or elections;* [26:13-102(1)]~~
~~(2) *The offices to be filled or the questions to be voted upon at the election or elections;* [26:13-102(2)]~~
~~(3) *Qualifications for such offices;* [26:13-102(3)]~~
~~(4) *Designation of which offices shall be filled by voting by ward and which offices shall be filled by voting at large;* [26:13-102(4)]~~
~~(5) *Indication of whether the election will be partisan or nonpartisan;* [26:13-102(5)]~~
~~(6) *For charter cities where the charter is silent, indication of any portion of state law which will apply; and* [26:13-102(6)]~~
~~(7) A map showing the current, correct municipal boundaries and the current, correct ward boundaries within the municipality. [26:13-102(7)]~~
~~(8) *Any other information necessary for conducting said election or elections.* [26:13-102(7)]~~

230:40-5-20. General laws apply [REVOKED]

~~Except as otherwise provided by law, the laws governing state and county Primary and General Elections shall be applicable to all municipal elections. [11:16-104]~~

PART 7. TOWN MEETINGS [REVOKED]

230:40-5-25. Town meetings required [REVOKED]

~~Statutory municipalities with populations of fewer than 1,000 residents according to the most recent federal census are required to elect officers and consider questions at biennial town meetings or special town meetings of the registered voters of the municipality. [11:16-302] Town meetings shall be conducted under the provisions of the Oklahoma Town Meeting Act and the County Election Board shall have no responsibility for town meetings. [11:16-302]~~

230:40-5-26. Ordinance required to hold elections [REVOKED]

~~Any statutory municipality required to hold town meetings may adopt an ordinance requiring that its officers shall be elected and that questions shall be decided only at elections conducted by the County Election Board in the county in which the municipality is located. [11:16-302] A municipality that passes such an ordinance must provide a copy of the ordinance to the Secretary of the County Election Board. [11:16-302]~~

230:40-5-27. Election laws apply [REVOKED]

~~In the event that a statutory municipality required to hold town meetings passes an ordinance requiring elections instead of town meetings, the same laws and procedures that apply to all other municipal elections shall apply to elections for the municipality. [11:16-302]~~

230:40-5-28. Ordinance requiring election repealed [REVOKED]

~~A statutory municipality may repeal the ordinance requiring that officers be elected and questions be decided at elections conducted by the County Election Board. [11:16-302] *If the ordinance is repealed, elections of the municipality shall be at a town meeting*. [11:16-302] The governing body of the municipality shall provide a copy of the repealer to the Secretary of the County Election Board. [11:16-302]~~

230:40-5-29. Town meetings not required in municipalities with home rule charters [REVOKED]

~~Home rule charter cities with populations of fewer than 1,000 residents are not required to conduct town meetings. [11:16-302]~~

PART 9. PROCEDURES

230:40-5-34. Conduct of municipal elections [REVOKED]

~~(a) *All municipal elections shall be held at the same place and in the same manner prescribed for conduct of state and county elections unless otherwise provided by law*. [26:13-103(A)] All precincts located either totally or partially within the boundaries of a municipality shall be open for all elections held by the municipality. *Polling places shall be open from 7 a.m. until 7 p.m.* [26:13-103(C)] Each Precinct Election Board shall be the same as for state and county elections; however, if substitutions are necessary, such substitutions shall be made by the County Election Board. [26:13-103(C)] All municipal elections conducted by the County Election Board shall be held only on dates identified as election dates in state law. [26:13-101.1]~~

~~(b) If a precinct lies partly within the limits of a municipality, and that municipality certifies to the County Election Board in the resolution calling the election that no one resides within that portion of the precinct located in the municipality, then the precinct does not have to be open for the municipality's election. [26:13-103(C)] Except, however, a municipality shall not be permitted to close a precinct in a regular or special election held on the date of the state Primary Election, Runoff Primary Election, General Election, Presidential Preferential Primary Election, or a special state election.~~

230:40-5-35. Filing period for regular elections [REVOKED]

~~(a) **Nonpartisan elections.** The filing period for Regular Municipal Elections in municipalities that conduct nonpartisan elections shall begin at 8 a.m. on the first Monday in February in each odd-numbered year and end at 5 p.m. on the following Wednesday. [11:16-109; 16-110]~~

~~(b) **Partisan elections.** The filing period for Regular Municipal Elections in municipalities that hold partisan elections shall begin at 8 a.m. on the first Monday in December of even-numbered years and end at 5 p.m. on the following Wednesday.~~

230:40-5-36. No filing fees [REVOKED]

~~No filing fee shall be required for persons filing as candidates for statutory municipal offices nor shall such candidates be required to file petitions supporting their candidacies. [26:13-104]~~

230:40-5-37. Filing to be with Secretary [REVOKED]

~~Candidates for municipal offices shall file Declarations of Candidacy with the Secretary of the County Election Board. [11:16-109; 16-110]~~

230:40-5-38. Persons eligible to be candidates in nonpartisan elections [REVOKED]

~~To be eligible to become a candidate in a nonpartisan municipal election, a person must be registered to vote for at least six months prior to the filing period at an address within the municipality or in the ward if the office is from a ward. [11:16-110] Filing as a nonpartisan candidate in a nonpartisan municipal election shall not affect the candidate's political affiliation. [11:16-110]~~

230:40-5-39. Persons eligible to be candidates in partisan elections [REVOKED]

~~To be eligible to become a candidate in a partisan municipal Primary Election, a person must be registered to vote for at least six months prior to filing a Declaration of Candidacy at an address within the municipality or in the ward, if the office is from a ward. [11:16-109]~~

230:40-5-40. Persons not eligible to be candidates [REVOKED]

~~Persons who have been convicted of or who have entered pleas of guilty or nolo contendere to a misdemeanor involving embezzlement or a felony under the laws of this state or of the United States shall not be eligible to be a candidate for any state, county, municipal, judicial or school office or any other elective office of any political subdivision of this state for a period of 15 years following the completion of the sentence or during the pendency of an appeal of such conviction or plea. [26:5-105a] This shall not be construed to prohibit persons who have received pardons from being eligible for or from holding public office. [26:5-105a]~~

230:40-5-41. Date for nonpartisan municipal election [REVOKED]

~~Nonpartisan statutory municipal elections shall be held on the first Tuesday in April of each odd-numbered year. [11:16-103]~~

230:40-5-42. Dates of partisan municipal Primary and General Elections [REVOKED]

~~If a statutory municipality requires by ordinance that its elections be partisan, the Primary Election shall be held on the second Tuesday in February in each odd-numbered year. [11:16-107] The General Election shall be held on the first Tuesday in April in each odd-numbered year. [11:16-103]~~

230:40-5-43. No Runoff Primary [REVOKED]

~~There are no Runoff Primary Elections for municipalities.~~

230:40-5-44. Certification [REVOKED]

~~The County Election Board shall certify the results of municipal elections to the governing board of the municipality for which the election is held. [26:13-106] Certificates of election shall be issued to the successful candidates by the County Election Board in the same manner as prescribed for county officers in 230:35-3-91. [26:13-106; 26:8-103]~~

230:40-5-45. Eligible voters [REVOKED]

~~*Only registered voters who reside within the municipal limits of any municipality shall be permitted to vote in any election held for said municipality.* [26:13-108]~~

230:40-5-47. Dates cannot conflict [REVOKED]

~~No municipality shall schedule an election on any date during the 20 days immediately preceding a statewide Primary, Runoff Primary or General Election, or the Presidential Preferential Primary Election. [26:1-101; 26:1-102; 26:1-103; 26:20-101]~~

PART 11. BALLOT PRINTING

230:40-5-53. Order of names [REVOKED]

~~The order of names of candidates on all municipal ballots shall be determined by lot. [26:6-109]~~

PART 13. EXPENSES [REVOKED]

230:40-5-58. Expenses [REVOKED]

~~The municipality shall reimburse the County Election Board for all of the expenses of any municipal election. [26:13-111] Election expenses include, but are not limited to, these items: compensation and mileage for Precinct Officials; compensation and mileage, if applicable, for the County Election Board Chairman and Vice Chairman; overtime compensation and related expenses for County Election Board employees incurred in connection with the municipal election; polling place fees; and the cost of supplies and ballots for the election. [26:13-111] When more than one entity holds an election on the same day, mutual costs C such as per diem and mileage for the members of the County Election Board C shall be divided into equal portions among the entities.~~

230:40-5-59. Pre-Election Expense Claim [REVOKED]

~~The Secretary of the County Election Board shall follow the procedures outlined in 230:35-3-29 through 230:35-3-49 to submit a Pre-Election Expense Claim to the governing board of the municipality holding an election. [26:3-105.1(A)] The Pre-Election Expense Claim is an estimate of the amount of compensation and mileage for Precinct Officials, Absentee Voting Board members, and special purpose precinct workers.~~

230:40-5-60. Claim for balance of election expenses [REVOKED]

~~As soon as possible following a municipal election, the Secretary shall submit a Record of Expense itemizing all election expenses to the governing board of the municipality. [26:3-105.1(D)] The Record of Expense shall show the amount prepaid by the municipality, as outlined in 230:40-5-59, deducted from the total amount of election expenses. The remaining balance shall be due 30 days after the Record of Expense is submitted to the municipality's governing board.~~

PART 15. MUNICIPALITIES IN MORE THAN ONE COUNTY

230:40-5-65. Municipalities in more than one county

(a) **Supervision.** For a municipality that is located in more than one county, the election shall be conducted by the County Election Board wherein the municipality's central offices are located. [26:13-110] This County Election Board hereafter is called the ~~"parent County Election Board."~~ "control(parent) County Election Board." The Election Boards of the other counties in which part of the municipality is located hereafter are called the "affected County Election Boards."

(b) **Filing.** Candidates for municipal office shall file their Declarations of Candidacy with the Secretary of the ~~parent~~control(parent) County Election Board.

(c) **Notification required.** The Secretary of the ~~parent~~control(parent) County Election Board shall notify the affected County Election Boards ~~of the dates of the election, the names of the candidates filing for office and any propositions or questions that shall appear on the ballot. Such notification shall be in writing and shall be supplemented by oral communication, if possible.~~ when a regular or special election is called by faxing or e-mailing a copy of the resolution and all related documents.

(d) **Ballot printing.** The Secretary of the affected County Election Board shall be responsible for printing ballots for the election for use in the affected county and for submitting the bill for such ballots to the control(parent) County Election Board after the election.

(e) **Receiving supplies, making returns.** Inspectors shall receive their supplies from and return them to the County Election Board of the county wherein their polling places are located. See 230:35-3-68 and 230:35-3-68.1.

(f) **Affected county results.** Affected County Election Boards shall meet on election night to canvass results. The Secretary of an affected County Election Board shall report

the ~~results and the~~ number of signatures on the Provisional Ballot Roster in precincts involving the multi-county municipality to the ~~parent~~control(parent) county on election night either by ~~telephone~~ e-mail or by fax. The County Election Board in an affected county shall meet after 5 p.m. on Friday following the election to certify the final election results. The Secretary of the affected County Election Board shall fax a signed and sealed copy of the Official Certification Report to the ~~parent~~control(parent) County Election Board as soon as possible after the final results are certified on Friday evening. One original copy of the Official Certification Report signed by a quorum of the affected County Election Board and bearing the County Election Board seal shall be mailed to the parent County Election Board. See 230:35-3-91.

(g) **Certification.** The ~~parent~~control(parent) County Election Board shall meet on election night to canvass returns from all precincts in the county and results reported ~~by telephone or fax~~ through MESA from each affected county. ~~The results for precincts in affected counties shall be entered manually into OEMS based on the results received by telephone or fax on election~~ night. Final election results shall be certified after 5 p.m. on Friday following the election. The affected County Election Boards shall fax a copy of the signed and sealed Official Certification Report to the ~~parent~~control(parent) County Election Board. Upon receipt ~~and verification~~ of the faxed ~~Reports~~ copy and upon obtaining from MESA Official Certification Reports that include results from the affected county precincts, the ~~parent~~control(parent) County Election Board shall certify the final election results. See 230:35-3-91.

(h) **Expenses handled through ~~parent~~control(parent) board.** The ~~parent~~control(parent) County Election Board shall receive claims from all affected counties and shall make all claims to the municipality. The ~~parent~~control(parent) County Election Board shall receive payment for election expenses from the municipality and shall pay all expenses incurred in the election, including lump sum payments to affected County Election Boards for expenses incurred in those counties.

(i) **Reimbursement to affected county.** Upon receipt of the payment from the ~~parent~~ control(parent) County Election Board, the Secretary of the affected County Election Board shall deposit the payment in the Special Depository Account and shall pay expenses incurred in the county.

(j) **Absentee voting.** Voters who vote by absentee ballot in a multi-county municipal election must make application to and receive absentee ballots from the County Election Board of the county in which they are registered.

(k) **Provisional voting.** Voters who may vote by provisional ballot in a multi-county municipal election must cast the provisional ballot in the correct precinct in the county in which they reside.

PART 17. SPECIAL ELECTIONS [REVOKED]

230:40-5-77. Special elections for municipal offices [REVOKED]

~~(a) **Special partisan elections.** When a special partisan election must be held to fill a vacancy in an elected municipal office, the resolution of the municipality's governing body shall contain the following information. [11:16-114]~~

~~(1) The dates of a three-day filing period which shall begin on a Monday and end on the following Wednesday. [11:16-114] The filing period shall begin not less than 15 days from the date of the resolution. [11:16-114]~~

~~(2) The date of the special primary election, which shall be not less than 45 days after the close of the filing period. [11:16-114]~~

~~(3) The date of the special general election, which shall be not less than 45 days after the date of the special primary. [11:16-114]~~

~~(4) A home rule charter municipality may schedule primary and general elections on the identified election dates in the months of March and April when there are fewer than 35 days between the election dates. [26:13-101.1]~~

~~(b) **Special nonpartisan elections.** When a special nonpartisan election must be held to fill a vacancy in an elected municipal office, the resolution of the municipality's governing body shall contain the following information. [11:16-114]~~

~~(1) The dates of a three-day filing period which shall begin on a Monday and end on the following Wednesday. [11:16-114] The filing period shall begin not less than 15 days from the date of the resolution. [11:16-114]~~

~~(2) The date of the special general election, which shall be not less than 45 days after the close of the filing period. [11:16-114]~~

~~(c) **Time for special election resolution.** A copy of the resolution or order shall be filed with the Secretary of the County Election Board not less than 60 days preceding the date of the special general election. [11:16-114; 26:13-102]~~

~~(d) **Dates for special elections.** Special municipal elections may be called only on election dates established by state law. [26:13-101.1]~~

~~(e) **Special election not permitted.** A special election shall not be called to fill a vacancy in an elected municipal office if the vacancy occurs or the election would be held within 120 days of the first day of the filing period for the next regular municipal election. [11:8-109] In such circumstances, the vacancy shall be filled for the balance of the unexpired term at said regular municipal election.~~

230:40-5-78. Special election for municipal questions [REVOKED]

~~A special election on any municipal question shall be held not less than 60 days from the date the election is called by the governing board of the municipality. [26:12-116] A special election on a municipal question may be called only on an election date established by state law. [26:13-101.1]~~

PART 19. STATISTICAL REPORTS

230:40-5-84. Analysis of Municipal Election reports [REVOKED]

~~Within ten days after a Regular Municipal Election or any special municipal election, the Secretary shall submit an analysis report of said election to the State Election Board. The~~

~~State Election Board shall furnish the analysis report forms at the appropriate time.~~

230:40-5-85. Information on municipal candidate elections [REVOKED]

~~The State Election Board reports the names of all persons elected to municipal office to the Oklahoma Municipal League. The Secretary of the County Election Board shall send to the State Election Board copies of each of the following documents for every municipal election involving candidates. These documents shall accompany the municipal election analysis forms.~~

~~(1) A copy of the resolution calling a regular or special municipal election involving candidates.~~

~~(2) A copy of the Declaration of Candidacy form for each candidate elected to municipal office.~~

~~(3) A copy of the Declaration of Candidacy form for each candidate who is unopposed for election to municipal office.~~

SUBCHAPTER 7. SCHOOL ELECTIONS

PART 1. DATES AND NOTICE FOR ANNUAL SCHOOL ELECTIONS [REVOKED]

230:40-7-1. Annual School Elections [REVOKED]

~~Annual School District and Technology Center School District Elections shall be held *on the second Tuesday in February of each year*. [26:13A-103(A)] However, in any even-numbered year in which a Presidential Preferential Primary Election is held in February, the Annual School Election shall be held on the same date as the Presidential Preferential Primary Election. [26:13A-103]~~

230:40-7-2. Annual School Runoff Election [REVOKED]

~~In the event that no candidate receives more than 50% of the votes cast in the Annual School Election, a second election shall be held between the two candidates with the highest number of votes. The Annual School Runoff Election shall be held on the first Tuesday in April. [26:13A-103(A)]~~

230:40-7-3. Resolution required [REVOKED]

~~(a) A resolution from the Board of Education of a school district or a technology center school district calling for the Annual School Elections shall be delivered to the County Election Board Secretary no fewer than 15 days before the first day of the candidate filing period established by law. [26:13A-109(C)] The resolution for the Annual School Election also shall call for an Annual School Runoff Election to be held if needed under the circumstances set forth by law.~~

~~(b) A resolution from the Board of Education of a school or technology center district calling for a special election shall be delivered to the County Election Board Secretary no fewer than 60 days before the special election date. [26:13A-109(D)]~~

~~(c) A resolution from the Board of Education of a school or technology center district shall include, but shall not be limited to, the following information: [26:13A-109(B)]~~

~~(1) The date of the election. [26:13A-109(B)] The resolution for the district's Annual School Election must also include the date of the Annual School Runoff Election.~~

~~(2) The office or offices, identified by number, to be filled. [26:13A-109(B)]~~

~~(3) The qualifications of candidates for office. [26:13A-109(B)]~~

~~(4) The length of the term of each office to be filled. [26:13A-109(B)]~~

~~(5) Descriptions of the election districts within the school district, if applicable; or, in the case of a technology center district, descriptions of the zones within the district. [26:13A-109(B)]~~

~~(6) Ballot titles of all questions to be voted upon, if applicable. [26:13A-109(B)]~~

~~(7) Information identifying the persons eligible to vote in the election. [26:13A-109(B)]~~

~~(8) Certification to close split precincts in which no one lives in the district for this election, if applicable. [26:13A-101]~~

~~(9) All other information required to conduct the election or elections. [26:13A-109(B)]~~

230:40-7-4. Posting copy of legal notice of school election at County Election Board office [REVOKED]

~~(a) The Board of Education of school districts and technology center school districts are required by law to publish a legal notice of all regular and special elections. In addition to publishing the notice as required by law, the Board of Education is required to post a copy of the legal notice at the County Election Board offices in all counties included in the district.~~

~~(b) Upon receipt of a copy of a legal notice described in (a) of this section, the Secretary of the County Election Board shall post the notice in a conspicuous location in the County Election Board office. The Secretary of the parent County Election Board of a multi-county district shall mail or fax a copy of the legal notice to each affected County Election Board, where it also shall be posted.~~

PART 3. BOARD DISTRICTS

230:40-7-8. Purpose of board districts [REVOKED]

~~Board districts established within school districts are used to nominate candidates for member of the Board of Education. Each office on the Board of Education represents a board district. The offices on the Board of Education are required to be designated by consecutive numbers and shall correspond with the board districts. A candidate for an office on the Board of Education must be registered to vote at an address located within the board district represented by the office. Candidates are nominated by board district but are elected at large. However, some school districts elect Board of Education members by board district rather than~~ at large.

230:40-7-9. Establishment of board districts [REVOKED]

~~It is the duty of the Board of Education of each independent school district to apportion the territory of the school district into board districts as required by law.~~

230:40-7-10. Exceptions to establishment of board districts [REVOKED]

~~Independent school districts with an average daily attendance of fewer than 1,000 students may choose not to establish board districts. [70:5-107A (B)(1)] These independent school districts may nominate and elect all Board of Education members at large. [70:5-107A(B)(1)] Elementary school districts shall have all Board of Education members elected at large. [70:5-107A(B)(1)]~~

PART 5. FILING PERIOD

230:40-7-17. Qualifications [REVOKED]

~~A person must have been registered to vote at an address located within the geographical boundaries of the school district for six months preceding the first day of the filing period to be eligible to become a candidate. [26:13A-106(A)] In school districts that are divided into board districts, a person must be registered to vote at an address located within the geographical boundaries of the board district for six months preceding the first day of the filing period to be eligible to become a candidate. [26:13A-106(A)]~~

230:40-7-18. Persons not eligible to be candidates [REVOKED]

~~Persons who have been convicted of or who have entered pleas of guilty or nolo contendere to a misdemeanor involving embezzlement or a felony under the laws of this state or of the United States shall not be eligible to be a candidate for any state, county, municipal, judicial or school office or any other elective office of any political subdivision of this state for a period of 15 years following the completion of the sentence or during the pendency of an appeal of such conviction or plea. [26:5-105a(A)] This shall not be construed to prohibit persons who have received pardons from being eligible for or from holding public office. [26:5-105a(B)]~~

230:40-7-20. Withdrawals [REVOKED]

~~A candidate who has filed may withdraw from the Annual School Election by filing a written notice with the Secretary of the County Election Board no later than 5 p.m. Friday following the close of the filing period. A candidate in the Annual School Runoff Election may withdraw by filing a written notice with the Secretary of the County Election Board no later than 5 p.m. on the Friday following the date of the Annual School Election.~~

230:40-7-21. Contests of candidacy [REVOKED]

~~Contests of candidacy for member of the Board of Education are filed and conducted in the same manner as provided for county office. See 230:20-5-1 through 230:20-5-17.~~

PART 7. BALLOT PRINTING

230:40-7-28. Ballot quantities [REVOKED]

~~The Secretary shall cause a sufficient number of ballots to be printed for the election, but shall not necessarily be required to print a ballot for each registered voter. A quantity of extra ballots also shall be printed to provide a safety stock and to prepare the test deck of ballots as outlined in 230:50-3-69.~~

230:40-7-29. Mill levy ballots [REVOKED]

~~(a) **Ballot text.** Each school district is responsible for providing the text of the mill levy questions to the Secretary of the County Election Board in the manner described in 230:40-7-3. The Secretary shall cause the text provided by the school district to be printed on the school district's ballot.~~

~~(b) **Ballot order.** Mill levy questions for all school districts shall appear on the ballot in the following order.~~

~~(1) Emergency levy.~~

~~(2) Local support levy.~~

~~(3) Building fund levy.~~

~~(c) **Ballot heading.** The number of mills in the levy shall not appear in the heading printed on the ballot.~~

~~(d) **Permanent levies.** If a school district has voted to establish permanent levies, the emergency, local support, and building fund levies shall not appear on the annual ballot.~~

PART 9. PROCEDURES

230:40-7-34. General laws apply [REVOKED]

~~The laws governing state and county Primary and General Elections shall be applicable to all school district and technology center district elections, except as otherwise provided by law.~~

230:40-7-35. Precincts in school elections

(a) **Precincts in school and technology center district elections.** All precincts totally or partially contained within the geographical boundaries of a school district or a technology center district shall be open for all elections held by the district except as provided in (b) or (c) of this section.

(b) **Closing a split precinct in which no one lives in the district.** A school district or technology center district may close a split precinct by certifying in the resolution that no one resides in the part of the precinct located within the district's boundaries. [26:13A-101(B)] Prior to preparing the resolution, district officials should contact the Secretary of the County Election Board to verify that no registered voters in the precinct are assigned by ~~OEMS~~ MESA to the district and that no voters who are unassigned to a school district in the precinct are believed to be located within the district's boundary. In

addition, before including the certification required to close the precinct in the resolution, a district official should visit the area in question to verify that no one resides there. When a split precinct is closed as provided in this subsection, the precinct shall not be included in the district's election; the district shall incur no expenses related to the precinct polling place; neither regular nor absentee ballots shall be printed for the precinct; and the services of neither the nursing home nor in-person Absentee Voting Board shall be required by the district for the precinct.

(c) **Closing the polling place for a split precinct with 100 or fewer voters.** A school district or technology center school district may close the polling place for a split precinct in which there are 100 or fewer registered voters in the district only under the circumstances outlined in 230:40-7-35.1 and by following the procedure outlined in that Section. [26:13A-101(C)] When a polling place for a split precinct is closed as outlined in 230:40-7-35.1, ~~the district~~ the precinct shall remain in the district's election but the district shall not incur any costs or share in Precinct Official compensation, Precinct Registry fees, or polling place rent for the precinct polling place for the election. Regular ballots shall not be printed for the precinct. However, absentee ballots shall be printed for the precinct and the services of the in-person Absentee Voting Board and a nursing home Absentee Voting Board, if necessary, shall be required.

(d) **Closing a split precinct or a polling place for a split precinct located in an affected county.** If the split precinct to be closed as outlined in (b) of this section is located in an affected county, the Secretary of the ~~parent~~ control (parent) County Election Board shall close and remove the precinct in MESA during election setup and shall notify the Secretary of the affected County Election Board that the precinct will be closed and removed from the district's ~~for the~~ election. If the polling place for a split precinct to be closed as outlined in (c) of this section and in 230:40-7-35.1 is located in an affected county, the request to close the polling place for the precinct shall be submitted to the Secretary of the ~~parent~~ control (parent) County Election Board with the resolution calling the election. The ~~parent~~ control (parent) county Secretary immediately shall forward the request to close the polling place for the split precinct to the Secretary of the affected County Election Board. The Secretary of the affected County Election Board shall follow the procedure outlined in 230:40-7-35.1 and shall notify both the district officials and the ~~parent~~ control (parent) County Election Board Secretary of the approval or denial of the request. If the request is approved, the Secretary of the control(parent) County Election Board shall close the polling place for the split precinct in MESA.

(e) **Closing split precinct or a polling place for a split precinct prohibited on state election dates.** A school district shall not be permitted to close a precinct or a polling place for a split precinct for any reason in a regular or special election held on the date of the state Primary Election, Runoff Primary Election, General Election, or Presidential Preferential Primary Election or a special state or county election.

230:40-7-35.1. Procedure for closing the polling place for a split precinct in which 100 or fewer voters are registered in school district or technology center district

(a) A request to close a the polling place for a split precinct with 100 or fewer voters registered in the school district or technology center district shall be made in writing and shall be submitted to the Secretary of the ~~parent~~ control(parent) County Election Board with the resolution calling the election. A request to close ~~such~~ a polling place for a split precinct in the Annual School Election shall be submitted no later than 15 days before the candidate filing period for Board of Education candidates. A request to close ~~such~~ a polling place for a split precinct in the Annual School Runoff Election shall be submitted no later than 45 days prior to the election. A request to close such a polling place for a split precinct in a special election shall be submitted no later than 60 days before the special election date. District officials may use a form prescribed by the Secretary of the State Election Board to make the request but use of the form is not required. A letter containing substantially the same information shall be sufficient.

(b) Upon receiving a request to close a polling place for a split precinct in which 100 or fewer voters are registered at addresses within the district's boundaries and when all voters in the precinct are assigned to a school district in the Street Guide, the Secretary of the County Election Board shall follow these steps to approve or disapprove the request.

(1) Determine the number of registered voters in the precinct who are assigned in the Street Guide to this school or technology center district.

(A) If more than 100 voters already are assigned to the district, the polling place for the split precinct cannot be closed for the election. Notify the district superintendent that the request cannot be approved for this reason.

(B) If fewer than 100 voters are assigned to the district, proceed to the next step.

(2) Determine whether the voters in the district are eligible to vote in any other election being held on the same date.

(A) If voters in the district are eligible to vote in another election on the same date, the request to close the polling place for a split precinct shall be denied.

(B) If voters in the district are not eligible to vote in another election on the same date, the request to close the polling place for a split precinct shall be approved.

(c) Upon receiving a request to close a polling place for a split precinct in which 100 or fewer voters are registered at addresses within the district's boundaries and when some voters in the precinct are not assigned to a school district in the Street Guide, the Secretary of the County Election Board shall follow these steps to approve or disapprove the request.

(1) Follow the steps outlined in (b) (1) and (2) of this Section, then proceed with the following steps.

(2) Send a copy of the Registered Voter Mailing List or of a Precinct Registry for the precinct and a copy of the precinct map showing the district's boundary to the district superintendent.

(3) The superintendent shall be required to examine the residence addresses of voters in the precinct who are not assigned to a school district. The superintendent shall mark the list to indicate which voters, if any, are believed to be registered at addresses located within the boundaries of the district. The superintendent shall return the marked list to the Secretary of the County Election Board within five business days.

(4) Upon receiving the list of unassigned voters back from the superintendent, the Secretary shall count the voters marked by the superintendent. Add the number of voters marked on the list to the number of voters assigned to the school district by MESA.

(A) If the total number is 100 or less, the polling place for the split precinct may be closed for the election.

(B) If the total number is more than 100, the request must be denied and the polling place for the split precinct must remain open for the district's election.

(C) Even if the number is 100 or less, the polling place for the split precinct must remain open for the district's election if voters in the district are eligible to vote in another election in the precinct on the same date.

(5) The Secretary shall notify district officials whether the polling place for the split precinct will be closed or must remain open.

(6) The Secretary shall prepare and mail to each voter identified in the district a notice that the polling place for the split precinct will be closed for the district's election. A yellow application for absentee ballots shall be enclosed with the notice, as well as information about in-person absentee voting for the election. These notices shall be mailed to voters not less than 30 days prior to the election.

(7) The Secretary shall monitor voter registration activity in the precinct. If a new voter is assigned in the Street Guide to the school or technology center district in the split precinct, the Secretary shall mail the notice and information described in (6) of this subsection to the new voter immediately.

230:40-7-36. Precinct Officials [REVOKED]

~~The Precinct Officials shall be the same as for state and county elections. If substitutions are necessary, the substitutions shall be made by the County Election Board.~~

230:40-7-37. Precinct Registries [REVOKED]

~~Precinct Registries shall be used in all school district and technology center district elections. A Precinct Registry fee shall be charged as outlined in 230:35-3-57.1.~~

230:40-7-38. Eligible voters [REVOKED]

~~A person must be registered to vote at an address located within the geographical boundaries of the school district in order to be eligible to vote in an election held by the district. [26:13A-106(B)] A person must be registered to vote at an address located within the geographical boundaries of the board district to be eligible to vote in a board district within a school district. [26:13A-106(B)]~~

230:40-7-39. Absentee voting [REVOKED]

~~Absentee voting shall be available in all school district and technology center district elections. The procedures for absentee voting shall be the same as for all other elections. Applications for absentee ballots shall be processed and the ballots shall be issued by the Secretary of the County Election Board in the county wherein the voter is registered. See 230:30.~~

230:40-7-39.1. Provisional voting [REVOKED]

~~Provisional voting is required by state law in all school district and technology center school district elections. Provisional voting in a school or technology center election shall be conducted under the same procedures as for a state or county election.~~

230:40-7-40. Forms provided by the County Election Board [REVOKED]

~~All forms used in school district and technology center district elections shall be provided by the County Election Board.~~

230:40-7-41. Assembling and storing school election supplies [REVOKED]

~~No later than January 15, the Secretary shall assemble supplies for each precinct for the Annual School Elections. Supplies for the Annual School Runoff Election shall be assembled, if needed, no later than March 1. Some materials cannot be assembled until after ballots are printed. Supplies for school elections shall be assembled in the same manner as supplies for all other elections. See 230:35-3-3. Once the supplies for each precinct have been assembled, the supplies shall be stored in a suitable place until additions can be made at a later date before the election.~~

230:40-7-42. Certification

The County Election Board shall certify the results of the election to the Board of Education of the school district. For all school elections, the County Election Board shall certify only the number of votes ~~for and against a question shall not indicate whether or not the candidate or question received a lawful majority~~ cast in the election for each candidate and for each proposition. The County Election Board shall canvass the results of all school and technology center district elections on election night and shall determine the number of signatures on provisional ballot rosters. The final election results for both candidate races and ~~questions~~ propositions shall be certified after 5 p.m. on Friday following the election. See 230:35-3-91. The ~~parent~~ control(parent) County Election Board of a multi-county school district may certify the results of the multi-county election after 5 p.m. upon receipt of a faxed copy of the signed and sealed Official Certification

Report from each affected county and upon printing Official Certification Reports from MESA that include results from affected county precincts.

PART 11. SPECIAL ELECTIONS

230:40-7-47. Notice of special election [REVOKED]

~~(a) A special election may be called by the Board of Education. The Board of Education shall notify the County Election Board of the election by delivering a resolution to the Secretary not fewer than 60 days preceding the election. [26:13A-109(D)] The resolution shall contain the information necessary for the County Election Board to conduct the election, as outlined in 230:40-7-3.~~

~~(b) The Board of Education may call a special election to be held on the date of the Annual School Runoff Election by delivering a resolution to the Secretary of the County Election Board not fewer than 45 days preceding the election. [26:12-116]~~

230:40-7-48.1. Dates for special school elections [REVOKED]

~~Special school elections may be held only on those dates established by law for special elections. See 230:40-3-1.1.~~

PART 13. EXPENSES

230:40-7-56. Costs to be divided [REVOKED]

~~In the event that another entity has an election on the same day as a school district, mutual costs of the election shall be divided equally among all the entities. [26:13A-111(B)]~~

230:40-7-57. Claims for Precinct Official and Absentee Voting Board member compensation [REVOKED]

~~Precinct Officials and Absentee Voting Board members shall be compensated for service in school elections at the same rate as for state and county elections. An itemized estimate of the amount of Precinct Official and Absentee Voting Board member compensation for the election shall be submitted to the Board of Education by the Secretary. See 230:35-3-29. If a school election is held concurrently with a state or county election, the entire cost of Precinct Official and Absentee Voting Board member compensation shall be paid by the state and/or county. See 230:35-3-30 and 230:35-3-33.~~

230:40-7-58. Claim for balance of election expenses [REVOKED]

~~The school district shall reimburse the County Election Board for all of the expenses of its election. Election expenses include, but are not limited to these items: Precinct Official compensation and mileage; compensation and mileage, if applicable, for the Chairman and Vice Chairman of the County Election Board; overtime compensation and related expenses for County Election Board personnel incurred in connection with the school district's election; polling place fees; and the cost of supplies and ballots for the election. As soon as possible following the election, the Secretary shall submit an itemized claim for all election expenses to the Board of Education. The itemized claim shall show the amount pre-paid for Precinct Official and Absentee Voting Board member compensation deducted from the total amount of election expenses. See 230:35-3-41.~~

230:40-7-59. Funds deposited in Special Depository Account [REVOKED]

~~Immediately upon receipt of funds for Precinct Official and Absentee Voting Board member compensation or of reimbursement for the balance of election expenses from the school district, the Secretary shall deposit the funds in the Special Depository Account. [26:3-105.1(B)] Payments for election expenses shall be made as soon as possible after funds have been deposited in the Special Depository Account.~~

PART 17. ANNEXATION ELECTIONS

230:40-7-69. Annexation elections [REVOKED]

~~All or part of a school district may be annexed to one or more other school districts when approved at an annexation election. [70:7-101(A)]~~

230:40-7-72. Annexations without election [REVOKED]

~~If the area proposed to be annexed constitutes less than 2% of the total area of the school district in which such area is located, and if there are no qualified electors residing in such area, no election is required. [70:7-101] It is the responsibility of the Boards of Education involved in the annexations to notify the County Election Board of the changes in the boundaries of the school districts involved resulting from annexations accomplished without an election.~~

PART 21. FILLING VACANCIES [REVOKED]

230:40-7-91. Methods of filling vacancies [REVOKED]

~~Vacancies on the Board of Education shall be filled by appointment by the remaining members of the Board. [26:13A-110(A)] *Persons appointed to fill such vacancies in the first half of the term of office for the board position shall serve only until the next succeeding election, at which time the office which they hold shall be placed on the ballot for the balance of the unexpired term.* [26:13A-110(A)] *Vacancies filled by appointment following the delivery of the resolution calling for regular elections to the secretary of the county election board shall be filled until the regular elections the following year.* [26:13A-110(A)] *Persons appointed to fill such vacancies after the first half of the term of office for the board position shall serve for the balance of the unexpired term.* [26:13A-110(A)]~~

~~It is the responsibility of the Board of Education to determine whether a vacancy occurs in the first half of the term of office and whether an unexpired term is placed on the ballot. If the Board of Education does not fill the vacancy by appointment within 60 days after the vacancy is declared, the Board shall call a special election to fill the vacancy. [26:13A-110(B)]~~

230:40-7-92. Elections to fill vacancies [REVOKED]

~~In the event a vacancy that occurs during the first half of the term of office has not been filled by appointment within 60 days, the Board of Education shall call a special election to fill the vacancy for the unexpired term. [26:13A-110(B)] A resolution calling for the election must be delivered to the County Election Board not less than 60 days preceding the election. See 230:40-7-3 and 230:40-7-47. A special election to fill a vacancy on the Board of Education shall be conducted in the same manner as all other school elections, except that a runoff election shall not be held.~~

PART 23. MULTI-COUNTY SCHOOL DISTRICTS

230:40-7-97.1. Elections for technology center districts serving 70 or more school districts [REVOKED]

~~The Board of Education for a technology center district that serves 70 or more school districts shall consist of one member elected from each of the district zones. [70:14-108(D)] The electors of each district zone shall elect a person, who shall be a resident of the district zone, to represent the zone on the Board of Education. [70:14-108(D)] As of July 1, 2009, only the Kiamichi Technology Center district is affected by this requirement.~~

230:40-7-99. Designation of County Election Boards

The County Election Board in the county in which supervision of a multi-county school district is located shall be designated as the ~~"parent"~~"control(parent)" County Election Board. The County Election Boards in other counties in which part of the school district is located shall be designated as "affected" County Election Boards. A County Election Board may be ~~"parent"~~ "control(parent)" for some school districts and "affected" for other school districts.

230:40-7-100. Receipt of resolutions

Resolutions calling for elections in multi-county school districts shall be delivered to the Secretary of the ~~parent~~ control(parent) County Election Board by the Board of Education.

230:40-7-101. Filing

Candidates for member of the Board of Education ~~shall~~ may file Declarations of Candidacy with the Secretary of the ~~parent~~ control(parent) County Election Board or with the Secretary of the County Election Board in the county where the candidate resides. [26:13A-105] If a candidate files a Declaration of Candidacy with the Secretary of an affected County Election Board, that Secretary immediately shall notify the Secretary of the control(parent) County Election Board of the filing and shall transmit a copy of the Declaration of Candidacy to the control(parent) County Election Board. The control(parent) County Election Board shall enter the candidate's information into MESA.

230:40-7-102. Notification of affected County Election ~~Board~~Boards

The Secretary of the ~~parent~~ control(parent) County Election Board shall notify the affected County Election Boards of an election immediately upon receipt of the resolution. The notification shall be in writing and shall include a copy of the resolution. ~~Following the filing period, the parent County Election Board shall notify the affected County Election Boards of the names of the candidates who filed for office.~~

230:40-7-103. Ballots and related materials [REVOKED]

~~The Secretary of the parent County Election Board shall be responsible for the printing of absentee ballots, regular ballots and related materials and for the distribution of these items to the affected County Election Boards.~~

230:40-7-106. Board meetings shall be scheduled

The County Election Board in each affected county shall schedule a meeting to canvass returns on the night of the election. The ~~parent~~ control(parent) County Election Board shall schedule a meeting to canvass returns on election night. Another meeting shall be scheduled after 5 p.m. on Friday following the election for the affected County Election Board to certify the final results of the election to the control(parent) County Election Board. The control(parent) County Election Board also shall schedule a meeting after 5 p.m. on Friday following the election to certify the complete and final election results to the Board of Education.

230:40-7-107. Reporting results to ~~parent~~ control (parent) County Election Board

~~Affected County Election Boards shall meet on the night of the election to canvass returns and report results to the parent County Election Board. The results shall be in the form of an Official Certification Report signed by a quorum of the affected County Election Board as outlined in 230:35-3-91. A copy of the signed Official Certification Report shall be faxed to the parent County Election Board. The original, signed certification report shall be mailed to the parent County Election Board on election night. The affected County Election Board shall meet again after 5 p.m. on Friday following the election to certify the final election results to the parent County Election Board.~~ The control(parent) County Election Board shall obtain results from the affected County Election Boards in MESA both on election night and on Friday following the election. After 5 p.m. on Friday following the election, each affected County Election Board shall fax a copy of the signed

and sealed Official Certification Report for the district's election to the control(parent) County Election Board as soon as possible following certification of the election.

230:40-7-109. Certification by ~~parent~~ control(parent) County Election Board

The parent County Election Board shall meet on election night to canvass returns from precincts within the ~~parent~~ control(parent) county and results reported by ~~telephone or fax from~~ affected counties through MESA. The Board shall meet again after 5 p.m. on Friday following the election to certify the final results of the election. See 230:40-7-42.

230:40-7-110. Expenses

The ~~parent~~ control(parent) County Election Board shall receive claims for expenses for the multi-county election, including claims from the affected County Election Boards for expenses incurred within their counties. The ~~parent~~ control(parent) County Election Board shall file a claim for the total expenses of the election, including those incurred by affected County Election Boards, with the Board of Education.

230:40-7-111. Reimbursement from Board of Education

Reimbursement from the Board of Education for expenses of the election shall be deposited by the Secretary of the ~~parent~~ control(parent) County Election Board in the Special Depository Account. The Secretary then shall pay the expenses incurred for the election, including affected counties.

230:40-7-112. Reimbursement to affected counties

When reimbursing affected counties for the expenses of the election, the Secretary of the ~~parent~~ control(parent) County Election Board shall make one lump sum payment to each affected County Election Board. The Secretary of each affected County Election Board shall deposit the payment in their respective Special Depository Accounts and shall pay expenses in their counties accordingly.

PART 25. STATISTICAL REPORTS [REVOKED]

230:40-7-118. Report on Analysis of Annual School Elections or of special elections [REVOKED]

~~Within ten days after the Annual School Election, the Annual School Runoff Election or any special school election, the Secretary shall submit a report of said election to the State Election Board. The State Election Board shall furnish the report forms at the appropriate time.~~

[OAR Docket #13-1009; filed 6-3-13]

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

[OAR Docket #13-1010]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Recounts
Part 1. Recounts for County Office
230:45-3-1. Filing for recount; petition, deposit required [REVOKED]
230:45-3-2. Procedure for Secretary [AMENDED]
230:45-3-3. Written order required [REVOKED]
230:45-3-4. Service of notice [REVOKED]
230:45-3-5. Sheriff to provide security for ballots [REVOKED]
230:45-3-6. District Judge's duties [REVOKED]
230:45-3-7. County Election Board assumes jurisdiction [REVOKED]
230:45-3-8. Candidate may appoint agent [REVOKED]
230:45-3-9. Conducting the recount [REVOKED]
230:45-3-10. All ballots must be counted [REVOKED]
230:45-3-11. Stopping the recount [REVOKED]
230:45-3-11.1. Securing the ballots [REVOKED]
230:45-3-12. When the recount is finished [AMENDED]
230:45-3-12.1. Recount results in tie [REVOKED]
230:45-3-14. Expenses of recount [REVOKED]
Part 5. Recounts for Multi-county Elections
230:45-3-27. Filing for recount in multi-county election [AMENDED]
230:45-3-28. Recounting responsibility delegated [AMENDED]
Part 7. Recounts for Question Elections
230:45-3-33. Recounts for question elections [REVOKED]
230:45-3-35. Petition required [AMENDED]
230:45-3-36.1. Petitions verified [AMENDED]
230:45-3-37. Deposits required [REVOKED]
230:45-3-38. Petitioner may commission agent and Watcher [REVOKED]
Part 9. Recounts with Electronic Voting Devices
230:45-3-48. Voting devices shall be tested [REVOKED]
230:45-3-50. Voting devices, ballot boxes and ~~memory packs~~ ballots delivered to Courtroom [AMENDED]
230:45-3-51. Operation of voting device during an electronic recount [AMENDED]
230:45-3-53. Instructions for electronic recount [AMENDED]
Subchapter 5. Instructions for Counters for Manual Recount
Part 1. General Guidelines
230:45-5-1. Location and materials for Counters [AMENDED]
230:45-5-4. Watchers [REVOKED]
Part 3. Procedure for Counting
230:45-5-11. Preparing to count [AMENDED]
230:45-5-12. Instructions for counting [AMENDED]
230:45-5-12.1. Breaks in counting [AMENDED]
Part 5. Rules for Counting
230:45-5-19. Counters shall observe rules [AMENDED]
230:45-5-20. Examples of counting ballots [REVOKED]
Appendix A. Correctly Marked Ballot [REVOKED]
Appendix B. Straight Party [REVOKED]
Appendix C. Ballot Marked Outside Voting Target, Example 1 [REVOKED
Appendix D. Writing on Ballot [REVOKED]
Appendix E. Split Ticket [REVOKED]
Appendix F. Ballot Marked Outside Voting Target, Example 2 [REVOKED]
Appendix G. Unusual Marking Inside Voting Target [REVOKED]
AUTHORITY:
Title 26 O.S., Section 2-107. Secretary of the State Election Board
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ANALYSIS:

The Secretary of the State Election Board and experienced State Election Board staff members have conducted a thorough review and analysis of the rules and have determined that since the original drafting, adoption, and implementation of the rules in the mid-1970s, and even since the codification of the rules in the early 1990s, the needs that the rules were designed to meet have changed.

The rules formed the foundation of Oklahoma's uniform, unified election system. Still today, Oklahoma is the only state in which every county follows the same uniform procedures, uses the same forms and software to administer voter registration and absentee voting, and also uses the same voting devices and uniformly designed ballots in every precinct.

In the early days of Oklahoma's modern election system, the rules intentionally were drafted to duplicate the content of Title 26 of the Oklahoma Statutes. When Oklahoma's election laws were modernized and re-codified in 1974, the first State Election Board rules were created not only as the official "interpretation" of the new laws but also as a means of communicating the requirements of the new laws and the procedures needed to implement them to both county- and precinct-level election officials.

Before the implementation of the new election code in 1974, the County Election Board Secretary had only a printed copy of the election laws with which to run his or her office and conduct elections. Now, almost 40 years later, the County Election Board Secretary has access to an array of publications to perform almost every election-related task.

The amendments proposed in Chapter 45 have the following purposes. All rules that only duplicate statutory language and provisions are revoked. Rules are amended to update all references to the election administration software and hardware used by the State Election Board and by the 77 County Election Boards from OEMS B the designation of the legacy system that will be removed from service in July, 2013, B to MESA, OEMS's successor systerm, which by July 1, 2013, will absorb all the functions of the older system. Some proposed amendments conform certain dates and deadlines to the current election calendar established by law.

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

SUBCHAPTER 3. RECOUNTS

PART 1. RECOUNTS FOR COUNTY OFFICE

230:45-3-1. Filing for recount; petition, deposit required [REVOKED]

~~(a) A recount of the ballots cast in an election may be requested by any candidate in the election. [26:8-109] A recount of the ballots cast in an election on questions may be requested under the circumstances described in 230:45-3-33 by any registered voter who voted in the election. A person requesting a recount in a county, school district, municipal or other local election shall file a written petition with the Secretary of the County Election Board before 5 p.m. Friday following the election. [26:8-109] A person requesting a recount in a state election shall file a written petition with the Secretary of the State Election Board before 5 p.m. on Friday following the election. [26:8-109]~~

~~(b) A petition requesting a recount shall specify the precincts and absentee ballots to be recounted. [26:8-111(A)] The petition also shall specify whether the ballots shall be recounted manually. [26:8-111(A)] Failure to specify a manual recount in the petition shall result in the ballots being recounted by electronic voting device. [26:8-111(A)]~~

~~(c) A petition requesting a recount shall be accompanied by a deposit in the form of either a cashier's check or a certified check. The amount of the deposit for an electronic recount shall be $600 per county. [26:8-111(A)] The amount of the deposit for a manual recount shall be $600 for the first 3,000 ballots to be recounted plus $600 for each additional 6,000 ballots, or fraction thereof, to be recounted per county. [26:8-111(A)] A petition requesting a manual recount filed with the State Election Board shall be accompanied by a deposit in the amount required by this subsection for the quantity of ballots to be recounted plus an additional $300.~~

~~(d) A petition requesting a recount of ballots in a question election in which no candidates are involved and a majority is required for approval also shall be accompanied by an appropriate number of signatures of registered voters who voted in the election as outlined in 230:45-3-35. [26:8-111(B)]~~

~~(e) A petition requesting a recount of ballots in a question election in which no candidates are involved and more than a majority is required for approval also shall be accompanied by the appropriate number of signatures of voters who voted in the election as outlined in 230:45-3-33(b).~~

230:45-3-2. Procedure for Secretary

(a) At least one week prior to an election, the Secretary of the County Election Board shall consult with the other two members of the County Election Board to set a tentative date and time for a recount hearing to be held if necessary. The Secretary also shall consult with the county's District Judge concerning the tentative date and time of a recount hearing.

(b) Upon receipt of a recount petition, the Secretary shall observe the following procedure:

(1) Contact the District Judge or Associate District Judge of the county to verify the time that the recount can begin in the District Courtroom.

(2) Enter the appropriate information about the recount in ~~OEMS~~ MESA. Write the cause number assigned to the recount by ~~OEMS~~ MESA on the recount petition.

(3) Issue an order setting the date, time and place of the recount. See 230:45-3-3. Provide a sufficient number of copies of the order to the contestant to have served on the other candidate or candidates involved in the recount. See 230:45-3-4.

(4) Notify other members and/or alternate members of the County Election Board.

(5) If a manual recount has been requested, select and train a sufficient number of Counters to conduct the recount.

(A) Regular Precinct Inspectors, Judges or Clerks may serve as Counters for a manual recount. Employees of the County Election Board also may serve as Counters.

(B) At least two different political parties shall be represented among the Counters for a manual recount. [26:8-114(B)]

(C) Counters at a manual recount shall be registered voters in the county. [26:8-114(B)]

(D) Counters at a manual recount may not be employed by nor related within the third degree by either consanguinity or affinity to a candidate involved in the recount. Counters also may not be related by either consanguinity or affinity to any member of the County Election Board.

230:45-3-3. Written order required [REVOKED]

~~The Secretary shall issue a written order setting the date and time for the recount. [26:8-111(A)] The recount must begin not less than three days, nor more than ten days, after the petition is filed. [26:8-111(A)] The Secretary shall set the date, whether or not he is able to contact the District Judge or Associate District Judge.~~

230:45-3-4. Service of notice [REVOKED]

~~The petitioner for a recount must arrange for a copy of his petition and a copy of the Secretary's recount order to be served on any candidate, or candidates, involved in the recount. [26:8-111(A)] The procedure is identical to the service procedure outlined in 230:20-5-6.~~

230:45-3-5. Sheriff to provide security for ballots [REVOKED]

~~It is the duty of the County Sheriff to provide security for the ballot transfer boxes for all elections from election night until the county's final election results are certified or until the ballot transfer boxes are delivered to the District Courtroom, whichever is later. [26:8-110] The Secretary shall inform the Sheriff when there will be an election.~~

230:45-3-6. District Judge's duties [REVOKED]

~~At the time of the recount in the District Courtroom, it is the duty of the presiding District Court Judge to determine whether or not the ballots have been preserved according to law. [26:8-112] If the presiding Judge determines that the ballots have not been preserved according to law, then no recount can be held. [26:8-112]~~

230:45-3-7. County Election Board assumes jurisdiction [REVOKED]

~~If the presiding District Court Judge determines that the ballots have been preserved according to law, then the County Election Board assumes jurisdiction to begin the recount as requested in the petition. See 230:45-3-9. [26:8-112]~~

230:45-3-8. Candidate may appoint agent [REVOKED]

~~Each candidate affected by the recount may commission one agent to represent him at each place where a count is being made. [26:8-113] The commission must be filed in writing with the Secretary of the County Election Board. The agent has full authority to act on behalf of the candidate he represents in the absence of the candidate. [26:8-113]~~

230:45-3-9. Conducting the recount [REVOKED]

~~The County Election Board shall open the ballot transfer box from each requested precinct or for absentee ballots individually and shall assign the ballot cards to the person assigned to operate the voting device if this is an electronic recount, or to a group of Counters if this is a manual recount. [26:8-114] In the event that provisional ballots were counted in a precinct included in the recount, the provisional ballots shall be recounted with the precinct ballots. The ballots shall be counted as outlined in 230:45-3-52 for an electronic recount. The ballots shall be counted as outlined in 230:45-5-11, 230:45-5-12 and 230:45-5-19 for a manual recount. Disputed ballots shall be referred to the County Election Board, and its decision shall be final in all cases. [26:8-114] Each candidate affected by the recount is entitled to have a Watcher present at each place where a count is being made. [26:8-114]~~

230:45-3-10. All ballots must be counted [REVOKED]

~~When a recount in a particular precinct is initiated, all ballots in the precinct, including any counted provisional ballots, must be counted. [26:8-116.1] The recount shall not be terminated by any party involved in it until all ballots for the precinct being recounted have been counted. [26:8-116.1.] *This provision shall apply to all elections.* [26:8-116.1]~~

230:45-3-11. Stopping the recount [REVOKED]

~~*Should the petitioner, at any time during the recount proceeding, desire that the recount be terminated, he may announce the same to the County Election Board.* [26:8-116] However, should any other candidate desire that the recount continue, he or his agent may petition the Board immediately in writing, asking that the recount continue. [26:8-116] The petition must be accompanied by a cashier's check or certified check in an amount equal to the deposit made by the petitioner to conduct the recount. [26:8-116] In such event, the recount~~

~~shall continue without delay until all ballots in the contested race in the county have been counted. [26:8-116]~~

230:45-3-11.1. Securing the ballots [REVOKED]

~~After the recount is completed, the ballots shall be replaced in the original ballot transfer box or boxes. The Secretary shall seal the transfer box with a long State Election Board seal. The members of the County Election Board, including the Secretary, shall sign the seal. If ballots from the precinct are to be involved in another recount at a later time, the ballot transfer box shall be returned to the custody of the County Sheriff.~~

230:45-3-12. When the recount is finished

When the recount is complete, the County Election Board shall recess its meeting and shall reconvene in the County Election Board office. ~~The Secretary or an employee of the County Election Board shall enter the results from the recounted precincts into AERO manually and then shall request and print the appropriate number of copies of the Certification Report.~~ The Secretary shall follow the instructions provided by the State Election Board enter the recounted results manually in MESA so that Official Certification Reports can be printed. ~~The~~ When these reports have been printed and proofed, the County Election Board members ~~then~~ shall certify the recounted election results as outlined in 230:35-3-91. [26:8-115]

230:45-3-12.1. Recount results in tie [REVOKED]

~~In the event that a recount results in a tie vote, the tie shall be resolved as outlined in 230:35-3-92.~~

230:45-3-14. Expenses of recount [REVOKED]

~~(a) Actual expenses of the recount shall be entered in OEMS and a Record of Expense shall be requested and printed at the conclusion of the recount. Lawful expenses of a recount include the following items:~~

~~(1) Expense of service performed by the County Sheriff or County Clerk. [26:8-117]~~

~~(2) Mileage and per diem for County Election Board members, including the Secretary. [26:8-117]~~

~~(3) Salaries for Counters for a manual recount. Counters shall be reimbursed at the same rate as a Precinct Judge or Clerk. [26:8-114; 8-117] However, County Election Board employees who act as Counters in a manual recount shall not receive such reimbursement.~~

~~(4) Reimbursement for the Court Reporter, Judge and witnesses, if any. [26:8-117]~~

~~(b) The Record of Expense for the recount shall be provided to the person who shall bear the expense of the recount. See 230:45-3-15.~~

PART 5. RECOUNTS FOR MULTI-COUNTY ELECTIONS

230:45-3-27. Filing for recount in multi-county election

In the case of a recount involving an entity such as a multi-county school district or a multi-county municipality, the petition is filed with the Secretary of the ~~parent~~ control(parent) County Election Board. A deposit, as outlined in 230:45-3-1(c), for each county in the multi-county entity in which either regular ballots or absentee ballots are to be recounted must accompany the petition.

230:45-3-28. Recounting responsibility delegated

Upon receipt of a recount petition in a multi-county election, the Secretary of the ~~parent~~ control(parent) County Election Board shall delegate the responsibility for actual conduct of the recount to the appropriate affected County Election Board. Such recounts are held as outlined in 230:45-3-7 through 230: 45-3-12.1. A written claim for expenses as outlined in 230:45-3-14 shall be filed immediately with the ~~parent~~ control(parent) County Election Board. The ~~parent~~ control(parent) County Election Board shall reimburse the affected County Election Board for the expenses of the recount from the deposit. ~~A~~ An Official Certification Report from MESA showing the results of the recount shall be transmitted immediately to the ~~parent~~ control(parent) County Election Board, along with any deposits that have been filed during the recount as outlined in 230:45-3-12.

PART 7. RECOUNTS FOR QUESTION ELECTIONS

230:45-3-33. Recounts for question elections [REVOKED]

~~(a) Recounts are authorized for elections on questions or issues when no candidates are involved and only a majority of the votes cast is required for approval under the following circumstances only: [26:8-111(B)]~~

~~(1) If 15,000 or more total votes are cast in the election and the margin between votes for and votes against is 150 votes or less, a recount may be requested. [26:8-111(B)(1)]~~

~~(2) If 14,999 or fewer votes are cast in the election and the margin between votes for and votes against is 1% or less of the total votes cast for the question, a recount may be requested. [26:8-111(B)(2)]~~

~~(b) Recounts are authorized for elections on questions or issues when no candidates are involved and more than a majority of the votes cast is required for approval under the following circumstances only: [26:8-111(C)]~~

~~(1) The margin of votes between those for the question and the number required for approval is 150 or less and 15,000 or more total votes are counted for and against the question.~~

~~(2) The margin of votes between those for the question and number required for approval is 1% or less of the total number of votes cast on the question when 14,999 or fewer total votes are cast for and against the question.~~

230:45-3-35. Petition required

(a) An individual who is a registered voter and who [26:8-111(B)(2)] voted in the election may request a recount in the election for a question or issue by filing a petition with the Secretary of the County Election Board as outlined in 230:45-3-1. [26:8-109; 8-111(B)(2)] In the case of a multi-county election, the petition shall be filed with the ~~parent~~ control(parent) County Election Board. The petition must meet the following requirements:

(1) The petition must be signed by 150 registered voters who voted in the election if the total number of votes cast for and against the question was 15,000 or more. [26:8-111(B)(2)]

(2) The petition must be signed by a number of registered voters who voted in the election equal to 1% or more of the total votes cast if the total number of votes cast for and against the question was 14,999 or fewer. [26:8-111(B)(2)]

(b) The number of signatures required is the same whether the question requires only a majority or more than a majority for approval.

230:45-3-36.1. Petitions verified

Within 24 hours of receiving a petition requesting a recount of the results of a question election, the Secretary of the County Election Board shall determine whether the petition contains a sufficient number of valid signatures. The 24-hour period shall not include Saturday, Sunday or legal holidays. The Secretary shall follow these steps to determine the validity of signatures on the petition.

(1) Photocopy the petition pages and use the photocopy during the verification process.

(2) Determine the minimum number of valid signatures required. See 230:45-3-35.

(3) Count the total signatures on the petition. Note the total number of signatures in the upper left corner of the first page.

(4) Use ~~OEMS~~ MESA to verify that each person who signed the petition is a registered voter. Write the voter ID number and precinct number beside the voter's name on the petition.

(A) If a signer's name is not found in ~~OEMS~~ MESA, look in the Central File and the restricted records status file. If the signer's name is not found in either of these files, the person is not registered. Strike through the person's name on the photocopy.

(B) If the signer's name is found in the Central File or in the restricted records status file, note the voter ID number and the precinct number beside the name on the petition.

(5) Refer to the appropriate Precinct Registry to verify that the voter voted in the election.

(A) If the voter did not sign the Precinct Registry, check absentee voting records to determine whether the voter cast an absentee ballot in the election.

(B) If the voter did not vote in the election strike through the name on the petition.

(6) After verifying each signature on the petition as outlined in steps (4) and (5), count the number of valid signatures.

(A) If there are at least the minimum required number of valid signatures, the petition is valid. Proceed with arrangements for the recount.

(B) If there are fewer than the minimum required number of valid signatures, the petition is not valid. Notify the person who filed the petition that it has been determined to be invalid and that the recount cannot be conducted.

230:45-3-37. Deposits required [REVOKED]

~~A petition requesting a recount in a question election shall be accompanied by a deposit, as outlined in 230:45-3-1(c), for each county affected by the petition. [26:8-111(B)(2)]~~

230:45-3-38. Petitioner may commission agent and Watcher [REVOKED]

~~An individual requesting a recount in a question election is authorized to commission in writing no more than one agent to act in his behalf in each county affected by the recount. [26:8-113] The commission shall be filed with the Secretary of the County Election Board. The individual requesting the recount also *is entitled to have a Watcher present at each place where a count is being* conducted. [26:8-114] A Watcher for a question recount functions in the same manner as a Watcher for a candidate recount as outlined in 230:45-5-4. Persons who oppose the recount are not entitled to commission either agents or Watchers.~~

PART 9. RECOUNTS WITH ELECTRONIC VOTING DEVICES

230:45-3-48. Voting devices shall be tested [REVOKED]

~~If a recount is to be conducted using electronic voting devices, a sufficient number of voting devices shall be randomly selected for use in the recount. The voting devices to be used in an electronic recount shall be tested for accuracy. See 230:50-3-64 through 230:50-3-70. [26:8-114(A)] The testing procedures shall be completed prior to the beginning of the recount hearing. All candidates, or their agents, affected by the recount shall be entitled to witness the testing procedure. [26:8-114(A)] After all testing procedures have been completed, the memory pack shall be initialized to erase the testing totals. All materials used and produced during testing shall be available for inspection during the recount hearing. The testing materials shall be retained as outlined in 230:50-3-70.~~

230:45-3-50. Voting devices, ballot boxes and ~~memory packs~~ ballots delivered to Courtroom

The voting device or devices to be used to conduct an electronic recount shall be prepared for the recount in advance of

the recount hearing and shall be delivered to the District Courtroom at the time that the recount hearing is to begin. One ballot box for each device also shall be delivered to the Courtroom. ~~In the event that the County Election Board possesses voting device testing stands that allow for the separation of ballots that are counted by the device from those that are not counted, such testing stands may be used in place of the ballot boxes. The Secretary of the County Election Board shall personally deliver the memory packs to be used in the recount to the District Courtroom at the time the recount hearing is to begin.~~

230:45-3-51. Operation of voting device during an electronic recount

The Secretary of the County Election Board shall designate an employee of the County Election Board to operate ~~the~~ each voting device used during an electronic recount. If necessary, Precinct Inspectors also may be designated to operate voting devices during an electronic recount.

230:45-3-53. Instructions for electronic recount

(a) **Preparing to count.** ~~The~~ When the Judge rules that the ballots have been properly preserved and that the recount can be performed, the Secretary shall break the seal on ~~the~~ each ballot transfer box from the ~~appropriate~~ the first precinct to be recounted. In the event that ~~the~~ a ballot transfer box contains ballots from more than one entity, ~~the person operating the voting device shall~~ the Secretary shall assign each opened ballot transfer case to a County Election Board employee or to a Precinct Official to sort and separate the ~~ballot cards~~ ballots containing the race or question to be recounted. All other ~~ballot cards~~ ballots for that precinct shall be replaced in the ballot transfer box. The Secretary shall break the seal on the ballot transfer box for the next precinct to be recounted as soon as all the ballots from the first precinct have been sorted and shall assign the opened transfer case to a County Election Board employee or a Precinct Official to sort and separate the ballots to be recounted. This process shall be repeated as necessary until all the ballots to be recounted have been sorted and separated for counting.

(b) **Counting the ballots.** After the preparations described in (a) of this Section have been completed, the Secretary shall transfer the ballots to the person assigned to operate the voting device ~~shall~~ to begin ~~to feed~~ processing the ballots one at a time ~~into~~ through the voting device. If the voting device returns a ballot, the ~~override key~~ operator shall be ~~used to~~ accept the ballot and continue. See 230:35-5-162. A Watcher may object in writing to actions taken by the person operating the voting device. After all the ballots for the first precinct have been processed through the voting device, the person operating the voting device shall ~~obtain the Totals Printout~~ remove the ballots from the ballot box and return them to the ballot transfer box for the precinct. The operator then shall accept ballots for the next precinct from the Secretary and immediately shall begin processing them~~. See 230:35-5-75.1. The Totals Printout shall be torn off the voting device and shall be signed by the person who operated the voting device and by the County Election Board members. The procedure described in this Subsection shall be repeated for all additional precincts to be recounted. More than one precinct may be counted simultaneously if sufficient voting devices and memory packs have been prepared, tested and delivered to the courtroom.~~

(c) **Concluding the recount.** ~~After the Totals Printout has been obtained, the person operating the voting device shall unplug the device and remove the memory pack. If a ballot box was used, the device shall be lifted off the box and the ballot box shall be opened and the ballots removed. The ballots shall be replaced in the original ballot transfer box. The ballots shall be secured as outlined 230:45-3-11.1.~~ When all the ballots for all precincts included in the recount have been recounted, the operator of each voting device used shall close the polls on the voting device and shall print the Detail Report and the Tally Report. Additional copies of the Tally Report shall be printed as directed by the Secretary. The County Election Board meeting shall be recessed and the members and employees of the County Election Board immediately shall return to the County Election Board office to update the election results and print Official Certification Reports, and then to certify the results of the recounted race or question.

(d) **Securing the ballots.** After the recount is completed, the ballots shall be replaced in the original ballot transfer box or boxes. The Secretary shall seal the transfer box with a long white State Election Board seal. The members of the County Election Board, including the Secretary, shall sign the seal. The ballots shall be returned to the County Election Board office to be stored with other election materials as required by law. However, if any ballots will be involved in another recount at a later time, the ballot transfer box or boxes containing those ballots shall be returned to the custody of the County Sheriff until time for the next recount to begin.

SUBCHAPTER 5. INSTRUCTIONS FOR COUNTERS FOR MANUAL RECOUNT

PART 1. GENERAL GUIDELINES

230:45-5-1. Location and materials for Counters

Tables shall be provided in the District Courtroom for the Counters. The following materials shall be arranged on each counting table. A complete set of these materials shall be provided for each group of Counters.

(1) Two Tally Sheets for each type of ballot.
(2) Four ~~red-and-blue-leaded~~ pencils.
(3) One pencil sharpener.
(4) Paper clips.
(5) ~~INSTRUCTIONS FOR COUNTERS FOR MANUAL RECOUNT~~ Instructions for Counters for Manual Recount.
(6) Two erasers.

230:45-5-4. Watchers [REVOKED]

~~*Each candidate involved in the recount is entitled to have a Watcher present at each place where a count is being made.* [26:8-114] Watchers shall be limited to challenging, in writing,~~

~~any decision made by the Counters with regard to counting of a ballot. [26:8-114] Such challenge shall be made immediately to the County Election Board. [26:8-114]~~

PART 3. PROCEDURE FOR COUNTING

230:45-5-11. Preparing to count

(a) The Secretary shall break the seal on each ballot transfer box from each requested precinct or for absentee ballots and assign the box or boxes to a group of four Counters. [26:8-114(B)] If only one group of four Counters is used, the ballot transfer box for only one precinct shall be opened at a time.

(b) In the event that the ballot transfer box contains ~~ballot cards~~ ballots for more than one entity, the Counters shall sort and separate the ~~ballot cards~~ ballots containing the race or question to be recounted. All other ~~ballot cards~~ ballots shall be replaced in the ballot transfer box.

230:45-5-12. Instructions for counting

After the preparations described in 230:45-5-11 have been completed, the Counters shall begin to count the ballots. The following procedure shall be observed to count the ballots.

(1) The Caller and Stacker shall examine each ballot.

(2) The ballot shall be examined for each party, the office to be recounted and the name of the candidate voted upon. The caller shall announce the vote recorded on the ballot. For example, the Caller shall say "One vote for John Doe."

(3) The Stacker shall agree with the Caller, or the ballot cannot be counted for that candidate.

(4) The first Tallyer shall repeat the name of the candidate and the number (from one to five) of the vote that is being recorded for that candidate.

(5) The second Tallyer shall agree with the first Tallyer, or the recording shall stop and shall not continue until the Tallyers are in agreement.

candidate.

(6) If more than one candidate has been marked in a "vote for one" race being recounted, the Caller shall announce an overvote in the race. If more than the designated number of candidates has been marked in a race allowing multiple votes, the Caller shall announce an overvote in the race.

(7) The Tallyers shall record an overvote in the space provided on the Tally Sheet for overvotes when one is announced by the Caller.

(8) If no candidate has been marked in the race being recounted, the Caller shall announce an undervote.

(9) The Tallyers shall record an undervote in the space provided on the Tally Sheet for undervotes when one is announced by the Caller.

(~~6~~10) In recording the votes, the Tallyers shall use the tally method; i.e., votes shall be recorded in segments of five, from one to five, or from one to "tally." The fifth vote shall be shown by a slash line through the other four votes.

(~~7~~11) When a ballot has been counted ~~completely~~, the Caller shall hand the ballot to the Stacker, who shall stack the ballots in ~~two~~ the appropriate ballot transfer ~~boxes~~ box.

(~~8~~A) The Stacker shall stack ~~separately~~ ballots that cannot be counted~~, including voted ballots that have been mutilated and ballots that have not been marked in any manner. These uncounted ballots shall be stacked~~ in ~~one~~ a ballot transfer box~~, and the~~.

(B) The Stacker shall stack all counted ballots ~~shall be stacked~~ in a separate ballot transfer box. ~~When the count is completed, the uncounted ballots shall be banded with a rubber band and returned to the ballot transfer box with the counted ballots.~~

~~(9) When all of the ballots in the first count have been counted, the Stacker shall write, "End of First Count" on the back of the last ballot in each stack. Thereafter, a similar notation shall be made for the end of the second count, third count and so on.~~

~~(10) At the end of each count, the Tallyers shall verify that their totals are in agreement. If their totals do not agree, no further ballots shall be counted until their totals are in agreement.~~

230:45-5-12.1. Breaks in counting

Counters shall be entitled to take breaks from counting periodically during the recount to prevent fatigue. When it is necessary for Counters to break, the Caller shall designate the end of the count ~~as outlined in 230:45-5-12(10)~~ and the Stacker shall write "End of first count" on the back of the last ballot in each stack. Thereafter, a similar notation shall be made for the end of the second, third count, and so on. At the end of each count and before the Counters leave the courtroom, the Tallyers shall verify that their totals are in agreement. If their totals do not agree, no additional ballots shall be counted when they return from their break until the Tallyers' totals are in agreement. When Counters break from counting, the members of the County Election Board and the County Sheriff or Deputy shall remain in the District Courtroom to protect the ballots until all Counters have returned and resumed the count.

PART 5. RULES FOR COUNTING

230:45-5-19. Counters shall observe rules

When manually recounting ballots that were originally counted by electronic voting devices, the law concerning the counting of ballots by voting devices shall be applied to the manual count. Counters shall observe the following rules in counting all ballots:

(1) Ballots must be marked in blue or black ink or in pencil. If not, they cannot be counted.

(2) Any marking in the voting target shall be a valid marking. The voting target is the ~~space between the head and tail of the arrow~~ rectangle that appears ~~beside~~ to the left of each candidate's name, ~~beside~~ each option on a question, and ~~beside a~~ each party emblem in ~~each~~ the "straight party" voting option.

(3) If there is any writing on the ballot, the ballot still can be counted for any office or question thereon.

(4) Any mark extending outside the voting target into another voting target cannot be counted.

(5) Marks used to designate the intention of the voter shall not be counted if they are not located in the voting target. [26:7-127(3)]

(6) Failure to vote for any candidate for a particular office shall not invalidate valid markings for candidates or other offices on the same ballot. [26:7-127(5)]

(7) A valid marking in the voting target beside the emblem of a political party shall be counted as a vote for each candidate of that party on the ballot. [26:7-127(6)] ~~It is possible that more than one ballot on a ballot card may include the "straight party" voting option. In this case, a valid marking in the voting target beside a party emblem shall be counted only for those candidates included in that ballot.~~

(8) If a valid marking is marked in the voting target beside emblems of two or more parties, then the ballot cannot be counted for any partisan candidate on that ballot. [26:7-127(6)]

(9) If a valid marking is marked in the voting target beside the emblem of Political Party A, and a valid marking is marked in the voting target beside the name of a candidate of Political Party B, then one vote shall be recorded for each candidate of Political Party A except for the office in which the vote was recorded for the individual candidate of Political Party B. [26:7-127(6)] That individual candidate of Political Party B shall receive one vote. Such a ballot is valid ~~and shall not be considered mutilated. In counting such a split ticket ballot,~~ because a vote for the candidate shall supersede the vote for the party.

(10) If valid markings are made in the voting targets ~~opposite~~ beside the names of two candidates for the same office, the ballot cannot be counted for any candidate for that office. An overvote shall be recorded for this race. However, the ballot may be counted for candidates for other offices which are validly marked.

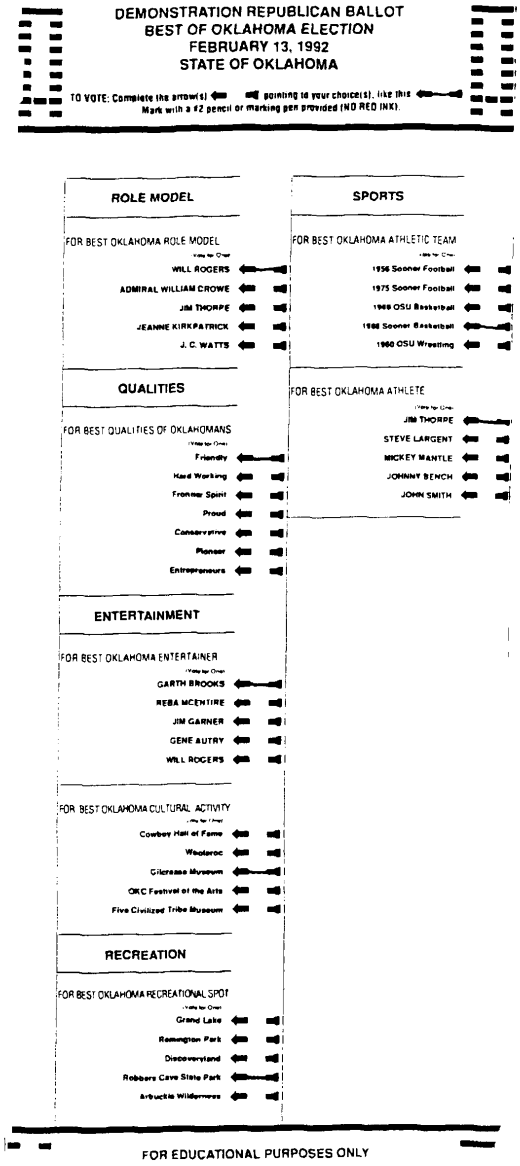
(11) If a ballot has not been marked for any candidate in a particular race or question, ~~it cannot be counted~~ no vote shall be counted for any candidate in the race and an undervote shall be recorded for the race. If a ballot is completely blank and no votes have been marked for any race or question, no votes shall be recorded for any race or question on the ballot. An undervote shall be recorded for every race and question on the ballot.

(12) Ballots that have been torn shall be counted if it is possible to determine how the voter marked the ballot.

230:45-5-20. Examples of counting ballots [REVOKED]

~~Examples of commonly marked ballots are contained in Appendices A-G of this Chapter. The text describes how each ballot shall be counted, together with the applicable rule. The examples in Appendices A through G of this Chapter are not exhaustive, but show some of the most common ways that ballots are marked and counted. Each ballot that is counted shall be examined on its own merit and counted according to 230:45-5-19.~~

APPENDIX A. CORRECTLY MARKED BALLOT [REVOKED]

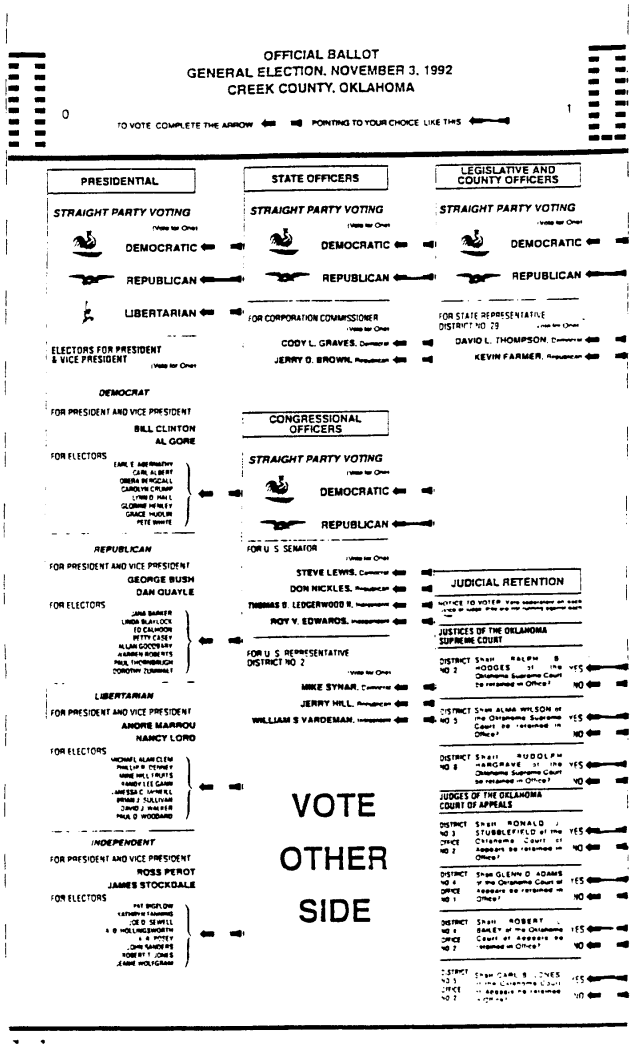


Ballot 1
One Vote Counted For:

Will Rogers	Robbers Cave State Park
Friendly	1988 Sooner Basketball
Garth Brooks	Jim Thorpe
Gilcrease Museum	

230:45-5-19(3)

APPENDIX B. STRAIGHT PARTY [REVOKED]



Ballot 2

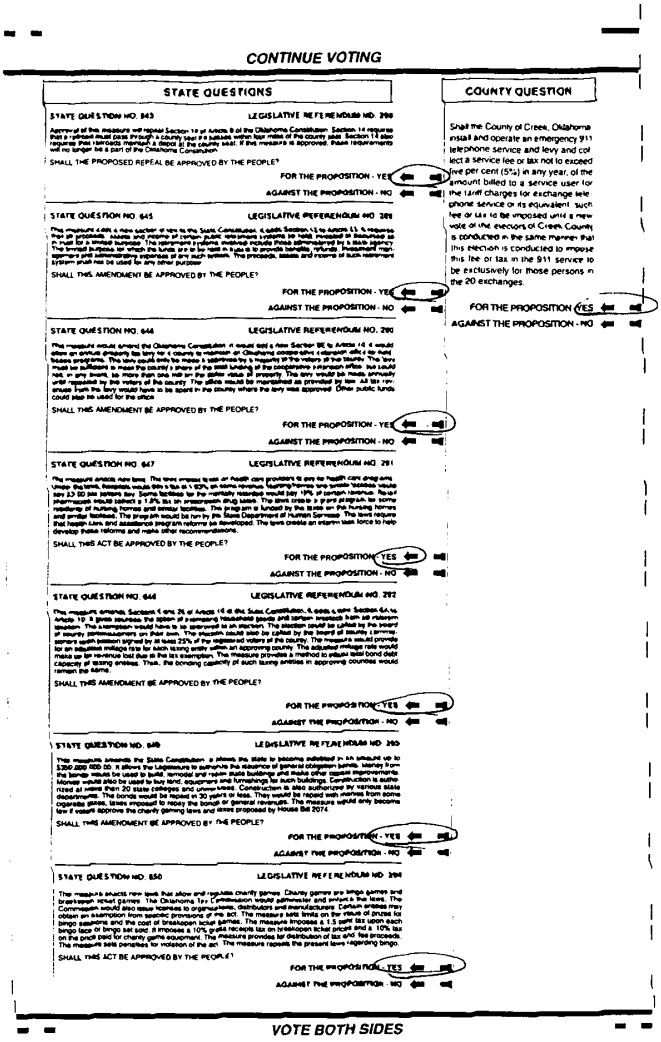
One Vote Counted For Each Republican

George Bush/Dan Quayle
Jerry D. Brown
Don Nichols
Jerry Hill
Kevin Farmer

230:45-5-19(8)

APPENDIX C. BALLOT MARKED OUTSIDE VOTING TARGET, EXAMPLE 1 [REVOKED]

Example 1



CONTINUE VOTING

STATE QUESTIONS

STATE QUESTION NO. 643 LEGISLATIVE REFERENDUM NO. 298

SHALL THE PROPOSED REPEAL BE APPROVED BY THE PEOPLE?

FOR THE PROPOSITION - YES

AGAINST THE PROPOSITION - NO

STATE QUESTION NO. 645 LEGISLATIVE REFERENDUM NO. 289

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

FOR THE PROPOSITION - YES

AGAINST THE PROPOSITION - NO

STATE QUESTION NO. 646 LEGISLATIVE REFERENDUM NO. 290

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

FOR THE PROPOSITION - YES

AGAINST THE PROPOSITION - NO

STATE QUESTION NO. 647 LEGISLATIVE REFERENDUM NO. 291

SHALL THIS ACT BE APPROVED BY THE PEOPLE?

FOR THE PROPOSITION - YES

AGAINST THE PROPOSITION - NO

STATE QUESTION NO. 648 LEGISLATIVE REFERENDUM NO. 292

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

FOR THE PROPOSITION - YES

AGAINST THE PROPOSITION - NO

STATE QUESTION NO. 649 LEGISLATIVE REFERENDUM NO. 293

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

FOR THE PROPOSITION - YES

AGAINST THE PROPOSITION - NO

STATE QUESTION NO. 650 LEGISLATIVE REFERENDUM NO. 294

SHALL THIS ACT BE APPROVED BY THE PEOPLE?

FOR THE PROPOSITION - YES

AGAINST THE PROPOSITION - NO

COUNTY QUESTION

Shall the County of Creek, Oklahoma install and operate an emergency 911 telephone service and levy and collect a service fee or tax not to exceed five per cent (5%) in any year, of the amount billed to a service user for the tariff charges for exchange telephone service or its equivalent. Such fee or tax to be imposed until a new vote of the electors of Creek County is conducted in the same manner that this election is conducted to impose this fee or tax in the 911 service to be exclusively for those persons in the 20 exchanges.

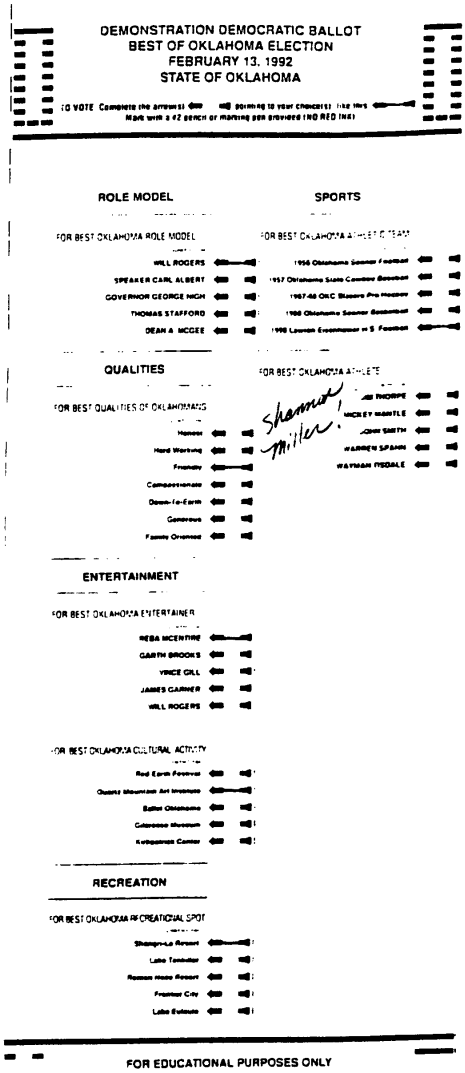
FOR THE PROPOSITION - YES

AGAINST THE PROPOSITION - NO

VOTE BOTH SIDES

Ballot Marked Outside Voting Target
Votes Not Counted for
State Questions 643, 645, 646, 648, 649, 650 and County Question
One "Yes" Vote Counted for State Question 647
230:45-5-19(6)

APPENDIX D. WRITING ON BALLOT [REVOKED]

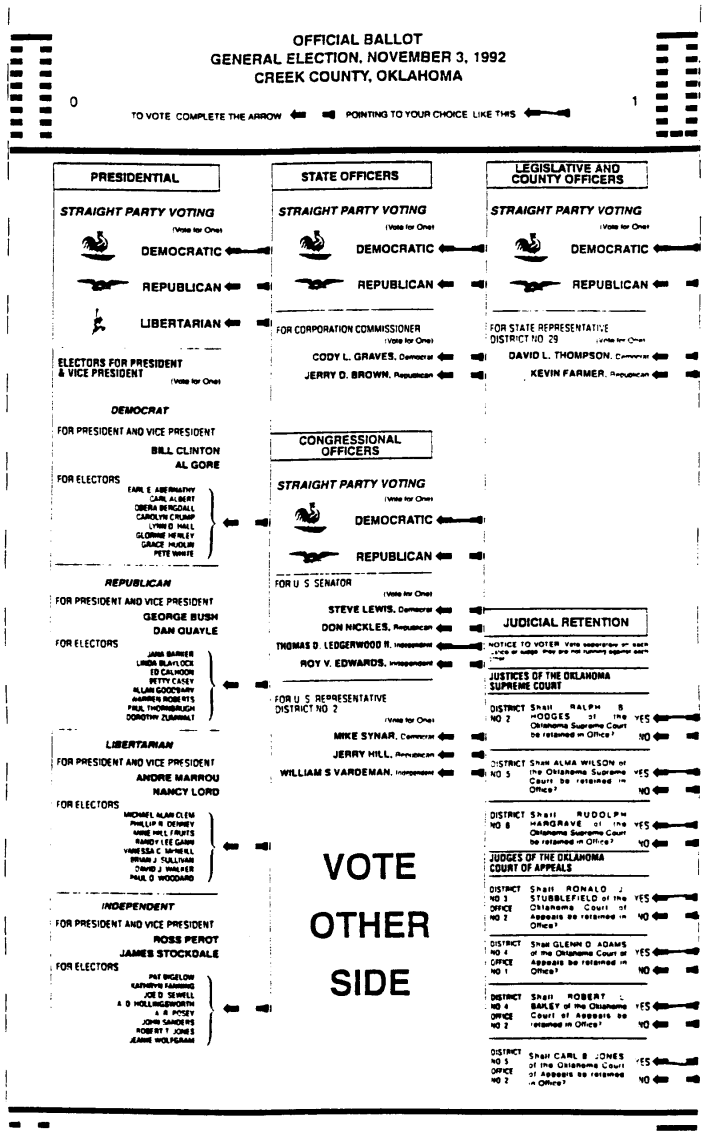


Ballot 4
One Vote Counted For:

Will Rogers	Quartz Mountain Art Institute
Friendly	Shangri-La Resort
Reba McEntire	1990 Lawton Eisenhower H.S. Football

230:45-5-19(8) and (4)

APPENDIX E. SPLIT TICKET [REVOKED]

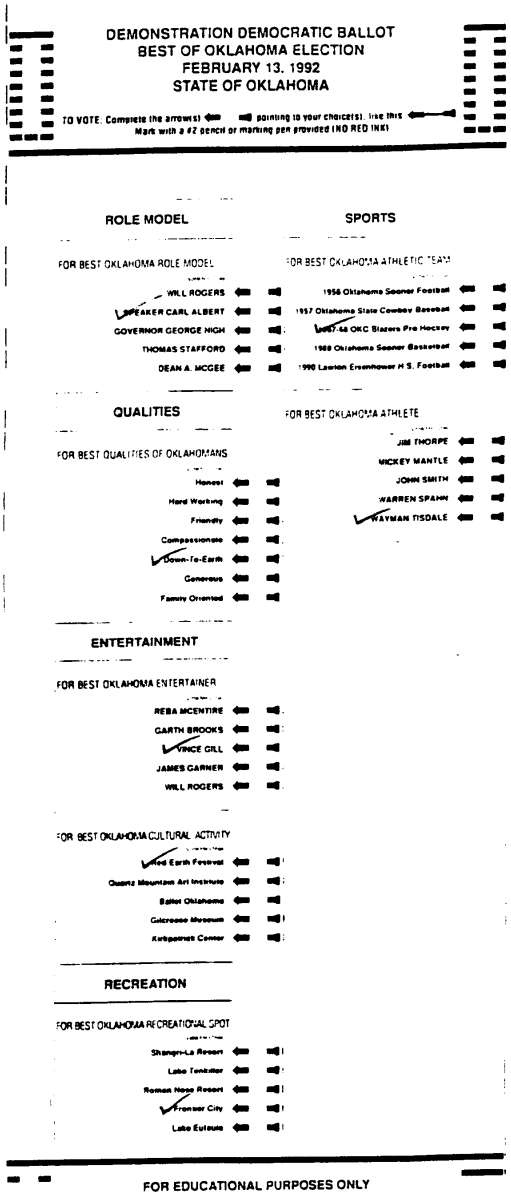


Ballot 5
One Vote Counted For:

Bill Clinton/Al Gore	Mike Synar
Cody L. Graves	David L. Thompson
Thomas D. Ledgerwood II	

230:45-5-19(10)

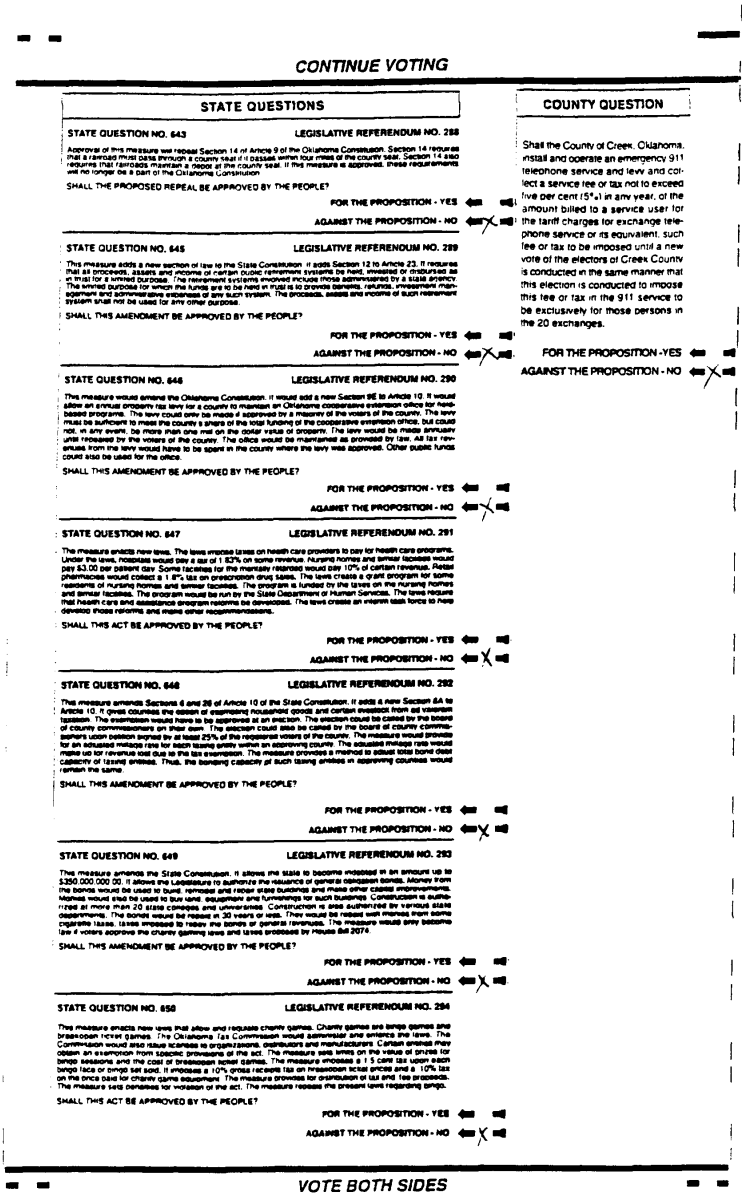
APPENDIX F. BALLOT MARKED OUTSIDE VOTING TARGET, EXAMPLE 2 [REVOKED]



Ballot 6
No Votes Counted
Ballot Marked Outside Voting Target

230:45-5-19(6)

APPENDIX G. UNUSUAL MARKING INSIDE VOTING TARGET [REVOKED]



CONTINUE VOTING

STATE QUESTIONS

STATE QUESTION NO. 643 LEGISLATIVE REFERENDUM NO. 288

Approval of this measure will repeal Section 14 of Article 9 of the Oklahoma Constitution. Section 14 requires that a railroad must cross through a county seat if it passes within four miles of the county seat. Section 14 also requires that railroads maintain a depot at the county seat. If this measure is approved, these requirements will no longer be a part of the Oklahoma Constitution.

SHALL THE PROPOSED REPEAL BE APPROVED BY THE PEOPLE?

FOR THE PROPOSITION - YES

AGAINST THE PROPOSITION - NO

STATE QUESTION NO. 645 LEGISLATIVE REFERENDUM NO. 289

This measure adds a new section of law to the State Constitution. It adds Section 12 to Article 23. It requires that all proceeds, assets and income of certain public retirement systems be held, invested or disbursed as in trust for a limited purpose. The retirement systems involved include those administered by a state agency. The limited purpose for which the funds are to be held in trust is to provide benefits, refunds, investment management and administrative expenses of any such system. The proceeds, assets and income of such retirement system shall not be used for any other purpose.

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

FOR THE PROPOSITION - YES

AGAINST THE PROPOSITION - NO

STATE QUESTION NO. 646 LEGISLATIVE REFERENDUM NO. 290

This measure would amend the Oklahoma Constitution. It would add a new Section 9E to Article 10. It would allow an annual property tax levy for a county to maintain an Oklahoma cooperative extension office for rural-based programs. The levy could only be made if approved by a majority of the voters of the county. The levy must be sufficient to meet the county's share of the total funding of the cooperative extension office, but could not, in any event, be more than one mill on the dollar value of property. The levy would be made annually until repealed by the voters of the county. The office would be maintained as provided by law. All tax revenues from the levy would have to be spent in the county where the levy was approved. Other public funds could also be used for the office.

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

FOR THE PROPOSITION - YES

AGAINST THE PROPOSITION - NO

STATE QUESTION NO. 647 LEGISLATIVE REFERENDUM NO. 291

The measure enacts new laws. The laws impose taxes on health care providers to pay for health care programs. Under the laws, hospitals would pay a tax of 1.53% on some revenue. Nursing homes and similar facilities would pay $3.00 per patient day. Some facilities for the mentally retarded would pay 10% of certain revenues. Retail pharmacies would collect a 1.8% tax on prescription drug sales. The laws create a grant program for some residents of nursing homes and similar facilities. The program is funded by the taxes on the nursing homes and similar facilities. The program would be run by the State Department of Human Services. The laws require that health care and assistance program reforms be developed. The laws create an interim task force to help develop those reforms and make other recommendations.

SHALL THIS ACT BE APPROVED BY THE PEOPLE?

FOR THE PROPOSITION - YES

AGAINST THE PROPOSITION - NO

STATE QUESTION NO. 648 LEGISLATIVE REFERENDUM NO. 292

This measure amends Sections 4 and 26 of Article 10 of the State Constitution. It adds a new Section 6A to Article 10. It gives counties the option of exempting household goods and certain livestock from ad valorem taxation. The exemption would have to be approved at an election. The election could be called by the board of county commissioners on their own. The election could also be called by the board of county commissioners upon petition signed by at least 25% of the registered voters of the county. The measure would provide for an adjusted millage rate for each taxing entity within an approving county. The adjusted millage rate would make up for revenue lost due to the tax exemption. The measure provides a method to adjust total bond debt capacity of taxing entities. Thus, the bonding capacity of such taxing entities in approving counties would remain the same.

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

FOR THE PROPOSITION - YES

AGAINST THE PROPOSITION - NO

STATE QUESTION NO. 649 LEGISLATIVE REFERENDUM NO. 293

This measure amends the State Constitution. It allows the state to become indebted in an amount up to $350,000,000.00. It allows the Legislature to authorize the issuance of general obligation bonds. Money from the bonds would be used to build, remodel and repair state buildings and make other capital improvements. Money would also be used to buy land, equipment and furnishings for such buildings. Construction is authorized at more than 20 state colleges and universities. Construction is also authorized by various state departments. The bonds would be repaid in 30 years or less. They would be repaid with money from some cigarette taxes, taxes imposed to repay the bonds or general revenues. The measure would only become law if voters approve the charity gaming laws and taxes proposed by House Bill 2074.

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

FOR THE PROPOSITION - YES

AGAINST THE PROPOSITION - NO

STATE QUESTION NO. 650 LEGISLATIVE REFERENDUM NO. 294

This measure enacts new laws that allow and regulate charity games. Charity games are bingo games and breakopen ticket games. The Oklahoma Tax Commission would administer and enforce the laws. The Commission would also issue licenses to organizations, distributors and manufacturers. Certain entities may obtain an exemption from specific provisions of the act. The measure sets limits on the value of prizes for bingo sessions and the cost of breakopen ticket games. The measure imposes a 1.5 cent tax upon each bingo face or bingo set sold. It imposes a 10% gross receipts tax on breakopen ticket prices and a 10% tax on the price paid for charity game equipment. The measure provides for distribution of tax and fee proceeds. The measure sets penalties for violation of the act. The measure repeals the present laws regarding bingo.

SHALL THIS ACT BE APPROVED BY THE PEOPLE?

FOR THE PROPOSITION - YES

AGAINST THE PROPOSITION - NO

COUNTY QUESTION

Shall the County of Creek, Oklahoma, install and operate an emergency 911 telephone service and levy and collect a service fee or tax not to exceed five per cent (5%) in any year, of the amount billed to a service user for the tariff charges for exchange telephone service or its equivalent, such fee or tax to be imposed until a new vote of the electors of Creek County is conducted in the same manner that this election is conducted to impose this fee or tax in the 911 service to be exclusively for those persons in the 20 exchanges.

FOR THE PROPOSITION - YES

AGAINST THE PROPOSITION - NO

VOTE BOTH SIDES

Ballot 7
One "No" Vote Counted For Each Question

230:45-5-19(3)

[OAR Docket #13-1010; filed 6-3-13]

TITLE 230. STATE ELECTION BOARD
CHAPTER 50. AUTOMATED SYSTEMS

[OAR Docket #13-1011]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
230:50-1-1. Purpose [AMENDED]
230:50-1-2. Definitions [REVOKED]
Subchapter 3. Voting Devices and Data Processing
Part 7. ~~Oklahoma~~ Election Management ~~System~~
230:50-3-31. Oklahoma Election Management System authorized [REVOKED]
230:50-3-31.1. Modern Election Support Application [AMENDED]
230:50-3-32. Use of ~~OEMS and~~ MESA required [AMENDED]
230:50-3-33. OEMS Hardware, software use restricted [REVOKED]
230:50-3-34. County Election Board shall maintain data [AMENDED]
230:50-3-35. Training for County Election Board personnel [AMENDED]
230:50-3-35.1. Instructions for OEMS software [REVOKED]
230:50-3-37. Username and password security in ~~OEMS and~~ MESA [AMENDED]
230:50-3-38. OEMS morning routine [REVOKED]
230:50-3-39. OEMS system backups [REVOKED]
230:50-3-40. Conducting daily OEMS backups [REVOKED]
230:50-3-41. Conducting weekly OEMS backups [REVOKED]
230:50-3-41.1. Election backups in OEMS [REVOKED]
230:50-3-42. Turning OEMS hardware components on and off [REVOKED]
Part 9. Election Programming [REVOKED]
230:50-3-52. Election programming [REVOKED]
230:50-3-53. Time for election programming [REVOKED]
230:50-3-54. Election programming for statewide elections [REVOKED]
230:50-3-55. Election programming for elections that are not statewide elections [REVOKED]
230:50-3-56. Model elections [REVOKED]
230:50-3-57. Election programming procedures checklists [REVOKED]
230:50-3-58. Burning voting device memory packs [REVOKED]
Part 11. Voting Device Testing [REVOKED]
230:50-3-64. Testing voting devices and memory packs required [REVOKED]
230:50-3-65. Testing Procedures Checklist [REVOKED]
230:50-3-68. Testing voting devices for an election [REVOKED]
Subchapter 9. Telephone Voting System [REVOKED]
230:50-9-1. Purpose of telephone voting system [REVOKED]
230:50-9-2. Use of telephone voting system [REVOKED]
230:50-9-3. Telephone voting procedure [REVOKED]
230:50-9-4. Procedure when telephone is not available at polling place [REVOKED]
230:50-9-5. Procedure when voter is referred from polling place without telephone [REVOKED]
230:50-9-6. Telephone Voting System Aide responsibilities [REVOKED]
230:50-9-7. Telephone Voting System Precinct Log [REVOKED]
230:50-9-8. Receiving telephone ballots by fax from State Election Board [REVOKED]
230:50-9-9. Counting telephone voting system ballots [REVOKED]
AUTHORITY:
Title 26 O.S., Section 2-107. Secretary of the State Election Board
DATES:
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February 15, 2013, through March 18, 2013
Public hearing:
March 18, 2013
Adoption:
March 27, 2013
Submitted to Governor:
April 1, 2013
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April 1, 2013
Submitted to Senate:
April 1, 2013
Gubernatorial approval:
May 15, 2013
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on May 24, 2013.
Final adoption:
May 24, 2013
Effective:
July 15, 2013
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATION BY REFERENCE:
n/a
ANALYSIS:
The Secretary of the State Election Board and experienced State Election Board staff members have conducted a thorough review and analysis of the rules and have determined that since the original drafting, adoption, and implementation of the rules in the mid-1970s, and even since the codification of the rules in the early 1990s, the needs that the rules were designed to meet have changed.

The rules formed the foundation of Oklahoma's uniform, unified election system. Still today, Oklahoma is the only state in which every county follows the same uniform procedures, uses the same forms and software to administer voter registration and absentee voting, and also uses the same voting devices and uniformly designed ballots in every precinct.

In the early days of Oklahoma's modern election system, the rules intentionally were drafted to duplicate the content of Title 26 of the Oklahoma Statutes. When Oklahoma's election laws were modernized and re-codified in 1974, the first State Election Board rules were created not only as the official "interpretation" of the new laws but also as a means of communicating the requirements of the new laws and the procedures needed to implement them to both county- and precinct-level election officials.

Before the implementation of the new election code in 1974, the County Election Board Secretary had only a printed copy of the election laws with which to run his or her office and conduct elections. Now, almost 40 years later, the County Election Board Secretary has access to an array of publications to perform almost every election-related task.

The amendments in Chapter 50 have the following purposes. All rules that only duplicate statutory language and provisions are revoked. Rules are amended to update all references to the election administration software and hardware used by the State Election Board and by the 77 County Election Boards from OEMS B the designation of the legacy system that will be removed from service in July, 2013, B to MESA, OEMS's successor system. By July 1, 2013, MESA will absorb all the functions of the older system. Some amendments conform certain dates and deadlines to the current election calendar established by law. Some amendments revoke rules that concerned use of now-obsolete equipment and systems.
CONTACT PERSON:
Suzanne Cox, Support Services Director, State Election Board. Telephone: (405) 521-2391. scox@elections.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 15, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

230:50-1-1. Purpose

The rules in this Chapter provide specifications for proprietary election administration software and for voting devices, ~~procedures for testing the devices, for printing ballots for the devices, and for using the devices in elections~~. ~~These rules also provide instructions for operating the two types of optical scanning voting devices in use in Oklahoma.~~

230:50-1-2. Definitions [REVOKED]

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

~~**Ballot** means a category of offices or measures, one or more of which can appear on a ballot card.~~

~~**Ballot Card** means a card upon which votes may be recorded by use of a special marking device.~~

~~**Count** means the process by which a voting device automatically scans or examines votes recorded on ballot cards and produces printed results.~~

~~**Voting Device** means an apparatus that automatically scans (or examines) and counts votes recorded on ballot cards and produces printed results~~.

SUBCHAPTER 3. VOTING DEVICES AND DATA PROCESSING

PART 7. ~~OKLAHOMA~~ ELECTION MANAGEMENT ~~SYSTEM~~

230:50-3-31. Oklahoma Election Management System authorized [REVOKED]

~~The Secretary of the State Election Board is authorized to purchase equipment for and to *implement a unitary, unified, integrated system of election administration for the State of Oklahoma*. [26:21-101] This system shall be known as the Oklahoma Election Management System, and the abbreviation "OEMS" shall be used to refer to the system in the Administrative Rules of the State Election Board. OEMS shall include electronic data processing capabilities for the maintenance of voter registration records, absentee ballot processing, election accounting, election preparation and Precinct Official Management. The State Election Board and every County Election Board shall be included in OEMS.~~

230:50-3-31.1. Modern Election Support Application

(a) The Modern Election Support Application is a software system developed for the Oklahoma State Election Board for use by the County Election Boards in the administration of voter registration and elections and the performance of various election-related duties. The abbreviation "MESA" shall be used to refer to the software in the rules of the State Election Board. ~~The MESA software is a new function of OEMS (Oklahoma Election Management System) and is the first step in the process of updating the functions of OEMS and of upgrading and modernizing the hardware platform on which it resides.~~ MESA software may be installed on personal computers in the possession of the County Election Board. All County Election Board employees, at the discretion of the Secretary of the County Election Board, may become authorized users of MESA.

(b) County Election Boards are ~~authorized~~required to use the MESA software ~~as necessary~~ in the performance of their official duties. ~~Use of the MESA software is optional in all areas where its functionality duplicates the functionality of OEMS. Use of MESA software is required in all areas where its functionality is no longer supported in OEMS~~.

230:50-3-32. Use of ~~OEMS and~~ MESA required

The Secretary of the County Election Board shall be required to use ~~OEMS and~~ MESA to perform the administrative functions of the County Election Board included in ~~OEMS and~~ MESA.

230:50-3-33. OEMS Hardware, software use restricted [REVOKED]

~~(a) The hardware and software components of OEMS shall be used only for the election administration functions of the County Election Board. The use of OEMS hardware or software for any purpose not specifically authorized by the Secretary of the State Election Board is prohibited. The hardware and software components of OEMS installed in the County Election Board office are the property of the State Election Board. [26:3-104]~~

~~(b) No software shall be installed on the County Election Board's OEMS computer unless it has been either provided by or authorized and approved by the Secretary of the State Election Board. No hardware shall be attached to the County Election Board's OEMS computer unless it has been either provided by or authorized and approved by the Secretary of the State Election Board. The County Election Board Secretary is prohibited from using any additional software or hardware with the OEMS system unless specifically authorized to do so by the Secretary of the State Election Board.~~

230:50-3-34. County Election Board shall maintain data

The Secretary of the County Election Board shall be responsible for maintaining in ~~OEMS and in~~ MESA all required records and information for the county. The Secretary shall be responsible for the accuracy of the data entered into ~~OEMS and~~ MESA. The Secretary shall be responsible for providing accurate, up-to-date data to the State Election Board as required.

230:50-3-35. Training for County Election Board personnel

The Secretary of the State Election Board shall provide training for County Election Board personnel in all aspects of the use of ~~OEMS and~~ MESA. Training shall include use of all ~~OEMS hardware and all OEMS and~~ MESA software components. Only persons who have completed a training program approved by the State Election Board shall be authorized to use ~~OEMS and~~ MESA.

230:50-3-35.1. Instructions for OEMS software [REVOKED]

~~The Secretary of the State Election Board shall prepare and distribute appropriate instructions to enable County Election Board personnel to use the software that comprises OEMS. These instructions shall be revised and updated as necessary.~~

230:50-3-37. Username and password security in ~~OEMS and~~ MESA

Usernames and passwords are security features ~~of OEMS and~~ of MESA. The County Election Board Secretary, Assistant Secretary, or Chief Clerk, and other County Election Board employees authorized by the Secretary to use ~~OEMS and~~ MESA each will have unique usernames and passwords. Each user of ~~OEMS and~~ MESA shall be required to keep his or her password secret at all times. Under no circumstances shall a username or password be made available to an unauthorized person. Usernames and passwords shall not be displayed in any location or recorded in any manner where they can be viewed by unauthorized persons. ~~Passwords in OEMS will expire after ninety days of use.~~ Passwords in MESA will expire after 30 days of use. Each authorized user shall be responsible for creating and maintaining his or her own passwords as prompted by the software.

230:50-3-38. OEMS morning routine [REVOKED]

~~Immediately upon logging on the OEMS system each morning, the Secretary and other authorized users shall check the Events Calendar to determine the status of various scheduled system processes and reports and to verify that scheduled tasks are performed in a timely manner.~~

230:50-3-39. OEMS system backups [REVOKED]

~~County Election Board personnel shall be responsible for backing up information in the OEMS system on a regular basis. Backups are a critical part of the OEMS system. If the County Election Board's OEMS computer is damaged and its data lost, the data can be restored from the most recent backup. In the event data must be restored from a backup, the Secretary shall immediately contact the State Election Board for assistance. Two types of backups shall be conducted regularly. The County Election Board shall receive two tape cartridges, one for each type of backup.~~

~~(1) **Daily backups.** One tape cartridge shall be labeled "Tape #1, Daily Backup, (County Name)."~~

~~(2) **Weekly backups.** One tape cartridge shall be labeled "Tape #2, Weekly Backup, (County Name)."~~

230:50-3-40. Conducting daily OEMS backups [REVOKED]

~~Daily OEMS system backups shall be requested on Monday, Tuesday, Thursday and Friday each week. Daily OEMS backups are processed by the system at night. Daily OEMS backups shall be requested at the beginning of the business day.~~

230:50-3-41. Conducting weekly OEMS backups [REVOKED]

~~Weekly OEMS system backups shall be requested at the beginning of the business day on Wednesday each week. Weekly OEMS backups are processed by the system at night.~~

230:50-3-41.1. Election backups in OEMS [REVOKED]

~~(a) County Election Board personnel shall request and complete an election backup in OEMS when election programming is completed. A new election backup shall be requested and completed each time changes are made in the programming for an election. County Election Board personnel shall request and complete another election backup after all election results have been entered into the system on election night.~~

~~(b) County Election Board personnel shall receive a special tape cartridge to use for all election backups. This tape cartridge shall be labeled "Election Setup Backup Tape (County name)." The Election Setup Backup Tape shall be used for no other purpose than for election backups and no other tape shall be substituted for it to conduct election backups unless specific instructions are received from the State Election Board.~~

~~(c) County Election Board personnel shall follow all instructions provided by the State Election Board to request and complete election backups.~~

230:50-3-42. Turning OEMS hardware components on and off [REVOKED]

~~(a) County Election Board personnel shall leave the hardware components of OEMS on at all times unless specifically instructed otherwise by the State Election Board or unless one of the conditions outlined in (b) of this Section exists. The Memory Pack Receiver is not considered to be part of the computer system and shall not be turned on until it is needed to burn memory packs or to read memory packs as outlined in 230:50-3-58 and 230:35-3-87.~~

~~(b) If County Election Board personnel are informed of plans to interrupt electrical power to the building in which the County Election Board office is located, the system shall be turned off before the power interruption occurs. If it is necessary to move any of the hardware com ponents, the system first shall be turned off. In addition, County Election Board personnel may turn off the hardware components of OEMS if a severe electrical storm occurs during work hours or if severe electrical storms are forecast during evening hours or during the weekend. If possible, County Election Board personnel shall inform the State Election Board before turning the system off.~~

~~(c) County Election Boards shall observe all instructions provided by the State Election Board for turning the hardware components of OEMS on and off.~~

PART 9. ELECTION PROGRAMMING [REVOKED]

230:50-3-52. Election programming [REVOKED]

~~(a) **Purpose of election programming.** All necessary information concerning an election must be entered into OEMS so that voting device memory packs can be programmed and election results can be received, processed and certified. The process of entering all this necessary information into OEMS shall be referred to as election programming.~~

~~(b) **Responsibility for election programming.** Election programming in the county shall be conducted under the~~

~~supervision of the Secretary of the County Election Board. The Secretary shall ensure that election programming in the county is performed accurately and in a timely manner.~~

230:50-3-53. Time for election programming [REVOKED]

~~(a) Election programming shall begin immediately upon receipt of a resolution calling for an election. If the resolution is the first one received calling for an election on a specific date, that election date shall be the first item entered into OEMS. After the election date has been entered, the new election shall be added to the existing election date.~~

~~(b) Other election programming tasks shall be completed in a timely manner. Some tasks are required to be completed prior to the filing period and others after the filing period but before ballot printing begins. During the time that ballot printing is underway, all remaining election programming tasks shall be completed and voting device memory packs shall be burned so that voting device programming testing, as detailed in 230:50-3-68, can be conducted as soon as possible after ballots are received.~~

230:50-3-54. Election programming for statewide elections [REVOKED]

~~Election programming for a statewide election shall be performed both by the State Election Board and by each County Election Board. County Election Board personnel shall notify the State Election Board when all county election programming tasks required to precede ballot printing have been completed. Upon receipt of such notice, State Election Board personnel shall conduct a review of all data entered by County Election Board personnel. When the accuracy of the data entered by County Election Board personnel has been verified, State Election Board personnel shall initiate a process in OEMS to merge the election data entered by the State Election Board with the data entered by the County Election Board. After the election data is successfully merged, the County Election Board personnel shall complete the remaining election programming tasks.~~

230:50-3-55. Election programming for elections that are not statewide elections [REVOKED]

~~Election programming for all elections that are not held in conjunction with a statewide election shall be performed only by County Election Board personnel. However, when all election programming tasks that are required to precede ballot printing have been completed, County Election Board personnel shall notify the State Election Board. Upon receipt of such notice, State Election Board personnel shall conduct a review of all data entered for the election. After verifying the accuracy of the data, State Election Board personnel shall notify the County Election Board to proceed with the final election programming tasks.~~

230:50-3-56. Model elections [REVOKED]

~~The State Election Board shall provide model elections to be used by the County Election Board in election programming. The use of model elections decreases the amount of data entry required of County Election Board personnel in programming a specific election. No programming shall be done in a model election. A copy of the appropriate model election shall be made and all new data entry shall be made in the copy. The State Election Board shall provide a model election for every type of election to be conducted by the County Election Board.~~

230:50-3-57. Election programming procedures checklists [REVOKED]

~~The State Election Board shall provide to the County Election Board detailed, step-by-step checklists for programming both statewide elections and elections that are not statewide elections. County Election Board personnel responsible for election programming shall be required to use the appropriate checklist for the type of election being programmed and shall follow the checklist steps exactly.~~

230:50-3-58. Burning voting device memory packs [REVOKED]

~~After all election programming tasks have been completed, the voting device memory packs shall be burned for the election. Before burning the memory packs, County Election Board personnel shall verify that each memory pack is correctly labeled for the precinct in which it will be used. Each voting device memory pack to be used in an election shall be tested, as detailed in 230:50-3-67, before it is burned for the election. As soon as possible after burning memory packs, the voting device programming testing procedures outlined in 230:50-3-68 shall be performed. If a memory pack fails to function as anticipated, the following steps shall be performed.~~

~~(1) Verify that the correct memory pack for the precinct being tested is installed in the voting device.~~

~~(2) Review all appropriate reports to locate any programming error causing the difficulty.~~

~~(3) Correct the error, burn all the memory packs again and repeat the testing procedures for all precincts.~~

PART 11. VOTING DEVICE TESTING [REVOKED]

230:50-3-64. Testing voting devices and memory packs required [REVOKED]

~~(a) The Secretary of the County Election Board shall cause each voting device and each memory pack to be tested prior to each election in which they are used. The Secretary shall assign an employee of the County Election Board to perform voting device testing according to procedures prescribed by the State Election Board.~~

~~(b) Notice of testing shall be given in writing to the county chairpersons of each recognized political party not fewer than ten days before testing begins for a partisan election.~~

230:50-3-65. Testing Procedures Checklist [REVOKED]

~~The Testing Procedures Checklist shall be used by the person assigned to perform all voting device testing procedures. The Testing Procedures Checklist shall be retained as outlined in 230:50-3-70.~~

230:50-3-68. Testing voting devices for an election [REVOKED]

~~(a) **Purpose of voting device testing.** Voting device testing is required to ensure that the voting device has no mechanical defects, that the device is reading and tabulating ballots accurately, that the election programming is correct, and that the ballots delivered by the printer can be inserted into the device and that the device can read the ballots. The testing procedures also ensure that the memory packs are able to record, store and reproduce the ballot count.~~

~~(b) **Time for voting device testing.** Voting devices shall be tested as soon as possible after ballots have been received and memory packs have been burned for an election. Testing shall be completed not later than the day before voting devices are scheduled to be delivered to the polling places or to be issued to the Inspectors.~~

~~(c) **Responsibility for voting device testing.** The Secretary of the County Election Board shall be familiar with the voting device testing procedures prescribed by the Secretary of the State Election Board and shall ensure that all personnel assigned to conduct voting device testing receive adequate training.~~

~~(d) **Procedure for voting device testing.** The procedure for testing a voting device is detailed in the most current version of the Voting Device Testing Procedures checklist provided by the Secretary of the State Election Board. Personnel assigned by the Secretary of the County Election Board to conduct voting device testing shall photocopy the checklist and shall enter the election description and the election date on the copy. All instructions contained in the checklist shall be followed precisely and all referenced reports shall be printed. Results from the voting device tape shall be compared with the results on the various printed reports and both the tape and the reports shall be compared with the expected results of the test deck to verify the accuracy of the voting device. All inconsistencies or errors discovered during testing shall be identified and corrected immediately. Personnel conducting testing shall contact the State Election Board for assistance if necessary. An improperly functioning voting device or memory pack shall be reported to the State Election Board immediately. After testing procedures have been completed for all voting devices to be used in the election, the County Election Board Secretary and the person or persons who conducted testing shall complete, sign and date the statements at the end of the checklist. The Voting Device Testing Procedures checklist, along with all voting device tapes and all reports produced during testing, shall be available for public inspection until the election's contest period is concluded and then shall be retained for 24 months after the election. See 230:50-3-70.~~

~~(e) **Preparing voting device for election day.** At the conclusion of the testing procedure, the testing results shall be erased from the memory pack. The memory pack then shall be installed in the voting device and the appropriate seal shall be affixed to the memory pack door. County Election Board personnel shall record the seal number, the precinct number and the election date on the Voting Device Report.~~

SUBCHAPTER 9. TELEPHONE VOTING SYSTEM [REVOKED]

230:50-9-1. Purpose of telephone voting system [REVOKED]

~~The purpose of the rules in this subchapter is to authorize the use of the Inspire Vote by Phone system and to establish procedures for implementation and use of this system in federal elections in Oklahoma. The implementation of the Inspire Vote by Phone system for federal elections in Oklahoma is intended to satisfy the accessibility requirements of the federal Help America Vote Act of 2002. The Inspire Vote by Phone system, hereafter referred to as the telephone voting system, is a ballot marking system which enables voters with disabilities, including voters who are blind or visually impaired, to vote with the same degree of access and participation, including privacy and independence, as other voters.~~

230:50-9-2. Use of telephone voting system [REVOKED]

~~(a) The telephone voting system shall be available at precinct polling places and at the in-person absentee polling place in the county. The Secretary of the County Election Board shall follow instructions provided by the Secretary of the State Election Board to arrange for access to a telephone for Precinct Officials and voters to use with the telephone voting system.~~

~~(b) The Secretary of the State Election Board shall provide instructions, forms, and materials for the County Election Board Secretary and Precinct Officials to use with the telephone voting system.~~

~~(c) All ballots marked using the telephone voting system shall be printed in the offices of the State Election Board and subsequently shall be transmitted to the appropriate County Election Board. The County Election Board shall observe the procedure outlined in 230:50-9-9 to count the telephone ballots after the election. The results of the counted telephone ballots shall be added to the final election results for each appropriate precinct.~~

~~(d) All materials produced in the casting and counting of telephone ballots shall be retained by the County Election Board for 24 months following the election.~~

230:50-9-3. Telephone voting procedure [REVOKED]

~~(a) **Routine procedure.** If a voter chooses to use the telephone voting system, the following procedure shall be observed.~~

~~(1) The Judge follows the instructions in 230:35-5-55(a) (1) through (7) to process the voter.~~

~~Write "telephone voter" above the voter's name in the Precinct Registry. If the voter is casting a provisional ballot, see (b) of this Section.~~

~~(2) The Judge prints the voter's name on the Telephone Voting System Roster and asks the voter to sign the Roster.~~

~~(3) The Judge writes the appropriate ballot codes for the voter on the Roster.~~

~~(4) The Judge indicates on the Roster whether the voter is casting a provisional ballot. If the voter is casting a provisional ballot, see (b) of this Section.~~

~~(5) The Judge refers the voter to the Inspector or the Telephone Voting System Aide.~~

~~(6) The Inspector escorts the voter to the designated telephone and explains the telephone voting system to the voter. Tell the voter:~~

~~(A) You must listen carefully to the recorded instructions.~~

~~(B) You will vote the ballot using the telephone keypad.~~

~~(C) You can confirm your vote in each race.~~

~~(D) When you have finished voting your ballot, you can listen to the entire ballot read back to you.~~

~~(E) You can go back and make changes to your ballot.~~

~~(F) When you are certain that your ballot is marked correctly, you must press the "#" key to submit the ballot.~~

~~(G) Do not hang up until you hear "Thank you for voting." After you hear this message, you may hang up the telephone and leave the polling place.~~

~~(H) If you need help at any point during the voting process, please let me know. You can put the phone down during the voting process. The call will not end until you hang up.~~

~~(I) If you are disconnected during the call, please tell me. Your ballot can be reissued as long as you have not submitted the ballot.~~

~~(7) The Inspector dials the toll-free number for the telephone voting system and follows the recorded instructions to enter the six-digit precinct number and the ballot access code.~~

~~(8) When prompted, the Inspector gives the telephone receiver to the voter and leaves the voter alone to vote.~~

~~(9) The Inspector writes the time the call is initiated on the Roster.~~

~~(10) If the voter informs the Inspector that he was unable to complete the ballot, the Inspector follows these steps to verify that the voter's ballot was not submitted.~~

~~(A) Dial the toll-free number again from the same telephone using the same line if there is more than one line available.~~

~~(B) Listen for a message that states the previous call from this telephone number was not completed. Write "call not completed" in the Comments column on the Roster.~~

~~(11) The Inspector gives the voter the choice to continue voting by telephone or to vote by regular ballot with assistance as necessary.~~

~~(A) If the voter chooses to continue voting by telephone, reinitiate the voter's ballots by repeating steps (7) and (8). Write the time the call is reinitiated in the Comments column on the Roster.~~

~~(B) If the voter chooses to vote by regular ballot with assistance, issue the appropriate regular ballots to the voter and provide assistance as needed as outlined in 230:35-5-120. Indicate in the Comments column on the Roster that the voter continued voting with a regular ballot.~~

~~(b) **Provisional voting procedure.** If a voter who chooses to use the telephone voting system is casting a provisional ballot, the Inspector shall follow the instructions in 230:35-5-177 to fill out an Oklahoma Provisional Ballot Affidavit envelope for the voter. If necessary, make the following adjustments to the procedure.~~

~~(1) If necessary, fill out the Oklahoma Voter Registration Application form for the voter. Offer the voter the use of a signature guide to use to sign the form. If the voter is unable to sign the form himself, print the voter's name on the signature line and write your own initials beside the printed name. Print your name in the space provided at the bottom of the form.~~

~~(2) If necessary, read the information on the Oklahoma Provisional Ballot Affidavit envelope aloud to the voter and ask the voter to confirm its accuracy.~~

~~(3) Offer the voter the use of a signature guide to sign the affidavit. If the voter is unable to sign, print the voter's name on the signature line and write your own initials beside the printed name.~~

~~(4) The line number from the Telephone Voting System Roster on which the voter's name is printed will be used to identify this provisional ballot. Write this number on the upper right corner of the affidavit envelope. Enter this number into the telephone voting system when prompted to indicate that this is a provisional ballot.~~

230:50-9-4. Procedure when telephone is not available at polling place [REVOKED]

~~(a) In the event that a telephone for use with the telephone voting system is not available in a precinct polling place, any voter who wishes to use the telephone voting system must be referred to a polling place with a telephone. The Secretary of the County Election Board shall designate a polling place with an available telephone for each polling place where there is no telephone.~~

~~(b) When a voter who wants to use the telephone voting system must be referred to another polling place, the Judge follows these instructions.~~

~~(1) Locate the voter's name in the Precinct Registry and tell the voter to sign the Precinct Registry, unless the voter is casting a provisional ballot. Write "telephone voter sent to Precinct (NUMBER)" above the voter's name.~~

~~(2) If there is a message in the signature line beside the voter's name in the Precinct Registry, follow the appropriate instructions in the Precinct Problem Solver.~~

~~(3) Fill out a Telephone Voting System Precinct Voucher.~~

~~(A) Write the voter's name on the Voucher.~~

~~(B) Write the six-digit precinct number and the ballot access code on the Voucher.~~

~~(C) Check the appropriate ballots on the Voucher.~~

~~(D) Indicate whether the voter is casting a provisional ballot.~~

~~(E) Write the name and address of the designated polling place on the voucher.~~

~~(F) Sign the Voucher in the space provided.~~

~~(4) Tell the voter to give the Voucher to the Judge at the designated polling place.~~

230:50-9-5. Procedure when voter is referred from polling place without telephone [REVOKED]

~~When a voter presents a Telephone Voting System Precinct Voucher from another precinct to the Judge, the Judge immediately refers the voter to the Inspector. The Inspector takes the Telephone Voting System Precinct Voucher from the voter and uses it to fill out the Telephone Voting System Roster. This voter is required to sign the Roster in this precinct. Indicate in the "Comments" column of the Roster the precinct from which the voter was referred. Use the six-digit precinct number, ballot access code, and ballot information on the Telephone Voting System Precinct Voucher to access the voter's ballot. Attach the voucher to the Roster.~~

230:50-9-6. Telephone Voting System Aide responsibilities [REVOKED]

~~A Telephone Voting System Aide is a special purpose precinct worker as described in 230:10-3-28.1. The same individual may also serve as a Provisional Voting Officer or as a Registration Official at this election. (For payment purposes, a Telephone Voting System Aide is entered in OEMS as a Provisional Voting Officer or Registration Official.) When a Telephone Voting System Aide is employed in a precinct, the telephone voting system duties prescribed for the Inspector are instead performed by the Aide. A Telephone Voting System Aide has the following responsibilities.~~

~~(1) Fill out information on the Telephone Voting System Roster form.~~

~~(2) Explain the telephone voting process to the voter.~~

~~(3) Escort the voter to the designated telephone.~~

~~(4) Dial the toll-free number.~~

~~(5) Enter the six-digit precinct number and the ballot access code.~~

~~(6) Give phone to voter and leave voter alone to vote.~~

230:50-9-7. Telephone Voting System Precinct Log [REVOKED]

~~The Telephone Voting System Precinct Log is either a paper form or a Microsoft Word (TM) template form.~~

~~(1) List all regular precincts using the six-digit OEMS precinct number on the Telephone Voting System Precinct Log.~~

~~(2) Indicate whether a telephone is available for use with the telephone voting system in each precinct's polling place by placing a checkmark in the appropriate column.~~

~~(3) Enter the number of signatures on the Telephone Voting System Roster for each precinct listed. If there are no signatures on the Roster, enter "0" in the "Number of Signatures" column. If there was not a telephone available in a precinct, enter a "0." Do not leave the "Number of Signatures" column blank for any listed precinct.~~

~~(4) After returns have been received from all precincts, total the "Number of Signatures" column and enter the total in the space provided.~~

~~(5) Fax or email the Telephone Voting System Precinct Log to the State Election Board.~~

~~(6) Make copies of the Telephone Voting System Precinct Log and of the Telephone Voting System Rosters from each precinct and make the copies available for public inspection. Keep the originals in a secure location in your office.~~

230:50-9-8. Receiving telephone ballots by fax from State Election Board [REVOKED]

~~On Wednesday, the State Election Board staff faxes the telephone ballots to the County Election Board. The fax cover sheet lists the total number of pages transmitted, the total number of ballots transmitted, and identifies any provisional ballots. Upon receipt of the fax from the State Election Board, the Secretary takes the following steps to confirm the transmission and to secure the ballots.~~

~~(1) Examine each page of the transmission to be certain that it is completely legible. If you cannot read a faxed ballot or cannot discern how it is marked, call the State Election Board immediately.~~

~~(2) Use information recorded on the fax transmission cover sheet to verify that you received the entire transmission. If you do not receive the same number of pages indicated on the cover sheet, call the State Election Board immediately.~~

~~(3) Sort the faxed ballots by precinct.~~

~~(4) Use the Telephone Voting System Precinct Log to verify that you received by fax the same number of telephone ballots as were cast. If the number of ballots you received is not the same as the total number shown on the Precinct Log, call the State Election Board.~~

~~(5) Identify and set aside any provisional telephone ballots.~~

~~(6) Seal each faxed telephone ballot inside a ballot secrecy envelope and set them aside in a secure location in your office until the County Election Board meets on Friday.~~

~~(7) Take these steps to process the telephone provisional ballots.~~

~~(A) Match the provisional ballot with the Oklahoma Provisional Ballot Affidavit envelope completed for the voter.~~

~~(B) Put the faxed ballot inside a ballot secrecy envelope, seal it, and place the secrecy envelope inside the affidavit envelope.~~

~~(C) Follow the procedures in Sections 230:35-3-125 through 230:35-3-130 to verify the telephone provisional ballots.~~

~~(D) If the telephone provisional ballot is verified and approved for counting, it must be counted along with the other telephone ballots as outlined in Section 230:50-9-9.~~

230:50-9-9. Counting telephone voting system ballots [REVOKED]

~~Upon receipt from the State Election Board of the ballots marked and printed by the telephone voting system, the Secretary of the County Election Board shall observe the same procedure outlined in 230:30-19-6 and in this Section to count the telephone ballots and to include them in the final election results for the appropriate precincts. These procedures shall be conducted in a public meeting of the County Election Board.~~

~~(1) Open the secrecy envelopes containing the faxed telephone ballots one at a time in the presence of the County Election Board members.~~

~~(A) The Secretary selects the correct Optech absentee ballot style for each telephone ballot. Use the Ballot Style Listing by Precinct report to select the correct absentee ballot style.~~

~~(B) Follow the procedure outlined in 230:30-19-6 to mark the Optech ballot to substitute for the faxed telephone ballot.~~

~~(2) Insert the absentee precinct memory pack in the voting device. If there is more than one absentee precinct for the election, be certain that the correct memory pack is used.~~

~~(3) Press the Print Totals key to obtain a Totals Printout. Verify that the totals exactly match the totals on the absentee Totals Printout obtained on election night.~~

~~(4) Enter the four-digit access code and follow the appropriate instructions to reopen the polls so that the voting device will accept ballots.~~

~~(5) Insert all the substitute telephone ballots in the voting device.~~

~~(6) Obtain a new Totals Printout after all substitute telephone ballots have been counted. The following message will print after each race on the Totals Printout: "Test Results Only. Results Are Not Official!" However, these results are official and this message should be disregarded.~~

~~(A) Set the first new Totals Printout aside in a safe place. Do not put it in a ballot transfer case.~~

~~(B) Print at least three more copies of the Totals Printout.~~

~~(7) Sign the Totals Printouts. The employee who counted the ballots and the members of the County Election Board each shall sign all copies of the Totals Printout.~~

~~(8) Remove the counted telephone ballots from the ballot box and place them in a ballot transfer case with one signed copy of the Totals Printout. If telephone ballots for more than one precinct are placed in the same ballot transfer box, the ballots shall be separated by precinct. (The telephone ballots may be placed in the same ballot transfer case as the counted provisional ballots which also shall be separated by precinct.)~~

~~(9) Seal the ballot transfer case and affix to the box a short turquoise State Election Board seal signed by the County Election Board members and the employee who fed the ballots into the voting device. The Secretary shall check the "Counted Telephone Ballots" box on the seal and shall indicate the precinct number or numbers included in the ballot transfer box.~~

~~(10) Give the sealed ballot transfer case to the Sheriff, who shall provide security for the counted ballots until 5 p.m. or until the ballots are delivered to the court room for a recount.~~

~~(11) One copy of each of the new Totals Printouts shall be made available for public inspection in the County Election Board office.~~

~~(12) Follow the appropriate software instructions to read the absentee precinct memory pack into the computer.~~

~~(13) Print a Precinct Report for the absentee precinct. Proof the Precinct Report against the Totals Printout.~~

[OAR Docket #13-1011; filed 6-3-13]

TITLE 235. OKLAHOMA FUNERAL BOARD CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #13-1016]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
235:1-1-2 [AMENDED]
AUTHORITY:
Oklahoma Funeral Board; Title 59 O.S. Section 396.2a and 396.17; Title 75 O.S. Section 302 (A)(1) and 307
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n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The rule amendment provides additional time for Board staff to review applications before being considered at a Board meeting.

CONTACT PERSON:
Mark Riley, Executive Director, Oklahoma Funeral Board, 4545 N. Lincoln Blvd., Suite 175, Oklahoma City, Oklahoma 73105, 405-522-1790.

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 11, 2013:

235:1-1-2. Executive Director of the Board

(a) Administrative officer. The Executive Director is the administrative officer for the Board. The Executive Director shall perform all delegated statutory duties as well as other duties as the Board may assign .The Executive Director shall supervise all employees of the Board. The Executive Director may employ, discipline, or discharge any Board Employee. The Executive Director may delegate, subject to the Executive Director's supervision and responsibility, such administrative duties, as the Director deems appropriate, to subordinate employees. The Executive Director shall be responsible to the Board for maintaining Board records.

(b) Administrative decisions. The Executive Director shall render necessary administrative decisions for the Board during such time the Board is not in session.

(1) The administrative decisions must be consistent with Oklahoma Statutes and Board Rules.

(2) Parties affected by the administrative decision may appeal to the Board by requesting placement on the agenda for the next regular or special meeting except that an administrative decision denying permission to write the State Board examination for lack of documented proof of required educational credits shall not be appealable to the Board.

(3) Such administrative decisions shall have the full force and authority of a Board decision until reversed or modified by the Board in open meeting.

(c) Schedule of meetings. The Executive Director shall schedule all Board meetings, file notices of Board meetings as required by the Oklahoma Open Meeting Law, and prepare an agenda for each Board meeting to be posted at the Board office in advance of the meeting, and be provided to each Board member. All applications or other items requiring Board action must be received and date-stamped by Board staff at least ~~seven (7)~~fourteen (14) calendar days prior to a Board meeting to be considered at that meeting. Anyone may request the Board consider an item received after this time by requesting in writing to appear before the Board. Nothing in this section shall prohibit the Board from taking any action allowed by law on its own motion.

[OAR Docket #13-1016; filed 6-4-13]

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

[OAR Docket #13-1015]

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235:10-1-2 [AMENDED]
235:10-1-4 [AMENDED]
Subchapter 3. Qualification and Requirements for License
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]
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SUPERSEDED EMERGENCY ACTIONS:
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SUMMARY:
The rule amendments make the rules consistent with the statutes, provide clarification on requests for rule interpretation, allows exemption of certain funeral establishment requirements under exigent circumstances, provides additional grounds for refusing to issue an establishment license, clarifies prohibited acts regarding conviction of a crime, prohibits the failure to respond to complaint, prohibits obstruction of Board investigation, prohibits forgery, prohibits compromising a licensing exam, sets standards of performance for funeral service establishments and commercial embalming establishments regarding financial obligations, approved places of disposition and document retention.
CONTACT PERSON:
Mark Riley Executive Director, Oklahoma Funeral Board, 4545 N. Lincoln Blvd., Suite 175, Oklahoma City, Oklahoma 73105, 405-522-1790.

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 11, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

235:10-1-2. Definitions

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

"Apprentice" means an individual who has registered as an apprentice with the Board, and is an employee of a funeral service establishment, or a commercial embalming establishment.

"Approved place of final disposition" means a licensed crematory or other place legally established or historically recognized to receive human remains for final disposition. Historical sites as evidenced by existing grave(s) that were in place prior to the planned internment shall constitute an approved place of final disposition.

"At-need" means after the individual died.

"Board" means the Oklahoma Funeral Board.

"Casket" means a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, fiberglass, plastic, or like material, and ornamented and lined with fabric.

"Commercial Embalming Establishment" means a fixed place of business with a preparation room and other facilities and equipment required to embalm, transport, or ship dead human remains, but limited to serving licensed funeral establishments, both in and outside the State of Oklahoma.

"Cremation" means the technical process, using heat, that reduces dead human remains to bone fragments. The reduction takes place through heat and evaporation. The cremation process shall include, but not be limited to, the processing and pulverization of the bone fragments.

"Cremation Chamber" means the enclosed space contained within a machine that has been duly manufactured for the sole purpose of cremating dead human remains within which the cremation is performed.

"Cremation Container" means a casket or other container designed to transport a deceased human body and for placement in a cremation chamber during cremation.

"Direct disposition" means the disposal of dead human remains without ritual, ceremony, or other procedures normally included in a funeral service. Direct disposition may or may not be followed by a memorial service.

"Embalmer" means any individual licensed to engage in the practice of embalming. Any person who performs the duties of an embalmer as outlined in these rules, or who holds himself out to the public in any manner whatsoever as an embalmer must be licensed by the Board.

"Full-time employee" means a full-time employee at a funeral service establishment, or the commercial embalming establishment which is his principal place of employment as evidenced by payroll and employment records.

"Funeral director" means any individual licensed to engage in the practice of funeral directing as outlined in these rules.

(A) Any individual who holds himself out to the public in any manner whatsoever that he is a funeral director shall be licensed by this Board.

(B) Any individual who uses in conjunction with his name or business any of the words "undertaker", "mortician", "funeral home", "funeral parlor", "funeral chapel", "funeral consultant", or other title implying that he is in the business of funeral directing herein shall be licensed by this Board.

"Funeral Director in Charge - FDIC" an individual licensed as a funeral director designated by a funeral service establishment, commercial embalming establishment, or crematory who is responsible for the legal and ethical operation of the establishment and is accountable to the Board.

"Funeral service" means a ritual or ceremony conducted with a body or bodies present with said ritual or ceremony conducted prior to final disposition. A funeral service shall be conducted by a licensed funeral director under the supervision of a licensed funeral service establishment.

"Funeral service establishment" means a fixed place of business used and equipped for funeral services, or for the retail sale or display of funeral service merchandise, or used to embalm, transport, or ship dead human remains, and to provide for the care and disposal of dead human remains. Any fixed place of business held out to the public as a funeral service establishment shall be inspected and licensed by the Board

"Funeral service merchandise" means those products and services normally provided by funeral establishments, including but not limited to burial supplies and equipment.

(A) Funeral service merchandise includes any items of service or merchandise offered by the funeral service establishment as required to be listed on the General Price List mandated by the Federal Trade Commission with the exception of outer burial containers.

(B) Funeral service merchandise excludes the sale by an organization of cemetery land or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, niches or outer burial containers.

"Human remains" means the body of a dead human being, deprived of life, but not yet entirely disintegrated.

"License" means a document issued by the Board certifying qualifications under the laws of the State of Oklahoma to practice as an embalmer or funeral director, or to operate a funeral service establishment or a commercial embalming establishment, or to operate a crematory.

"Licensees" means individuals who have met all of the requirements to be licensed by the State of Oklahoma to practice as funeral directors, or embalmers and are properly registered with the Board.

"Memorial service" means a ritual or ceremony conducted without the presence of a body or bodies which may be conducted before or after final disposal.

"Personal supervision" means the physical presence of a licensed funeral director or embalmer at the specified time and place of the providing of acts funeral service, practice of embalming, or practice of funeral directing.

"Practice of embalming" means the work of disinfecting or preserving dead human remains, entire or in part, by arterial embalming, or otherwise, for the preparation and the disposition, or for the care of dead human remains for funeral services,

transportation, burial or cremation, or the holding of oneself out as being engaged in such work.

"Practice of funeral directing" means the work of preparing for the burial or disposal of dead human remains, otherwise than by embalming, or for the care of dead human remains for funeral services, transportation, burial or cremation, or the holding of oneself out as being engaged in such work or being in the general control, supervision or management of the operations of a funeral service establishment.

"Practicum Student" means a student currently enrolled in an accredited Funeral Service Program located in Oklahoma working in a funeral establishment to satisfy educational requirements.

"Pre-need arrangements" means arrangements made for final disposition prior to the occurrence of a death.

"Temporary Container" means a receptacle composed of cardboard, plastic or similar material designed to temporarily store cremated remains until the remains are placed in an urn or other permanent container.

235:10-1-4. Request for interpretation of rules

(a) Any person who may be affected by the existence of application of any of the rules of this chapter may request in writing an interpretation of ruling regarding the application of such rule to the facts furnished with the inquiry. Any such request shall state fully the facts concerning which the rule may apply, and the particular rule about which the question exists. The request or inquiry will be added to the agency for the next scheduled Board meeting and may if necessary be continued for further consideration to additional business meetings. The Board's interpretation of the rule will be furnished in writing to the person making the request, within a reasonable time thereafter.

(b) Requests for interpretation of rules shall not be accepted or considered if the request involves facts and/or circumstances whereupon a complaint has been filed, but not yet disposed.

SUBCHAPTER 3. QUALIFICATION AND REQUIREMENTS FOR LICENSURE

235:10-3-2. Requirements for licensing funeral service establishments

To be licensed by the Board a funeral service establishment or a commercial embalming establishment must meet the following minimum requirements:

(1) **Ownership.** The establishment shall be operated by a sole owner, a partnership, a limited iability partnership, a limited partnership, a limited liability company, or a subsidiary of a corporation, a partnership, a limited liability partnership, a limited partnership, or a limited liability company, or by a corporation chartered in the State of Oklahoma.

(2) **Fixed place.** The establishment shall have a fixed place of business with a specific street address or physical location and shall conform to local zoning ordinances as evidenced by an occupancy permit issued by the proper local governmental entity authorizing the occupancy of a funeral service establishment at that location. Only one establishment license shall be issued to a specific address. If the establishment will contain a preparation room which does not discharge into a municipal sanitary sewer it must also secure permission from the appropriate county and/or state agency for any such discharge from the embalming room prior to being eligible to receive a funeral establishment or commercial embalming establishment license from this Board. Any establishment which has been issued an establishment license under a rule of the Board having different requirements than this sub-section for a fixed place will be permitted to continue to be licensed under the rules pursuant to which the establishment was initially licensed, except as provided under sub-section (15).

(3) **Inspected.** The establishment shall be inspected by a representative of the Board prior to being initially licensed and periodically as determined by the Board.

(4) **Statutes and Rules.** Each establishment shall have available a current copy of the Oklahoma Statutes and Rules related to the practice of funeral directing and embalming available for public inspection.

(5) **Preparation room.**

(A) The establishment shall have a preparation room. Such preparation room shall meet the following minimum requirements:

(i) **Construction.** The walls, floor, and ceiling must be constructed, and of such materials and finished in a way that they may be cleaned and disinfected. The room must be of sufficient size and dimension to accommodate an embalming table, a sink that drains freely with hot and cold running water connections, an instrument table, cabinet, and shelves. The embalming table must have a rust proof metal, porcelain, or fiberglass top, with edges raised at least 3/4 inches around the entire table and drain opening at the lower end.

(ii) **Ventilation.** The preparation room shall be heated and air-conditioned. The preparation room must be properly ventilated with an exhaust fan that provides at least five room air exchanges per hour. All fumes must be ventilated to the outside atmosphere. The construction must be such that odors from the preparation room cannot enter the rest of the establishment.

(iii) **No public use.** The room shall not have a passageway available for public use.

(iv) **Equipment.** The room shall contain sufficient supplies and equipment for normal operation. Nothing in this subsection shall require embalming chemicals to be stored in the preparation room. The room shall have no excess equipment stored, other than equipment necessary for preparing dead human remains, and performing necessary restorative art work. There shall be storage shelves or cabinets for all supplies, instruments, and equipment.

(v) **Openings covered.** All outside openings shall be covered with screens.

(vi) **Interior view.** Measures must be taken to prevent a view of the interior of the room through any open door or window.

(vii) **Embalmer's log.** Each funeral establishment or commercial embalming service shall maintain in the preparation room of that establishment, or within a reasonable proximity of the preparation room, a log book. The log book shall list the name of each human remains received at this location including the date and time the remains were received, the care or preparation of the remains (i.e., bathe, disinfect, refrigerate, or embalm), the date and time that the embalming occurred, the disposition of the remains, and the name, signature, and license number of the embalmer(s) and apprentice(s). If the remains were prepared at another location, that location shall be listed in lieu of the name and signature of the embalmer(s) and apprentice(s). The log book must be available at all times for inspection by the Board.

(B) **Exceptions.** A funeral establishment operated in conjunction with another licensed funeral establishment, with same ownership, shall be exempt from maintaining a preparation room provided it is located within 60 miles of the main establishment and can be practically served by the main establishment.

(6) **Selection room.** The establishment shall have a selection room. Such room shall be devoted solely to the purpose of providing a means for the public to make a reasonable selection of funeral service merchandise. Such room shall be of adequate size and furnishings. Such selection room shall meet the following minimum requirements:

(A) **Casket and outer burial container price lists.** The funeral provider must offer a printed or typewritten price list to people who inquire in person about the offering or prices of funeral merchandise including caskets, alternative containers and outer burial containers. The price list must be offered upon the beginning of discussion of, but in any event before showing the funeral merchandise. In lieu of a written list, other formats, such as notebooks, brochures, or charts may be used if they contain the same information as would the printed or typewritten list, and display it in a clear and conspicuous manner.

(B) **Caskets.** Each funeral establishment shall maintain an inventory of not less than five adult caskets at the location, or five quarter panel or end cut display units provided by a commercial casket manufacturer. Any establishment which has been issued an establishment license under a rule of the Board having different requirements than this sub-section for the number of caskets in inventory will be permitted to continue to be licensed under the rules pursuant to which the establishment was initially licensed, except as provided under sub-section (15).

(C) **Equipment.** The selection room shall have no excess equipment stored, other than equipment necessary for the proper display of funeral service merchandise.

(D) **Condition.** The room shall be maintained in a clean, neat, and orderly fashion at all times.

(7) **Other rooms.** The establishment shall have adequate areas for public viewing of dead human remains and necessary offices for conducting the business affairs of the establishment. The establishment may have other rooms, offices, and other facilities, including restrooms for the staff and public lounge areas. All other rooms and facilities shall be maintained in a clean, neat, and orderly fashion at all times.

(8) **Vehicles.** The establishment shall have the necessary automotive vehicles to provide adequate service to the public. This shall not prohibit the establishment from arranging to lease, borrow, or otherwise arrange for extra vehicles when needed.

(9) **Licensed funeral director.**

(A) Each funeral service establishment shall have at least one full-time licensed funeral director employed to be designated as the Funeral Director-in-Charge of the operation of the establishment and a sufficient number of other licensed individuals to adequately serve the public.

(B) If an individual owner, partners, or corporation officers are not licensed funeral directors, then the owner, partners, or the corporation must employ a full-time licensed funeral director to serve as Funeral Director-in- Charge of the establishment.

(C) No licensed funeral director may serve as the Funeral Director-in-Charge of more than one (1) funeral service establishment without the express written authorization of the Board. With the written order of the Board a licensed funeral director, upon good cause shown that such is in the public interest, may serve as a Funeral Director-in-Charge of more than one (1) funeral service establishment but in no event may any such licensed funeral director be the Funeral Director-in-Charge of more than three (3) such funeral service establishments. Provided all of the establishments are under the same ownership, and no establishment included in the application is more than a 60 miles radius from the most centrally located establishment contained in the application.

(D) The funeral director-in-charge shall reside and maintain a permanent residence within 60 miles of the funeral establishment, commercial embalming establishment, or crematory.

(10) **Licensed embalmer.** Each establishment must either employ a licensed embalmer full-time or have an embalmer available to embalm dead human remains within six (6) hours after the establishment has assumed custody of the body. The embalmer shall be listed on the establishment application, renewal form, and in the Embalmer's Log Book.

(11) **Transferability.** No establishment license is transferable from one person to another, or from one location to another. In case of the sale, lease, or relocation to a new location, or a change of name of the establishment, the establishment license may remain in force by mutual consent of the buyer and seller for a period of (30) thirty days or until the next regularly scheduled Board meeting, and at such time the license shall expire. The Funeral Director-in-Charge must notify the Board office in writing and within ten days of change of ownership, change of Funeral Director-in-Charge, change of address, or change of name. The purchaser, lessee, or owner must notify the Board office to request an inspection, and issuance of a new license. Upon purchase, lease or change of address, change of name, change of Funeral Director-in-Charge a new establishment license application must be submitted with fee. If exigent circumstances warrant additional time to facilitate a Funeral-Director-In-Charge change, upon good cause shown and with written agreement by a licensed funeral director to assume responsibility in the interim, the Board may grant up to 90 additional days for an establishment to employ the new Funeral-Director-in-Charge. The licensed funeral director assuming responsibility in the interim shall be exempt from the requirements in 235:10-3-2 (9).

(12) **Requirement to practice.**

(A) The issuance of a funeral service establishment license to an individual not licensed as a funeral director does not entitle the individual to practice funeral directing.

(B) In the event the Funeral Director-in-Charge becomes no longer in charge of said funeral establishment then such Funeral Director-in-Charge has the responsibility of notifying the Board of such change within ten (10) business days. Upon such notice a new establishment license application must be submitted to the Board for approval.

(13) **License expiration.** All establishment licenses issued expire on the thirty-first of December for the year issued.

(14) **Inspection.** Every funeral service establishment, commercial embalming establishment, or crematory, shall be at all times subject to inspection by the Board. Inspections are to be reasonable in regard to time and manner.

(15) **Grandfather.** Any establishment which has been issued an establishment license under a rule of the Board having different requirements, then such Establishment is permitted to continue to be licensed under the rules pursuant to which the establishment was initially licensed. The Establishment license of such grandfathered establishment is not transferable. At such time as a change of ownership, purchase, lease, or change of address of such grandfathered funeral establishment is made then such establishment must meet the current requirements of this subchapter.

(16) **Application.** Any person or entity who desires to operate a funeral service establishment, commercial embalming establishment, or crematory must submit an application for an original license, or if appropriate, an application for a renewal license on forms provided by the Board.

(A) Each application for an original license shall include, at a minimum, the following:

(i) The current and previous name, if any, for a funeral service establishment, commercial embalming establishment, or crematory;

(ii) The address of the physical location and telephone number of the funeral service establishment, commercial embalming establishment, or crematory;

(iii) The name and license number of the Funeral Director in Charge;

(iv) The name of the current owner and, if applicable, all previous owners for the past sixty (60) months of the funeral establishment, commercial embalming establishment, or crematory;

(v) Whether the funeral service establishment, commercial embalming establishment, or crematory is a sole proprietorship, corporation, partnership, a limited liability partnership, limited partnership, a limited liability company, or a subsidiary of a corporation, a partnership, limited liability partnership, limited partnership, a limited liability company, or other business entity;

(vi) The name and address of each person owning five (5) percent or more of the funeral service establishment, commercial embalming establishment, or crematory, or corporation common stock, or of the equity capital or membership interest of a limited liability company, a partnership, a limited liability partnership, a limited partnership, or sole proprietorship;

(vii) If a corporation, partnership, limited liability partnership, limited partnership, or limited liability company;

(I) The state and date of incorporation or formation;

(II) The name and address of the registered agent or agent appointed to receive service of process;

(III) The name, address, and title of each officer, director, general partner, or member and

(IV) A copy of the certificate of incorporation, articles of organization, or certificate or agreement of formation, and any other document filed with the Oklahoma Secretary of State, which allows the entity to do business in Oklahoma.

(viii) Whether the applicant, or any individual required to be disclosed under this section, has ever been convicted of, or entered a plea of guilty or no contest, to a felony, or to a misdemeanor related to funeral services, including the:

(I) Felony or misdemeanor charged;

(II) Date of conviction or plea;

(III) Court having jurisdiction over the felony or misdemeanor;

(IV) Probation officer's name, address, and telephone number, if applicable.

(ix) Whether the applicant, or any individual required to be disclosed under this section, has received any adverse ruling from any court of competent jurisdiction or any administrative tribunal involving honesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence, or incompetence reasonably related to funeral services, including the case number and the court or administrative body in which it was filed.

(x) Whether the applicant, or any individual required to be disclosed under this section, has ever had an application for a license, registration, certificate, or endorsement denied or rejected by any state licensing authority, including the:

(I) Reason for the suspension or revocation;

(II) Date of the denial or rejection; and

(III) Name and address of the state licensing authority that denied or rejected the application.

(xi) Whether the applicant, or any individual required to be disclosed under this section, has ever had a license, registration, certificate, or endorsement suspended or revoked by any state funeral licensing authority, including the:

(I) Reason for the suspension or revocation;

(II) Date of the suspension or revocation; and

(III) Name and address of the state licensing authority that suspended or revoked the license.

(xii) Whether the applicant, or any individual required to be disclosed under this section, has ever surrendered a license, registration, certificate, or endorsement to the Board or any state funeral licensing authority.

(B) Renewal applications shall include any changes in the above information from the original application or the previous renewal application.

(17) **Renewal license.** Once issued, all original funeral service establishments, commercial embalming establishments, and crematories shall expire on December 31 of the year of issue. Thereafter, except as provided in 235:10-3-2(11) said establishment may make application for renewal of the existing original license. The renewal application shall contain information as deemed appropriate by the Board.

(18) **Grounds for refusal.** The board may refuse to issue an original license or renew a license:

(A) For any felony conviction, or a misdemeanor conviction related to funeral service, by any individual required to be disclosed under this sub-section, may be grounds to deny the application.

(B) For any answer in the affirmative to 235:10-3-2 (16)(A)(viii,ix,x,xi,xii), by any individual required to be disclosed in this sub-section.

(C) If the Board finds the application contains false or misleading information.

(D) If the Application is incomplete or improperly completed.

(E) Failure to pay the license application fee.

(F) Failure to comply with all other rules as prescribed in Section 235.

(G) For any individual required to be disclosed under this section who is implicated in a complaint that has been found to have probable cause. The application may be tabled pending the resolution of the complaint.

235:10-3-5. Apprentice qualifications and registration

(a) **Qualifications.** In order to register with the Board as an apprentice, each individual must meet all of the following conditions:

(1) **Age.** The applicant must be seventeen (17) years of age.

(2) **Education.** The applicant must be a high school graduate, or possess a Graduate Equivalent Diploma (G.E.D.).

(3) **Sound moral character.** The applicant must be of sound moral character.

(A) The Board may refuse registration to an individual who has been convicted of a felony, or a misdemeanor related to funeral services or pertaining to the custody, care or disposal of dead human remains, or unfair trade practices, or fraud.

(B) Failure to reveal such conviction at the time of application will result in termination of registration by operation of law.

(b) **Registration.** Each registration must be accomplished by completing an application form supplied by the Board office, accompanied by:

(1) **Documented proof.** A diploma, transcript, G.E.D. Certificate, or other documented proof, acceptable to the Board, proving completion of high school requirements.

(2) **Affidavit.** An employment affidavit form provided for the Board completed by the apprentice and the establishment at which he will be employed.

(3) **Fee.** The required registration fee at the beginning of each year of apprenticeship.

(c) **Apprenticeship.** After qualifying and being registered by the Board, the serving of the apprenticeship for purposes of being licensed shall require the following:

(1) **Employment.** Employment at a licensed funeral establishment for a period of 12 months.

(A) **No part-time supervision.** No apprentice may be supervised or trained by a part-time licensed funeral director or embalmer.

(B) **Place of service.** The apprenticeship for licensing as a funeral director and embalmer may be

served at the same time at a funeral service establishment, nothing shall prohibit an apprenticeship in embalming from being served at a commercial embalming establishment.

(2) **Reports.** Apprentices must properly file ~~twelve (12) monthly~~ reports in the format prescribed by the Board documenting their employment and completion of embalming and funeral directing experiences.

(A) **Due date.** Each report is due the 1st and must be filed no later than the 10th day of the month it is due.

(B) **Postmark.** The postmark or electronic date stamp shall determine the date of filing for the monthly reports and case reports.

(C) **Late reports.** Reports received late shall not count toward the total number required for licensing.

(3) **Cancellation.** An apprenticeship shall automatically be cancelled by the failure to file ~~two monthly~~one quarterly report~~s~~, unless an exception has been granted in writing by the Board.

(4) **Renewal.** Subject to other provisions of this Subsection, an apprentice registration is valid only for 12 months. Apprenticeship registration may be renewed up to four times if such application is accompanied with an official transcript showing that such applicant is a graduate from or then an active student enrolled in an accredited school of mortuary science, and payment of the required fee.

(5) **Supervision.** No apprentice shall perform the practice of embalming or the practice of funeral directing unless the apprentice is doing so under the personal supervision of a licensed embalmer or funeral director.

(6) **Assistance.** An apprentice shall, under personal supervision, assist in the embalming of at least twenty-five (25) human remains and assist in the direction of at least twenty-five (25) funerals.

(d) **Practicum student requirements.** Practicum students must be participating in a scheduled, supervised and accredited program for practicum students established by the accredited school of mortuary science. Practicum students must have a letter of agreement with the participating funeral service establishment where the practicum is to be conducted. No registration of practicum students is required by this Board.

SUBCHAPTER 7. LICENSURE RENEWAL, REVOCATION AND SUSPENSION

235:10-7-2. Prohibited acts

The following prohibited acts shall constitute grounds for the suspension or revocation of any license or registration issued by the Board.

(1) **Material misrepresentation.** Material misrepresentation to the public of facts, requirements of Oklahoma Statutes, State Board Rules, or any rule or regulation pertaining directly to the custody, care, or disposal of dead human remains. Material misrepresentations is also construed to include a person knowingly and willfully signing a certificate as having embalmed, cremated, or prepared a dead human body for disposition when, in fact, the services were not performed as indicated. A material misrepresentation also includes misrepresentation to the Board of completion of continuing education requirements when the requirements were not met.

(2) ~~**Conviction of a crime**~~**Criminal Actions.** A felony conviction or plea of guilty or nolo contendere in a felony matter, or any misdemeanor pertaining to the custody, care or disposal of dead human remains, or involving funeral service, or unfair trade practices, or fraud. A copy of the record of conviction, judgment and sentence certified by the clerk of court entering the conviction shall be conclusive evidence of conviction. However, anyone who has surrendered their license or has had their license suspended or revoked because of a conviction of a felony or misdemeanor where substance abuse or mental illness is the underlying cause of the crime, may appeal to have his or her license reinstated. In determining whether to reinstate the license of such an individual, the Board may consider the length of time since the plea or conviction, education since the plea or conviction, recovery status since the plea or conviction if the underlying crime was alcohol-or drug-related, and the public safety of allowing the individual to be licensed.

(3) **Price lists.**

(A) Failure to give a printed or typewritten General Price List (GPL) for retention to persons who inquire in person about the funeral goods or funeral services offered by the funeral establishment. The GPL must be presented upon beginning discussion of any of the following: the prices of funeral goods or funeral services; the overall type of funeral service or disposition; or specific funeral goods or funeral services offered by the funeral establishment.

(B) Failure to offer a printed or typewritten price list to persons who inquire in person about the offerings or prices of caskets or alternative containers, or outer burial containers before showing the caskets. In lieu of a written list, other formats, such as notebooks, brochures, or charts may be used if they contain the same information as would the printed or typewritten list , and display it in a clear and conspicuous manner.

(4) **Statement of goods and services selected.** Failure to give an itemized written statement for retention to each person who arranges a funeral or other disposition of human remains, at the conclusion of the discussion of arrangements. The statement must list at least the following information:

(A) the funeral goods and funeral services selected by that person and the prices to be paid for each of them;

(B) specifically itemized cash advance items. If the prices are not known or reasonably ascertainable, a good faith estimate shall be given and a statement of the actual charges shall be provided before the final bill is paid; and

(C) the total cost of the goods and services.

(5) **Pre-need Requirements.** Failure to comply with the requirements of Oklahoma Statutes and Rules of the State Insurance Commission pertaining to pre-need funeral service arrangements.

(6) **Non-licensed director.** The practice of funeral directing by an individual not licensed as funeral director.

(7) **Non-licensed embalming.** Embalming of any dead human remains by an individual not licensed as an embalmer.

(8) **Non-registered apprentice.** The holding out by any person that such person is an active registered apprentice when such person is not an active registered apprentice.

(9) **Failure to discharge financial obligation.** Failure to pay any vendor or third party obligation, within 90 days, that arises out of a Statement of Goods and Services that has been signed by the authorized person or failure to satisfy a judgment rendered by a court of proper jurisdiction, within 90 days or as ordered by the court, in favor of a vendor or third party provider as designated on the Statement of Goods and Services or in connection with goods and services provided for a specific buyer.

(10) **Desecration.** Damage, abuse, desecration or the unauthorized removal of tissue, bones, or organs of any human remains in the custody of a licensed funeral service establishment, commercial embalming establishment, crematory, funeral director, embalmer, or apprentice. Desecration shall not include the removal of blood, body fluids, body tissue, or other body parts in the normal course of embalming or restoration requested by authorizing agent. Desecration also includes the simultaneous cremation of more than one human dead body without express written approval of the authorizing agent, or cremating human remains without the permit requires by 63 O.S. §1-329.

(11) **Solicitation.** Solicitation of business, either personally or by an agent, from a dying individual or the relatives of a dead or individual with a terminal condition as defined by the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act, other than through general advertising.

(12) **Used casket.** Using any casket or part thereof which has previously been used as a receptacle for, or in connection with, the burial, cremation, or other disposition of dead human remains, without making the required disclosure to the individual making the selection.

(13) **Charging.** for service or merchandise not contracted for or failing to provide the services or merchandise contracted for or making substitution for services or merchandise contracted for without the authorization of the customer.

(14) **Failure to file.** Failure to file a death certificate, cremation permit, disinterment permit or any other necessary permit as required by law in a timely manner.

(15) **Failure to submit application for establishment license.** Failure to notify the Board of a change of ownership, sale, purchase, lease, change of name, change of address, or change of funeral director in charge within ten (10) business days.

(16) **Suspension or revocation.** The suspension or revocation by another state of a licensee to practice funeral directing and or embalming. A certified copy of the record of suspension or revocation of the state making such a suspension or revocation shall be conclusive evidence thereof.

(17) **False or misleading advertising.** The use of false or misleading advertising or advertising a name other than the name the individual or establishment is licensed as.

(18) **Failure to comply with Licensing Act.** Failure to comply with any applicable provisions of the Funeral Services Licensing act at the time of issuance or renewal or improper issuance or renewal of a license or registration.

(19) **Child Support Statute.** Failure to comply with the child support statute provisions of 43 O.S. §139.1 et al.

(20) **Selling of bodies or body parts.** No funeral establishment or any of its licensees, agents or employees shall accept, solicit, or offer to accept any payment, gratuity, commission or compensation of any kind for referring potential tissue donors to a tissue bank or tissue broker.

(21) **Lack of Response.** Failure of a funeral service establishment, commercial embalming establishment, crematory, funeral director, embalmer, or apprentice to respond to a complaint within 10 days of receipt of the complaint or failure of a funeral service establishment, commercial embalming establishment, crematory, funeral director, embalmer or apprentice to comply with a Board subpoena. A signed proof of service shall be prima facie evidence of receipt.

(22) **Obstruction of Investigation.** Destruction of evidence, tampering with or intimidating witnesses, or refusal to allow access to relevant files or facilities in any investigation.

(23) **Forgery.** Creating a false document, fraudulently altering a document, or writing a false signature upon any document.

(24) **Compromising Licensing Exam.** Being found to have cheated on, harvested test items from, or disseminated copies of any licensing exam as determined by the administrating body of the exam.

SUBCHAPTER 11. MINIMUM STANDARDS OF PERFORMANCE

235:10-11-1. Minimum standards of performance

(a) The following minimum standards of performance shall be required of each licensed embalmer in the State of Oklahoma in each instance in which he/she is authorized or required to embalm a dead human remains.

(1) **Licensed embalmer; licensed establishment.** The embalming procedure shall be performed only by licensed embalmers. Embalming shall be performed only in properly equipped and licensed funeral service establishment or commercial embalming establishments, in hospitals, or in such facilities as may be designated

by the medical examiner or by the state health officials in the event of a disaster of major proportions. The embalmer may be assisted by a registered apprentice, or practicum student, or he may supervise a registered apprentice or practicum student as the registered apprentice or practicum student performs the embalming procedure.

(2) **Protective devices.** In order to prevent the embalmer or registered apprentice from becoming unwitting carriers of pathogenic organisms into the community, they shall be required to utilize such protective devices as required by the OSHA Bloodborne Pathogen Standards.

(3) **Clothing.** Clothing exposed to contamination by pathogenic organisms shall either be burned or thoroughly cleaned and disinfected before delivery to any person, or before any further utilization.

(4) **Technique.** The technique utilized to effect eye, mouth, and lip closure shall be any technique accepted as standard in the profession. Regardless of the technique chosen, the embalmer shall be required to achieve the best results possible under the prevailing conditions.

(5) **Washing body.** The entire body shall be washed with an antiseptic soap or detergent. Fingernails, hair (including mustache and beard) shall be thoroughly cleaned and made presentable, either before or immediately after arterial injection.

(6) **Body orifices.** Body orifices (ears, nostrils, mouth, anus, and vagina) shall be treated with appropriate topical disinfectants either before or immediately after arterial injection.

(7) **Arterial fluid.** The arterial fluid to be injected shall be one commercially prepared and marketed.

(A) Liquid, semi-solid, and gaseous contents which can be withdrawn through a trocar shall be aspirated by the use of at least 18 inches (mercury) vacuum.

(B) Concentrated, commercially prepared cavity fluid and contains preservative chemicals shall be injected and evenly distributed through the aspirated cavities.

(C) Should distention and/or purge occur after treatment, aspiration and injection as required above shall be repeated.

(8) **Hypodermic injection.** The embalmer shall be required to check each body thoroughly after treatment has been completed. Any area not adequately disinfected by arterial and/or cavity treatment shall be hypodermically injected with disinfectant fluid for maximum disinfection results.

(9) **Incomplete arterial circulation.** On bodies in which the arterial circulation is incomplete or impaired by advanced decompositions, burns, trauma, autopsy, or any other cause, the embalmer shall be required to hypodermically inject all areas which cannot be properly treated through whatever arterial circulation remains intact (if any).

(10) **High risk.** In the event that the procedures in of this Section leave a dead human body in a condition to constitute a high risk of infection to anyone handling the body, the embalmer shall be required to apply to the exterior surface of the body a standard embalming chemical, and to enclose the body in a zippered plastic or rubber pouch prior to burial or other disposal.

(11) **State Anatomical Board requirements.** Dead human bodies donated to the State Anatomical Board and where conflicting requirements exist, those requirements of the State Anatomical Board shall prevail.

(12) **Not authorized.** Nothing in this Section shall be interpreted to require embalming if the next-of-kin does not authorize embalming.

(13) **Supplemental procedures.** Nothing in this Section shall be interpreted to prohibit the use of supplemental or additional procedures or chemicals which are known to be accepted in the funeral service profession which are not specifically mentioned in this section.

(14) **Disposal within 24 hours.** Unembalmed dead human bodies shall be legally disposed of within 24 hours after death unless the body is placed in a designated body refrigeration chamber which maintains a constant temperature of 40 degrees fahrenheit or less. The body shall remain in the refrigerated area until such time as legal disposition is to occur. Once removed from refrigeration, either embalming or disposition shall occur within eight hours of said removal. No public viewing of unembalmed bodies shall be permitted 24 hours after death has occurred. Nothing is this section shall prevent a licensed establishment from requiring a viewing for the purpose of identification at such time as the establishment deems appropriate. Nothing in this section shall require a funeral home to purchase, install, or provide such refrigeration facilities not currently in existence and use.

(15) **Highest level of disinfection.** No funeral service establishment or licensed embalmer shall take into its care any dead human body for embalming without exerting every professional effort, and employing every possible technique or chemical, to achieve the highest level of disinfection and protein stabilization possible.

(16) **Variations.** Reasonable variations may be permitted as long as the objective stated in this Section is accomplished.

(b) The following minimum standards of performance shall be required of each licensed funeral director in the State of Oklahoma. The practice of funeral directing shall be construed to consist of the following functions, which may be performed only by a licensed funeral director.

(1) Selling or offering to sell funeral services on an at-need basis.

(2) Planning or arranging, on an at-need basis, the details of a funeral service with the family or friends of the decedent or any other person responsible for such service; setting the time of the service.

(3) Establishing the type of service to be rendered.

(4) Obtaining vital information for the filing of death certificates and obtaining necessary permits, provided that non-licensed personnel may assist the funeral director in performing such tasks.

(5) Making, negotiating, or completing the financial arrangements for a funeral service on an at-need basis. The requirements of this subsection shall not prohibit any of the following:

(A) requiring a sales contract to be signed;

(B) requiring the signing of a promissory note for the balance of funeral services and/or merchandise charges due;

(C) requiring the signing of a chattel mortgage on real or personal property as security for the unpaid funeral services and/or merchandise charges; or

(D) making available to the party the services of a financial institution.

(6) Directing, being in charge or apparent charge of, or directly supervising a visitation or viewing. Such function shall not require that a licensed funeral director be physically present throughout the visitation or viewing, provided that the funeral director is readily available by telephone for consultation.

(7) Directing, being in charge or apparent charge of, or directly supervising, any funeral service held in a funeral establishment, cemetery, or elsewhere. The responsibility of the funeral director for the personal supervision of a dead human body shall end at the point when the following shall occur - when the remains or casketed remains is inaccessible to the public, to include but not limited to:

(A) the lid is placed on the outside enclosure or crypt;

(B) the casket is covered by earth if no outside enclosure is used; or

(C) the body is released to the next-of-kin or their authorized agent

(D) at the conclusion of any public or private ceremony, the dead human remains are accompanied by an employee, as evidenced by records of wages and hours, of a funeral service establishment until such time as the remains are inaccessible to the public. This provision shall not be construed to allow any conducting of services or direct care for the remains by an employee not holding respective funeral director's or embalmer's licenses. A funeral service establishment and funeral director shall be held strictly liable for the actions of the employee and the employee's compliance with the requirements of the Funeral Services Licensing Act.

(8) Directing, being in charge or apparent charge of, or supervising, directly or indirectly, any memorial service contracted for.

(9) Using in connection with one's name or employment the words or tems "funeral director," "funeral establishment," "undertaker," "mortician," or any other word, term, title, picture or combination of any of the above, that when considered in the context in which used would imply that such person is engaged in the practice of funeral directing or that such person is holding himself or herself out to the public as being engaged in the practice of funeral directing; provided, however, that nothing in this paragraph shall prevent using the name of any owner, officer, or corporate director of a funeral establishment, who is not a licensee, in connection with the name of the funeral establishment with which such individual is affiliated, so long as such individual's affiliation is properly specified.

(c) The practice of funeral directing shall not be construed to consist of the following functions:

(1) The phoning in or faxing of obituary notices; ordering of flowers or merchandise; delivery of death certificates to attending physicians; or clerical preparation of death certificates, insurance forms, and any clerical tasks that record the information compiled by the funeral director or that are incidental to any of the functions specified above.

(2) Furnishing standard printed price lists and other disclosure information to the public by telephone or by providing such lists to persons making inquiry.

(d) The following minimum standards of performance shall be required of each licensed funeral service establishment and commercial embalming establishment in the State of Oklahoma

(1) **Discharge financial obligation.** A licensed funeral service establishment shall pay any vendor or third party obligation, within 90 days, that arises out of a Statement of Goods and Services that has been signed by the authorized person or shall satisfy a judgment rendered by a court of proper jurisdiction, within 90 days or as ordered by the court, in favor of a vendor or third party provider as designated on the Statement of Goods and Services or in connection with goods and services provided for a specific buyer.

(2) **Approved Place of Disposition.** A licensed funeral service establishment, or commercial embalming establishment shall only arrange for, prepare, and transport human remains to an approved place of final disposition.A new or established site shall have the legal next of kin assume the legal responsibility for the interment and also take the necessary precautions to secure that site to make it legal and lawful as an approved place of final disposition.

(3) **Retention of Documents.** A licensed funeral service establishment or commercial embalming establishment shall retain documentation related to the services performed, services and merchandise provided, and vital statistic information collected for no less than 5 years from the date of death or date of the statement of goods and services whichever is later.

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

[OAR Docket #13-989]

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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]
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CONTACT PERSON:
Gary Goff, Deputy General Counsel, (405) 717-8744

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JANUARY 1, 2014:

SUBCHAPTER 1. GENERAL PROVISIONS

360:1-1-1. Purpose

The purpose of this chapter is to outline the structure of the ~~Oklahoma State and Education Employees Group Insurance Board~~Office of Management and Enterprise Services (OMES) Employees Group Insurance Division (EGID) and to identify the availability and procedures to be used to access a grievance hearing.

360:1-1-1.5. Definitions

The following words and terms as defined by ~~the Oklahoma State and Education Employees Group Insurance Board~~EGID shall have the following meaning unless the content clearly indicates otherwise:

"Adverse determination" means a determination by or on behalf of ~~the Board~~EGID or its designee utilization review organization that an admission, availability of care, continued stay or other healthcare service is a covered benefit but, after review, based upon the information provided, does not meet the Board's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness, and the requested service is therefore denied, reduced, or terminated.

"The Board" means the ~~eight [8]~~seven [7] members of the Oklahoma Employees Insurance and Benefits Board designated by statute [74 O.S. §1303(1)].

"EGID" means the Employees Group Insurance Division of the Office of Management and Enterprise Services.

"Grievance Panel" means ~~the Board~~EGID's independent constitutionally created administrative court. [Const. Art. 7. § 1.]

"Independent review organization" means ~~the Board~~EGID's Grievance Panel with exclusive authority and jurisdiction to conduct independent external reviews of all adverse determinations rendered by or on behalf of ~~the Board~~EGID or its designee utilization review organization.

"~~OSEEGIB~~OEIBB" means the ~~Oklahoma State and Education Employees Group Insurance Board~~Oklahoma Employees Insurance and Benefits Board.

360:1-1-2. Rules, cumulative

The ~~Oklahoma State and Education Employees Group Insurance Board hereinafter "OSEEGIB"~~ Employees Group Insurance Division of the Office of Management and Enterprise Services hereinafter "EGID" will, from time to time, adopt handbooks, policies and procedures for the implementation of the rules set forth herein. Nothing in this chapter shall be read, interpreted, understood or applied so as to affect the validity and enforceability of any additional requirements,

statutes, rules or regulations of any other governmental entity, public agency or instrumentality which may be otherwise applicable to those transactions, conduct and facilities regulated herein. The rules in this title shall not be deemed cumulative and supplemental but shall replace all previously promulgated rules of this agency.

360:1-1-2.1. Rules in this title and benefit administration procedures or guidelines as adopted by ~~the Board~~EGID are controlling in all situations

The rules in this title and the benefit administration procedures or guidelines as adopted by ~~the Board~~EGID shall be controlling in all situations, without exception, and any and all written information contained in any handbook, summary or other document prepared by or for ~~OSEEGIB~~EGID shall be superseded and limited by the rules in this title and the benefit administration procedures or guidelines as adopted by ~~the Board~~EGID.

360:1-1-2.2. Disclaimer of conflicting information

In the event there appears to be a conflict between information contained in the rules in this title and the benefit administration procedures or guidelines as adopted by ~~the Board~~EGID, and any information contained within any handbook or any other written materials, including any letters, bulletins, notices, or any other written document, or oral communication, regardless of the source, such conflict shall always be resolved by a strict application of the rules in this title or the benefit administration procedures or guidelines as adopted by ~~the Board~~EGID, and no conflict will be resolved by application of the erroneous information contained within the handbook or other written document when the result would be contrary to the limitations set forth in the rules in this title, and the benefit administration procedures or guidelines as adopted by ~~the Board~~EGID. All erroneous, incorrect, misleading or obsolete language contained within any handbook or any other written document or oral communication, regardless of the source, shall be void from the inception, and of no effect under any circumstances.

360:1-1-3. Amending of rules

This chapter may be amended or repealed from time to time and new rules adopted by ~~the Board~~EGID pursuant to the Administrative Procedures Act.

SUBCHAPTER 3. THE BOARD

360:1-3-1. Regular meetings

The Board shall meet at least once each quarter in Oklahoma City, with the date, time and place determined by the Board. ~~Five [5]~~Four [4] members must be present to constitute a quorum in the transaction of the Board's business and a majority vote of those present shall be necessary to approve any motion before the Board. The Board shall hold an annual meeting ~~in July of~~ each year at which officers shall be elected.

360:1-3-2. Special meetings

Special meetings may be called upon written notice of the Chairman or by agreement of any ~~five [5]~~four[4] members of the Board. Notice of a special meeting is to be delivered to all members in person or by registered or certified mail not less than seven [7] days prior to the fixed date of the meeting, unless waived.

360:1-3-6. Board and EGID records; release of information

All official records of the Board and EGID shall be public records open to public inspection under reasonable circumstances at any reasonable time during business hours by any person, but such records shall not be taken from the ~~OSEEGIB~~EGID office. Copies of public records may be obtained pursuant to the current fee schedule as adopted by ~~the Board~~EGID.

360:1-3-8. Confidentiality of medical records

(a) All information, documents, medical reports and copies thereof contained in a member's insurance file held by ~~OSEEGIB~~EGID shall be confidential and shall not be reviewed by unauthorized parties, without permission of the individual or provider, or by court order. The confidentiality of a member's information is maintained when the member's information held by ~~OSEEGIB~~EGID is utilized for health management and communicated among:

(1) employees of ~~OSEEGIB~~EGID;

(2) ~~OSEEGIB~~EGID's contracted third party administrators and consultants;

(3) providers to the member and

(4) the member, according to statutory provisions for privilege and confidentiality or written agreements to protect the confidentiality and non-disclosure of the information.

(b) ~~OSEEGIB will honor only medical Authorizations signed by a covered employee or dependent within one [1] year of the date the Authorization was signed, unless rescinded or a shorter period of time has been specified.~~Authorizations to use or share protected health information will remain valid until termination of the member's or dependent's enrollment in HealthChoice, unless a shorter period of time has been specified, or unless rescinded.

(c) A member's health information is protected by this rule and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy regulations as codified in 45 Code of Federal Regulations Parts 160 and 164.

(1) EGID requires a signed HIPAA compliant authorization from a member or dependent before any confidential information is released to a person, company, or law firm.

(2) When individual circumstances arise in specific cases, EGID has authority to ask the member or dependent to independently confirm that EGID has permission

to disclose confidential information before responding to any pending request.

(3) EGID's obligation to respond to record requests is discharged when EGID has responded to the original request, or if permission of the member or dependent is withdrawn. EGID requires a new authorization or subpoena if more records are requested after EGID has responded.

360:1-3-8.1. Participating entities/business associate protection of confidential health Information

(a) The participating entity/business associate may only use and disclose the member's health information for the purposes of a member's treatment, to facilitate payment for Plan benefits or for participating entity/business associate business operations on behalf of the member. The participating entity/business associate may not use or further disclose a member's health information other than permitted by ~~Board~~EGID rules or described in a written contract between ~~OSEEGIB~~EGID and the participating entity/business associate.

(b) Participating entities/business associates shall protect a member's confidential health information according to the following guidelines. Participating entity/business associate shall:

(1) not use or disclose a member's health information other than permitted in these rules; described in a written contract with ~~OSEEGIB~~EGID or required by law,

(2) ensure that subcontractors or agents of the participating entity/business associate maintain confidentiality of any health information provided to its subcontractors or agents,

(3) not use or disclose confidential health information for employment related actions concerning the member, unless required by law,

(4) notify ~~OSEEGIB~~EGID within five [5] working days when the participating entity/business associate becomes aware of any use or disclosure of a member's health information that is inconsistent with this rule and make an accounting of these disclosures available for ~~OSEEGIB~~EGID and each member,

(5) allow a member to access and review health information on file with the participating entity/business associate and submit amending statements for inclusion in their health information file,

(6) establish procedures to protect a member's health information and account for disclosures not authorized by these rules,

(7) identify the participating entity/business associate employees who may access a member's health information and restrict access to those persons,

(8) return to ~~OSEEGIB~~EGID or destroy a member's health information when no longer required by the participating entity/ business associate, and if not feasible, limit the use or disclosure to the required purposes,

(9) ensure that proper security is in place to protect electronically stored health information and

(10) make internal practices, books and records concerning uses and disclosures of protected health information available for inspection by the appropriate authority. A written contract between ~~OSEEGIB~~EGID and participating entity/business associate shall not limit the participating entity/business associate protection of a member's health information to an extent less than described in this rule.

360:1-3-9. Authorization for release of medical records

Through the submission of claims, each member for whom coverage is applied authorizes, without further notice or consent, ~~OSEEGIB~~EGID to obtain from any provider of medical services, all records and information pertaining to that service which will aid in the proper payment of said claims. ~~OSEEGIB~~EGID is further authorized to use and release to third party payers any information and records so obtained. In all instances, the Rules of Confidentiality shall be applied without regard to the requirements of 360:1-3-8.

360:1-3-12. Application of retiree benefit allowance

When calculating premium rates for the retired population, ~~OSEEGIB~~EGID shall first apply in whole or in part, benefit allowances funded by the retirement systems to offset costs projected for the pharmacy portion of the health insurance plan. Remaining amounts, if any, will then be applied toward the medical coverage premium.

360:1-3-13. Electronic records and facsimile, electronic or copies of signatures

Use of electronic records, electronic signatures, facsimile signatures and handwritten signatures executed to electronic records.

(1) Electronic records, electronic signatures, handwritten signatures executed to sign electronic records, handwritten signatures used to effectuate an electronic record for network contracting purposes, and facsimile or copies of signatures on ~~OSEEGIB~~EGID forms received from participating entities or members, may be used as an alternative or duplicate of paper records and handwritten signatures executed on paper to comply with any of the record and signature requirements of 12A O.S. §15-101 et seq. these rules or applicable Oklahoma law.

(2) Combinations of paper records and electronic records, electronic records and handwritten signatures executed on paper, or paper records and electronic signatures or handwritten signatures executed to sign electronic records, may be used to comply with any of the record and signature requirements of 12A O.S. §15-101 et seq., these rules or applicable Oklahoma law.

(3) The ~~acting OSEEGIB~~EGID Administrator or a Deputy Administrator may utilize a facsimile signature stamp to execute ~~OSEEGIB~~EGID contracts of any kind.

SUBCHAPTER 5. GRIEVANCE PANEL AUTHORITY AND HEARING PROCEDURES

360:1-5-1. Access to Grievance Panel; request for hearing

(a) **Grievance Panel Authority.** ~~The Board~~EGID has established a grievance procedure by which an independently appointed three [3] member Grievance/review Panel shall act as an appeals body and the exclusive remedy:

(1) For complaints by insured employees regarding the allowance and payment of claims, eligibility, benefits, provision of services, or other matters:

(2) To conduct independent external reviews of all adverse determinations rendered by or on behalf of the Board or its designee utilization review organization.

(b) **Court Administrator Appointees.** The Court Administrator shall designate Grievance Panel members as shall be necessary. The members of the Grievance Panel shall consist of two [2] retired active Judges licensed to practice law in this state and one [1] state licensed health care professional or health care administrator who has at least three [3] years practical experience, has had or has admitting privileges to a State of Oklahoma hospital, has a working knowledge of prescription medication, or has worked in an administrative capacity at some point in their career.

(c) **Governor Appointees.** The state health care professional shall be appointed by the Governor. At the Governor's discretion, one or more qualified individuals may also be appointed as an alternate to serve on the Grievance Panel in the event the Governor's primary appointee becomes unable to serve.

(d) **Right to a Hearing.** Except for grievances settled to the satisfaction of both parties prior to a hearing, any aggrieved covered member who requests in writing a hearing before the Grievance Panel shall receive a hearing before the panel.

(e) **Exclusive remedy.** The grievance procedure provided by this subchapter shall be the exclusive remedy available to insured employees having complaints against ~~the Board~~the insurer. Such grievance procedure shall be subject to the Oklahoma Administrative Procedures Act, including provisions thereof for review of agency decisions by the district court.

(f) **Timely request for a Hearing.** Any covered member aggrieved regarding the allowance and payment or denial of claims, eligibility, benefits and provision of services, adverse determinations, or other matters may request a hearing before the Grievance Panel [hereinafter referred to as Panel] to determine the validity of the grievance. All requests for hearings must be filed within one [1] year from the date the member is notified of a denial of the claim, benefit or coverage. After more than one [1] year from the date the member was first notified of an allowance, payment, or denial of a claim, benefit, coverage, or other matter, the matter shall be deemed finally resolved.

(g) **Aggrieved member covered by an HMO.** Any member covered by an HMO is entitled to a hearing before the Panel in the same manner as all other covered members. The member must exhaust the HMO's internal grievance procedure, except for an emergency or if the HMO fails to timely respond, before requesting a grievance panel hearing. The member must file, along with his request for hearing, a written certification from the HMO that the member has exhausted said procedure, or a detailed explanation of the emergency or of the HMO's failure to respond.

(h) **Submission of Request for Hearing.** The Request for Hearing shall be in writing on a form provided by ~~OSEEGIB~~EGID for such purpose or in writing by the employee if in substantial compliance with the form and shall contain the following information:

(1) Name of employee, Social Security Number and address;

(2) Name of dependent for whom claim was submitted, if not the covered employee;

(3) Name of employee's employing entity, location, and identifying number;

(4) Nature of claim: Health, Dental, Life, Eligibility, Disability, HIPAA or HMO;

(5) Date claim submitted for payment, claim number;

(6) The reason given, if any, by the claims administration contractor for denying the claim in whole or in part; and

(7) A short statement as to the nature of the illness or injury giving rise to the claim.

(i) **Mailing address for submission of Request for Hearing.** The Request for Hearing shall be mailed or delivered to ~~OSEEGIB~~EGID to the attention of Attorney - Grievance Procedures, at 3545 N. W. 58th Street, Suite 110, Oklahoma City, Oklahoma 73112.

360:1-5-3. Prehearing conference

The Attorney representing ~~OSEEGIB~~EGID, the claimant, or the claimant's attorney may request a pre-hearing conference to determine legal or factual issues. The Attorney representing ~~OSEEGIB~~EGID may conduct such a conference.

360:1-5-4. The grievance hearing

(a) **Witness list.** Each party must submit, in writing, at least forty-eight [48] hours prior to the date of a grievance hearing a complete list of witnesses he or she intends to call, along with a brief comment as to the nature of the testimony. Witnesses shall not be called to testify at the hearing unless notice has been given to the opposing parties.

(b) **Assignment of Panel and Chairman.** All hearings shall be held before a three-member Grievance Panel, as assigned by the Office of the Administrative Director of the Courts. All hearings shall be conducted in accordance with and be governed by the provisions of the Oklahoma Administrative Procedures Act, 75 O.S. §301-326. At each convening of the Panel, one member shall be designated to act as the Chairman.

(c) **Admissibility of evidence.** Rulings on admissibility of evidence shall be made by the Panel Chairman; provided, however, that the remaining members of the Panel may, by affirmative vote, overrule the Chairman's decision, on their own motion or upon motion of any party to the hearing.

(d) **Oaths and subpoena.** The Chairman of the Panel shall have the authority to administer oaths for obtaining testimony for the hearing; and any member of the Panel or the Attorney representing ~~OSEEGIB~~EGID shall have the authority to issue subpoenas for witnesses or subpoenas duces tecum to compel

the production of books, records, papers and other objects for the hearing. Said subpoenas may be served by any duly qualified officer of the law, or any employee of ~~OSEEGIB~~EGID in any manner prescribed for the service of a subpoena in a civil action.

(e) **Court reporter.** The Attorney representing ~~OSEEGIB~~EGID shall cause a recording of the proceedings to be made by a certified court reporter at ~~OSEEGIB~~EGID's expense. If transcribed, such written transcript shall become a part of the official record of the hearing, and a copy shall be furnished to any other party having a direct interest therein at the request and expense of such party. The cost of preparing the written transcript of the hearing and providing a copy of the transcript to the other party shall be paid by the party on whose behalf the written transcript is requested.

(f) **Procedure.** In all hearings, opportunity shall be afforded the party or parties requesting same to respond and present evidence and argument on all issues involved. The hearing shall be conducted in an orderly manner. The party or parties requesting the hearing shall be heard first; those, if any, who oppose the relief sought by the requesting party shall next be heard. Each party shall have the opportunity to present closing arguments.

360:1-5-5. Continuance; disposition; Attorney representation

Any request for continuance may be granted by the Attorney representing ~~OSEEGIB~~EGID or the Panel if requested for any of the following reasons: illness or unavailability of the party requesting the hearing; unavailability or illness of a material witness; unavoidable conflict of schedule or other good cause. All parties to the hearing shall be notified of the continuance as soon as possible.

(1) Unless precluded by law, informal disposition may be made of any individual proceedings by stipulation, agreed settlement, consent order, or default.

(2) Any party shall at all times have the right to be represented by counsel at their own expense, provided such counsel is licensed to practice law by the Supreme Court of Oklahoma.

360:1-5-7. Final order; appeals

(a) **Final Order.** The Panel shall enter a Final Order within no more than forty-five [45] days after the date of the hearing in all cases in which evidence and testimony has been offered and admitted. The Final Order shall separately state all Findings of Fact, Conclusions of Law and an Order approving or denying the claim.

(b) **District Court appeals.** The Panel's Final Order shall be considered a final decision of ~~OSEEGIB~~EGID for purposes of appeal. Any party to the hearing has the right to appeal to District Court from Final Orders entered by the Panel. This appeal shall be governed by the Administrative Procedures Act, 75 O.S. §301, et seq., and by other pertinent statutes such as 74 O.S. §1301, et seq.

SUBCHAPTER 7. DECLARATORY RULINGS

360:1-7-1. Petitions for declaratory rulings

Petitions for declaratory rulings as to the applicability of any rule or order of ~~OSEEGIB~~EGID shall be in writing and must be filed with ~~OSEEGIB~~EGID. ~~at least ten [10] days prior to the next regularly scheduled Board meeting.~~ The petition must state with clarity the issues to be decided and any legal authority which may be applicable.

360:1-7-2. Final rulings

~~OSEEGIB~~EGID shall issue a written final ruling within sixty [60] days of hearing a petition for declaratory ruling. The final ruling shall be mailed to the person requesting the ruling and shall be kept on file in the ~~OSEEGIB~~EGID office for public inspection.

360:1-7-3. Judicial review

Final declaratory rulings of ~~OSEEGIB~~EGID are subject to judicial review pursuant to the Administrative Procedures Act, in the same manner as individual proceedings

[OAR Docket #13-989; filed 5-31-13]

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

[OAR Docket #13-991]

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Subchapter 5. Coverage and Limitations
Part 1. Policy Provisions
360:10-5-1. [AMENDED]
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Part 5. Life Benefits
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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
360:10-5-100. [AMENDED]
Subchapter 7. Termination of Benefits
360:10-7-1. [AMENDED]
Subchapter 9. Cobra Health Insurance Continuation
360:10-9-1. [AMENDED]
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Changes to Chapter 10 clarify definitions, conform rules to recent benefit changes, clarify language, and clarify existing plan exclusions.
CONTACT PERSON:
Gary Goff, Deputy General Counsel, (405) 717-8744

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JANUARY 1, 2014:

SUBCHAPTER 1. GENERAL PROVISIONS

360:10-1-2. Definitions

The following words and terms as defined by ~~OSEEGIB~~EGID, when used in this chapter, shall have the following meaning, unless the content clearly indicates otherwise:

"Administrative error" occurs when the coverage elections the member makes are not the same as those entered into payroll for deduction from the member's paycheck. This does not include untimely member coverage elections or member misrepresentation. When such an administrative error results in underpaid premiums, full payment to ~~OSEEGIB~~EGID shall be required before coverage elected by the member can be made effective. If overpayment occurs, ~~OSEEGIB~~EGID shall refund overpaid funds to the appropriate party.

"Administrator" means the Administrator of the ~~Oklahoma State and Education Employees Group Insurance Program~~Employees Group Insurance Division or ~~his~~a designee.

"Allowable fee" means the maximum allowed amount based on the HealthChoice Network Provider Contracts payable to a provider by ~~OSEEGIB~~EGID and the member for covered services.

"Attorney representing ~~OSEEGIB~~EGID" means any attorney designated by the Administrator to appear on behalf of ~~OSEEGIB~~EGID.

"The Board" means the ~~eight [8]~~seven [7] Oklahoma Employees Insurance and Benefits Board members designated by statute [74 O.S. §1303(1)].

"Business Associate" shall have the meaning given to "Business Associate" under the Health Insurance Portability and Accountability Act of 1996, Privacy Rule, including, but not limited to, 45 CFR §160.103.

"Carrier" means the State of Oklahoma.

"Comprehensive benefits" means benefits which reimburse the expense of facility room and board, other hospital services, certain out-patient expenses, maternity benefits, surgical expense, including obstetrical care, in-hospital medical care expense, diagnostic radiological and laboratory benefits, providers' services provided by house and office calls, treatments administered in providers' office, prescription drugs, psychiatric services, Christian Science practitioners' services, Christian Science nurses' services, optometric medical services for injury or illness of the eye, home health care, home nursing service, hospice care and such other benefits as may be determined by ~~OSEEGIB~~EGID. Such benefits shall be provided on a copayment or coinsurance basis, the insured to pay a proportion of the cost of such benefits, and may be subject to a deductible that applies to all or part of the benefits as determined by ~~OSEEGIB~~EGID. [74 O.S. §1303 (14)]

"Cosmetic procedure" means a procedure that primarily serves to improve appearance.

"Current employee" means an employee in the service of a participating entity who receives compensation for services actually rendered and is listed on the payrolls and personnel records of said employer, as a current and present employee, including employees who are otherwise eligible who are on approved leave without pay, not to exceed twenty-four [24] months. An education employee absent from employment, not

to exceed eight [8] years, because of election or appointment as local, state, or national education association officer who is otherwise eligible prior to taking approved leave without pay will be considered an eligible, current employee. A person elected by popular vote will be considered an eligible employee during his tenure of office. Eligible employees are defined by statute. [74 O.S. §1303 and §1315]

"Custodial care" means treatment or services regardless of who recommends them or where they are provided, that could be given safely and reasonably by a person not medically skilled. These services are designed mainly to help the patient with daily living activities. These activities include but are not limited to: personal care as in walking, getting in and out of bed, bathing, eating by spoon, tube or gastrostomy, exercising, dressing, using toilet, preparing meals or special diets, moving the patient, acting as companion or sitter, and supervising medication which can usually be self-administered.

"Dependent" means the primary member's spouse (if not legally separated by court order), including common-law. Dependents also include a member's daughter, son, stepdaughter, stepson, eligible foster child, adopted child or child legally placed with the primary member for adoption up to the child's twenty-sixth [26th] birthday. In addition other unmarried children up to age twenty-six [26] may be considered dependents if the child lives with the member and the member is primarily responsible for the child's support. A child may also be covered regardless of age if the child is incapable of self-support because of mental or physical incapacity that existed prior to reaching age twenty-six [26]. Coverage is not automatic and must be approved with a review of medical information. A disabled dependent deemed disabled by Social Security does not automatically mean that this disabled dependent will meet the Plan requirements. [74 O.S. §1303(13)]. See additional eligibility criteria for disabled dependents over the age of twenty-six [26] at 360:10-3-24.1.

"Durable medical equipment" means medically necessary equipment, prescribed by a provider, which serves a therapeutic purpose in the treatment of an illness or an injury. Durable medical equipment is for the exclusive use of the afflicted member and is designed for prolonged use. Specific criteria and limitations apply.

"Emergency" means a sudden and unexpected symptom that a prudent lay person, who possesses an average knowledge of health and medicine, could reasonably expect that the absence of immediate medical attention would result in placing the health of the individual or others in serious jeopardy.

"Enrollment period" means the time period in which an individual may make an election of coverage or changes to coverage in effect.

"Facility" means any hospital, rehabilitation facility, skilled nursing facility, midwifery center, ambulatory surgical center, home health agency, infusion therapy entity, hospice program, durable medical equipment vendor, radiology facility, dialysis facility, or laboratory which is duly licensed under the laws of the state of operation, Medicare certified as applicable, and accredited by a nationally recognized accreditation organization that is approved by state or federal guidelines, for example, The Joint Commission (formerly JCAHO) or The Commission on Accreditation of Rehabilitation Facilities (CARF).

"Fee schedule" means a listing of one or more allowable fees.

"Former participating employees and dependents" means eligible former employees who have elected benefits within thirty [30] days of termination of service and includes those who have retired, or vested through an eligible State of Oklahoma retirement system, or who have completed the statutory required years of service, or who have other coverage rights through Consolidated Omnibus Budget Reconciliation Act (COBRA) or the Oklahoma Personnel Act. An eligible dependent is covered through the participating former employee or the dependent is eligible as a survivor or has coverage rights through COBRA.

"Health information" means any information, whether oral or recorded in any form or medium: (1) that relates to the past, present or future physical or mental condition of a member; the provision of health care to a member; or the past, present or future payment for the provision of health care to a member; and (2) that identifies the member or with respect to which there is a reasonable basis to believe the information can be used to identify the member.

"Home health care" means a plan of continued care of an insured person who is under the care of a provider who certifies that without the Home health care, confinement in a hospital or skilled nursing facility would be required. Specific criteria and limitations apply.

"Hospice care" means a concept of supportive care for terminally ill patients. Treatment focuses on the relief of pain and suffering associated with a terminal illness. Specific criteria and limitations apply.

"Initial enrollment period" means the first thirty [30] days following the employee's entry-on-duty date. A group initial enrollment period is defined as the thirty [30] days following the enrollment date of the participating entity.

"Insurance Coordinator" means Insurance/Benefits Coordinator for Education, Local Government, and State Employees.

"Maintenance care" means there is no measurable progress of goals achieved, no skilled care required, no measurable improvement in daily function or self-care, or no change in basic treatment or outcome.

"Medically necessary" means services or supplies which are provided for the diagnosis and treatment of the medical and/or mental health/substance abuse condition and complies with criteria adopted by ~~OSEEGIB~~EGID. Direct care and treatment are within standards of good medical practice within the community, and are appropriate and necessary for the symptoms, diagnosis or treatment of the condition. The services or supplies must be the most appropriate supply or level of service, which can safely be provided. For hospital stays, this means that inpatient acute care is necessary due to the intensity of services the member is receiving or the severity of the member's condition, and that safe and adequate care cannot be received as an outpatient or in a less intensified medical setting. The services or supplies cannot be primarily for the convenience of the member, caregiver, or provider. The fact

that services or supplies are medically necessary does not, in itself, assure that the services or supplies are covered by the Plan.

"Members" means all persons covered by one or more of the group insurance plans offered by ~~OSEEGIB~~EGID including eligible current and qualified former employees of participating entities and their eligible covered dependents.

"Mental health and substance abuse" means conditions including a mental or emotional disorder of any kind, organic or inorganic, and/or alcoholism and drug dependency.

"Network provider" means a practitioner who or facility that is duly licensed under the laws of the state in which the "Network provider" operates and/or is accredited by a nationally recognized accrediting organization such as The Joint Commission (formerly JCAHO) or The Commission on Accreditation of Rehabilitation Facilities (CARF) approved by state or federal guidelines, and has entered into a contract with ~~OSEEGIB~~EGID to accept scheduled reimbursement for covered health care services and supplies provided to members.

"Non-Network out-of-pocket" means the member's expenses include the total of the member's deductibles and co-insurance costs plus all amounts that continue to be charged by the non-Network provider after the HealthChoice allowable fees have been paid.

"OEIBB" means the Oklahoma Employees Insurance and Benefits Board.

"Open enrollment period" means a limited period of time as approved by either ~~the Board~~EGID or the Legislature in which a specified group of individuals are permitted to enroll.

"Option period" means the time set aside at least annually by ~~OSEEGIB~~EGID in which enrolled plan members may make changes to their enrollments. Eligible but not enrolled employees may also make application for enrollment during this time. Enrollment is subject to approval by ~~OSEEGIB~~EGID.

"Orthodontia limitation" means an individual who enrolls in the Dental Plan ~~without prior group dental coverage being in effect the day before Dental Plan coverage begins~~ will not be eligible for any orthodontia benefits for services occurring within the first twelve [12] months after the effective date of coverage. Continuing orthodontia services for newly hired employees who had previous group dental coverage~~Services continuing or occurring after the twelve [12] month waiting period~~ will be paid by prorating or according to plan benefits.

~~**"OSEEGIB"** means the Oklahoma State and Education Employees Group Insurance Board.~~

"Other hospital services and supplies" means services and supplies rendered by the hospital that are required for treatment, but not including room and board nor the professional services of any provider, nor any private duty, special or intensive nursing services, by whatever name called, regardless of whatever such services are rendered under the direction of the hospital or otherwise.

"Participating entity" means any employer or organization whose employees or members are eligible to be participants in any plan authorized by or through the ~~Oklahoma State and Education EmployeesGroup Insurance Act.~~Oklahoma Employees Insurance and Benefits' Act.

"The Plan or Plans" means the self-insured Plans by the State of Oklahoma for the purpose of providing health benefits to eligible members and may include such other benefits as may be determined by ~~OSEEGIB~~EGID. Such benefits shall be provided on a coinsurance basis and the insured pays a proportion of the cost of such benefits.

"Primary insured" means the member who first became eligible for the insurance coverage creating eligibility rights for dependents.

"Prosthetic appliance" means an artificial appliance that replaces body parts that may be missing or defective as a result of surgical intervention, trauma, disease, or developmental anomaly. Said appliance must be medically necessary.

"Provider" means a physician or other practitioner who is duly licensed or certified under the laws of the state in which the Provider practices and is recognized by this Plan, to render health and dental care services and/or supplies.

"Schedule of benefits" means the ~~OSEEGIB~~EGID plan description of one or more covered services.

"Skilled care" means treatment or services provided by licensed medical personnel as prescribed by a provider. Treatment or services that could not be given safely or reasonably by a person who is not medically skilled and would need continuous supervision of the effectiveness of the treatment and progress of the condition. Specific criteria and limitations are applied.

SUBCHAPTER 3. ADMINISTRATION OF PLANS

360:10-3-3. Insurance/Benefits Coordinator for Education, Local Government, and State Employees

The appointing authority or governing body of each participating entity shall designate an Insurance/Benefits Coordinator and at least one [1] Alternate to properly enroll members of the entity. Any information given by an Insurance/Benefits Coordinator shall not supersede or modify the statutes, rules in this title or any Insurance/Benefits Coordinator Guide governing the Group Insurance Plan. Insurance/Benefits Coordinator representing retirees may be provided by the retirement system from which the retiree is receiving benefits. It is the employee's duty to notify his Insurance/Benefits Coordinator of a change in eligibility for himself, his spouse or his dependents. It is the Coordinator's duty to notify ~~OSEEGIB~~EGID within ten [10] working days of the employee's notice of change. ~~OSEEGIB~~EGID is not obligated to accept untimely notifications of change, and may elect to refuse to permit said changes.

360:10-3-3.1. Right of recovery

(a) **Error in payment.** Any benefits paid erroneously by ~~OSEEGIB~~EGID are fully recoverable from the recipient. No such erroneous payment shall constitute waiver or estoppel or result in any equitable obligation by ~~OSEEGIB~~EGID to pay any benefits which are not specifically payable according to the rules in this title and the benefit administration procedures or guidelines as adopted by the Board. [74 O.S. §1321]

(b) **Excessive amounts.** Whenever payments have been made by ~~OSEEGIB~~EGID with respect to allowable expenses in a total amount, at any time, in excess of the maximum amount of payment necessary at the time to satisfy the intent of this part, the Administrator shall have the right to recover such excess, from any person, organization or company with respect to whom such payments were made.

(c) **Right to Audit.** ~~OSEEGIB~~EGID reserves the right to audit any enrollment or insurance change form and to require that supporting documentation showing the participant's eligibility, including (but not limited to) proof of a qualifying event, be provided. ~~OSEEGIB~~EGID may retroactively terminate coverage on any individual who was not eligible to be enrolled in the Plan and recover any claims paid on the individual's behalf.

360:10-3-3.5. Responsibility for premium payment

(a) **Participating entity premiums.** Employer and employee premiums for participating entities are due to ~~OSEEGIB~~EGID no later than the tenth [10th] day of each month following the month of coverage. The first payroll deductions for insurance premiums of individuals paid bi-weekly will be withheld from the first pay period that extends into the month during which insurance coverage begins. It is ultimately the employing agency's responsibility to check and verify that premiums paid to ~~OSEEGIB~~EGID are a true and accurate accounting of the member's approved coverage selections. If premium for coverage selected by the employee differs from the amount deducted from the member's check, then the participating entity is responsible for payment to ~~OSEEGIB~~EGID for any deficiencies in premium for the member's coverage. Any shortage of premiums due and payable will result in suspension of benefits for Plan participants.

(1) An employee may continue coverage while on approved leave without pay status for up to twenty-four [24] months as long as the entity continues to remit premiums with the entity's monthly payment. The twenty-four [24] month limitation shall be extended to eight [8] years for education employees who are absent from employment because of election or appointment as a local, state, or national education association officer. Except as protected by federal statute, employees on leave whose premiums are not remitted in a timely manner shall have their coverage terminated at the end of the month for which last payment was received. If coverage is terminated for non-payment all coverage is terminated. Upon return to work, the employee may re-enroll. All Plan limitations apply and evidence of insurability is required to re-enroll in any life coverage.

(2) Provided that if a State employee is on leave without pay due to an injury or illness arising out of the course of his employment, the employee may continue the insurance during the maximum period of the time allowed by law, and the employing agency shall pay the entire employee premium.

(3) An employee may continue coverage while on suspension without pay for up to ninety [90] days following the date of suspension or the duration of the administrative appeals process, whichever is greater, as long as premiums are remitted by the entity for the coverage.

(4) Collecting any employee share from an employee on leave without pay or suspension without pay is the responsibility of the entity.

(b) **Premiums remitted by retirement systems.** Any State of Oklahoma retirement system establishing a withholding system for its retired employees shall forward the retirement contribution and employees' withholding to ~~OSEEGIB~~EGID by the tenth [10th] of the month following the month for which payment is due. This same time frame also applies to members receiving disability benefits.

(c) **Premiums remitted by former employees, COBRA participants or survivors.** Premiums are due by the twentieth [20th] day of the month of coverage. All premiums due, in excess of the retirement system contributions, shall be paid by the member. The member may elect to have the premiums withheld from their retirement benefit if the retirement benefit is sufficient to cover the entire premium. If the total monthly premium is the same as or greater than the retirement benefit, the member shall remit the entire amount due directly to ~~OSEEGIB~~EGID.

360:10-3-4. Cancellation of coverage

After notice and opportunity for a hearing according to the Oklahoma Administrative Procedures Act and these rules, coverage may be cancelled.

(1) **Cancellation of coverage due to non-payment of premium.** If payment is not received by the end of the month in which the payment is due, coverage shall be canceled effective the end of the month for which the last premium was received. ~~OSEEGIB~~EGID may reinstate coverage within sixty [60] days after the date ~~OSEEGIB~~EGID canceled coverage, if it is shown that the failure to pay premiums was not due to the member's negligence, subject to payment of any required premiums. The employee shall be notified in writing by ~~OSEEGIB~~EGID of cancellation of coverage and provided an opportunity for a hearing.

(2) **Cancellation of coverage due to insufficient funds.** In the event the member's payment is returned or refused due to insufficient funds or closed account, coverage may be cancelled unless the check is returned due to no fault of the member.

(3) **All coverage canceled.** If coverage is canceled for either of the reasons listed above all coverage will be terminated. When the employee is eligible to re-enroll, all Plan limitations apply and evidence of insurability is required to enroll in any life coverage.

(4) **Cancellation of coverage for Medicare members.** If payment is not received by the twentieth [20th] of the month, Medicare members will be notified of the delinquency and given thirty [30] days to make the payment. If payment is not made within the thirty [30] day grace period, coverage will be terminated effective the first [1st] day of the following month.

360:10-3-6.1. Underpaid premiums

When premiums are underpaid for coverage which has been selected and provided, future payments will first be applied to the shortage and the shortage will be rolled forward. Employees may not choose to retroactively cancel coverage that was selected. The full amount of the underpaid premium shall be submitted within sixty [60] days after the date ~~OSEEGIB~~EGID notifies the insured or the insured's employer of the error. When the underpayment occurs because an employee has entered into a salary reduction agreement pursuant to the Internal Revenue Code, and the insured's employer has erroneously failed to withhold and submit the proper premiums to ~~OSEEGIB~~EGID, the insured's employer shall be solely responsible for the payment of outstanding underpaid premiums to ~~OSEEGIB~~EGID. Failure to submit premiums could result in loss of coverage in accordance with 360:10-7-1(a)(3).

360:10-3-7. Refunds for overpayment

Any refund of payment for any premium overpayment shall be made only when ~~OSEEGIB~~EGID is notified in writing no later than sixty [60] days after the actual date of the overpayment, unless lack of notification is beyond control as determined by ~~OSEEGIB~~EGID.

(1) Refunds for overpayment due to administrative error, as limited and defined in the rules in this title, of the Insurance/Benefits Coordinator or the payroll clerk for ~~OSEEGIB~~EGID, shall be made at one hundred percent [100%].

(2) Refunds on behalf of employees shall be paid to the entity. In order to receive a refund the entity must have a credit balance.

360:10-3-13. Payment of health, dental and life benefits

(a) Life insurance benefits are payable to the beneficiary designated by the employee. Premiums and overpaid disability benefits due and payable to ~~OSEEGIB~~EGID at the time of the insured's death may be withheld from life insurance benefits before payment of the remainder to the beneficiary or estate. Life proceeds are not assignable, except a beneficiary may assign proceeds in an amount equal to the decedent's burial expenses. If no beneficiary form is on file with ~~OSEEGIB~~EGID, benefits will be paid to the decedent's estate.

(b) Health and dental benefits are payable to the employee or the provider. If any health or dental benefits remain unpaid at the employee's death, ~~OSEEGIB~~EGID, may at its option, pay the benefits to the employee's estate or to any one or more relatives such as follows: spouse, father, mother, children, brothers or sisters. Any such payment will constitute complete discharge of ~~OSEEGIB~~EGID's obligation to the extent of the amount paid.

(c) If a minor or person otherwise legally incapable of giving a valid receipt of discharge of any payment is selected as a beneficiary, a guardian must be appointed by a court of competent jurisdiction before benefits shall be paid.

360:10-3-17. Examination

~~OSEEGIB~~EGID reserves the right and opportunity to examine the person whose injury or sickness is the basis of a claim as often as may be reasonable during the pending of the claim.

360:10-3-20. Rights of eligible former employees to continue in the Group Health, Dental, and Vision Insurance Plan

(a) Health, dental and vision coverage may be elected as determined by State Statute or retained at the time of termination of employment from an employer who participates in that health, dental or vision coverage, if such election to continue in force or begin is made within thirty [30] days from the date of termination of service, and if the following conditions are met:

(1) The former employee either retires or has a vesting right with a State funded retirement plan, or has the requisite years of service with an employer participating in the Plan.

(2) The election must be received by ~~OSEEGIB~~EGID no later than thirty [30] days after the date of termination of service.

(3) Group coverage must be continuous in order to waive the orthodontia limitations when retaining or electing coverage.

(b) If an eligible former employee does not elect coverage at the time of termination of employment, or subsequently drops the coverage that was elected:

(1) The coverage may not be reinstated at a later date, except as permitted for former State employees exercising insurance retention rights available through a reduction in force (RIF) severance agreement.

(c) A participating eligible former employee cannot add dependents to coverage after termination of employment, except as follows:

(1) During an open enrollment period; or

(2) Eligible dependent(s) not covered at the time of the former employee's termination from active employment, as long as the dependent election is made within thirty [30] days of the termination date.

(~~2~~3) If the dependent is newly acquired. New dependent[s] or additional dependent coverage must be added within thirty [30] days after acquiring the new dependent[s].

(~~3~~4) If the dependent has lost other group health or dental insurance coverage and notice has been given to ~~OSEEGIB~~EGID within thirty [30] days after the loss of the other coverage. In this situation, coverage will begin without orthodontia limitations, provided group coverage was in effect and there is no break in coverage.

(d) During an option period, covered former employees may make changes to their existing benefits but not add additional benefits with the exception of vision coverage.

(e) If an eligible former employee has a spouse who is participating in the Plan as an employee of a participating entity, the former employee may transfer his or her health, dental and vision coverage to be dependent coverage under the spouse at any time, so long as the following conditions are met:

(1) Coverage must remain continuous; and

(2) All eligible dependents must be insured unless they have other verifiable group coverage.

(3) The eligible former employee, at a later date, may defer or transfer his or her insurance coverage from dependent status back to former employee status if coverage with the Plan has remained continuous, and the former employer of the eligible former employee continues to participate in the Plan.

(f) An individual who has retained health, dental or vision coverage who is returning to current employment for a participating entity and meets the eligibility criteria for a current employee is entitled to transfer his present coverage to that employer as long as the employer is a participant in the benefit transferred. The employee may retain his present life coverage and may add life coverage so long as the total amount of life coverage does not exceed the guaranteed issue amount. Evidence of insurability must be submitted and approved for any amount exceeding guaranteed issue or the amount previously held in retirement, whichever is greater.

(g) An eligible former employee who has retained any coverage and is returning to work for a participating entity but does not meet the eligibility criteria for a current employee is not entitled to coverage through that employer.

(h) In the event an otherwise eligible former employee returns to current employment who did not retain health coverage upon termination of employment, the eligibility requirements of a new employee must be met in order to obtain coverage through the employer. Such individuals must work for three [3] years in order to qualify for retaining any benefits not previously elected upon ceasing current employment when they re-retire. This includes members who terminated from employers not participating in the Group Plans authorized by the Oklahoma State ~~and Education~~ Employees Group ~~Insurance~~Benefits Act [74 O. S. §1301] when they originally ended employment.

360:10-3-22. Effective dates of coverage for current employees

An employee other than an education employee is eligible to participate if not classified as seasonal or temporary and whose actual performance of duties normally requires one thousand [1,000] hours per year or more. An education employee who is a member of or eligible to participate in the Oklahoma Teacher's Retirement System and working a minimum of four [4] hours per day or twenty [20] hours per week may participate in the Plan. Part-time education employees are those who meet the requirements of a half-time employee as defined by the Oklahoma Teachers Retirement System. Eligible employees shall be covered on the first [1st] day of the month following the month in which the employee is in an eligible status.

(1) If an employee is absent due to accident or illness on the date the employee coverage would normally become effective, benefits shall not be payable until the employee returns to the job. If the employee is absent from work because of a holiday, vacation or nonscheduled working day and the employee was on the job on a scheduled working day immediately preceding the effective date, this effective date will not be changed. An employee coming to work during the latter part of a payroll period who is not able to complete an insurance change form should be placed on the appropriate plans on the first [1st] day of the following month with employee only coverage, so that the employee life, dental and health will be in effect. Members may add optional coverages within the member's initial thirty [30] day enrollment period to be effective the first [1st] day of the month following the date the member enrolled for optional coverages.

(2) Participating entities shall forward members' enrollment information and any changes to enrollment information during the initial enrollment period to the Administrator within ten [10] days after the last day a member may enroll.

(3) If an employee leaves a participating entity and is hired by another participating entity within the following thirty [30] day period, premiums must be forwarded to ~~OSEEGIB~~EGID to avoid a break in coverage.

(4) An enrolled member who terminates employment or is in leave without pay status and whose spouse is also an enrolled employee may transfer coverage to their spouse to be insured as a dependent. The health, dental, vision and basic life may be transferred. The employee's basic life amount will transfer to a dependent spouse amount. If there are dependent children, they must also be insured unless they have other verifiable group coverage.

(5) An employee that terminates from a participating employer and is hired by another participating employer shall be entitled to be treated as a new employee with new health, dental, vision and life benefit options available. A rehired employee returning to a former employer has new health, dental and vision benefit options only after a thirty [30] day break in coverage and may be subject to orthodontia limitations.

(6) Except as provided by statute, an individual employee may choose not to be enrolled in the health or dental plans or may disenroll from these plans because of other group health or dental coverage or by reason of eligibility for military or Indian health services within thirty [30] days after the date the employee becomes eligible for the other group health or dental coverage. Such employees who subsequently lose the other group coverage or eligibility for military or Indian health services may enroll in the corresponding health or dental plans offered through ~~OSEEGIB~~EGID if the election is made no later than thirty [30] days after the date of loss of the other coverage. At the insured's option, in order to avoid a break in coverage and the application of the dental limitation, coverage under this Plan shall become effective on the first [1st] day of the month during which the insured actually lost the previous group coverage, provided the insured pays the full premium for that month. Otherwise, coverage shall become effective under this Plan on the first [1st] day of the month following the election of health and/or dental

coverage, and any break in coverage shall result in the application of the dental limitations.

360:10-3-23. Participating entities

(a) **Participation in plans offered by ~~OSEEGIB~~EGID.** Entities electing to participate in the dental, life, vision, or disability plans offered by ~~OSEEGIB~~EGID must participate in the health plan, unless the Administrator grants a waiver. Coverage offered by ~~OSEEGIB~~EGID to eligible education employees will also be offered to all elected members of the school board for that entity.

(b) **Enrollment in group term life benefits.** An entity may elect to participate in the group term life coverage offered by ~~OSEEGIB~~EGID. This includes basic and optional supplemental life coverage for the employee and dependent life coverage. Entities electing to participate in the life plan offered by ~~OSEEGIB~~EGID must participate in the health plan, unless the Administrator grants a waiver.

(c) **Non-participating entities in other group plans.** The group plans offered by ~~OSEEGIB~~EGID shall not be offered to any entity which is participating in any other group insurance program, regardless of the percentage or number of employees eligible to enroll, unless the Administrator grants a waiver.

(d) **Right of Board to approve or deny applications for coverage.** ~~OSEEGIB~~EGID shall retain the right to approve or deny any employer group applications for coverage. Upon approval, coverage will become effective at 12:01 a.m. on the first [1st] day of the month following the month in which approval is granted unless a subsequent month is requested and approved in advance.

(e) **Coverage without preexisting conditions.** When an entity enrolls all employees of the new entity are covered without penalty for preexisting conditions.

(f) **Enrollment of all individuals presently insured.** Upon the group initial enrollment of an institution of higher education, all individuals presently insured by the institution's previous group health plan may become enrolled. If any such individual does not meet the eligibility requirements of this plan, they are eligible for coverage only for the remaining period of the institution's contractual liability. The institution must provide written proof of its contractual liability at the time of said individual's enrollment.

(g) **Attestation of continuous coverage for retirees.** Upon beginning or reinstating participation in health coverage offered by ~~OSEEGIB~~EGID, the entity must provide ~~OSEEGIB~~EGID with an attestation that retirees over age sixty-five [65] that will gain coverage through ~~OSEEGIB~~EGID have had continuous creditable coverage for prescription drugs (coverage that is at least as good as Medicare's) since the retirees became eligible for Medicare. The entity must provide an accurate list of any retiree over age sixty-five [65] that does not meet this requirement in order for ~~OSEEGIB~~EGID to properly report uncovered months to Medicare.

360:10-3-24. Dependents

Eligible dependents may be enrolled by new employees with their coverage effective concurrently with the employee's coverage if the member has signed the insurance change form requesting such coverage within the member's initial thirty [30] day enrollment period. Dependent coverage not elected at that time shall not become available until the next enrollment period. Dependents are not eligible for any coverage in which the member is not enrolled. When one eligible dependent is covered, all eligible dependents must be covered for all elected coverage. The spouse or dependent may elect not to be covered when the spouse or dependent is covered by other verifiable group health, dental or vision coverage. The member can elect not to cover dependents who do not reside with the member, are married, are not financially dependent on the member for support, have other group coverage or are eligible for Indian or military health benefits. The spouse may elect not to be covered provided a statement signed by the employee and the spouse is submitted to the Insurance/Benefits Coordinator. Dependent's benefits shall only be covered under one primary insured except in the case of dependent life.

(1) When the parent is covered by health insurance, in order for an employee to retain coverage after the first forty-eight [48] hours (vaginal delivery) or ninety-six [96] hours (caesarian delivery) for his or her own newborn child, a completed insurance change form and any appropriate premium for the month of birth must be furnished to the Insurance/Benefits Coordinator within thirty [30] days after the date of birth of the newborn. Claims incurred for inpatient hospital treatment beyond the first forty-eight [48] or ninety-six [96] hours may not be processed or paid for the newborn until the newborn has been properly enrolled in the Plan. HealthChoice newborn limited benefit: a newborn has limited coverage for a birth for the first forty-eight [48] hours following a vaginal delivery or for the first ninety-six [96] hours following a C-section delivery without an additional premium. There are no benefits for services in addition to the routine hospital stay if the newborn is not enrolled for the month of the birth and premiums are not paid for that month. A Newborn Benefit Waiver must be completed to exclude a newborn from the Newborn Benefit.

(2) Newborns must be added the first of the month of the child's birth by filling out an Insurance Change Form within thirty [30] days after birth of the newborn.

(3) When one or more eligible dependents are currently covered, the newborn must be added to the same coverage.

(4) Where a newborn is added to coverage, all other eligible dependents must be enrolled in coverage if they are not currently enrolled. A member can waive health or dental coverage for their spouse.

(5) If a member accepts newborn benefits for the birth of his or her child but does not retain coverage after the first forty-eight [48] hours (vaginal delivery) or ninety-six [96] hours (caesarian delivery) as a result of the member's failure to furnish his or her Insurance/Benefits Coordinator with a completed insurance change form and any appropriate premium for the month of the newborn's birth within thirty [30] days after the birth of the newborn:

(A) There is no additional premium for the newborn benefit.

(B) Enrollment of other eligible dependents is not required.

(6) If optional coverage is not selected until after the employee's effective date, but within the member's initial thirty [30] day enrollment period, the optional coverage will be effective the first [1st] day of the month following the date the optional coverage was selected.

(7) In the event a dependent is hospital confined on the day his health coverage would otherwise become effective, health coverage for that dependent is not effective until the day following his or her final discharge from the hospital.

(8) Eligible dependents who lose other group health, dental or vision insurance coverage may be added to the equivalent health, dental or vision coverage offered through ~~OSEEGIB~~EGID within thirty [30] days after the loss of other group insurance coverage without penalty for orthodontia if those dependents have been continuously covered by other group dental insurance, or have been eligible for treatment at military or Indian health facilities. Notice and proof of the loss of other coverage and termination date of other coverage must be submitted within thirty [30] days after the loss of the other coverage. At the insured's option, in order to avoid a break in coverage and the application of the orthodontia limitations, coverage under this Plan shall become effective on the first [1st] day of the month during which the insured actually lost previous coverage, provided the insured pays the full premium for that month. Otherwise, coverage shall become effective under this Plan on the first [1st] day of the month following notice of the loss of other coverage, and any break in coverage will result in the application of the orthodontia limitations.

(9) Newly acquired dependents may be added if the election is made within thirty [30] days after the qualifying event, or during the annual enrollment period as established by ~~OSEEGIB~~EGID. Documentation proving the qualifying event may be required. The effective date of coverage will be the first [1st] day of the month following notification to ~~OSEEGIB~~EGID of the qualified event except for newborn or adopted dependent children.

(10) Provided all other eligibility requirements are satisfied, adopted eligible dependent children, eligible children for which guardianship has been newly granted to the insured or the insured's spouse, or eligible children of which the insured has been newly granted physical custody pending adoption, guardianship, or other legal custody, may be covered from the first [1st] day they are placed in the insured's physical custody, only upon payment of the full monthly premium for that individual, not prorated, and only after written notice has been given to ~~OSEEGIB~~EGID within thirty [30] days after obtaining physical custody. Copies of all documents relating to the matter are also required.

(11) At the insured's option, coverage for eligible dependent children newly placed in the insured's physical custody may become effective on the first [1st] day of the second month following placement, if written notice is provided within thirty [30] days after the date of placement, or at the next option period as established by ~~OSEEGIB~~EGID.

(12) In the absence of a court order indicating adoption, guardianship, legal separation or divorce, an insured may apply for coverage on other unmarried ~~minor~~ children living with the insured provided: (1) the insured submits a copy of his most recent federal income tax return showing the child was listed as the insured's dependent for income tax deduction purposes; and (2) if the last federal income tax form requested above does not list the child, the insured shall be required to provide an Application for Coverage for Other Dependent Children form prescribed by the Plan; and (3) coverage, if approved, shall begin on the first [1st] day of the month following approval, and will never apply retroactively; and (4) all other applicable eligibility requirements must be satisfied; and (5) all necessary premiums have been paid. ~~OSEEGIB~~EGID shall have the right to verify the dependent's status, to request copies of the insured's federal income tax returns from time to time, and to discontinue coverage for such dependents if they are found to be ineligible for any reason.

360:10-3-24.1. Eligibility criteria for disabled dependent children over the age of twenty-six [26]

Eligibility criteria for covering a disabled dependent child over the age of twenty-six [26] pursuant to 74 O. S. §1303(13) are as follows, provided all other eligibility requirements are also satisfied:

(1) It is intended that the following dependent children over the age of twenty-six [26] are eligible for coverage under this provision:

(A) A child who has been medically determined to be incapable of self-support because of mental or physical incapacity that currently exists and has continuously existed since before reaching the age of twenty-six [26] years; and

(B) The child is the primary member's natural child, an adopted child, a child for whom the primary member has been granted guardianship, or a child of the primary member's spouse when the spouse has been ordered by a Court to provide health insurance for the child; and

(i) Eligibility through court appointed guardianship will be accepted only for individuals considered to be the primary member's immediate family members (such as a child or grandchild). Guardianship for others not listed herein will not be considered as documentation supporting eligibility for coverage as a disabled dependent. The assessment/application for coverage must be submitted within thirty [30] days of obtaining legal guardianship. Power of attorney, including durable power of attorney, does not qualify as guardianship; and

(ii) Coverage ceases at the end of the month in which the primary member's appointment as guardian is terminated.

(2) Other criteria required for disabled dependent status are:

(A) For an individual who is a new hire or a re-hire, assessment/application for disabled dependent status must be completed and submitted to ~~OSEEGIB~~EGID within thirty [30] days of primary member's initial enrollment;

(B) Primary members must submit a copy of their federal and/or state income tax returns for the prior year reflecting their support of the dependent.

(C) Dependents are eligible only for the coverage in which the primary insured is enrolled. Only dependent life insurance can be carried by both parents if each is a primary member under the plan; and

(D) Primary members must apply for disabled dependent status for an eligible child at least thirty [30] days prior to the dependent's twenty-six [26th] birthday.

(3) Disabled dependent status must be continued for a minimum of one [1] year. If the dependent having the disabled status is dropped from coverage, the primary member may not reapply for disabled dependent status for the dependent for a period of twelve [12] months.

360:10-3-25. Termination of dependent coverage

(a) **Waiting period of twelve [12] months.** If coverage is discontinued for dependents, the employee cannot reapply for the discontinued coverage for any dependents again for at least twelve [12] months. Reinstated coverage shall be subject to penalty for orthodontia limitations.

(b) **Loss of other group health, dental, vision or life insurance coverage.** The twelve [12] month requirement does not apply when the dependent has lost other group health, dental, vision and/or life insurance coverage and is seeking reinstatement pursuant to Rule 360:10-3-24(8).

(c) **Dependent reaches age twenty-six [26].** Coverage will be terminated for dependents reaching age twenty-six [26] on the first [1st] day of the month following their twenty-sixth [26th] birthday, except disabled dependents who are incapable of self-support and who have been deemed eligible for coverage by ~~OSEEGIB~~EGID.

360:10-3-26. Withdrawal from plan; termination or loss of coverage

(a) **Withdrawal from plan.** Those eligible entities participating on a voluntary basis that elect to withdraw cannot re-enter the Plan for one [1] year following the date of withdrawal except for extraordinary circumstances. Notice of the election to withdraw must be provided to ~~OSEEGIB~~EGID thirty [30] days prior to the actual withdrawal date.

(b) **Termination of coverage due to insolvency of carrier.** Any eligible entities who have withdrawn and purchased other coverage, then have been notified by their other group health and/or dental insurance carrier that coverage is being terminated due to insolvency of the carrier may re-enroll within thirty [30] days after the loss of coverage by submitting a completed application form which must be approved by ~~OSEEGIB~~EGID prior to enrollment.

(c) **Individual member withdrawal and re-enrollment.** An individual employee who discontinues coverage on himself cannot re-enroll in any coverage for himself or his dependents for a period of twelve [12] months. Subsequent to the end of this twelve [12] month period, he may reapply for coverage offered by the Oklahoma State and Education Employees Group Insurance Board provided that he is eligible through a participating entity. The orthodontia limitations will apply.

(d) **Loss of other group health, dental or life insurance coverage.** The twelve [12] month requirement does not apply when the individual member has lost other group health, dental and/or life insurance coverage and is seeking reinstatement pursuant to Rule 360:10-3-26(c).

360:10-3-27.1. Mid-year benefit election changes

(a) Mid-year elections will be allowed in accordance with and under those circumstances stated within Title 26 Treasury Regulations, Section 125 of the Internal Revenue Code. The determination of Title 26 Treasury Regulations, Section 125 of the Internal Revenue Code compliance for the current employee will be through certification from the employer.

(b) ~~OSEEGIB~~EGID will accept any change for any current employee certified as being compliant by the employer of that current employee so long as the notification of change is received by ~~OSEEGIB~~EGID within thirty [30] days of the employee's mid-year plan election. The employer must further certify that the documentation supporting compliances is available to ~~OSEEGIB~~EGID and will be provided upon written request. An employer's cafeteria plan may permit an employee to revoke an election during a period of coverage and to make a new election only as provided in Title 26 Treasury Regulations 1.125-4. This is discretionary with the employer. Employees should be aware that Title 26 Treasury Regulations, Section 125 of the Internal Revenue Code does not require a cafeteria plan to permit any of these changes.

(c) For all other members not on current employee status or whose employer does not operate his employee benefit plan under a Section 125 plan, the rules for mid-year changes will be subject to the Section 125 guidelines as detailed in Title 26 Treasury Regulations 1.125-4.

(d) In all cases, mid-year election changes will only be considered in the event of a qualifying status change as described within Title 26 Treasury Regulations, Section 125 of the Internal Revenue Code. All other changes not in conjunction with a qualifying event can only be made during the annual Option Period.

360:10-3-28. Corrections to benefit elections

Members shall review their confirmation of coverage statement to ensure that the coverage elected is correct. Any corrections shall be submitted to the member's Insurance/Benefits Coordinator and ~~OSEEGIB~~EGID within sixty [60] days of the election. Errors reported after the sixty [60] days shall be effective the first [1st] day of the month following the notification of the error.

360:10-3-29.1. Double coverage prohibited

An eligible person shall not be insured as a primary insured and also as a dependent for any benefit options except dependent life, nor can any dependent be covered simultaneously by more than one primary insured, except for dependent life. Double enrollment, whether it occurs intentionally or by error, shall be deemed void from the inception, and ~~OSEEGIB~~EGID reserves the right to decide which form of single enrollment coverage to allow, whether primary or dependent.

360:10-3-33. Basic disclosure plan for Medicare beneficiaries

(a) The following words and terms as defined by ~~OSEEGIB~~EGID, when used in this section, shall have the following meaning: "Medicare beneficiary" means individuals eligible for HealthChoice Medicare plan coverage who are also entitled to Medicare benefits as designated by the United States Social Security Administration.

(b) In order to assure Medicare beneficiaries with an understanding of the medical and pharmacy benefits provided by, and the operation of, the HealthChoice Medicare plans; ~~OSEEGIB~~EGID shall maintain, adopt, and implement a basic disclosure plan for Medicare beneficiaries. This basic disclosure plan includes but is not limited to informational materials such as:

(1) A Medicare beneficiary benefits handbook providing a summary of medical and pharmacy benefits available under ~~OSEEGIB~~EGID's Medicare HealthChoice plan. Such handbooks shall be updated when material benefits or covered services change, or when reductions occur. A separate notification of material changes will be sent to all Medicare beneficiaries in a timely fashion prior to the updating of the Medicare beneficiary benefits handbook.

(2) A pre-enrollment package which shall be provided to all plan eligible Medicare beneficiaries. The pre-enrollment package shall, within a reasonable person's determination, be written in clear and understandable language providing the Medicare beneficiary detailed and necessary information upon which to make a selection of coverage for an upcoming plan year.

(3) A confirmation of benefit coverage form which will be distributed in a timely fashion after enrollment of a Medicare beneficiary, and by which HealthChoice shall notify the Medicare beneficiary of the plan coverage for the upcoming year. The confirmation of benefit form shall further detail any identified preexisting exclusions, and provide a description of an appeal process.

(4) An explanation of benefit determination letter explaining the outcome of each medical or pharmacy claim processed for payment or denial. In the case of denial the explanation of benefit determination letter shall provide information of the appeals process available to the Medicare beneficiary.

(5) Material which provides all Medicare beneficiaries with basic disclosure information on special enrollment rights, medical child support orders, and any Medicare service or benefit that ~~OSEEGIB~~EGID by law has been directed to provide.

SUBCHAPTER 5. COVERAGE AND LIMITATIONS

PART 1. POLICY PROVISIONS

360:10-5-1. Selection of health plans

(a) **Requirements for selection of HMO.** Eligible employees may select either the state's comprehensive health plan (HealthChoice) or an HMO option. In order to select an HMO option, the employee must reside or be employed within the selected HMO's service area. The HMO election will apply not only to the employee, but also to all covered dependents. Eligible retirees, vested, non-vested, COBRA or survivor members and eligible dependents must reside within the selected HMO's service area to participate in the HMO.

(b) **Selection of HMO during enrollment period.** A choice of comprehensive benefits or the HMO may be made on an annual basis by the member during the enrollment period as set by ~~OSEEGIB~~EGID. The eligibility requirements set by ~~OSEEGIB~~EGID as applied to the comprehensive health plan will apply to the HMO. Eligible members in all cases will retain eligibility for dental, basic life and AD&D. Selection of the comprehensive health plan or the HMO option will not affect eligibility for life and AD&D, dependent dental, or dependent Life.

360:10-5-2. Schedule of benefits and benefit administration procedures or guidelines as adopted by ~~OSEEGIB~~EGID

All benefits for plans offered through ~~OSEEGIB~~EGID as described in the rules in this title shall be paid according to the handbooks, schedule of benefits and benefit administration procedures or guidelines as adopted by ~~OSEEGIB~~EGID. The schedule of benefits and benefit administration procedures or guidelines as adopted by ~~OSEEGIB~~EGID shall be available for inspection by the public during regular office hours at 3545 N. W. 58, Suite 110, Oklahoma City, Oklahoma 73112.

360:10-5-3. Approval for emergency treatment by non-Network providers

Members may have benefits available for medical emergencies when non-Network services occur. Notification to ~~OSEEGIB~~EGID is required.

PART 3. THE PLANS

360:10-5-16. Plan limits

(a) **Deductible.** Covered members or dependents may be required to meet a calendar year deductible. Only covered charges will apply to the deductible.

(b) **Family deductible.** The family deductible is met when covered family medical expenses combined exceed the Plan's specified amount. No further deductible will be required from any covered participant for the remainder of the calendar year.

~~(c) **Out-of-pocket expenses.** Per person and family calendar year out-of-pocket expenses are limited under HealthChoice to the percentage based coinsurance only. Copayments which have been established at specific dollar amounts will continue to apply after the out-of-pocket percentage based coinsurance has been met. Out-of-pocket expenses owed by members as a result of non-confined emergency room visits and non-Network inpatient hospital confinements are not considered to be deductibles. These out-of-pocket expenses are copays that are not considered when calculating a member's out-of-pocket maximum accumulations.~~

(~~d~~c) **Network out-of-pocket maximum.** When the member or dependent exceeds the specified out-of-pocket calendar year maximum ~~OSEEGIB~~EGID will pay one hundred percent [100%] of the allowable fee for treatment provided by a Network provider. The one hundred percent [100%] payment of the allowable fee will be made by HealthChoice for the remainder of the calendar year. Network out-of-pocket maximum accumulations also apply to the non-Network out-of-pocket accumulations. The out-of-pocket maximum does not include charges for non-covered services, balance billing charges from non-network providers and copays.

(~~e~~d) **Non-Network out-of-pocket.** The Plan will pay one hundred percent [100%] of the allowable fee for treatment provided by a non-Network provider, once the member or dependent exceeds the specified out-of-pocket calendar year threshold. The one hundred percent [100%] payment of the allowable fee will be made by the Plan for the remainder of the calendar year. Specific HealthChoice plans may apply non-Network out-of-pocket accumulations to the Network out-of-pocket maximums. Unlike Network providers, non-Network providers have no contractual obligation to limit members' financial responsibility after HealthChoice has paid the claim. HealthChoice processes claims based on limited allowable fees to Network and non-Network providers. Allowable fees are not the same as charges billed by providers. Network providers have agreed with HealthChoice to write off the remainder of their fees after all payments from HealthChoice and the member's deductible, copay and coinsurance have been determined. However, non-Network providers have no write-off agreement with HealthChoice, which means the member remains responsible for paying all outstanding billed costs for treatment which have not been paid by HealthChoice. In most cases, this leaves the member responsible for paying a substantial out-of-pocket fee for treatment by the non-Network provider. The out-of-pocket maximum does not include charges for non-covered services, balance billing charges from non-network providers and copays.

(~~f~~e) **Lifetime maximum benefit.** There is a lifetime maximum benefit that will be paid by the Plan for a member or dependent, with regard to pharmacy benefits.

(~~g~~f) **Treatment by non-Network providers.** Any treatment at a non-Network provider will remain subject to the fee schedule or any other form of maximum claim payment limitation. Claims paid pursuant to the benefit administration procedures or guidelines as adopted by ~~OSEEGIB~~EGID at any non-Network hospital or provider are subject to the limited maximum allowable fee in every case, regardless of the reason why the member sought and received treatment at the non-Network provider, and will usually result in substantial out-of-pocket expenses to the insured. Exceptions allowed by Statute at 74 O.S. §1304(12) and (13) may be made, when appropriate.

360:10-5-17. Covered charges

Items which will be considered for payment under the state's comprehensive health plan (HealthChoice) will be referred to as covered charges that are medically necessary and are as follows:

(1) **Hospital services.** Charges made by a hospital for:

(A) Semi-private room and board;

(B) Other hospital services and supplies used for treatment;

(C) Charges for use of intensive care facility, coronary care facility and other special care facilities;

(D) Outpatient expense incurred within twenty-four [24] hours of a surgical operation or injury.

(2) **Provider's services.** Charges for the services of a duly qualified provider for:

(A) Performing a surgical procedure;

(B) In-hospital medical treatment by a provider other than the surgeon;

(C) Care and treatment of an illness;

(D) Approved preventive medical treatment.

(3) **Skilled Nurse facility expense.** Coverage for facility expenses applies only when the skilled nursing care to be provided is medically necessary as evidenced by a written statement from the attending provider and approved by the managed care vendor. The maximum number of days per benefit period shall be no greater than one hundred [100] days.

(4) **Skilled Nurse care.** Skilled Nurse care that is rendered in the home must be medically necessary as evidenced by a written order and treatment plan from the attending provider and approved by the Health Care Management ~~Division~~Unit. Services must be provided by an agency that is Medicare certified as applicable, and accredited by a nationally recognized accreditation organization that is approved by state or federal guidelines, for example, The Joint Commission (formerly JCAHO) or The Commission on Accreditation of Rehabilitation Facilities (CARF). The maximum number of visits per benefit period shall be according to the benefit administration procedures or guidelines as adopted by ~~OSEEGIB~~EGID.

(5) **Dentist's or oral surgeon's services.** Charges made by a duly qualified dentist or oral surgeon for treatment of fractures and dislocations of the jaw, and for cutting procedures and treatment covered under the oral surgery benefit. Dental services by Network providers shall be covered by HealthChoice for oral surgeries and related expenses which are covered medical benefits.

(6) **Oral surgery.** Reimbursement for oral surgeries for removal of exostosis, tumors, or cysts when medically necessary; for surgical correction of prognathism, retrognathism, hyperplasia, temporomandibular joint dysfunction, dysfunctional mandibular disorder. Hospital confinement and related ancillary services [including

anesthesia] for dental surgery when the confinement is necessary for illness, severe disability, a minor eight [8] years of age or under, or other health conditions, even though the surgery itself may not be covered.

(7) **Rehabilitative care.** Charges for medical care that are considered primarily rehabilitative will be covered under the Plan. Out-of-hospital care must be prescribed by a provider and must begin within twelve [12] months after the onset of the condition being treated. Inpatient care must be rendered in a facility Medicare certified as applicable, and accredited by a nationally recognized accreditation organization that is approved by state or federal guidelines, for example, The Joint Commission (formerly JCAHO) or The Commission on Accreditation of Rehabilitation Facilities (CARF). Both inpatient and outpatient care must be approved.

(8) **Outpatient expense.** This coverage includes services and supplies provided by the hospital or licensed surgical center, or any center duly licensed for performing certain other surgical procedures, within twenty-four [24] hours following and in connection with a surgical procedure. The limit for outpatient expense incurred for any one surgery is stated in the benefit administration procedures or guidelines as adopted by ~~OSEEGIB~~EGID.

(9) **Hospice care.** Professional services provided by personnel recognized by this Plan as practitioners of the healing arts will be reimbursed according to the benefit administration procedures or guidelines as adopted by ~~OSEEGIB~~EGID. Specific criteria and limitations apply.

(10) **Approval of exceptional claims**

(A) The Health Care Management ~~Division~~Unit may recommend exceptions to the benefits provided by the plan for situations which would otherwise be denied or subject to limited coverage.

(B) Each request for exception must first be reviewed by the Health Care Management ~~Division~~Unit on an individual basis. All responsibility for providing the documentation necessary to complete the review falls to the member. Recommendations will then be given to the Medical Director and Administrator both of whom must review all requested exceptions. Exceptions that have been reviewed but not approved in writing by the Medical Director and Administrator are deemed not approved. Approval of exceptions shall not establish precedent for other requests. All requests shall confirm that the requested exception is:

(i) medically necessary, and

(ii) within the standards of the community, and

(iii) cost effective, and/or

(iv) in compliance with all criteria as established by the Medical Director or designee.

360:10-5-20. Health plan limitations and exclusions

For the health plans provided by ~~OSEEGIB~~EGID, there is no coverage for expenses incurred for or in connection with any of the items listed below:

(1) Expenses incurred prior to the effective date of an individual's coverage, or for expenses incurred during a period of confinement which had its inception prior to the effective date of an individual's coverage hereunder.

(2) Injury or any sickness which is covered under an "extended benefits" provision of the previous group health coverage, until such time as such individual has exhausted all extended benefits available thereunder.

(3) Hospitalization or other medical treatment furnished to the insured or dependent after coverage has terminated.

(4) Confinement to a facility unless approved by ~~OSEEGIB~~EGID or its designee.

(5) Medical and surgical services and supplies which are in excess of the fee schedule for such service and supply.

(6) Expenses to the extent that the insured person is reimbursed or is entitled to reimbursement; or is in any way indemnified for such expenses by or through any public program, State or Federal, or any such program of medical benefits sponsored and paid for by the Federal Government or any agency or subdivision thereof.

(7) Bodily injury or illness arising out of or in the course of any employment not specifically excluded by 85 O.S. §2.1 or 2.6 (of the Workers' Compensation Act).

(8) Any treatment or procedure considered experimental or investigational. This restriction will also apply to any facility, appliance, device, equipment or medication.

(9) Medical and/or mental health treatment of any kind, including hospital care, medications, or any medical care or medical equipment which is excessive or where medical necessity has not been proven.

(10) Medications available for purchase without a written prescription.

(11) Medical care and supplies for which no charge is made or no payment would be requested if the insured individual did not have this coverage.

(12) Complications from any non-covered or excluded treatments, items or procedures.

(13) Any medication, device, or procedure, not FDA approved for general use or sale in the United States.

(14) Surgical procedures or treatment performed for cosmetic or elective reasons unless such procedure is specifically included as a covered charge or is necessary as a result of an accident. Coverage must have been continuous from the date of the accident to the date of corrective surgery.

(15) Dental expenses unless incurred as the result of an accidental bodily injury to natural teeth or gums while the coverage is in effect. Coverage must have been continuous from the date of the accident to the date of corrective surgery. Broken or lost artificial teeth, bridges or dentures, are not covered.

(16) Illness, injury, or death as a result of committing or attempting to commit an assault or felony, including participation in a riot or insurrection as an aggressor.

(17) Intentionally self-inflicted injury, or for attempted suicide whether sane or insane except when the injury results from a physical or mental medical condition covered under the health plan.

(18) Wrongful act or negligence of another when an employee or dependent has released the responsible party, unless subrogation has been waived or reduced in writing in an individual case, solely at ~~OSEEGIB~~EGID's option, and only for good cause.

(19) All other conditions, services, procedures, treatments, expenses, items, and supplies excluded by ~~OSEEGIB~~EGID's benefit guidelines.

PART 5. LIFE BENEFITS

360:10-5-30. Term life coverage

(a) **Group Term Life Benefits.** A former employee who is reemployed by the same participating employer within twenty-four [24] months after the date of termination of previous employment shall not be enrolled for a greater amount of life insurance than the individual had at the time of termination of previous employment with the employer, unless the individual provides satisfactory evidence of insurability. The amount of coverage provided by the employer is specified in the benefit administration procedures or guidelines as adopted by ~~OSEEGIB~~EGID. In the event of death, the proceeds of this coverage are payable to the beneficiary listed on the most recently signed beneficiary designation subject to the limitations in Title 15. [15 O.S. §178] If no beneficiary form is on file at ~~OSEEGIB~~EGID, benefits will be paid to the decedent's estate.

(b) **Unlimited contestability period.** There shall be no time limitation imposed upon ~~OSEEGIB~~EGID, during which coverage based on evidence of insurability submitted to ~~OSEEGIB~~EGID can be contested, if it is found that materially erroneous, false, inaccurate, or misleading information was provided in order to obtain optional or supplemental coverage in excess of any guaranteed amounts of coverage. In the event ~~OSEEGIB~~EGID determines coverage was granted based upon erroneous, false, inaccurate or misleading information, and that such information was material to ~~OSEEGIB~~EGID'~~s~~ providing any optional or supplemental coverage, ~~OSEEGIB~~EGID shall extinguish its liability by tendering a refund of premiums paid to the insured or the beneficiary.

360:10-5-33. Optional supplemental life coverage for eligible employees

(a) **Supplemental life coverage.** Supplemental life coverage is available for eligible employees who are covered by the basic term life coverage.

(b) **Enrollment.** At the time of initial enrollment, supplemental life may be requested up to the pre-established level set forth in the benefit administration procedures or guidelines as adopted by ~~OSEEGIB~~EGID, without submitting evidence of insurability. All supplemental life insurance requested which exceeds the pre-established level will require evidence of insurability. Coverage selected in the supplemental life insurance program begins on the first [1st] day of the month following the date of employment. Optional coverages not selected within the member's initial enrollment period may be added only during the next enrollment period. Members who waive or do not select supplemental life insurance coverage shall be required to obtain approval of current evidence of insurability to obtain coverage at a later date. Coverage obtained under this provision will be subject to certain additional restrictions as adopted by ~~OSEEGIB~~EGID. Individuals who waived this coverage because they were covered by other group life insurance coverage will be allowed to enroll without being subject to these additional restrictions if they request the coverage in writing and supply proof of the loss of other group coverage within thirty [30] days following the loss of the other group life coverage.

(c) **Changes in levels of coverage.** Increases or reductions in coverage limits (except termination of coverage) are only accepted during the option period. Beneficiary changes may be made at any time, but must be communicated to ~~OSEEGIB~~EGID in writing. All changes in coverage levels will be subject to the benefit administration procedures or guidelines as adopted by ~~OSEEGIB~~EGID.

(d) **Waiver of life insurance premiums.** In the event the employee becomes disabled, life insurance premiums may be waived for employee and dependent life insurance coverage. Provider certification shall be required, as specified by ~~OSEEGIB~~EGID, and premium waiver shall start on the first [1st] day of the month after the employee has been disabled for thirty [30] consecutive days, and shall continue for as long as the employee remains disabled. The waiver shall terminate on the earliest of the following events: the employee has been found to be able to return to current duty in any capacity by any provider; the employee returns to any active duty for any period of time; the employee changes in status to former or retired; the employee notifies ~~OSEEGIB~~EGID in writing that life insurance coverage is to be terminated; the employee is terminated for any reason, including, but not limited to resignation or discharge from his or her position; any termination of life insurance coverage occurs as set forth in 360:10-7-1.

(e) **Accidental Death and Dismemberment and loss of sight benefit.** The basic term life and the first twenty thousand dollars [$20,000] of the supplemental life coverage includes the accidental death and dismemberment and loss of sight benefit and will pay a scheduled benefit in the event of accidental death and dismemberment or loss of sight injury within ninety [90] days after the date of accident or accidental injury. Death must be a direct result of the accidental bodily injury independent of all other causes.

PART 7. LIMITATIONS AND EXCLUSIONS FOR LIFE PLANS

360:10-5-45. Limitations and exclusions for life plans

For the life plans provided by ~~OSEEGIB~~EGID, there is no coverage for expenses incurred for or in connection with any of the items listed below:

(1) There is no coverage for employee life or dependent life benefits during the first twenty-four [24] months

of coverage when death is the result of suicide. The twenty-four [24] month exclusion for death by suicide will begin on the effective dates of all elective increases in coverage, and will apply to all increased amounts of coverage which have been in effect for less than twenty-four [24] months on the date of the act causing the insured's death.

(2) There is no coverage for accidental death and dismemberment benefits or loss of sight benefits when such occurs as a result of the following:

(A) Suicide, attempted suicide or intentional self destruction, or intentionally self-inflicted injury while sane or insane,

(B) Committing an assault or felony, including participation as an aggressor in a riot or insurrection,

(C) Wholly or partly, directly or indirectly, by disease, physical or mental, or by medical or surgical treatment or the diagnosis of any of the foregoing,

(D) Wholly or partly, directly or indirectly by bacterial infection, other than septic infection of and through a visible wound sustained solely through external and accidental means,

(E) Any narcotic, drug, poison, gas or fumes, voluntarily taken, administered, absorbed or inhaled, unless prescribed for the exclusive use of the deceased, or administered by a licensed provider for a legal purpose,

(F) Hang gliding, sky diving and flying experimental aircraft.

PART 9. DENTAL BENEFITS, LIMITATIONS, AND EXCLUSIONS

360:10-5-56. Plan limits

(a) **Deductible.** The deductible amounts are the out-of-pocket expenses for a class of benefits incurred by the employee for himself or on behalf of a covered dependent during each calendar year.

(b) **Family deductible.** During any benefit period, ~~OSEEGIB~~EGID will pay a percentage of the covered charges incurred which exceed the family deductible amount, if applicable.

(c) **Maximum benefits.** The dental plan has a maximum benefit on a calendar year basis as established by ~~the Board~~EGID. ~~The maximum benefit during lifetime orthodontia is the maximum amount that may be paid for covered expenses incurred by the member or dependent during his or her lifetime.~~

360:10-5-61. Dental limitations and exclusions

For the dental plans provided by ~~OSEEGIB~~EGID, there is no coverage for expenses incurred for or in connection with any of the items listed below:

(1) Dental care and supplies for which there are no charges made or no payment would be required if the insured individual did not have coverage.

(2) Charges incurred after the covered individual's benefit ends.

(3) Dental care or supplies which are furnished in a facility operated under the direction of or at the expense of the U.S. Government [or its Agency] or by a provider employed by such a facility.

(4) Dental care or supplies to the extent that they are payable under other provisions of the policy.

(5) Charges for any dental services and supplies which are in excess of the fee schedule and deductible for such services and supplies.

(6) Adult orthodontics without a diagnosis of temporomandibular joint dysfunction.

(7) Cosmetic procedures.

(8) Medical expenses for the treatment of temporomandibular joint dysfunction.

(9) Medical services treating an oral condition.

(10) Dental care or supplies resulting from taking part in committing or attempting to commit an assault or felony.

(11) Dental care or supplies due to sickness or injury covered by Workers' Compensation, occupational disease law or similar laws.

(12) Dental care or supplies as a result of Act of War declared or undeclared, Insurrection, or release of nuclear energy.

(13) Expenses relating to an intentionally self-inflicted injury, except when the injury results from a physical or mental medical condition covered under the health plan.

(14) Charges for treatment of accidental injury to natural teeth or gums.

(15) All other conditions, services, procedures, treatments, expenses, items, and supplies excluded by ~~OSEEGIB~~EGID's benefit guidelines.

(16) ~~Late enrollees~~Enrollees in the dental plan have a one [1] year waiting period before being eligible for orthodontic benefits.

PART 11. MEDICARE SUPPLEMENT

360:10-5-76. Primary insurer of current employees

The health plan(s) offered through ~~OSEEGIB~~EGID may be primary for current employees eligible for Medicare and their eligible covered dependents as set forth in the Federal statutes governing Medicare.

360:10-5-79. Enrollment in Medicare Supplement

(a) **Medicare Supplement coverage enrollment required regardless of age.** All covered individuals who are eligible for Medicare, except current employees and their dependents as addressed in 360:10-5-76, must be enrolled in a Medicare Supplement Plan, offered through ~~OSEEGIB~~EGID, regardless of age.

(b) **Effective date of Medicare Supplement coverage.** Medicare Supplement coverage shall become effective on the first [1st] day of the month following the date ~~OSEEGIB~~EGID receives actual notice of the member's eligibility for Medicare. There shall be no refund of premiums for prior months during which the member was eligible for Medicare, and written notice was not provided to ~~OSEEGIB~~EGID. An exception

shall be made for individuals who are retroactively awarded Medicare coverage by the Social Security Administration, when written notice of the retroactive award is provided to ~~OSEEGIB~~EGID within thirty [30] days after the member's notification of the Social Security Administration award. A member's sixty-fifth [65th] birthday is considered automatic notification of Medicare eligibility.

(c) **Non-Medicare eligible individuals.** Nothing in the rules in this chapter prohibits individuals who are not eligible for Medicare from being enrolled in ~~OSEEGIB~~EGID's regular health plan; however, individuals eligible to purchase Medicare coverage are excluded.

PART 13. COORDINATION OF HEALTH AND DENTAL BENEFITS

360:10-5-86. Definitions

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

"Allowable expense" means any medically necessary item of expense at least a portion of which is covered under at least one of the plans covering the person for whom the claim is made except where a statute requires a different definition. An expense or service, or a portion of an expense or service that is not covered by ~~OSEEGIB~~EGID's medical and or dental plan is not an allowable expense. The maximum liability under ~~OSEEGIB~~EGID's medical and or dental plan as a secondary or subordinate payor is the member's actual liability under any coordinating plan or ~~OSEEGIB~~EGID's standard benefit, whichever is less. However, items of expense under coverage such as, but not limited to dental care, vision care, prescription drug or hearing aid programs may be excluded from the definition of allowable expense. A plan which provides benefits only for any such items of expense may limit its definition of allowable expense to like items of expense. When a plan provides benefits in the form of services rather than cash payments, the reasonable cash value of each service rendered shall be deemed to be both an allowable expense and a benefit paid. The difference between the cost of a private hospital room and the cost of a semi-private hospital room shall not be deemed to be an allowable expense, except for the period of time during which the patient's confinement to a private hospital room is deemed medically necessary in terms of generally accepted medical practice.

"Plan" means the following:

(A) "Plan" means any plan providing benefits or services for or by reason of medical or dental care or treatment, which benefits or services are provided by:

(i) group, blanket or franchise insurance coverage,

(ii) service plan contracts, group practice, individual practice and other prepayment coverage,

(iii) any coverage under labor-management trustee plans, union welfare plans, employer organization plans, or employee benefit organization plans, and

(iv) any coverage under governmental programs, and any coverage required or provided by any statute.

(B) The term "Plan" shall be construed separately with respect to each policy, contract, or other arrangement for benefits or services and separately with respect to that portion of any such policy, contract, or other arrangement which reserves the right to take the benefits or services of other plans into consideration in determining its benefits and that portion which does not.

(C) Individually underwritten and issued contracts which provide a contractual right to renewal regardless of membership in or connection with any particular organization or group shall not be considered group-type contracts, irrespective of the mode or channel of premium payment and regardless of any reduction in premium the covered person may receive by virtue of such method of premium collection.

(D) The definition of a "Plan" within the coordination of benefits provision of group contracts enumerates the types of coverage which the insurer may consider in determining whether other insurance exists with respect to a specific claim. Such definition:

(i) May not include individual or family policies, or individual or family subscriber contracts, except as provided in (ii) of this part and in (E) of this definition.

(ii) May include all group or group subscriber contracts as well as such group-type contracts as are not available to the general public and can be obtained and maintained only because of the covered person's membership in or connection with a particular organization or group. Group-type contracts answering this description may be included in the definition, at the option of the insurer and its policyholder client, whether or not individual policy forms are utilized and whether the group-type coverage is designated as "franchise" or "blanket" or in some other fashion.

(E) The definition of "Plan" may include both group and individual automobile "no fault" contracts but, as to the traditional automobile "fault" contracts, only the medical benefits written on a group or group-type basis may be included.

(F) Interpretation of the definition of a "Plan" may not include group or group-type hospital indemnity benefits (written on a non-expense incurred basis) of thirty dollars [$30] per day or less unless they are characterized as reimbursement type benefits but are designed to administer so as to give the insured the right to elect indemnity type benefits, in lieu of such reimbursement type benefits at the time of the claim. In any event, the amount of group and group-type hospital indemnity benefits which exceed thirty dollars [$30] per day may be construed as being included under the definition of "Plan".

(G) School accident type coverages, written on either an individual, blanket, group or franchise basis should not be taken into consideration in coordination of benefits. In this context, school accident type coverages are defined to mean coverage covering grammar school, middle school, and high school students for accidents only, including athletic injuries, either on a twenty-four [24] hour basis or "to and from school" for which the parent pays the entire premium.

(H) If "Medicare" or similar governmental benefits are included in the definition of "Plan", such benefits may be taken into consideration without expanding any of the definitions of this provision beyond the hospital, medical, and surgical benefits which may be provided by the governmental program.

(I) A plan may not coordinate or design benefits so that the benefits payable are altered solely on the basis that:

(i) another plan exists; or

(ii) except with respect to Part B of Medicare, that the claimant is or could have been covered under another plan; or

(iii) the claimant has elected an option under another plan providing a lower level of benefits than another option for which the claimant was eligible.

(J) With regard to plans offered by ~~OSEEGIB~~EGID an eligible person shall not be insured as a primary insured and also as a dependent for any benefit options except dependent life, nor can any dependent be covered simultaneously by more than one primary insured. Double enrollment, whether it occurs intentionally or by error, shall be deemed void from the inception, and ~~OSEEGIB~~EGID reserves the right to decide which form of single enrollment coverage to allow, whether primary or dependent.

"This Plan" means that portion of the benefits that are subject to this part.

360:10-5-89. Facility of benefit payment

Whenever payments which should have been made under this plan in accordance with this section have been made under any other plans, ~~OSEEGIB~~EGID shall have the right, exercisable alone and in its sole discretion, to pay over to any organizations making such other payments any amounts it shall determine to be warranted in order to satisfy the intent of this section, and amounts so paid shall be deemed to be benefits paid under this plan and, to the extent of such payments, ~~OSEEGIB~~EGID shall be fully discharged from liability under this plan.

360:10-5-90. Right of recovery

Whenever payment has been made by ~~OSEEGIB~~EGID with respect to allowable expenses in a total amount, at any time, in excess of the maximum amount of payment necessary at that time to satisfy the intent of this section, ~~OSEEGIB~~EGID shall have the right to recover such payments, to the extent of such excess, from among one or more of the following, as ~~OSEEGIB~~EGID shall determine:

(1) any persons to or for or with respect to whom such payments were made;

(2) any other insurers; or

(3) service plans or any other organizations.

PART 15. SUBROGATION

360:10-5-100. Right of subrogation

(a) ~~OSEEGIB~~EGID reserves the right to recover funds from members, dependents, tortfeasors, liability policies, underinsured/uninsured motorist policies, medical payments policies and/or other identifiable sources of funds, in amounts equal to any and all claim payments made on behalf of a member or dependent for injury caused by a third party's wrongful act or negligence.

(b) ~~OSEEGIB~~EGID has the right to recover any sums collected by or on behalf of a member or dependent even if the member or dependent has not been made whole. ~~OSEEGIB~~EGID is entitled to reimbursement from any recovery even if the recovery does not fully compensate the member or dependent for their injury. The make-whole doctrine shall not apply. The sole exception to this paragraph exists only to the limited extent that ~~OSEEGIB~~EGID voluntarily elects to invoke its exclusive statutory authority to waive or reduce ~~OSEEGIB~~EGID's subrogation interest in an individual case.

(c) The act of submitting claims by or on behalf of a member or dependent constitutes notice and acceptance of ~~OSEEGIB~~EGID's right of recovery against the third party and creates a lien upon any identifiable funds referenced in (a) above.

(d) A member or dependent will not take any action to prejudice ~~OSEEGIB~~EGID's right of subrogation, such as settlement of the claim without first giving notice of ~~OSEEGIB~~EGID's subrogation rights to the responsible party and any and all known liability or other insurers.

(e) The memberor dependent will cooperate in doing what is reasonably necessary to assist ~~OSEEGIB~~EGID in any recovery, including but not limited to promptly providing all information requested by ~~OSEEGIB~~EGID.

(f) Subrogation will exist only to the extent of plan benefits paid.

(g) Claims submitted after a member or dependent has released the responsible party may be denied at the option of ~~OSEEGIB~~EGID, by the issuance of routine written notice to the member, dependent, or their attorney.

(h) If claims relating to a specified injury are paid by ~~OSEEGIB~~EGID after the member or dependent has released the responsible party, when the member or dependent has failed to inform ~~OSEEGIB~~EGID in a timely manner prior to executing a release, ~~OSEEGIB~~EGID, at its option, may require reimbursement from the member, dependent or provider.

(i) Claims submitted will initially be pended as incomplete and subsequently denied if information regarding possible third party responsibility is not voluntarily provided to ~~OSEEGIB~~EGID within a reasonable time period [not less than

ninety (90) days] after the date the information was first requested in writing by or on behalf of ~~OSEEGIB~~EGID.

SUBCHAPTER 7. TERMINATION OF BENEFITS

360:10-7-1. Termination of benefits

(a) **Termination of coverage.** The coverage under this plan will terminate at the earliest time stated below:

(1) On the last day of the calendar month in which employment terminates. When the plan is discontinued.

(2) When any required premiums cease to be paid.

(3) The individual does not begin or continue coverage as an eligible participating former employee and/or dependent.

(4) For a dependent when said dependent becomes ineligible for coverage.

(5) A participating entity ceases to participate in this plan.

(b) **Submission of inaccurate or erroneous information.** If inaccurate or erroneous information is submitted by or on behalf of a member on any form or application for insurance coverage, coverage obtained pursuant to information provided on that form will be rescinded retroactive to the effective date.

(c) **Dependent termination of coverage.** In addition to (a) and (b) of this section, the coverage terminates with respect to an individual dependent on the last day of the calendar month in which such person ceases to be an eligible dependent. If a covered individual is found to be ineligible, coverage will be terminated effective on the first [1st] day of the month the coverage of the ineligible person was discovered by ~~OSEEGIB~~EGID. ~~OSEEGIB~~EGID reserves the right to recover any claims paid on behalf of an ineligible person.

SUBCHAPTER 9. COBRA HEALTH INSURANCE CONTINUATION

360:10-9-1. Procedures and implementation

Notice of right to continue coverage. Each agency or employer participating in the ~~State and Education Employees Group Insurance~~EGID Plan shall advise each covered employee of his right to continue coverage under Federal COBRA provisions. COBRA coverage applies only to health, dental, and vision benefits. Life and disability coverage are not available through COBRA.

360:10-9-2. COBRA administration

(a) **COBRA coverage is identical to coverage provided at date of the qualifying event.** The coverage elected shall be identical to the coverage provided at the date of the qualifying event, unless a beneficiary moves outside an HMO's service area. In that event, coverage is continued under HealthChoice, ~~OSEEGIB~~EGID's self-insured plan.

(b) **Payment of back premiums.** All back premiums from the termination of coverage to the election and approval of continuation must be paid before coverage is effective. Coverage will then be retroactive to provide continuous coverage. All time limits are mandatory and cannot be waived under any circumstances.

(c) **Responsibility of qualified beneficiary to inform ~~OSEEGIB~~EGID of ineligibility.** It is the responsibility of the qualified beneficiary to provide timely notice if he is not eligible for any reason. Failure to do so will result in cancellation of COBRA insurance coverage, retroactive to the time of ineligibility.

(d) **Primary member premium.** For any benefit continued under COBRA, one person must pay the primary member premium. In cases where a spouse, child, or children are insured for a particular benefit where the primary member did not retain coverage, one person will be billed at the primary member rate.

(e) **Federal regulations.** Federal regulations regarding COBRA extension of coverage shall be controlling in all situations where applicable.

[OAR Docket #13-991; filed 5-31-13]

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

[OAR Docket #13-993]

RULEMAKING ACTION:
PERMANENT final adoption

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]
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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Changes to Chapter 15 clarify definitions, conform rules to recent benefit changes, clarify language, and clarify existing plan exclusions.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JANUARY 1, 2014:

360:15-1-2. Definitions

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

"Base compensation" means the rate of earnings in effect on the date disability begins. Base compensation does not include overtime, commissions, bonuses, longevity pay, salary increases, productivity enhancement program payments and all other extra compensation.

"Benefit period" means the first [1st] day of the benefit period will be the day benefits commence as defined at 360:15-1-4(a) and (b). The end of the benefit period will be the last day of eligibility as defined at 360:15-1-11(d). A recurrent disability as defined at 360:15-1-7 will not alter the beginning date of the benefit period.

~~**"The Board"** means the eight [8] members designated by statute [74 O.S. §1303(1)].~~

"Disability" means a person is considered to be disabled when he is unable, as a result of injury or illness, to perform the material duties of his own occupation. Disability will be considered to have commenced on the date the employee first receives treatment or advice from a physician after his last date worked and said disability is expected to last thirty-one [31] consecutive calendar days or longer. After the first twenty-four [24] months of disability, disability will be defined as inability to perform each of the material duties of any gainful occupation for which a person is or may become reasonably qualified by training, education or experience. None of the classes of disability used in other plans or programs such as temporary, permanent, total, or partial, etc., are to be used to limit or define this plan's disability criteria, whether or not the terms are used in medical or legal documents supplied as proof of disability under this plan. Uses of such terms are intended to be disregarded by this plan. Determinations rendered by or for workers compensation or social security are not considered prima facie evidence of disability for this plan.

"EGID" means the Employees Group Insurance Division of the Office of Management and Enterprise Services.

"Eligibility period" means the first thirty-one [31] consecutive calendar days of employment. No benefit is payable for this period. For employees with less than one [1] year of service, proof of continuous presence at the regularly assigned work place and verification by the appointing authority that the employee was performing all of the material duties of the employee's regular occupation continuously during the eligibility period shall be required as conditions of satisfaction of the eligibility period. Employees reinstated to eligibility to participate in the disability plan after having waived disability coverage pursuant to 74 O.S. §1308.3 will be considered to have no prior service and no continuous employment prior to their reinstated eligibility.

"Elimination period" means the first thirty [30] consecutive calendar days of disability. No benefit is payable for this period.

"Employee" means, for purposes of this chapter only, the term employee includes but is not limited to persons who are currently drawing disability benefits under this Disability Plan or who meet each and every requirement of this Disability Plan.

"Furlough" means a nonscheduled working day, in addition to regular nonscheduled working days requested by the employer.

"Illness" means sickness or disease, including pregnancy and complications of pregnancy. Disability resulting from the illness must begin while the employee is participating in the Plan.

"Injury" means bodily injury resulting directly from an accident, independent of all other causes. The resulting disability must occur while the employee is participating in the Plan.

~~**"OSEEGIB"** means the Oklahoma State and Education Employees Group Insurance Board.~~

"Participation" means participation in the Disability Plan shall be limited to employees who have been employees for a period of not less than one [1] month prior to the onset of the disability. The employee must have been continuously employed by the employer for a period of not less than one [1] month, and must have satisfied the requirements of the eligibility period as defined herein. For the purposes of this chapter, one [1] month shall mean thirty-one [31] consecutive days.

"Physician" means a person licensed to practice medicine and surgery, osteopathy, chiropractic, podiatry, optometry, or dentistry and legally qualified as a medical practitioner under the insurance statutes of the State of Oklahoma, and operating within the scope of his license. An employee or an employee's spouse, child, father, mother, sister, or brother will not be included in this definition.

"Preexisting condition" means, for the purposes of this chapter only, an illness or injury for which the employee received medical care, diagnosis, consultation, treatment or took prescribed drugs or medicines during the ninety [90] day period immediately preceding his/her entry-on-duty (EOD) date. The term "preexisting condition" shall also include any condition which is related to such injury or illness.

"Years of service" means time spent as an active employee performing full-time duties for remuneration with an entity participating in the Disability Plan. Time on partial disability or leave (with or without pay) after an established disability date will not be counted toward years of service for disability benefit purposes. Time on leave without pay status after an established disability date will also not be counted toward years of service for disability benefit purposes. Under no circumstances will time for which an insured receives disability benefits under this Plan be counted toward years of service.

360:15-1-10. Proof of claim

(a) **Notice.**

(1) Written notice of claim for disability benefits must be given to ~~OSEEGIB~~EGID within sixty [60] days after the date disability starts. For good cause shown, ~~OSEEGIB~~EGID's Administrator may waive the sixty [60] day requirement. If that is not possible, ~~OSEEGIB~~EGID must be notified as soon as it is reasonably possible to do so.

(2) No claim may be reopened when request is made more than one [1] year after benefits have ended for any reason.

(b) **Proof.**

(1) Proof of the claim, as specified by ~~OSEEGIB~~EGID, must be given to the third party administrator no later than one year after the start of disability. Proof must cover the severity and extent of the disability and the reasons the employee is unable to perform the duties of his/her position.

(2) The employee must provide proof of continued disability and regular attendance of a physician within thirty [30] days following the request for proof. Regular care of a physician means appointments with the physician at least once per month. Less frequent appointments may be approved by ~~OSEEGIB~~EGID.

360:15-1-11. Duration and amounts of benefits

(a) **Determination of monthly disability benefits.** To determine monthly disability benefits:

(1) Multiply the employee's base compensation by sixty percent [60%], subject to short-term and long-term benefit maximums as established by the Board.

(2) Deduct any benefit offsets.

(3) Monthly benefit will be (1) minus (2), subject to any minimum long-term disability benefit as established by ~~the Board~~EGID.

(b) **Prorating of benefit for part of a month.** Any benefit that is payable for part of a month will be prorated using the number of days in that month as the denominator and the number of days of disability during that partial month as the numerator.

(c) **Cooperation required.** Continued benefits shall be contingent upon cooperation and participation in the rehabilitation program herein.

(1) In order to remain eligible for long-term benefits, the insured must make application for Social Security benefits by the seventh [7th] month of disability and continue pursuing Social Security benefits until the appeals process is exhausted. Refusal to appeal denial of Social Security benefits through the entire appeals process is grounds for termination of benefits. Exceptions may be granted by ~~OSEEGIB~~EGID in certain cases where application for Social Security benefits is not practical due to the type of disability.

(2) If, after twenty-four [24] months of disability, the Social Security Administration has not deemed the insured eligible for Social Security disability benefits, the insured will no longer be eligible for benefits from this plan.

(3) Exceptions to (c), (1), and (2), above may be granted by ~~OSEEGIB~~EGID on a case-by-case basis.

(d) **Mental health and substance abuse.** Disability claims due to mental health disorders or substance abuse are limited to twenty-four [24] months per disability.

(1) Provided, however, if the employee is confined in a hospital, as defined in 360:10-1-2, of these rules, at the end of the twenty-four [24] month period, benefits will be paid for the length of that confinement. If the employee continues to be totally disabled upon discharge from the hospital, the monthly benefit will be payable for a period not to exceed ninety [90] days. If the insured employee is reconfined during this recovery period for at least fourteen [14] consecutive days, the monthly benefit will resume during that confinement and one additional recovery period not to exceed ninety [90] days.

(2) Provided, also, that each employee shall have a lifetime maximum of no greater than sixty [60] months of disability benefits for all mental or substance abuse disorders; however, other maximums apply, and in no event shall benefits exceed the maximums listed in 360:15-1-11 of this section.

(e) **Payment of benefits monthly.** Benefits are paid monthly subject to the maximums listed below. These maximums apply to all disabilities, but are subject to (b) and (d) of this section. These maximums are computed from the first [1st] day of disability.

(1) Less than one year of service: 6 month maximum coverage

(2) From one to five years of service:

(A) Under age 66 at disability - 24 month maximum coverage

(B) at age 66 at disability - 21 month maximum coverage

(C) at age 67 at disability - 18 month maximum coverage

(D) at age 68 at disability - 15 month maximum coverage

(E) at age 69 or over at disability - 12 month maximum coverage

(3) More than five years of service:

(A) Under age 60 at disability - coverage to age 65

(B) at age 60 at disability - 60 month maximum coverage

(C) at age 61 at disability - 48 month maximum coverage
(D) at age 62 at disability - 42 month maximum coverage
(E) at age 63 at disability - 36 month maximum coverage
(F) at age 64 at disability - 30 month maximum coverage
(G) at age 65 at disability - 24 month maximum coverage
(H) at age 66 at disability - 21 month maximum coverage
(I) at age 67 at disability - 18 month maximum coverage
(J) at age 68 at disability - 15 month maximum coverage
(K) at age 69 or over at disability - 12 month maximum coverage

360:15-1-12. Benefit offsets

(a) **Offset by benefits received from other sources.** The disability benefit due from this plan shall be offset by benefits received from other sources. These sources are:

(1) Any sick leave benefits for which the employee is eligible.

(2) Social Security benefits as follows:

(A) Any amount of primary disability benefits provided under the United States Social Security Act for which the employee is eligible because of this disability; and

(B) Any amount of primary and/or family retirement benefits provided under the United States Social Security Act which the employee receives.

(C) The following benefits under the Social Security Act are not to be considered offsets under this program:

(i) Social Security benefits effective prior to the established date of disability, unless awarded as a result of the same disability;

(ii) Social Security widow's/widower's benefits not connected to the claimant's disability; and

(iii) benefits awarded under the Supplemental Security Income Program.

(3) Any benefits received under the provisions of State of Oklahoma or county retirement systems, except those benefits which began prior to onset of disability.

(4) Benefits related to the disability provided by another group plan, including Veteran's Administration (VA) benefits. Such benefit becomes due as a result of the disability and not by a voluntary election to receive the benefit. This does not include:

(A) plans funded entirely by employee contribution;

(B) plans where payment of these benefits reduce the benefit the claimant would be due at a normal retirement age; or

(C) payments for conditions established one [1] year or more, prior to the established date of this disability claim. This does not include a profit-sharing plan, a 401K, a thrift plan, an Individual Retirement Account, stock ownership plan, tax sheltered annuity or any benefits from a non-qualified deferred compensation plan.

(5) Benefits related to this disability that are provided under any state's Worker's or Workman's Compensation Law, any occupational disease law, or any other similar act or law.

(6) Any salary, wages, holiday pay, commissions or similar earnings the employee receives from any gainful employment, including salary increases as well as shared or annual leave payments. Neither longevity pay nor one-time bonuses are considered offsets.

(7) Subrogation (loss of earnings for employee only).

(8) Fifty percent [50%] of any earnings while partially disabled or during rehabilitative employment prior to final release.

(9) Any overpayment of previous disability payments.

(10) Any unemployment compensation benefits.

(b) **Non-reduction of benefits due to increases in other benefits.** Once a disability benefit begins, monthly benefits will not be further reduced due to any statutory or cost of living increases payable from pension or pension disability programs, Social Security or Workers' Compensation.

(c) **Lump sum payments.** If any benefits from the sources mentioned in (a) of this section are paid in a lump sum, ~~OSEEGIB~~EGID will prorate the benefits on a monthly basis, either over the period for which the benefit is established or over the actuarially expected life time of the employee, if no time period is established.

(d) **Payment of any overpayment or underpayment.** Benefits will be estimated if they have not yet been awarded, have not been denied or have been denied and the denial is being appealed. Any overpayment or underpayment that results from estimating these benefits will be repaid by the responsible party after the actual benefit is determined.

360:15-1-14. Payment of benefits

(a) **Payment of benefits to employee only.** All benefits due to the employee from the disability plan are payable only to the employee. If the benefit is payable to an employee who is a minor or who is not competent, ~~OSEEGIB~~EGID may only pay the court-appointed guardian or conservator. In the event of the employee's death, payment of any benefits still outstanding shall be made to the designated beneficiary or to the employee's estate.

(b) **Payment of benefits to another party other than the employee.** If ~~OSEEGIB~~EGID pays benefits to a party other than the employee as specified in (a) of this section or as required by law, ~~OSEEGIB~~EGID shall be deemed to have discharged its full responsibility with respect to those benefits.

(c) **Rehabilitation services.** Documented expenses payable for rehabilitation services may be paid directly to the providers of such services or reimbursed to third party administrator;

these payments shall not reduce the monthly disability benefits mentioned at 360:15-1-12.

(d) **Benefits are not assignable.** These benefits are not assignable.

360:15-1-14.1. Direct deposit and insurance premium deductions

(a) Effective January 1, 2010, all disabled employees receiving disability benefit payments from ~~OSEEGIB~~EGID shall be required to receive monthly disability payments via electronic fund transfers to checking or savings account in a bank, credit union or savings and loan designated by the employee. The employee and receiving institution must complete the form prescribed for this purpose by ~~OSEEGIB~~EGID. In the event the electronic fund transfer creates an undue hardship on the employee, the employee may make application to ~~the Administrator~~EGID to request a waiver of this requirement. The waiver will be granted only upon good cause shown when it is determined to be in the best interest of the employee. ~~The Administrator, at his or her sole discretion,~~EGID may also waive this requirement when it is necessary in the best interest of ~~OSEEGIB~~EGID to do so.

(b) In addition to all other required deductions, premiums for insurance coverage provided to disabled employees and their dependents as authorized at Title 74 Oklahoma Statutes Section 1332(A) and 1332.1(D) shall be deducted from disability benefit payments made pursuant to this Chapter.

360:15-1-15. Lump sum settlement

~~OSEEGIB~~EGID may authorize a lump sum settlement of a disability claim if mutually agreed upon by the employee and ~~OSEEGIB~~EGID's Administrator. Such agreement shall preclude the employee from receiving any future benefits for the disability for which the lump sum settlement is made.

360:15-1-16. Examination

~~OSEEGIB~~EGID, at its own expense, with travel reimbursement as set out by statute, will have the right and opportunity to have an employee whose injury or sickness is the basis of a disability claim examined by a physician or vocational expert of its choice. This right may be used as often as reasonably required.

360:15-1-17. Rehabilitation

(a) **Participation by any person in rehabilitation services.** Any person submitting a claim under the Disability Plan shall be required to cooperate fully with all aspects of the rehabilitation services provided herein as a condition of receiving disability benefits.

(b) **Disabled employee receiving long-term benefits.** A disabled employee who is receiving long-term disability benefits may be able to return to work on a limited basis. To encourage a return to productive employment, ~~OSEEGIB~~EGID will pay the employee his/her regular monthly long-term disability benefit, reduced by only fifty percent [50%] of the income from rehabilitation employment, subject to partial disability provisions as set out at 360:15-1-12(8). If the employee becomes totally disabled again, while receiving partial disability benefits, his/her regular long-term disability benefit will resume without a new eligibility period, except as limited by 360:15-1-7 and 360:15-1-8.

360:15-1-18. Suspension or termination of benefits

After notice and opportunity for a hearing according to the Oklahoma Administrative Procedures Act and these rules, disability benefits may be suspended or terminated for failure to:

(1) Fully cooperate with or implement the rehabilitation plan;

(2) Submit to examination by a physician selected by ~~OSEEGIB~~EGID;

(3) Supply recertification by a physician;

(4) Cooperate in the repayment of overpayments; or

(5) Otherwise comply with the requirements of this plan.

360:15-1-19. Termination of benefits

(a) **Termination of benefits.** Disability benefits will cease on the occurrence of the earliest of the following events:

(1) The date the disability ends;

(2) The date the employee dies;

(3) The end of the maximum benefit period;

(4) As provided at 360:15-1-17 and 360:15-1-18.

(b) **Participation in the Disability Plan ends when employee's current employment ceases.** An employee's participation will end when current employment ceases. Coverage may be continued in case of layoff or leave of absence as described in the section on eligibility date. ~~OSEEGIB~~EGID will operate the plan according to the provisions outlined so as not to discriminate unfairly among employees.

360:15-1-20. Termination of coverage

Employees cease to be insured under the Disability Plan on the earliest of the following dates:

(1) The date the Disability Plan terminates;

(2) The date employment terminates. Cessation of active employment will be deemed termination of employment, except:

(A) The insurance will be continued for a disabled employee during the period during which the employee remains disabled.

(B) ~~OSEEGIB~~EGID may continue the employee's insurance, subject to the following:

(i) Insurance may be continued for the time shown in the policy specifications for an employee on furlough or temporarily laid off; or

(ii) ~~OSEEGIB~~EGID shall act so as not to discriminate unfairly among employees in similar situations.

(3) Waiver of disability coverage pursuant to 74 O.S. §1308.3.

360:15-1-22. Retention of other insurance

(a) **Authorization for deduction of premiums.** If eligible, the employee may elect to continue participation in the Oklahoma ~~State and Education~~ Employees ~~Group~~ Insurance Plan by authorizing deduction of premiums due. In the event the premium is more than the benefits being received by the employee, or in the event the benefits are suspended, ~~OSEEGIB~~EGID may accept remittance from the employee for the premium due. All premiums shall be at the rate and under such conditions as established by ~~OSEEGIB~~EGID.

(b) **Disabled employee not receiving disability benefits.** Dependent Health coverage will be continued for disabled employees during any period of time the employee is qualified as disabled but not receiving disability benefits. [74 O.S. §1332.1(D)]

(c) **Deduction of premiums.** All dependent health premiums due and owing shall be deducted by ~~OSEEGIB~~EGID from the first retroactive disability benefit payment and each payment thereafter. [74 O.S. §1332.1(E)]

360:15-1-23. Recovery of FICA contributions

~~OSEEGIB~~EGID is hereby authorized to recover FICA contributions from the employer, when appropriate.

360:15-1-31. Amending of rules

This chapter may be amended or repealed from time to time and new rules adopted by ~~the Board~~EGID pursuant to the Administrative Procedures Act.

[OAR Docket #13-993; filed 5-31-13]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #13-1041]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 9. Description of Forms and Instructions
365:1-9-18. Bail bond forms [AMENDED]
AUTHORITY:
Insurance Commissioner, 59 O.S. § 1302
DATES:
Comment period:
February, 1, 2013 through March 4, 2013
Public hearing:
March 7, 2013
Adoption:
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Submitted to Governor:
March 25, 2013
Submitted to House of Representatives:
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Gubernatorial approval:
May 7, 2013
Legislative approval:
Approved May 24, 2013, by HJR 1058
Final adoption:
May 24, 2013
Effective:
July 14, 2013
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The amendment to 365:1-9-18 updates the requirements for the bail bondsman application by requiring the applicant complete the application and comply with pertinent statutes. It also clarifies language that the bondsman execute a "pledge of the certificate of deposit" and an "assignment of the annuity deposit" regarding payment of unpaid bond forfeitures. The amended language adds that the license reinstatement period be a period of within one year after the expiration date and that a reinstatement fee shall be double the license fee. It also adds that name changes for individual licenses require proper documentation at the time of the request.
CONTACT PERSON:
Buddy Combs, Assistant General Counsel, Oklahoma Insurance Department, 3625 NW 56th St., Suite 100, Oklahoma City, OK 73112, (405) 521-2746

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2013:

SUBCHAPTER 9. DESCRIPTION OF FORMS AND INSTRUCTIONS

365:1-9-18. Bail bond forms

(a) **Application for bail bondsman license form.** Unless otherwise provided by electronic means by the Insurance Commissioner or an administrator approved by the Commissioner, bail bond applications must be completed by the person making application and, upon completion, must comply with the applicable Oklahoma statutes. The application ~~for a bail bondsman's license form is to be completed by the person making application, and includes~~shall include the license fee, a complete set of fingerprints, ~~two~~one recent credential-size full face ~~photographs~~photograph, an investigative fee and evidence of completion of ~~twenty (20)~~sixteen (16) hours of education. ~~The fee for examination shall be submitted after approval of the application, but prior to taking the examination.~~The Commissioner may propose any reasonable interrogatories to an applicant for a license.

(b) **Bail bondsman license forms.** The bail bondsman license form, executed under the hand and seal of the Insurance Commissioner, upon execution and delivery, is evidence of an individual's authority to act as a bail bondsman within Oklahoma.

(c) **Bail bond appointment form.** The bail bond appointment form ~~(BR-11)~~ is to be completed by ~~a~~an~~surety~~insurer/professional when appointing specific surety bondsmen as agents of the ~~surety~~insurer/professional~~ and at the yearly renewal of surety/professional appointments~~.

(d) **Bail bond appointment cancellation form.** The notice of cancellation of bondsman ~~surety~~insurer/professional appointment form is to be used by a ~~surety~~insurer/professional

when they desire to cancel the appointment of a surety bondsman.

~~(e) **Bail bond license status form.** The Bail Bond License Status form is completed by the Department and mailed to the appropriate court clerk for any status change pertaining to a licensed bondsman.~~

(~~f~~e) **Professional bondsman securities deposit/withdrawal form.** The deposit/withdrawal form (State Form 31) is used for all professional bondsmen for depositing/withdrawing securities with the State Treasurer through the Insurance Commissioner's office.

(~~g~~f) **Pledge of Account form.** The bondsman shall execute ~~an assignment~~a pledge of the certificate of deposit to the Insurance Commissioner for the payment of unpaid bond forfeitures.

(g) **Assignment of Account form.** The bondsman shall execute an assignment of the annuity deposit to the Insurance Commissioner for the payment of unpaid bond forfeitures.

~~(h) **Acknowledgement of Notice form.** The Acknowledgement of Notice form is to be completed by the Financial Institution acknowledging receipt of a signed copy of the pledge of account on each professional deposit.~~

(h) **Proof of courses.** As a prerequisite for submission of a renewal or reinstatement application, when requested by the Insurance Commissioner, each licensee shall have completed the total number of continuing education hours required.

(i) **Required submissions for reinstatement.** After the license expires and within one year after the license expiration date, a licensee shall be eligible for reinstatement by completing required Continuing Education and submitting a new application and double the license fee. A licensee shall not be eligible for reinstatement if previously the license was revoked, suspended, or continuance was denied.

(j) **Name change on an individual license.** Name changes for an individual license require proper documentation at the time of the written request, such as a copy of a court order, marriage license, or divorce decree. A duplicate license fee shall be submitted for a new licensed to be issued

[OAR Docket #13-1041; filed 6-7-13]

TITLE 365. INSURANCE DEPARTMENT CHAPTER 15. PROPERTY AND CASUALTY

[OAR Docket #13-1042]

RULEMAKING ACTION:
PERMANENT final adoption
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]

AUTHORITY:
Insurance Commissioner, 36 O.S. §§ 307.1, 924.3, 987, and 6821.
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Effective:
July 14, 2013
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
365:15-1-3 is amended to update the address of the Oklahoma Insurance Commissioner. 365:15-1-3.1 is amended to conform to the renumbered provisions of the Workers' Compensation Code in Title 85 enacted in 2011. 365:15-1-14 is amended to extend the time period that insurers are required to provide notice for non-renewal of homeowners and any other personal residential insurance coverage. 365:15-1-24 is added to provide a procedure for an employer to appeal its rating classification for workers' compensation insurance pursuant to 36 O.S. § 924.3. 365:15-9-10 is amended to update the address of the Oklahoma Insurance Commissioner. Appendix C is revoked and renewed to update the address of the Oklahoma Insurance Commissioner.
CONTACT PERSON:
Buddy Combs, Assistant General Counsel, Oklahoma Insurance Department, 3625 NW 56th St., Suite 100, Oklahoma City, OK 73112, (405) 521-2746

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

365:15-1-3. Property and casualty form filings

(a) **Purpose.** The purpose of this section is to specify the procedures for submitting form filings to the Insurance Commissioner as required by Article 36 of the Insurance Code.

(b) **Procedures.** Policy forms, endorsements and revisions thereto, by insurance companies and advisory organizations licensed in Oklahoma, shall be submitted in compliance with this section, or shall be rejected for filing, and the entity that made such submission shall be so notified.

(1) **Filing requirements.** The Insurance Code, Article 36, requires that each insurer shall make its form filings by line of business directly with the Insurance Commissioner. Companies may satisfy their obligation to make such filings, where authorized by law, by becoming a member or

subscriber to an Oklahoma licensed advisory organization that makes such filings.

(2) **Filing fees.**

(A) Form filings shall be accompanied by the proper fees as specified in the Insurance Code. Fees shall not be paid in cash.

(B) Filings for groups of insurers shall be accompanied by the specified fee for each transaction, regardless of the number of members or subscribers.

(C) Filings by advisory organizations shall be accompanied by the specified fee for each transaction regardless of the number of members or subscribers.

(3) **Address requirements.** All filings shall be addressed as follows: Oklahoma Insurance Commissioner, ~~P.O. Box 53408, Oklahoma City, OK 73152-3408.~~ 3625 NW 56th Street, Suite 100, Oklahoma City, Oklahoma 73112.

(4) **Number of copies.** All filings except those exempted shall be submitted through the System for Electronic Rate and Form Filing (SERFF) pursuant to the SERFF General Instructions. All paper filings including the cover letter, all exhibits, forms and additional information submitted to the Insurance Commissioner shall be typewritten or printed and submitted with one (1) legible copy of all material. Companies that file as a group listing all companies on the transmittal letter may accomplish this requirement by submitting one (1) typewritten or printed legible copy of all material.

(5) **Effective date of filings.** The effective date of form filings and the dates of required action by the Insurance Commissioner are governed by the applicable provisions of the Insurance Code.

(6) **Notice of Insurance Commissioner action.** The Insurance Commissioner shall indicate action taken through the System for Electronic Rate and Form Filing (SERFF). Nothing in this section shall preclude the Insurance Commissioner from the use of other forms of communication to secure information from the filing entity.

(7) **Life, accident and health insurance.** This section does not apply to Life, Accident and Health. Life, Accident and Health filings shall be made in accordance with the applicable provisions of the Insurance Code and Rules of the Insurance Commissioner.

(8) **Postage requirements.** No submissions shall be accepted which arrive at the offices with postage due. No submissions will be returned unless the necessary postage accompanies the same.

(9) **Filing form and content.** All filings shall contain the following:

(A) The name of the filing entity and complete mailing address to which correspondence shall be sent.

(B) A "RE" or "caption" briefly describing the content and context of the filing.

(C) A list or index of the forms filed in the filing letter or attached thereto including the form numbers and edition date, if applicable.

(D) A complete description and full explanation of the changes made by the filing including, reasoning therefore, illustrative examples, including "John Doe" specimen form, and a comparison of currently approved and proposed materials (side by side comparison or marked copy).

(E) A concise statement to identify the form to be replaced by the filing including the approval date in this jurisdiction and the identifying filing number of the filing containing the form to be replaced as assigned by the Insurance Department.

(F) If a form is being withdrawn or amended due to court decisions in any jurisdiction, the filing entity shall furnish the legal citation, and if from another jurisdiction, a copy of such decision or opinion with its filing.

(G) If a form filing is due to a federal law or regulation of a federal agency, the filing entity shall furnish the legal citation and a copy of the pertinent provisions.

(H) Completed transmittal forms and exhibits.

(10) **Withdrawal of pending filings.** Pending filings may be withdrawn by the filing entity upon notice to the Insurance Commissioner prior to the approval or disapproval thereof. The notice shall include the reason for the withdrawal.

(11) **Duration of filings.** All filings are in effect until withdrawn or amended by the insurer or rating organization, with approval of the Insurance Commissioner or until abrogated by the Insurance Commissioner.

(12) **Advisory organization deviations.** Every member of, or subscriber to, a licensed rating organization may adhere to any filings made on its behalf by its Advisory Organization, except that any such member or subscriber may deviate from such filings as authorized by this section if it has filed with the Advisory Organization and with the Insurance Commissioner, the deviation to be applied and information necessary to justify the deviation. If such deviation is approved, it shall remain in force until such approval is withdrawn or replaced by the insurer with approval of the Insurance Commissioner.

(13) **Group filings.** Where filings are made on behalf of more than one insurer, the filing shall list the insurer or insurers by individual name and not by Company group.

(14) **Members of or subscribers to a licensed advisory organization.**

(A) **Filings.** A licensed advisory organization may make filings on behalf of its members and subscribers except deviation filings.

(B) **Adherence to filings.** Every member of or subscriber to a licensed advisory organization may adhere to any filings made on its behalf by such organization except that any such member or subscriber may deviate from such filings upon compliance with this section and approval of the Insurance Commissioner

(C) **Individual company filings.** Members and subscribers shall not file individual forms that have

been filed on their behalf by the appropriate advisory organization. Declaration pages, policy "jackets" and other forms not normally filed by the rating organization shall be filed by the insurer directly with the Insurance Commissioner.

(D) **Filing requirements; advisory organization form deviation.** If form deviations are proposed, the insurer shall file the form including supporting documentation with the Insurance Commissioner and furnish copies to the appropriate rating organization.

(E) **Agency filings.** "Agency Filings" by a Rating Organization on behalf of its members or subscribers shall be accepted by the Insurance Commissioner in instances where the rating organization does not have a filing in effect for the coverage involved.

(15) **Independent filings.** If the insurer is filing an independently developed form, the filing shall comply with the following:

(A) File Policy Forms, Endorsements, and other materials, with the Insurance Commissioner and designate them as "Independent Filings".

(B) File support of each filing in accordance with this section.

(C) For revisions, file form with the Insurance Commissioner.

(16) **Reference filings.**

(A) **Advisory Organization Filing.**

(i) **Filings permitted without reference filing agreement.** Advisory Organization forms used in whole or in part may be adopted by participating insurers of a licensed advisory organization by "Reference Filings" subject to the approval of the Insurance Commissioner. When making such type filing submit a filing memorandum identifying the forms used. Departures and exceptions, if any, shall be accompanied by the necessary supporting data. Such adoption shall apply only to current filings and shall have no automatic effect as to future filings. Each advisory organization filing shall be separately and specifically adopted.

(ii) **Filings permitted with reference filing agreement.** Approved Advisory Organization material may be adopted by participating insurers of a licensed advisory organization by filing a REFERENCE FILING AGREEMENT with the Insurance Commissioner identifying the forms and material to be used. Such adoption shall apply from the date it is approved by the Insurance Commissioner to filings in effect on that date and to all applicable future filings. It shall remain in effect until such time as the agreement is withdrawn with the approval of the Commissioner.

(iii) **Reference filing.** If filing by "Reference Filing" DO NOT file forms.

(B) **Other than Advisory Organization filings.** An insurer may adopt another insurer's filing by filing forms on the filing insurer's format and by advising the Insurance Commissioner of the names(s) of the insurer whose program is being copied, the Oklahoma filing number, and the date(s) the program was filed for that insurer. Unless an exception is granted by the Insurance Commissioner, this procedure applies only to the filing of the initial program for the adopting insurer and is subject to the review of the Insurance Commissioner.

(17) **Resubmittal of filings.** All resubmissions of disapproved or rejected filings shall be presented to the Insurance Commissioner in the same manner as required by this section for an original filing. In addition the cover letter or completed transmittal forms addressed to the Insurance Commissioner shall state the full and complete history of the filing, the reason for disapproval or rejection, and the factors which distinguish the resubmittal so it warrants reconsideration.

(18) **Retroactive filings.** The Insurance Commissioner has no authority to and shall not approve filings proposing a retroactive effective date except in cases of a filing correcting an error in a previously approved filing and in cases where required or necessitated by Statute.

(19) **Delivery of policy to insured.** In any instance whereby a policy of insurance is effected the insured shall be furnished with either:

(A) The original policy;

(B) A copy of the original policy or a duplicate policy printed with ten point or larger type; or

(C) A certificate including provisions and conditions of the original policy printed with ten point or larger type.

(20) **Coverage elimination after policy issuance.** Any endorsement which eliminates or restricts coverage and which is issued during the policy term shall be identified as accepted by the insured, by the signature of the insured thereon, and a signed copy (original, computer generated or microfilm) of such endorsement shall be retained in the files of the insurer for one year after the expiration of the policy.

(21) **Uniform standard mortgage clause.** The mortgage clause to be used by Insurance Companies in Oklahoma shall be uniform Standard Form Number 127B September 1934 Edition or subsequent editions, except upon written application by an insurer or rating organization, a clause providing broader coverage may be approved by the Insurance Commissioner.

(22) **Claims-made policies.**

(A) The policy application and the Declarations page of each claims-made policy shall include a conspicuous notice indicating that the contract is a claims-made policy and advising the policyholder to read its provisions.

(B) The policy shall provide for extended reporting period options based on rules, rates or rating plans approved by or filed with the Insurance Commissioner. If so stated in the policy, the extended reporting period options shall not be required to be offered if a policy is cancelled for nonpayment of premium or a material representation or fraud.

(23) **New forms, reductions in coverage.**

(A) Form filings that may result in the elimination of claims (losses) shall be considered as a relevant factor to be given due consideration by the Insurance Commissioner as respects rates in effect or proposed for the coverage involved.

(B) The filer shall fully disclose the rate consideration so that Commissioner can be notified of the form filing. The form filing may be disapproved if the rate effect has not been considered in rules, rates or rating plans approved by or filed with the Commissioner.

365:15-1-3.1. Workers' compensation medical claims small deductible form

The offer of a small deductible on all Oklahoma Workers' Compensation policies required pursuant to 85 O.S. §~~64~~356(D), shall be in the form set forth in Appendix B of this Chapter which shall be filed with and approved by the Insurance Commissioner. The form shall be provided to the proposed insured in writing separately from the application and shall read as set forth in Appendix B of this Chapter.

365:15-1-14. Notice of cancellation or non-renewal

(a) Unless otherwise provided, insurers shall give at least ten (10) days notice prior to the date of cancellation and twenty (20) days notice prior to the date of non-renewal of the insurance policy. ~~If notice is given by mail, said notice shall be deemed to have been given on the day said notice is mailed. Proof of mailing of the notice of cancellation or nonrenewal to the named insured at the address shown in the policy, shall be sufficient proof of notice.~~

(b) Insurers shall give at least thirty (30) days notice prior to the date of non-renewal of a homeowner's insurance policy or any other personal residential insurance coverage.

(c) If notice is given by mail, said notice shall be deemed to have been given on the day said notice is mailed. Proof of mailing of the notice of cancellation or non-renewal to the named insured at the address shown in the policy, shall be sufficient proof of notice.

365:15-1-24. Appeals of rating classifications

(a) Any employer engaged in a rating classification dispute reviewed by the NCCI Oklahoma Internal Review Panel may appeal the decision to the Insurance Commissioner by requesting a hearing within thirty (30) days of the date the Panel issues the decision.

(b) Upon receipt of a written request, the Commissioner shall either set down the matter for hearing within thirty (30) days from the date of receipt of the request by issuing notice of the hearing to the employer and the insurer or shall issue a written order denying the hearing.

(c) The Commissioner shall name the employer and the insurer as parties to the hearing. The Commissioner shall not be a party in an appeal of a rating classification.

(d) Procedure for hearings shall be governed by OAC 365:1-7-1 et seq. and the Administrative Procedures Act.

SUBCHAPTER 9. MEDICAL PROFESSIONAL LIABILITY RATE SETTING

365:15-9-10. Property and casualty rate, loss cost and manual rule filings

(a) **Purpose.** The purpose of this section is to specify the procedures for submitting rate, loss costs and manual rule filings to the Insurance Commissioner, which are submitted under the authority of 36 O.S. § 6821.

(b) **Procedures.** Rate, loss costs and manual rules and revisions by insurance companies and advisory organizations licensed in Oklahoma shall be submitted in compliance with this section or shall be rejected for filing. If a filing is rejected, the entity that made such submission shall be notified.

(1) **Filing requirements.** The rate, loss cost and manual rule filings allowed by this section are for medical professional liability insurance. Companies may satisfy their obligation to make such filings, where authorized by law, by becoming a member or subscriber to an Oklahoma licensed advisory organization which makes such filings.

(2) **Filing fees.**

(A) Rate, loss cost and manual rule filings shall be accompanied by the proper fees as specified in the Insurance Code. Fees shall not be paid in cash.

(B) Filings for groups of insurers shall be accompanied by the specified fee for each transaction regardless of the number of members or subscribers.

(C) Filings by rating organizations shall be accompanied by the specified fee for each transaction regardless of the number of members or subscribers.

(3) **Address requirements.** All filings shall be addressed as follows: Oklahoma Insurance Commissioner, ~~P.O. Box 53408, Oklahoma City, OK 73152-3408~~3625 NW 56th Street, Suite 100, Oklahoma City, Oklahoma 73112.

(4) **Number of copies.** All filings except those exempted shall be submitted through the System for Electronic Rate and Form Filing (SERFF) pursuant to SERFF General Instructions. All paper filings including the cover letter, all exhibits, rate sheets and additional information submitted to the Insurance Commissioner shall be submitted with one (1) legible copy of all material. Companies that file as a group and list all companies on the transmittal letter may accomplish this requirement by submitting one (1) typewritten or printed legible copy of all material. .

(5) **Effective date of filings.** The effective date of rate, loss cost and manual rule filings and the dates of required action by the Insurance Commissioner are governed by the applicable provisions of the Insurance Code.

(6) **Notice of Insurance Commissioner action.** The Insurance Commissioner shall indicate action taken through the System for Electronic Rate and Form Filing (SERFF). Nothing in this section shall preclude the Insurance Commissioner from the use of other forms of communication to secure information from the filing entity.

(7) **Life, accident and health insurance.** This section does not apply to life, accident and health insurance. Life,

accident and health insurance filings shall be made in accordance with the applicable provisions of the Insurance Code and Rules of the Insurance Commissioner.

(8) **Postage requirements.** No submissions shall be accepted that arrive at the offices with postage due. No submissions will be returned unless the necessary postage accompanies the same.

(9) **Withdrawal of pending filings.** Pending filings may be withdrawn by the filing entity upon notice to the Insurance Commissioner prior to the approval or disapproval thereof. The notice shall include the reason for the withdrawal.

(10) **Filing form and content.** All filings shall include the following:

(A) The name of the filing entity and complete mailing address to which correspondence shall be sent.

(B) A RE or caption briefly describing the content and context of the filing.

(C) A list or index of the manual pages filed in the filing letter or attached thereto including the page numbers and edition date, if applicable.

(D) A complete description and full explanation of the changes made by the filing including reasoning therefor, illustrative examples, including John Doe specimen examples, and a comparison of currently approved and proposed materials (side by side comparison).

(E) A concise statement identifying the manual pages (rate and or rule) to be replaced by the filing. The statement shall include the approval date in this jurisdiction and the identifying Oklahoma Insurance Department's assigned filing number of the filing containing the documents to be replaced .

(F) Completed transmittal forms and exhibits.

(11) **Bureau deviations.** Every member of, or subscriber to, a licensed advisory organization may adhere to any filings made on its behalf by its rating organization, except that any such member or subscriber may deviate from such filings as authorized by this section if it has filed with the rating organization and with the Insurance Commissioner, the deviation to be applied and information necessary to justify the deviation. If such deviation is approved, it shall remain in force until such approval is withdrawn by the insurer with approval of the Insurance Commissioner.

APPENDIX C. EXCESS CONSENT RATE APPLICATION [REVOKED]

APPENDIX C. EXCESS CONSENT RATE APPLICATION [NEW]

TO: Oklahoma Insurance Commissioner
P.O. Box 53408
Oklahoma City, OK 73152-3408

Kindly file for _____
(Insurer)
the following rates, which I understand, are in excess of those otherwise applicable.

This percentage increase is understood to apply to the manual premium _____%.

These rates are to apply to the following exposures: _____
_____
_____ and any exposures determined at final audit.

Kind of coverage: _____

Policy Number: _____

Period of Coverage: _____

Policy Limits: _____

Manual Premium at above limits: _____
(estimate if policy is subject to audit)

Proposed premium at above limits is: _____
(estimate if policy is subject to audit)

I am agreeable to paying this premium because (2) _____
_____

Named Insured _____
Signed By _____ 3)
Title _____
Date _____ 4)

(1) Submit in duplicate with stamped self-addressed envelope
(2) To be completed by insured
(3) Excess form shall be signed by insured
(4) Date insured signed form

[OAR Docket #13-1042; filed 6-7-13]

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 #13-1043]

RULEMAKING ACTION:
PERMANENT final adoption
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]
AUTHORITY:
Insurance Commissioner, 36 O.S. §§ 307.1, 1435.19, 1435.29, 6217
DATES:
Comment period:
February, 1, 2013 through March 4, 2013
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Submitted to Governor:
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Gubernatorial approval:
May 7, 2013
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on May 21, 2013
Final adoption:
May 21, 2013
Effective:
July 14, 2013
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The amendment to section 365:25-3-1(c) is to reflect that the Insurance Department considers continuing education (CE) reciprocal for non-resident producers and relies on the resident state to regulate its producers' CE requirements. The amendment to 365:25-3-1(d)(3) clarifies that carryover CE hours will be considered as general hours. The amendment to 365:25-3-1(d)(5) clarifies the process by which an instructor may request education credit for presenting a course. The amendment to 365:25-3-1(d)(6) updates the language to reflect the Insurance Department's simplified electronic filing procedure for CE forms.

The amendment to 365:25-3-1(e)(1) updates the rule to accurately reflect the online application process. The amendment to 365:25-3-1(e)(1)(A) adds email address to the list of required information. The amendment to 365:25-3-1(e)(1)(C) deletes duplicate information. The CE provider requirements in 365:25-3-1(e)(1)(D), (E), (F), and (G) have been moved to 365:25-3-1(f)(1) and (2). The amendments to 365:25-3-1(f) reflect the addition of information moved from 365:25-3-1(e) and alters numbering. The amendment of 365:25-3-1(f)(7) expands the content of courses available. The amendment to 365:25-3-1(f)(9) reflects requirement that providers are required to electronically upload course completions. The amendment to 365:25-3-1(f)(13) provides a heading for the paragraph.

The amendment to 365:25-3-1(g) reflects the requirement in 36 O.S. § 1435.29(B)(3).

The amendment to 365:25-3-1(l) reflects the requirement in 36 O.S. § 1435.29(B)(1)(b).

The amendment to 265:25-3-14(c) allows non-resident adjusters to meet CE requirement in a designated home state.

The amendment to 365:25-3-14(d)(1)(A), (B), and (C) reflects the removal of the Workers' Compensation CE requirement from 36 O.S. § 6217(D). The amendment to 365:25-3-14(d)(2) reflects the online renewal requirement and requirement that course completion certificates will only be submitted upon request by the Insurance Department. The amendment to 365:25-3-14(d)(3) moves the language from the previous section and clarifies that carryover CE hours are considered general hours. The amendment to 365:25-3-14(d)(6) reflects the online reinstatement process.

The amendment to 365:25-3-14(e)(1) reflects the sequence of the online application process, adds email to the list of required information, and removes unnecessary and duplicate items that are being moved to 365:25-3-14(f). The amendment to 365:25-3-14(e)(3) is added so that adjuster and producer rules will match. The amendment to 365:25-3-14(e)(4) is language moved from 365:25-3-14(f).

The amendment to 365:25-3-14(F)(1) ensures that the producer and adjuster rules match, adds language moved from 365:25-3-14(e), expands the content of courses available, and reflects current requirement that providers are to electronically upload course completions.

The amendment to 365:25-3-14(g) corrects the citation to Title 36.

The amendment to 365:25-3-14(l) ensures that the producer and adjuster rules match.

The amendment to 365:25-3-18 removes the training requirement because the Center for Medicare and Medicaid services no longer requires states to provide training related to Medicare Advantage or Medicare Prescription Drug products. Thus, the state requirement is no longer necessary.

The amendment to 365:25-7-23 updates the mailing address for the Oklahoma Insurance Commissioner.
CONTACT PERSON:
Buddy Combs, Assistant General Counsel, Oklahoma Insurance Department, 3625 NW 56th St., Suite 100, Oklahoma City, OK 73112, (405) 521-2746

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2013:

SUBCHAPTER 3. PRODUCERS, BROKERS, LIMITED LINES PRODUCERS AND VEHICLE PROTECTION PRODUCT WARRANTORS

365:25-3-1. Insurance producers continuing education

(a) **Purpose.** The purpose of this section is to set forth the requirements for continuing education, which an insurance producer must meet and to set forth the requirements for approval by the Insurance Commissioner of a proposed continuing education course.

(b) **Definitions.** The following words or terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"CE"** means continuing education.

(2) **"Certificate of course completion"** means a document acceptable to the Commissioner which signifies satisfactory completion of the course and reflects hours of credit earned.

(3) **"Continuing Education Advisory Committee"** means the committee established by the Commissioner for the purpose of reviewing and recommending approval or disapproval of continuing education courses.

(4) **"Credit hour"** means at least fifty (50) minutes classroom instruction unless a correspondence or self-study course.

(5) **"Instructor"** means a person who presents course materials approved for continuing education credit hours, and who has experience, training, and/or education in the course subject matter and has been approved by the Commissioner.

(6) **"Instructor Qualification Form"** means a form acceptable to the Commissioner and completed by the instructor which documents qualifications of the instructor.

(7) **"Licensee"** means a natural person who is licensed by the Commissioner as an insurance producer.

(8) **"Provider"** means a person, corporation, professional association or its local affiliates, an insurance company or any other entity which is approved by the Commissioner and provides approved continuing education to insurance producers.

(9) **"Provider Course Completion Form"** means a form acceptable to the Commissioner and completed by the provider which documents completion of an approved course by a producer or producers.

(c) **Exceptions.** The requirements for continuing education in this section shall not apply to:

(1) limited lines producers.

(2) a non-resident producer who resides and is licensed in a state or district having continuing education requirements and the producer meets all the requirements of that state or district to practice therein.~~ The non-resident producer shall be responsible for completing any reporting requirements necessary to verify completion.~~

(3) a non-resident producer of a state that does not require continuing education hours may fulfill the requirements of any other state's continuing education requirements and shall be deemed to have complied with this rule upon proof of completion of said hours.

(d) **Continuing education requirements.**

(1) **CE during twenty-four month period.** All licensees shall complete the required hours of continuing education as set forth in 36 O.S. § 1435.29 during each twenty-four month period. The twenty-four month period begins the first day after the license is granted. Ethics shall include, but not be limited to, the study of fiduciary responsibility, commingling of funds, payment and acceptance of commissions, unfair claims practices, policy replacement consideration, and conflicts of interest.

(2) **Certificates of course completion required for license renewal.** If requested by the Insurance Department, each producer shall submit upon each licensing renewal certificate(s) of course completion as approved by the Insurance Department, which verify courses completed during the previous twenty-four month period.

(3) **Credits carried over.** Six (6) credit hours in excess of the minimum twenty-four month period requirement shall carry forward as general hours to the next twenty-four month period. Excess hours may be applied to bring a lapsed license into compliance.

(4) **Legislative updates.**

(A) At least two (2) of the continuing education credit hours of instruction completed by licensees each twenty-four month period shall be taken in the following topics:

(i) state legislative updates

(ii) federal legislative updates.

(5) **Credits for instructors.** An instructor who is a licensee shall receive the same continuing education credit for presenting approved course materials as a licensee who attends an approved classroom instructional session by including his/her name and license number on roster.

(6) **Prerequisite for renewal or reinstatement.** As a prerequisite for licensure renewal or upon reinstatement following a lapse of license, a producer must~~ submit, on his or her renewal/reinstatement date, the appropriate forms as specified in this section which establish~~demonstrate that the education requirements have been reported for the previous ~~year(s)~~renewal cycle.

(e) **Approval of continuing education providers.**

(1) **Information required, fee.** Each provider shall apply for approval from the Commissioner. Each provider, with the exception of public funded educational institutions, federal agencies, nonprofit organizations, not-for-profit organizations, and Oklahoma state agencies shall submit~~ after its approval~~ a provider fee of Two Hundred Dollars ($200.00), and all providers, including public funded educational institutions, federal agencies , nonprofit organizations, not-for-profit organizations and Oklahoma agencies shall provide:

(A) Name,~~and~~ address, and email address of the provider;

(B) Contact person and his or her address and telephone number~~;~~.

~~(C) The location of the courses or programs, if known, unless it is an individual self-study course;~~

~~(D) The number of CE hours requested for each course;~~

~~(E) Topic outlines which list the summarized topics covered in each course and a copy of any course materials. If a prior approved course has substantially changed, a summarization of those changes;~~

~~(F) The names and qualification of instructors. An instructor shall have one of the following qualifications:~~

~~(i) Three (3) years of recent experience in the subject area being taught; or~~

~~(ii) A degree related to the subject area being taught; or~~

~~(iii) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.~~

~~(G) If a prior approved course has materially changed, a summarization of those changes;~~

(2) **Renewal fee.** An annual renewal fee of Two Hundred Dollars ($200.00) shall be payable on or before the approval anniversary date of each year by each provider to renew the approval of the provider. A fee of double the annual renewal fee shall be paid if the application for renewal is late or incomplete on the approval anniversary date.

(3) **Reinstatement period.** Providers whose approval has expired may be reinstated pursuant to paragraph 1 of this subsection. The reinstatement period shall be for a period of one (1) year following the expiration of the renewal date. The approval of the provider and any currently active courses shall remain active for the reinstatement period. If the provider and all courses fail to remain active following the reinstatement period, the provider and courses shall not be reinstated and the provider and courses shall be required to be approved pursuant to the provisions of this subsection.

(4) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.

(f) **Courses; approval; records; fee.**

(1) **Timeline for approval.** At least thirty (30) days prior to the use of any course and not less than ten (10) days prior to the Continuing Education Advisory Committee meeting immediately preceding the course date, the provider shall apply for and submit the appropriate course review fee to the Commissioner for course approval. The Commissioner shall grant or deny approval based upon information submitted in this section regarding each course or additional information regarding the course, if necessary. The Commissioner will assign the number of CE hours awarded for an approved course and the line or lines of insurance for which the course qualifies. The provider shall submit the following at the time of application:

(A) The number of CE hours requested for each course;

(B) Topic outlines which list the summarized topics covered in each course and a copy of any course materials. If a prior approved course has substantially changed, a summarization of those changes;

(C) If a prior approved course has materially changed, a summarization of those changes.

(2) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted. An instructor shall have one of the following qualifications:

(A) Three (3) years of recent experience in the subject area being taught; or

(B) A degree related to the subject area being taught; or

(C) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.

(~~2~~3) **Written approval required.** All courses shall require written approval by the Commissioner.

(~~3~~4) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval for any course approval. This withdrawal will not affect any CE hours attained under the course previous to the withdrawal. If a provider provides a CE course after that course has been denied by the Commissioner, the provider may be subject to an administrative action and penalty.

(~~4~~5) **Minimum of one credit hour.** Courses submitted for approval must consist of a minimum of one credit hour of course instruction.

(~~5~~6) **Continuing education course must be separate from meetings.** Courses conducted in conjunction with other meetings must have a separate continuing education course component.

(~~6~~7) **Content of courses.** Courses must be of a meaningful nature and shall not include ~~items~~insurance company specific courses in areas such as prospecting, motivation, sales techniques, psychology, recruiting, and subjects not relating to the insurance license. However, agency management courses designed to assist producers in becoming more efficient, profitable, and assuring their perpetuation, will be deemed to be in the best interest of the insuring public and thereby subject to approval. Each such agency management course must include the description, the effects the course is designed to accomplish toward the purposes of efficiency, profitability, and/or perpetuation and each course will be reviewed for approval on its own merits.

(~~7~~8) **Certificate of Course Completion.** At the completion of each course, the provider shall provide the insurance producer a "Certificate of Course Completion" Form.

(~~8~~9) **List of producers completing course to Commissioner; producer license numbers.** Within ten (10) business days after completion of each course, the provider shall ~~provide the Commissioner~~electronically upload a list of all insurance producers who completed the course ~~on the Course Completion Form~~ to the Commissioner's database system. This list shall contain the course number, date of completion and license numbers of all insurance producers completing the course. If the list is not reported within ten (10) business days, a late report fee of $50.00 shall be paid to the Insurance Department. Failure to pay the late report fee may result in revocation of provider approval. Continued late filing may also result in loss of approval.

(~~9~~10) **Course records maintained four years.** Providers shall maintain course records for at least four (4) years. The Commissioner may order an examination of a provider, at the provider's expense, for good cause shown.

(~~10~~11) **Repeated approved course.** At least fourteen (14) days prior to the repetition of an approved course, the

Commissioner shall be notified in writing of the repetition, providing course number, name, date and instructor's name.

(~~11~~12) **Course evaluation.** The continuing education provider shall provide written notification to each producer of the opportunity to offer comments on any continuing education class via the Insurance Department website.

(~~12~~13) **Course review fee.** A non-refundable course review fee of thirty dollars ($30.00) per course shall be submitted by all continuing education providers at the time the course submission is first submitted for review and upon submission for renewal at expiration with the exception of publicly funded educational institutions, federal agencies, Oklahoma state agencies, non-profit organizations, and not-for-profit organizations.

(g) **Approved Professional Designation Programs**

(1) **Definitions.**

(A) **Participation.** As used in 36 O.S. § 1435.29(B)(3), participates means successfully completing any part of a course curriculum totaling ~~twenty (20)~~twenty-four (24) classroom or equivalent classroom hours of an approved professional designation program.

(B) **Approved Professional Designation Program.** As used in 36 O.S.§ 1435.29(B)(3), an approved professional designation program means an educational insurance program approved by the Commissioner with a sponsoring organization that administers curriculum requirements and testing standards for candidates.

(2) **Requirements.** A professional designation program shall satisfy the following criteria to receive initial and ongoing approval for the program:

(A) The program shall have a sponsoring organization;

(B) The program's sponsoring organization shall maintain and govern a code of conduct;

(C) The program shall be relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma;

(D) Each course of the professional designation course curriculum shall be a minimum of ~~twenty (20)~~twenty-four (24) hours of classroom instruction or equivalent classroom instruction; and

(E) The program shall include an examination requirement that students shall pass before earning the designation.

(3) **Submissions.** The sponsoring organization shall submit the following to the Commissioner for its professional designation program to be considered for initial and ongoing approval for the program:

(A) The sponsoring organization's code of conduct;

(B) The sponsoring organization's membership requirements;

(C) The professional designation program's course requirements; and

(D) The professional designation program's examination requirements.

(4) **Submission exemptions.** Professional designation programs recognized by the National Association of Insurance Commissioners (NAIC) for waiver/exemption of pre-licensing education training shall receive initial and continuing approval without submission by the sponsoring organization.

(h) **Presumptive Continuing Education Credit Approval.**

(1) **Requirements.** A professional association may receive presumptive approval of the association's continuing education courses by satisfying the following requirements:

(A) The association shall have a mission statement that includes a commitment to enhance the professional, educational, or ethical skills of its members;

(B) The association shall maintain and govern a code of member conduct;

(C) The association shall offer educational programs relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma; and

(D) The association shall perpetuate its continuity through the election of officers.

(2) **Submissions.** Each professional association shall submit the following to be considered for initial and ongoing presumptive course approval:

(A) The association's mission statement;

(B) The association's code of member conduct;

(C) The chapter officers, the responsibilities for each officer, and the term of office for each officer;

(D) The mailing address and primary contact for the association; and

(E) The list of continuing education courses approved in Oklahoma and offered by the professional association in the past twenty-four (24) months.

(3) **Notification of approval or disapproval.**

(A) The Commissioner shall notify the association within ninety (90) days from the receipt of submission whether presumptive approval for continuing education courses was granted. The notification shall indicate the reasons for disapproval.

(B) Submissions to the Commissioner by an association seeking presumptive approval of continuing education courses shall include the course summary, instructor name, course date and location and shall be submitted to the Commissioner at least fifteen (15) business days prior to the presentation of the course.

(C) If the Commissioner receives a report or reports that the content of a continuing education course may violate 365:25-3-1(f)~~(6)~~(7) of this section, the Commissioner may review the content and determine if the course should be disapproved for noncompliance. The Commissioner shall notify the association if the course has been disapproved due to non-compliance, and the association shall immediately cease offering the course upon receipt of the notification. The association may then make corrections to a disapproved course to bring the course into compliance

with 365:25-3-1(f)~~(6)~~(7) of this section and submit the course for approval by the Commissioner in the manner of an original submission for presumptive continuing education course approval.

(D) Should an association receive notification of three (3) disapproved courses within a twenty-four (24) month period, the association's presumptive approval for continuing education courses shall be rescinded for twenty-four (24) months after which time the association may re-apply for presumptive approval.

(4) **Assignment of course number.** The Commissioner shall assign a course number once the presumptive approval for continuing education courses has been granted and shall notify the association of the assigned course number. All future correspondence relating to that course shall reference the assigned course number.

(5) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted.

(6) **Review.** Course approval shall be reviewed every three (3) years. The association shall re-submit the items required in subparagraph (3)(B) of this section during the fourth quarter of the last approval year.

(7) **Agency Management Courses.** Agency management courses shall not be considered for presumptive continuing education approval.

(i) **Self study and Distance Learning Courses.** The Insurance Commissioner shall determine appropriate guidelines and standards for self-study and distance learning CEC offerings. The guidelines and standards shall include authentication of the registered licensee, technology requirements for course delivery and testing protocols. Guidelines and standards shall be reviewed, updated as appropriate, and published annually. Failure to follow the guidelines and standards established by the Commissioner may result in denial of continuing education credit for the producer and revocation of the course approval and or provider status for the provider.

(j) **Repeating courses.** An insurance producer may repeat a course within the twenty-four month period if the maximum credits designated for the course were not attained in the first attempt. By repeating the course, the producer may not during the twenty-four month period earn more than the maximum credits designated for the course. A producer may repeat a course after two years have elapsed and receive the maximum credits designated for the course.

(k) **Extension of time.** For good cause shown, the Commissioner may grant an extension of time during which the requirements imposed by the act may be completed. The extension shall not exceed twelve (12) months. The extension will not alter the requirements or due date of the succeeding twenty-four-month period. "Good cause" includes disability, natural disaster, or other extenuating circumstances. Each request for extension of time shall be in writing from the licensee and shall include details and any documentation to support the request. Each request must be received by the Commissioner no less than thirty (30) days before the expiration of the twenty-four month period.

(l) **Course approval.** There shall hereby be established by 36 O.S. § 1435.29(B)(1)(b) the Continuing Education Advisory Committee. This committee shall consist of representatives from the Licensing Division, and representatives from the industry as designated by the Commissioner. The committee shall meet at least quarterly and additionally as required. Members of the committee shall serve without pay and shall not be reimbursed for any expenses associated therewith. Prior to the Commissioner's approval or disapproval of a course in 365:25-3-1(f), a continuing education advisory committee will review the course submitted and make its nonbinding recommendation to the Commissioner on granting or denying approval based upon information submitted in 365:25-3-1~~(e)~~(f) regarding the course or additional information regarding the course, if necessary, the number of CE hours awarded for an approved course and the line or lines of insurance for which the course qualifies. Each course approval shall be valid for a period of not more than two (2) years, unless the course has a material change. Material changes to courses require course resubmission for overall course review and approval. Course approval following the review of material changes shall reset the validity period. At the expiration of the validity period, providers shall submit the course for approval by the Commissioner if the provider wants to continue to offer the course for continuing education credit.

(m) **Severability provision.** If any provision of this section, or application of such provision to any person or circumstances, shall be held invalid, the remainder of the section, and the application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

365:25-3-14. Insurance adjusters continuing education

(a) **Purpose.** The purpose of this section is to set forth the requirements for continuing education which an insurance adjuster must meet, and to set forth the requirements for approval by the Insurance Commissioner of a proposed continuing education course.

(b) **Definitions.** The following words or terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"CE"** means continuing education.

(2) **"Certificate of course completion"** means a document acceptable to the Commissioner which signifies satisfactory completion of the course and reflects hours of credit earned.

(3) **"Continuing Education Advisory Committee"** means the committee established by the Commissioner for the purpose of reviewing and recommending approval or disapproval of continuing education courses.

(4) **"Credit hour"** means at least fifty (50) minutes of classroom instruction, unless a correspondence or self-study course.

(5) **"Instructor"** means a person who presents course materials approved for continuing education credit hours,

and who has experience, training, and/or education in the course subject matter and has been approved by the Commissioner.

(6) **"Instructor Qualification Form"** means a form acceptable to the Commissioner and completed by the instructor which documents qualifications of the instructor.

(7) **"Licensee"** means a natural person who is licensed by the Commissioner as an insurance adjuster.

(8) **"Provider"** means a person, corporation, professional association or its local affiliates, an insurance company or any other entity which is approved by the Commissioner and provides approved continuing education to insurance adjusters.

(9) **"Provider Course Completion Form"** means a form acceptable to the Commissioner and completed by the provider which documents completion of an approved course by an adjuster or adjusters.

(c) **Exceptions.** Continuing education requirements shall not apply to non-resident adjusters licensed in a designated home state that has a continuing education requirement for adjusters.

(d) **Continuing education requirements.**

(1) **CE during twenty-four month period.** All licensees shall complete the required hours of continuing education as set forth in Section 6217(B) of Title 36 of the laws of this state during each twenty-four month period. The twenty-four month period begins the first day after the license is granted. Six (6) credit hours in excess of the minimum twenty-four month period requirement shall carry forward to the next twenty-four month period. Excess hours may be applied to bring a lapsed license into compliance.

(A) All adjusters who adjudicate workers compensation claims shall complete six (6) hours of continuing education relating to the Workers' Compensation Act as part of the twenty-four (24) clock hours of continuing insurance education as set forth in Section 6217(D) of Title 36 of the Oklahoma Statutes.

(B) Insurers who utilize either a resident or non-resident adjuster for the adjudication of workers compensation claims occurring in this state shall verify that the adjuster has completed the workers compensation biennial continuing education requirement set forth in subparagraph (A) of this paragraph. An insurer may satisfy its responsibility under this subsection by:

(i) Obtaining certificates of completion of the continuing education course,

(ii) Obtaining reports provided by Commissioner-sponsored database systems or vendors, or

(iii) Obtaining reports from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

(C) Insurers subject to the provisions of this subsection shall maintain records with respect to the continuing education requirement of its adjusters as set forth in subparagraph (A) of this paragraph. These records shall be maintained in accordance with the state's record retention requirements and shall be made available to the Commissioner upon request.

(2) **Certificates of course completion required for license renewal.** If course completion is not reflected on the license renewal form issued by the Insurance Department, each adjuster shall attach, if requested by the Commissioner, an approved course completion certificate to the license renewal form returned to the Department for verification of course completion. The Commissioner shall maintain a cumulative total of continuing education credit hours to insure compliance within the twenty-four (24) month period. If requested by the Insurance Department, each adjuster shall submit upon each licensing renewal a certificate(s) of course completion as approved by the Insurance Department, which verifies courses completed during the previous twenty-four month period.

(3) **Credits carried over.** Six (6) credit hours in excess of the minimum twenty-four month period requirement shall carry forward to the next twenty-four month period as general hours. Excess hours may be applied to bring a lapsed license into compliance.

(~~3~~4) **Legislative Updates.** At least two (2) of the continuing education credit hours of instruction completed by licensees each twenty-four month period shall be taken in the following topics:

(A) State legislative updates, or

(B) Federal legislative updates.

(~~4~~5) **Credits for instructors.** An instructor who is a licensee shall receive the same continuing education credit for presenting approved course materials as a licensee who attends an approved classroom instructional session by including his/her name and license number on roster.

(~~5~~6) **Prerequisite for renewal or reinstatement.** As a prerequisite for license renewal or prior to reinstatement following a lapse of license, an adjuster must submit on his or her renewal/reinstatement date, the appropriate forms as specified in this section that establishdemonstrate that the educational requirements have been reported for the previous yearrenewal cycle.

(e) **Approval of continuing education providers.**

(1) **Information required.** Each provider shall apply for approval by the Commissioner. All providers, including publicly funded educational institutions, federal agencies, nonprofit organizations, not for profit organizations and Oklahoma state agencies, shall provide:Each provider shall apply for approval from the Commissioner. Each provider, with the exception of public funded educational institutions, federal agencies, nonprofit organizations, not-for-profit organizations, and Oklahoma state agencies shall submit a provider fee of Two Hundred Dollars ($200.00), and all providers, including public funded educational institutions, federal agencies, nonprofit organizations, not-for-profit organizations and Oklahoma agencies shall provide:

(A) Name, and address, and email address of the provider.

(B) Contact person and his or her address and telephone number(s).

~~(C) The location of the courses or programs, if known, unless it is an individual elf-study course.~~

~~(D) The number of CE hours requested for each course.~~

~~(E) Topic outlines which list the summarized topics covered in each course and a copy of any course materials.~~

~~(F) The names and qualification of instructors. An instructor shall have one of the following qualifications:~~

~~(i) Three (3) years of recent experience in the subject area being taught; or~~

~~(ii) A degree related to the subject area being taught; or~~

~~(iii) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.~~

~~(G) If a prior approved course has materially changed, a summarization of those changes.~~

(2) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.

(3) **Renewal fee.** An annual renewal fee of Two Hundred Dollars ($200.00) shall be payable on or before the approval anniversary date of each year by each provider to renew the approval of the provider. A fee of double the annual renewal fee shall be paid if the application for renewal is late or incomplete on the approval anniversary date.

(4) **Reinstatement period.** Providers whose approval has expired may be reinstated pursuant to paragraph 1 of this subsection. The reinstatement period shall be for a period of one (1) year following the expiration of the renewal date. The approval of the provider and any currently active courses shall remain active for the reinstatement period. If the provider and all courses fail to remain active following the reinstatement period, the provider and courses shall not be reinstated and the provider and courses shall be required to be approved pursuant to the provisions of this subsection.

(f) **Courses; approval; records.**

(1) ~~**Course approval timeline.** A provider shall apply to the Commissioner for course approval by submitting forms and materials to the Commissioner the first day of the month one full month prior to the date of the first course offering. The Commissioner shall grant or deny approval based upon information submitted in this section regarding each course or additional information regarding the course, if necessary. The Commissioner will assign the number of CE hours awarded for an approved course and the line or lines of insurance for which the course qualifies.~~**Timeline for approval.** At least thirty (30) days prior to the use of any course and not less than ten (10) days prior to the Continuing Education Advisory Committee meeting immediately preceding the course date, the provider shall apply for and submit the appropriate course review fee to the Commissioner for course approval. The Commissioner shall grant or deny approval based upon information submitted in this section regarding each course or additional information regarding the course, if necessary. The Commissioner will assign the number of CE hours awarded for an approved course and the line or lines of insurance for which the course qualifies.The provider shall submit the following at the time of application:

(A) The number of CE hours requested for each course.

(B) Topic outlines which list the summarized topics covered in each course and a copy of any course materials.

(C) If a prior approved course has materially changed, a summarization of those changes.

(2) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted. An instructor shall have one of the following qualifications:

(A) Three (3) years of recent experience in the subject area being taught; or

(B) A degree related to the subject area being taught; or

(C) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.

(~~2~~3) **Repeated approved course.** At least fourteen (14) days prior to the repetition of an approved course, the Commissioner shall be notified in writing of the repetition, providing course number, name, date, location and instructor's name.

(~~3~~4) **Written approval required.** All courses shall require written approval by the Commissioner.

(~~4~~5) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval for any course. This withdrawal will not affect any CE hours attained under the course previous to the withdrawal.

(~~5~~6) **Minimum of one credit hour.** Courses submitted for approval must consist of a minimum of one credit hour of course instruction.

(~~6~~7) **Continuing education course must be separate from meetings.** Courses conducted in conjunction with other meetings must have a separate continuing education course component.

(~~7~~8) **Content of courses.** Courses must be of a meaningful nature and shall not include ~~items~~insurance company specific courses in areas such as prospecting, motivation, sales techniques, psychology, recruiting, time management, phone etiquette, basic pre-licensing principles of adjusting, and subjects not relating to the adjuster's license.

(~~8~~9) **Certificate of Course Completion.** At the completion of each course, the provider shall provide the insurance adjuster a "Certificate of Course Completion" Form.

(~~9~~10) **List of adjusters completing course to Commissioner.** Within ten (10) business days after completion of each course, the provider shall ~~provide the Commissioner~~ electronically upload a list of all insurance adjusters who completed the course ~~on the Course Completion Form~~ to the Commissioner's database system. This list shall contain the course number, date of completion and license numbers of all insurance adjusters completing the course. If the list is not reported within ten (10) business days, a late report fee of $50.00 shall be paid to the Insurance Department. Failure to pay the late report fee may result in revocation of provider approval. Continued late filing may also result in loss of approval.

(~~10~~11) **Course records maintained four (4) years.** Providers shall maintain course records for at least four (4) years. The Commissioner may order an examination of a provider, at the provider's expense, for good cause shown.

(~~11~~12) **Course review fee.** A non-refundable course review fee of thirty dollars ($30.00) per course shall be submitted by all continuing education providers at the time the course submission is first submitted for review and upon submission for renewal at expiration with the exception of publicly funded educational institutions, federal agencies, Oklahoma state agencies, non-profit organizations, and not-for-profit organizations.

~~(12) **Reinstatement period.** Providers whose approval has expired may be reinstated pursuant to paragraph 1 of this subsection. The reinstatement period shall be for a period of one (1) year following the expiration of the renewal date. The approval of the provider and any currently active courses shall remain active for the reinstatement period. If the provider and all courses fail to remain active following the reinstatement period, the provider and courses shall not be reinstated and the provider and courses shall be required to be approved pursuant to the provisions of this subsection.~~

(13) **Course evaluation.** The continuing education provider shall provide written notification to each producer of the opportunity to offer comments on any continuing education class via the Insurance Department website.

(g) **Approved professional designation programs**

(1) **Definitions.**

(A) **Participation.** As used in 36 O.S. §~~1435.29(B)(3)~~6217(C), participates means successfully completing any part of a course curriculum totaling twenty (20) classroom or equivalent classroom hours of an approved professional designation program.

(B) **Approved professional designation program.** As used in 36 O.S. §~~1435.29(B)(3)~~6217(C), an approved professional designation program means an educational insurance program approved by the Commissioner with a sponsoring organization that administers curriculum requirements and testing standards for candidates.

(2) **Requirements.** A professional designation program shall satisfy the following criteria to receive initial and ongoing approval for the program:

(A) The program shall have a sponsoring organization;

(B) The program's sponsoring organization shall maintain and govern a code of conduct;

(C) The program shall be relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma;

(D) Each course of the professional designation course curriculum shall be a minimum of twenty (20) hours of classroom instruction or equivalent classroom instruction; and

(E) The program shall include an examination requirement that students shall pass before earning the designation.

(3) **Submissions.** The sponsoring organization shall submit the following to the Commissioner for its professional designation program to be considered for initial and ongoing approval for the program:

(A) The sponsoring organization's code of conduct;

(B) The sponsoring organization's membership requirements;

(C) The professional designation program's course requirements; and

(D) The professional designation program's examination requirements.

(4) **Submission exemptions.** Professional designation programs recognized by the National Association of Insurance Commissioners (NAIC) for waiver/exemption of pre-licensing education training shall receive initial and continuing approval without submission by the sponsoring organization.

(h) **Presumptive continuing education credit approval.**

(1) **Requirements.** A professional association may receive presumptive approval of the association's continuing education courses by satisfying the following requirements:

(A) The association shall have a mission statement that includes a commitment to enhance the professional, educational, or ethical skills of its members;

(B) The association shall maintain and govern a code of member conduct;

(C) The association shall offer educational programs relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma; and

(D) The association shall perpetuate its continuity through the election of officers.

(2) **Submissions.** Each professional association shall submit the following to be considered for initial and ongoing presumptive course approval:

(A) The association's mission statement;

(B) The association's code of member conduct;

(C) The chapter officers, the responsibilities for each officer, and the term of office for each officer;

(D) The mailing address and primary contact for the association; and

(E) The list of continuing education courses approved in Oklahoma and offered by the professional association in the past twenty-four (24) months.

(3) **Notification of approval or disapproval.**

(A) The Commissioner shall notify the association within ninety (90) days from the receipt of submission whether presumptive approval for continuing education courses was granted. The notification shall indicate the reasons for disapproval.

(B) Submissions to the Commissioner by an association seeking presumptive approval of continuing education courses shall include the course summary, instructor name, course date and location and shall be submitted to the Commissioner at least fifteen (15) business days prior to the presentation of the course.

(C) If the Commissioner receives a report or reports that the content of a continuing education course may violate paragraph 365:25-3-1(f)~~(7)~~(8) of this section, the Commissioner may review the content and determine if the course should be disapproved for noncompliance. The Commissioner shall notify the association if the course has been disapproved due to non-compliance, and the association shall immediately cease offering the course upon receipt of the notification. The association may then make corrections to a disapproved course to bring the course into compliance with paragraph 365:25-3-1(f)(~~(7)~~(8) of this section and submit the course for approval by the Commissioner in the manner of an original submission for presumptive continuing education course approval.

(D) Should an association receive notification of three (3) disapproved courses within a twenty-four (24) month period, the association's presumptive approval for continuing education courses shall be rescinded for twenty-four (24) months after which time the association may re-apply for presumptive approval.

(4) **Assignment of course number.** The Commissioner shall assign a course number once the presumptive approval for continuing education courses has been granted and shall notify the association of the assigned course number. All future correspondence relating to that course shall reference the assigned course number.

(5) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted.

(6) **Review.** Course approval shall be reviewed every three (3) years. The association shall re-submit the items required in subparagraph 365:25-3-14(H)(3)(B) of this section during the fourth quarter of the last approval year.

(7) **Agency management courses.** Agency management courses shall not be considered for presumptive continuing education approval.

(i) **Self study and distance learning courses.** The Insurance Commissioner shall determine appropriate guidelines and standards for self-study and distance learning CEC offerings. The guidelines and standards shall include authentication of the registered licensee, technology requirements for course delivery and testing protocols. Guidelines and standards shall be reviewed and updated as appropriate and published on the Commissioner's website annually. Failure to follow the guidelines and standards established by the Commissioner may result in denial of continuing education credit for the adjuster and revocation of the course approval and or provider status for the Provider.

(j) **Repeating courses.** An insurance adjuster may repeat a course within the twenty-four month period if the maximum credits designated for the course were not attained in the first attempt. By repeating the course, the adjuster may not during the twenty-four month period earn more than the maximum credits designated for the course. An adjuster may repeat a course after two (2) years have elapsed and receive the maximum credits designated for the course.

(k) **Extension of time.** For good cause shown, the Commissioner may grant an extension of time during which the requirements imposed by the act may be completed. The extension shall not exceed twelve (12) months. The extension will not alter the requirements or due date of the succeeding twelve-month period. "Good cause" includes disability, natural disaster, or other extenuating circumstances. Each request for extension of time shall be in writing from the licensee and shall include details and any documentation to support the request. Each request must be received by the Commissioner no less than thirty (30) days before the expiration of the twenty-four month period.

(l) **Continuing education advisory committee.**

(1) There shall hereby be established the Continuing Education Advisory Committee. This committee shall consist of representatives from the Licensing Division, and representatives from the industry ~~(not to exceed three (3) individuals)~~as designated by the Commissioner. Members of the Advisory Board established by 36 O.S. § 6221 may also serve on the Continuing Education Advisory Committee. The committee shall meet at least quarterly and additionally as required. Members of the committee shall serve without pay and shall not be reimbursed for any expenses associated therewith.

~~(2) Prior to the Commissioner's approval or disapproval of a course in subsection 365:25-3-14(e), the Continuing Education Advisory Committee will review the course submitted and make its nonbinding recommendation to the Commissioner on granting or denying approval based upon information submitted pursuant to subsection 365:25-3-14(e) and additional information regarding the course, if necessary. Each course approval shall be valid for a period of no longer than two (2) years, unless the course has a material change. Material changes to courses require course resubmission for overall course review and approval. Course materials may be resubmitted as requested for review at the time of expiration. All existing courses previously approved and current with the~~

~~Commissioner shall be submitted in accordance with the expiration date as granted by the Commissioner unless the course has a material change, as previously detailed.~~

(2) Prior to the Commissioner's approval or disapproval of a course in 365:25-3-14(f), a continuing education advisory committee will review the course submitted and make its nonbinding recommendation to the Commissioner on granting or denying approval based upon information submitted in 365:25-3-14-(f) regarding the course or additional information regarding the course, if necessary, the number of CE hours awarded for an approved course and the line or lines of insurance for which the course qualifies. Each course approval shall be valid for a period of not more than two (2) years, unless the course has a material change. Material changes to courses require course resubmission for overall course review and approval. Course approval following the review of material changes shall reset the validity period. At the expiration of the validity period, providers shall submit the course for approval by the Commissioner if the provider wants to continue to offer the course for continuing education credit.

(m) **Severability provision.** If any provision of this section, or application of such provision to any person or circumstances, shall be held invalid, the remainder of the section, and the application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

365:25-3-18. Compensation and education for sale of Medicare Advantage (including private fee for service plans) or Medicare prescription drug products and plans

~~(a)~~ **Compensation; selling, soliciting or negotiating Medicare Advantage products and plans.**

(1) **Applicability.** The provisions of this section shall apply only to insurance companies and producers who solicit, negotiate or sell Medicare Advantage including private fee for service plans) or Medicare Prescription Drug products and plans.

(2) **Insurance companies.** An insurance company shall not pay or offer to pay compensation to producers based on the number of sales of Medicare Advantage products and plans. An insurance company may pay a commission for each sale, but compensation shall not be tiered or based on a sales threshold.

(3) **Producers.** A producer shall not accept compensation based on the number of sales of Medicare Advantage products and plans. A producer may receive a commission for each sale, but compensation shall not be tiered or based on a sales threshold. An individual may not sell, solicit or negotiate Medicare Advantage (including private fee for service plans) or Medicare Prescription Drug products and plans unless the individual is licensed as an insurance producer for accident and health.

~~(b)~~ ~~**Training Requirements.**~~

~~(1)~~ ~~**Biennial renewal periods.** Producers who sell solicit, or negotiate Medicare Advantage (including private fee for service plans) or Medicare Prescription Drug products and plans shall complete four (4) hours of continuing education during each biennial renewal period. The continuing education required by this section may be applied as a continuing education course credit under Section 1435.29 of Title 36 of the Oklahoma Statutes.~~

~~(2)~~ ~~**Company products; sales and marketing information.** The training required by this section shall not include training that is insurer or company product specific or that includes any sales or marketing information, materials, or training, other than those required by state or federal law.~~

SUBCHAPTER 7. COMPANIES

PART 5. OKLAHOMA INSURANCE HOLDING COMPANY SYSTEM REGULATORY ACT

365:25-7-23. Forms: general requirements

(a) **Forms A, B, C, D, and E.** Forms A, B, C, D, and E, as set forth in Appendices A, B, N, O, and Q of this Chapter, are intended to be guides in the preparation of the statements required by Sections 1653, 1654 and 1655 of the Act. They are not intended to be blank forms which are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable, or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(b) **Filing statements.** Two (2) complete copies of each statement, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Commissioner by personal delivery to the Office of the Insurance Commissioner in Oklahoma City, Oklahoma, or by mail addressed to the Insurance Commissioner of the State of Oklahoma, ~~P. O. Box 53408, Oklahoma City, OK 73152-3408.~~3625 NW 56th Street, Suite 100, Oklahoma City, Oklahoma 73112. A copy of a Form C shall be filed in each state in which an insurer is authorized to do business, if the Commissioner of that state has notified the insurer of its request in writing, in which case the insurer has thirty (30) days from receipt of the notice to file such form. At least one of the copies shall be manually signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

(c) **Format of statements.** Statements should be prepared on paper 8 1/2" x 11" in size and preferably bound at the top or the top left hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable and suitable for

photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language, and monetary values shall be stated in United States Currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into Unites States Currency.

[OAR Docket #13-1043; filed 6-7-13]

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 #13-1044]

RULEMAKING ACTION:
PERMANENT final adoption
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
365:25-5-35. 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]
Part7. Specific Financial Circumstances Warranting Release of Professional Deposit
365:25-5-51. Specific financial circumstances enumerated [AMENDED]
AUTHORITY:
Insurance Commissioner, 59 O.S. § 1302(A)
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INCORPORATIONS BY REFERENCE:
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ANALYSIS:
The amendment to 365:25-5-3 clarifies that prelicensing education credit is valid for one year from the date obtained. The amendment to 365:25-5-4 sets an expiration timeframe for the material presented in bail bondsman continuing education (CE) courses and the language is taken from the producer licensing rules. The amendment to 365:25-5-5 removes the requirement that bondsmen turn in an education verification form to the Insurance Commissioner. The amendment to 365:25-5-8 updates the rule to conform to the change from a one-year license period to a two-year license period.

The amendment to 365:25-5-35 removes an unnecessary "reinstatement fee," updates the language to conform to the changes made in 2011 to 59 O.S. § 1309(B) and (C), which changes the due date for financial statements and property documents from the bondsman's birth month to September 30, and conforms the language to the current Insurance Department practice of allowing bondsmen to print their license certificate online rather than sending the certificate in the mail. The amendment to 365:25-5-38 changes the "year" from October 1 through September 30 to January 1 through December 31. The amendment to 365:25-4-41 sets out a $300,000 special deposit requirement for insurers writing only bail bonds, which conforms to the current policy and practice of the Insurance Department. The amendment also cleans up the language of the rule to make it easier to understand. The addition of 365:25-5-47 requires an individual who is transferred a professional bail bondsman license pursuant to 59 O.S. § 1306(D) to submit a financial statement to the Insurance Department.

The amendment to 365:25-5-51 sets out that a professional bondsman whose license has been suspended or revoked cannot apply for a partial return of their deposit.
CONTACT PERSON:
Buddy Combs, Assistant General Counsel, Oklahoma Insurance Department, 3625 NW 56th St., Suite 100, Oklahoma City, OK 73112, (405) 521-2746

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2013:

SUBCHAPTER 5. BAIL BONDSMEN

PART 1. CONTINUING EDUCATION FOR BAIL BONDSMEN

365:25-5-3. Education requirements

(a) **Education verification prior to licensure.** Prior to taking the bail bondsman licensing examination, the applicant shall successfully complete the hours of prelicensing education required by 59 O.S. §1308.1(A) in subjects pertinent to the duties and responsibilities of a bail bondsman. The prelicensing education shall be valid for one (1) year from the date obtained by the applicant.

(b) **Continuing education.** All bail bondsmen shall complete eight (8) credit hours of continuing education required by 59 O. S. §1308.1(A) annually to meet the biennial requirement.

(c) **CE credit for instructor.** An instructor who is a licensed bail bondsman shall receive the same continuing education credit for presenting approved course materials as a licensee who attends an approved classroom instructional session.

365:25-5-4. Application for course approval

(a) **Oklahoma Bondsman Association courses.** The Oklahoma Bondsman Association shall apply for course approval from the Commissioner. The Association shall annually submit a fee of One Hundred Dollars ($100.00) to the Insurance Commissioner.

(b) **Information regarding OBA courses.** The Oklahoma Bondsman Association shall submit the following information concerning educational courses:

(1) Name, address and qualifications of the instructor;

(2) Contact person, his or her address and telephone number;

(3) The location of the courses or programs, unless it is an individual study or correspondence course;

(4) The number of hours requested for each course;

(5) Topic outlines which list the summarized topics covered in each course and upon request, a copy of any course materials. If a prior approved course has substantially changed, a summarization of those changes.

(c) **Instructor qualifications.** An instructor shall have one of the following qualifications:

(1) Three (3) years of recent experience in the subject area being taught; or

(2) A degree related to the subject area being taught; or

(3) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.

(d) **Losing course approval.** The Commissioner may withhold or withdraw approval of any instructor or course for violation of or non-compliance with any provision of this section.

(e) **Course approval expiration.** Each course approval shall be valid for a period of not more than two (2) years, unless the course has a material change. Material changes to courses require course resubmission for overall course review and approval. Course approval following the review of material changes shall reset the validity period. At the expiration of the validity period, providers shall submit the course for approval by the Commissioner if the provider wants to continue to offer the course for continuing education credit.

365:25-5-5. Approval or denial of course; certificate of completion

(a) **Approval required 30 days in advance.** At least thirty (30) days in advance of the presentation of any course, the Association shall apply to the Commissioner for course approval. The Commissioner shall grant or deny approval based upon information submitted in 365:25-5-4 regarding each course or additional information regarding the course, if necessary. The Commissioner will assign the number of hours awarded for an approved course.

(b) **Written approval required.** All courses shall require written approval.

(c) **Approval withheld or withdrawn.** The Commissioner may withhold or withdraw approval for any course approval. This withdrawal will not affect any hours attained under the course.

(d) **Minimum one credit hour per course.** Courses submitted for approval must consist of a minimum of one credit hour of course instruction.

(e) **CEC separate component of meetings.** Courses conducted in conjunction with other meetings must have a separate continuing education course component.

(f) **Certificate of Course Completion.** At the completion of each course, whether continuing education or prelicensing, the Association shall provide the bondsman with a "Certificate of Course Completion" form, which shall contain the verification of the Association that the bondsman completed the course so certified. ~~Such bondsman shall then complete the education verification form and furnish it and a copy of the certificate of course completion to the Commissioner at the time of applying for licensing or for renewal of license as appropriate.~~

(g) **OBA supplies Commissioner with list of bondsmen completing course.** At the completion of each course, the Association shall provide to the Commissioner a list of all bondsmen who completed the course.

(h) **OBA records maintained 4 years.** The Association shall maintain course records for at least four (4) years.

365:25-5-6. Proof of completion; video courses

(a) **Correspondence courses.** A bail bondsman who satisfactorily completes an approved course by correspondence and provides proof of satisfactory completion, as specified by the Commissioner, will receive credit for the number of hours assigned by the Commissioner for completion of the course.

(b) **Video courses.** In order for a bail bondsman to receive credit for viewing an approved course presented by ~~video cassette~~electronic recording, the bondsman must view the ~~video cassette~~electronic recording under the supervision of an approved instructor, or under the supervision of an individual approved by the Oklahoma Bondsman Association, and swear by affidavit he has viewed the ~~video cassette~~electronic recording in its entirety. The affidavit must be submitted to the Association.

365:25-5-8. Extensions of time

For good cause shown, the Commissioner may grant an extension of time during which the requirements imposed by 59 O.S. Section 1308 and 1308.1 may be completed. The extension shall not exceed six (6) months. The extension will not alter the requirements or due date of the succeeding year. "Good cause" includes disability, natural disaster, or other extenuating circumstances. Each request for extension of time shall be in writing from the licensee and shall include details and any documentation to support the request. Each request must be received by the Commissioner no less than thirty (30) days before the expiration of the ~~one year period~~license.

PART 5. GENERAL PROVISIONS PERTAINING TO BAIL BONDSMEN

365:25-5-35. Bondsman license renewal

(a) Pursuant to 59 O.S. § 1309, bondsmen are required to renew their licenses biennially. Requirements for a complete renewal filing for a bondsman shall be submitted by the last day of the bondsman's birth month and must include~~ each of the following:~~a Two Hundred Dollar ($200.00) renewal fee.

~~(1) A Two Hundred Dollar ($200.00) renewal fee, and~~

~~(2) For professional bondsmen, a financial statement prepared in accordance with 59 O.S. § 1309(B).~~

~~(3) In case of renewal of a property bondsman license, the application shall also provide a county assessor's written statement stating the property's assessed value for each property used to post bonds and a written statement from any lien holder stating the current payoff amount on each lien for each property used to post bonds.~~

~~(b) Renewal filings or partial renewal filings submitted after the renewal date will be assessed a Two Hundred Dollar ($200.00) reinstatement fee in addition to the usual Two Hundred Dollar ($200.00) renewal fee.~~

(~~c~~b) Failure to complete the renewal process by the last day of the bondsman's birth month will result in an automatic expiration of the license. After the expiration, the license may be reinstated for up to one (1) year following the expiration date. If after the one (1) year date, the license has not been renewed, then the licensee shall be required to apply for a license as a new applicant.

(~~d~~c) All licenses of bail bondsmen shall expire on the last day of the bondsman's birth month unless the Commissioner receives a complete renewal filing. A complete renewal filing consists of all necessary items required by paragraph (a) of this section as well as any other items required by the Commissioner.

(~~e~~d) If the license has not been renewed by the expiration date, a bail bondsman shall not be authorized to continue acting as a bail bondsman.

~~(f) The Commissioner shall mail all renewal licenses to the bondsman's address of record.~~

365:25-5-38. Ten defendant limit

Pursuant to 59 O.S. §1320, a bondsman is authorized to write bonds on up to ten defendants per year, ~~October 1 through September 30~~January 1 through December 31, in each county outside his resident county. For purposes of determining the ten defendants, the bondsman shall consider each date a bond or bonds are written on a defendant as being one of the ten defendants, not withstanding any previous bonds which have been written on that same individual. The ten defendant limit does not apply in counties without a registered bondsman in said county.

365:25-5-41. Special deposit

(a) In addition to the cash or securities deposited in trust with the State Treasurer through the Insurance Commissioner's office pursuant to 36 O.S. § 613, insurers writing bail bonds in this state shall deposit in trust additional cash or securities equaling at least Three Hundred Thousand Dollars ($300,000.00), and insurers writing bail bonds in this state shall not exceed a twenty-to-one (20:1) ratio of outstanding liability-to-special deposit.

(b) An insurer shall comply with the following requirements to maintain the special deposit described in Subsection (a):

(1) The insurer's monthly report of outstanding liability shall be within ten percent (10%) of the outstanding liability reported by all the insurer's appointed surety bondsmen for that month.

(2) All bail bond forfeitures shall either be paid within 91 days after receipt of the Order and Judgment of Forfeiture or vacated by the court within 91 days from the date of receipt of the Order and Judgment of Forfeiture pursuant to Section 365:25-5-40.

(c) If the insurer fails to comply with either requirement of paragraph (b) more than three (3) times in a consecutive twelve (12) month period, the insurer's ~~special deposit shall equal at least a~~outstanding liability shall not exceed a ten-to-one (10:1) ratio of outstanding liability-to-special deposit. The Insurance Commissioner shall provide written notification of this requirement via certified mail, return receipt requested, to the insurer's address of record. The special deposit required by this paragraph shall become effective thirty (30) days from the date notification is received.

(d) If an insurer is authorized to write only bail bonds, ~~the~~any cash or securities deposited in trust with the State Treasurer through the Insurance Commissioner's office pursuant to 36 O.S. § 613 in excess of the minimum amount required by Section 613 shall apply towards the special deposit required by this section.

365:25-5-47. Financial statement required

If the license of a professional bondsman is transferred pursuant to 59 O.S. § 1306(D), the transferee shall submit a financial statement to the Department within 180 days after the date of the transfer.

PART 7. SPECIFIC FINANCIAL CIRCUMSTANCES WARRANTING RELEASE OF PROFESSIONAL DEPOSIT

365:25-5-51. Specific financial circumstances enumerated

(a) For purposes of Section 1306(A)(5) of Title 59 of the laws of this state, the specific financial circumstances warranting release of a professional deposit are:

(1) Fire that damages or destroys either the office or residence of the bondsman;

(2) Flood that damages or destroys either the office or residence of the bondsman;

(3) Other natural disaster that damages or destroys either office or residence of the bondsman;

(4) Medical problem or illness sustained by either the bondsman or a member of the immediate family of the bondsman.

(5) The bondsman has unused bail writing capacity of at least forty percent (40%) of their liability limit, and has

at least twelve (12) consecutive months of being at sixty percent (60%) or below this writing limit.

(b) The bondsman shall have the burden of showing the Commissioner by clear and convincing evidence the existence or occurrence of the circumstances, as well as providing to the Commissioner any necessary supporting documentation or other evidence the Commissioner requires.

(c) A bondsman whose license is suspended or has been revoked shall not be allowed to apply for a partial return of a deposit.

[OAR Docket #13-1044; filed 6-7-13]

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

[OAR Docket #13-1040]

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PERMANENT final adoption
RULES:
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Part 3. Holding Company System
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365:40-3-17 is amended to update the address of the Oklahoma Insurance Commissioner.
CONTACT PERSON:
Buddy Combs, Assistant General Counsel, Oklahoma Insurance Department, 3625 NW 56th St., Suite 100, Oklahoma City, OK 73112, (405) 521-2746

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2013:

SUBCHAPTER 3. FINANCIAL

PART 3. HOLDING COMPANY SYSTEM

365:40-3-17. Forms: general requirements

(a) **Forms A, B, C, D, E and R.** HMO Forms A, B, C, D, E and R, as set forth in Appendices A, B, C, D, E, and F of this Chapter, are intended to be guides in the preparation of the statements required by Article 16A of Title 36, Section 6930 of Title 36 and O.A.C. 365:40-3-12, 13 and 16. They are not intended to be blank forms that are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable, or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(b) **Filing statements.** Two (2) complete copies of each statement, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Insurance Commissioner by personal delivery to the Office of the Insurance Commissioner in Oklahoma City, Oklahoma, or by mail addressed to the Insurance Commissioner of the State of Oklahoma, ~~P. O. Box 53408, Oklahoma City, OK 73152-3408~~3625 NW 56th Street, Suite 100, Oklahoma City, Oklahoma 73112. A copy of an HMO Form C shall be filed in each state in which an HMO is authorized to do business, if the HMO authority of that state has notified the HMO of its request in writing, in which case the HMO has thirty (30) days from receipt of the notice to file such form. At least one of the copies shall be manually signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

(c) **Format of statements.** Statements should be prepared on paper 8 1/2" x 11" in size and preferably bound at the top or the top left hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language, and monetary values shall be stated in United States Currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency shall be converted into United States Currency.

[OAR Docket #13-1040; filed 6-7-13]

TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION
CHAPTER 9. OKLAHOMA OPEN RECORDS

[OAR Docket #13-987]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Criminal History nformation
375:9-1-1.1 [AMENDED]
375:9-1-2 [AMENDED]
375:9-1-5 [AMENDED]
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ANALYSIS:
The amended rules define "rap-back information" and provide for the provision of rap-back information to requestors of criminal history backgrounds. The amended rules would also lower the fee for fingerprint searches of Oklahoma and FBI criminal history records sought under the authority of the federal Volunteers for Children Act/National Child Protection Act from $41.00 to $25.00. They would also allow a national criminal history record check to be sought when there is a statutory requirement underlying the request that reflects that the such "may" be conducted for a particular governmental purpose rather that the statute requesting that the search "must" be conducted for a particular governmental purpose.
CONTACT PERSON:
Jimmy Bunn Jr., Legal Counsel, OSBI, 6600 N. Harvey, Oklahoma City, OK., 73116, 405-879-2605

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 AUGUST 1, 2013:

375:9-1-1.1. Definitions

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

"Arrears" means money which is owed but left unpaid until a future date.

"Bureau" means the Oklahoma State Bureau of Investigation.

"Commercial purpose" means for purposes of employment, licensing (including Self-Defense Act), adoption, foster parenting, child care, insurance, workers compensation claims, tenancy requirements, civil law suit, and any criminal history record check mandated by law,

"Criminal history record" means the "rap sheet" form prepared by the OSBI containing a chronological history of individuals arrests, charges and the dispositions of same within the state of Oklahoma <u>including "rap-back information" as determined appropriate and necessary by the OSBI</u>. OSBI criminal history records do not list an individual's national arrest status.

"Criminal justice agency" means an agency which is a governmental agency which meets the definition of a criminal justice agency as contained in the Department of Justice Regulations on Criminal Justice information Systems (Title 28, CFR, Part 20, Subpart A), which defines criminal justice agency as "(c)...(1) courts; (2) a governmental agency or any subunit thereof which performs the administration of criminal justice pursuant to statute or executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice ("allocates a substantial portion" has been interpreted to mean more than 50% by the originator of Regulations. State and Federal Inspector General offices are included.) (d) The administration of criminal justice means performance by any of the following activities; detection, apprehension, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information."

"Director" means the Director of the Oklahoma State Bureau of Investigation.

"Non-serious offenses" offenses which are not recorded in criminal history records, adapted from the list of FBI non-serious offenses. Other misdemeanor and municipal offenses may also qualify as non-serious. See offenses exempted definition. Non-serious offenses include;

(A) Allow minor in bar; Abusive language; Alms solicitation; Amnesia, AWOL; (unless referred to District Court);

(B) Begging; Breach of Peace;

(C) Card game playing; Careless or reckless driving (As long as under influence of drugs or liquor, hit and run, vehicular manslaughter; involuntary manslaughter NOT involved); Civil commitment; Criminal registration; Curfew violation;

(D) Detention only; Detoxification; Dice game playing; Disregarding traffic signals; Disturbance; Disturbing public worship; Disturbing the peace; Dog laws; Drag racing; Driving while license suspended or revoked; Drunk; (non-traffic charges); Drunk in or about auto; Drunk in public restroom or restaurant; Drunk on highway;

(E) Ex-convict registration;

(F) Failure to give good account; Failure to operate in prudent manner (auto); Failure to register in hotel or register in hotel with someone other than husband or wife;

(G) Failure to yield for emergency vehicle (blue light or siren); False fire alarm; Felony registration; Fireworks; Fishing without a license; Fighting; For Identification Purposes only;

(H) General principals; Going through red light;

(I) Head lighting; Hunting without a license; Hitchhiking;

(J) Illegal consumption of beer; Illegal possession of beer; Inadequate brakes; Inquiry (unaccompanied by criterion charge); Interview; Intoxication; Investigation (unaccompanied by criterion charge); Investigation mental;

(K) Late hours; Loafer; Lodger; Loitering; Lottery playing; Lunacy; (unless print pertains to major charge);

(L) Mandatory appearance; Material witness; Medical treatment; Mental; Minor in bar; Minor attempting to buy beer; Minor in consumption; Minor in gambling house; Minor in possession of alcohol; Misrepresenting age (liquor); Mooching;

(M) Narcotics registration; Negligent driving, No driver's license (operating auto with altered license considered a serious charge); No inspection sticker or expired sticker; No visible means;

(N) Obstructing traffic; Operating auto without license;

(O) Panhandling; Parking warrants; Patient (unless print pertains to MAJOR charge, i.e. rape, murder); Peace bond; Peace warrant; Possession of lottery tickets, policy slips or numbers; Possession of open bottle or container; Probation or parole check; Profane language; Public intoxication; Public nuisance; Purchasing liquor as minor;

(P) Re-booked on suspension; Runaway;

(Q) Safekeeping; Sex registration; Sleeper; Sleeping in the subway; Speeding; State work furlough; Suspect; Suspicion; (unaccompanied by criterion charge); Suspicious person; Suicide (attempted);

(R) Transporting open container; Traffic violations (minor traffic, vehicle and licensing charge); train riding (hobo); Tramp; Transient; Truancy; Trusty commitment;

(S) Urinating in public; Uninsured motor vehicle; Unlawful blood alcohol content (alone only-not with driving charge);

(T) Vagabond or rogue; Vagrancy; Venereal control registration; Visiting a common nuisance; Voluntary commitment;

(U) Walking on highway; Wayward;

(V) Use of language to arouse anger.

"Offenses exempted" means non-serious offenses or crimes listed under the definition of non-serious offenses. The OSBI may also determine that other misdemeanor and municipal offenses are also non-serious. Offenses may be considered by the OSBI to be non-serious if it is a minor infraction which would not result in substantial harm to any individual or to the public's health or safety. Where harm is pecuniary, substantial shall mean an amount in excess of $50.00. For example, although the offense of driving under the influence is a misdemeanor it does not qualify as a non-serious offense. It shall be maintained in criminal history records because the offense poses a significant risk of harm to the individual's public safety

"OSBI" means the Oklahoma State Bureau of Investigation.

"Other purpose" shall include such things as personal safety and community awareness.

"Rap-back information" means a follow-up chronological history of individuals arrests, charges and the dispositions of same within the state of Oklahoma that occur after the date after the request.

"Request" means a request for criminal history records from the OSBI.

"Requestor" means the person, governmental agency, or other entity who makes a request for criminal history records.

375:9-1-2. Request for criminal history records

(a) Obtaining criminal history records.

(1) Members of the public may request criminal history records from the OSBI by completing a Record Check Request Form and faxing, delivering or mailing the form to the following address: Oklahoma State Bureau of Investigation, Criminal History Reporting Unit, 6600 N. Harvey, Suite 140, Oklahoma City, Oklahoma 73116.

(2) Delivery of the request in person may be made Monday through Friday (except holidays) between the hours of 8:30 a.m. and 4:30 p.m. unless otherwise posted in advance.

(A) If the request is made by an individual for the sole purpose of determining whether or not his or her own criminal history record is accurate, the cashier at the OSBI will have that individual complete an "Individual Request for Criminal History Record Inspection Form."

(B) Upon completion of the form, a records check clerk will conduct a criminal history check based on the information provided. After completion of this check, the original form will be returned to the requestor, along with a copy of the requestor's criminal history record if any such record exists.

(C) The request form and the individual's criminal history record will be stamped, dated, and initialed by the records clerk prior to their issuance to the requestor. A copy of the request form will be retained in the files of the OSBI.

(D) If a fee is applicable, the cashier will accept payment and prepare a receipt. One copy of the receipt shall be given to the requestor. A records clerk will conduct a criminal history check based on the information provided, returning the completed form to the requestor. The form(s) and record(s) will be stamped with the appropriate stamp(s),dated, and initialed by the searcher prior to their return. A copy

of the completed record check form and receipt will be retained for OSBI files. Criminal Justice Agencies will not be charged for these services.

(3) All requests delivered by mail shall include a stamped, self-addressed envelope. Replies will be made by return mail.

(4) All request forms must be typed or the information legibly printed by the requestor. Handwritten requests which are not easily read will be returned unprocessed.

(b) Required information. Persons, businesses, government agencies, and other entities making requests for criminal history records shall provide the following information to the OSBI:

(1) the full name of the subject of the record;

(2) the date of birth or approximate age of the subject of the record;

(3) the social security number of the subject, if known;

(4) inked fingerprints of the subject, if available; and

(5) any other information which tends to establish the identity of the subject such as sex and race.

(c) Method of search. Searches for criminal history records shall be conducted only by personnel of the Oklahoma State Bureau of Investigation.

(d) Fees.

(1) Requests which clearly would cause excessive disruption of the Oklahoma State Bureau of Investigation's essential functions or any request for criminal history information made by any private entity, state agency, board, department, or commission for licensing, or other non-law enforcement purpose will pay a fee based on the following schedule for the type of record requested:

(A) Name Search, Oklahoma records only, the cost is $15.00.

(B) Fingerprint search, Oklahoma records only, the cost is $ 19.00.

(C) Fingerprint search, Oklahoma and FBI records, the cost is $41.00. Fingerprint searches of Oklahoma and FBI records sought under the authority of the federal Volunteers for Children Act/National Child Protection Act shall be reduced to $35.00.

(D) Oklahoma Department of Corrections Offender Lookup

(i) Mary Rippy Violent Offender Check, the cost is $2.00.

(ii) Sex Offender Check, the cost is $2.00.

(2) All requests not for a commercial purpose must be accompanied by a document copying fee of $.25 per page. Certified copies of any requested documents will be supplies for $1.00 per page.

(3) Persons checking the accuracy of their records will not be charged a fee.

(4) Fees may be paid by money order, cashier's check, certified check, or cash when the application is made in person. Cash will not be accepted with applications delivered by mail.

(5) Personal checks will not be accepted under any circumstances. Fees submitted for requests numbering two or more shall be paid with one money order, cashier's check, certified check, or business check rather than with a $15.00 remittance for each name search requested. Checks shall be made payable to OSBI.

375:9-1-5. Obtaining criminal history record

(a) A requestor may not seek a national criminal history record unless there is a statutory requirement underlying the request which provides that a national or FBI criminal history records check ~~must~~may be conducted for a particular governmental purpose.

(b) The OSBI provides specific informational services to the public in processing criminal history records. OSBI employees receive and process requests which have all the necessary information for conducting the search. When OSBI delivers the results of a criminal records check to a requestor, OSBI employees shall explain the elements of the record for the requestor. OSBI employees will refer the requestor to the arresting agency for additional information. OSBI employees shall not give advice to the requestor about how the criminal history information applies to the requestor's reason or purpose in obtaining the record. The requestor must use his or her discretion, seek counsel on the issue from the office which gave rise to the request, and analyze any laws and regulations which may apply to the requestor's purpose.

[OAR Docket #13-987; filed 5-31-13]

TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION CHAPTER 25. OKLAHOMA SELF-DEFENSE ACT

[OAR Docket #13-986]

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PERMANENT final adoption
RULES:
Subchapter 1. Application for Concealed Handgun License
375:25-1-2 [AMENDED]
375:25-1-3 [AMENDED]
375:25-1-4 [AMENDED]
375:25-1-5 [AMENDED]
375:25-1-5.2 [AMENDED]
375:25-1-7 [AMENDED]
375:25-1-9 [AMENDED]
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ANALYSIS:
The amended sections will remove references to a "concealed" handgun license necessitated by recent amendments to the Oklahoma Self Defense Act. Finally, they will remove the reference to an Oklahoma Driver license or Oklahoma state photo ID to account for individual members of the military stationed in Oklahoma pursuant to 21 O.S. §1290.8
CONTACT PERSON:
Jimmy Bunn Jr., Legal Counsel, OSBI, 6600 N. Harvey, Oklahoma City, OK., 73116, 405-879-2605

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 AUGUST 1, 2013:

375:25-1-2. Definitions

In addition to definitions found in Title 21, O.S. Sections 1290.2, the following words, when used in this Chapter, shall have the following definitions, unless the context clearly dictates otherwise.

"Applicant" means a person who is making application for a ~~concealed~~ handgun license

"Bureau" means the Oklahoma State Bureau of Investigation.

"Director" means the director of the OSBI.

"General Counsel" means the General Counsel of the OSBI, or attorney designated by the General Counsel.

"OSBI" means the Oklahoma State Bureau of Investigation.

"Petitioner" means, in the case of a hearing to suspend or revoke a handgun license, the OSBI; or, in the case of an appeal of the denial of a handgun license or other adverse action, the applicant for such license.

"Respondent" means, in the case of a hearing to suspend or revoke a handgun license, the holder of such license; or, in the case of an appeal of the denial of a handgun license, the OSBI.

"Sheriff" means an elected sheriff of the Oklahoma county of the applicant's residence or the sheriff's designated employee representative.

375:25-1-3. Request for an application packet

(a) Any eligible person may request an application packet for a ~~concealed~~ handgun license from the OSBI. To determine eligibility see Title 21 O. S. 1995, Sections 1290.9 through 1290.11.

(b) An application may be requested by phone, in person by e-mailing sda@osbi.state.ok.us or by regular mail, postage prepaid, at the following address: Oklahoma State Bureau of Investigation, Self Defense Act Licensing Unit, 6600 North Harvey, Suite 300, Oklahoma City, Oklahoma 73116. The application and law book are also available for download on the OSBI website at www.ok.gov/osbi.

(1) An application packet may be requested in person between the hours of 8:30 a.m. and 4:30 p.m. Monday through Friday (excluding state holidays). In the event the OSBI is unable to furnish an application packet immediately, the person requesting an application packet shall provide his or her mailing address.

(2) A request for an application packet which is delivered by mail must include the mailing address of the person requesting the packet.

375:25-1-4. Submission of application form

(a) The application shall be submitted to the sheriff of the county wherein the applicant resides. The procedure for submitting the application is found in Title 21 O.S. 1995, Section 1290.12. It shall be unlawful for any sheriff to fail or refuse to accept an application for a ~~concealed~~ handgun license.

(b) The sheriff shall submit the completed application, certificate of training (see Title 21 O.S. 1995, Section 1290.14) or an exemption certificate (see Title 21 O.S.1995, Section 1290.15), photographs, fingerprints, processing fee, and the report prepared by the sheriff to the OSBI within 14 days of receiving the completed application. It shall be unlawful for any sheriff to fail or refuse to process or submit the completed application and required materials to the OSBI within the time prescribed. These materials shall be returned to the OSBI in the self-addressed, postage paid envelope provided.

375:25-1-5. Investigation of license applications and issuance or denial of license

(a) Upon receipt of the application and required materials from the sheriff, the OSBI shall confirm that the application form has been filled out properly. If the form has been properly filled out, the OSBI shall conduct its investigation pursuant to Title 21 O.S. 1995, Section 1290.12 (10-11).

(b) Issuance or denial of license shall be pursuant to Title 21 O.S. 1995, Section 1290.12(12).

(1) A license shall be valid in this state for a period of 5 or 10 years, unless subsequently suspended or revoked as provided by law.

(2) Once issued a license, the licensee shall be required to have possession of his or her valid ~~concealed~~ handgun license and a valid ~~Oklahoma~~ driver license or a~~nOklahoma~~ State photo identification at all times when in possession of an authorized pistol. See Title 21 O.S. 1995, Section 1290.8.

375:25-1-5.2. Physician statement

(a) Whenever it is deemed necessary by the OSBI that a physician statement(s) is required for approval of a ~~concealed~~ handgun application pursuant to Section 1290.11 of the Oklahoma Self-Defense Act, said statement shall contain:

(1) The physician's license number assigned by an official State of Oklahoma licensing board;

(2) A notarized certification attesting to the authenticity of the physician's signature on the said statement; and,

(3) Any specifically required statutory language as contained in Section 1290.11 of the Oklahoma Self-Defense Act.

(b) The OSBI shall provide a form physician statement(s) which satisfies the requirements of this section only to those applicants from which the OSBI requests such a physician statement(s). Said form statement(s) shall contain the required statutory language, a place for the physician's license number to be provided, and a notary public certification to be completed at the time the statement is executed which certifies the authenticity of the physician's signature.

(c) It shall not be a requirement that the applicant utilize the OSBI form physician statement(s). Any physician statement(s) provided to the OSBI by the applicant, however, must satisfy the requirements identified in the section for approval of a ~~concealed~~ handgun license.

(d) In any event, the application process for a ~~concealed~~ handgun license shall not be deemed to be complete until a physician's statement which satisfies the requirements of this section is timely received by the OSBI.

375:25-1-7. Application for renewal of handgun license

(a) A license may be renewed in the manner provided for in Title 21 O.S. 1995, Section 1290.5.

(b) No person shall have any authority to continue to carry a ~~concealed~~ handgun under the authority of the Oklahoma Self Defense Act in this state when a license is allowed to expire or when a license has been suspended or revoked for any reason.

375:25-1-9. Suspension and revocation of license

(a) The OSBI shall have the authority to suspend or revoke any ~~concealed~~ handgun license. Any ~~concealed~~ handgun license suspended or revoked shall be immediately returned to the OSBI by the licensee. See Title 21 O. S., Section 1290. 17 for provisions.

(b) A licensee who changes state residency to a state other then Oklahoma, or who simply no longer desires to have a Self-Defense Act license may voluntarily surrender their license to the OSBI. The surrender of a license may be accomplished in person or by mail. The individual surrendering a license, whether in person or by mail, must provide to OSBI a letter stating that the individual is voluntarily surrendering the license to the OSBI and is voluntarily forfeiting all fees paid to date. The letter shall be dated and signed by the licensee and the license being surrendered shall be enclosed with the letter to the OSBI. The surrender of a license by an individual shall not be deemed an agency action and the individual surrendering the license shall be deemed to have waived any claim to appeal pursuant to the Administrative Procedures Act. A licensee who has an administrative case pending for a fine may not surrender the license to avoid incurring liability for the fine.

[OAR Docket #13-986; filed 5-31-13]

TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION
CHAPTER 40. OKLAHOMA IDENTITY THEFT PASSPORT PROGRAM

[OAR Docket #13-985]

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375:40-1-3 [AMENDED]
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N/A
ANALYSIS:
The amended rule in question corrects the means and website address from which an individual can request a State of Oklahoma Identity Theft Passport Request Victim Information Sheet and instructions for obtaining an Oklahoma Identity Theft Passport identification
CONTACT PERSON:
Jimmy Bunn Jr., Legal Counsel, OSBI, 6600 N. Harvey, Oklahoma City, OK., 73116, 405-879-2605

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 AUGUST 1, 2013:

375:40-1-3. Request for application

The State of Oklahoma Identity Theft Passport Request Victim Information Sheet and instructions may be requested from the OSBI's Identity Theft Passport Unit by telephone at #405/848-6724 (Oklahoma City metropolitan area) or #1/800/522-8017 (outside the metropolitan area) between 8:00 a.m. and 5:00 p.m., Monday through Friday excluding holidays. The form and instructions are available for download on the Bureau's Internet web

site at ~~http://www.osbi.state.ok.us; they may also be requested via e-mail at teresad@osbi.state.ok.us or debbieg@osbi.state.ok.us.~~www.osbi.ok.gov. The FTC Identity Theft Affidavit is available on the OSBI web site or at http://www.consumer.gov/idtheft/.

[OAR Docket #13-985; filed 5-31-13]

TITLE 380. DEPARTMENT OF LABOR CHAPTER 70. ELEVATOR SAFETY ACT

[OAR Docket #13-1031]

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PERMANENT final adoption
RULES:
Subchapter 3. Administration
380:70-3-5. [AMENDED]
Subchapter 5. Licenses
380:70-5-1. [AMENDED]
380:70-5-3. [AMENDED]
380:70-5-4. [AMENDED]
Subchapter 11. General Requirements
380:70-11-1. [AMENDED]
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Department of Labor; 59 O.S. § 3023, Elevator Safety Act
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ANALYSIS:
Title 59 O.S. Section 3023 was amended in 2008 to allow third party inspectors to conduct elevator inspections for the purpose of recommending the issuance of Certificates of Operation. These rule amendments clarify and redefine the requirements to obtain each type of inspector license and require certificate inspectors to submit inspection reports within 30 days of inspection. The requirement that the Department personally notify each licensee prior to the expiration of the license has been removed.
CONTACT PERSON:
Tiffany J. Wythe, Assistant General Counsel, (405) 521-6186 or tiffany.wythe@labor.ok.gov or Rick Flanigan, Safety Standards Director, (405) 521-2612 or rick.flanigan@labor.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 11, 2013:

SUBCHAPTER 3. ADMINISTRATION

380:70-3-5. Inspection frequencies; variations

(a) Elevators, escalators, moving walkways, chairlifts and conveyances subject to the provisions of this Act shall be inspected for the purpose of issuing a Certificate of Operation in accordance with the following frequencies:

(1) Any hydraulic elevator or conveyance shall be inspected not less than once every 2 (two) years;

(2) Any wire rope elevator, regardless of floors, shall be inspected annually;

(3) Escalators and moving walkways shall be inspected annually;

(4) Wheelchair lifts shall be inspected triennially;

(5) Temporary elevators shall be inspected at each installation/erection; and

(6) Any elevator or other such conveyance subject to the provisions of this Act located in a structure whose occupants are mobility restricted, such as hospitals, nursing homes and residential care facilities, shall be inspected annually;

(7) Any other type of elevator or conveyance not addressed under these provisions, in the Act or rules, shall be inspected annually.

(b) Elevators and conveyances located in owner-occupied private residences shall be exempt from the provisions of these rules, except:

(1) All such devices shall be designed, constructed, and installed in accordance with the applicable ASME Code and this Act.

(2) New installations shall receive a Final Acceptance Inspection from the Department in accordance with the provisions of this Act.

(3) Any elevator or conveyance located in an owner-occupied private residence shall be evaluated and tested by a licensed elevator mechanic or inspected by a licensed elevator inspector as provided in this Chapter, prior to a transfer of title or ownership of the property.

(4) All occurrences shall be reported to the Department and investigated in accordance with the provisions of this Act and these Rules.

(c) Based upon documentation of such actual service conditions by the owner or user of the operating equipment, the Commissioner may, at his/her discretion, permit variations in the inspection frequency as provided in the Act.

(d) The inspections herein required shall be made by the Commissioner, Chief Elevator Inspector, Deputy Inspector, Certificate Inspector or a Special Inspector as provided for in the Act. Inspectors shall have free access during reasonable hours, to any premises in the state where an elevator, escalator, moving walkway, wheelchair lift, conveyance or other device covered by this Act, is being installed, constructed, repaired, altered, or operated, for the purpose of ascertaining whether such device is being constructed, installed, repaired, altered

and/or operated in accordance with the provisions of the Act. Inspections may be conducted without prior notice.

(e) Anytime the Chief or Deputy Elevator Inspectors ~~shows up~~arrive for a scheduled inspection of an elevator or conveyance and said inspection cannot be conducted and therefore needs to be rescheduled, the Department will still charge the fee for the labor and costs associated with the originally scheduled inspection in accordance with the fees listed in 59 O.S. 3024(B)(15), in addition to any other fines or penalties assessed.

SUBCHAPTER 5. LICENSES

380:70-5-1. Elevator Contractor's License: Issuance, denial and renewal

(a) Upon the effective date of this Chapter, no elevator or conveyance subject to the provisions of this Act shall be installed in this state by any sole proprietor, firm or corporation not having first been issued at the time of the construction or installation a valid elevator contractor's license, issued by the Department of Labor. There shall be a six (6) month grace period from the date of enactment of this Chapter to allow new and existing elevator contractors an opportunity to comply with the provisions of this section.

(b) Any sole proprietor, firm or corporation wishing to engage in the business of installation, alteration, service, repair, replacement or maintenance of elevators, escalators, moving walkways, wheelchair lifts, or other such conveyances within the state of Oklahoma shall make application for an elevator contractor's license to the Oklahoma Department of Labor.

(c) No license shall be granted to any sole proprietor, firm or corporation that has not demonstrated the requisite qualifications and abilities. Duly authorized applicants for an elevator contractor's license must have in their employ licensed elevator mechanic(s) who perform the work described herein.

(d) Application for elevator contractor's license shall be on forms provided by the Department and shall contain, as a minimum, the following information:

(1) If a person or sole proprietor, the name, residence and business address of the applicant;

(2) If a partnership, the name, residence and business address of each partner;

(3) If a domestic corporation, the name and business address of the corporation and the name and residence address of the principal officer of said corporation;

(4) If a corporation other than a domestic corporation, the name and address of the local agent located in the State of Oklahoma who shall be authorized to accept service of process and/or official notices;

(5) The approximate number of licensed elevator mechanics expected to be employed by the elevator contractor applicant, and if applicable, satisfactory evidence that the employees are or will be covered by workers' compensation insurance;

(6) Verification of liability insurance as required by the Chapter;

(7) Such other information as the Chief Elevator Inspector may require;

(8) Designation of at least one but not more than two responsible parties to be named on the license. Such responsible parties shall have and maintain the training credentials required for a valid contractor's license. Documentation of satisfactory completion of the required training and all subsequent refresher training shall accompany the application;

(A) In the absence of such responsible party in the employ of the contractor, the contractor shall not be allowed to perform elevator or conveyance installation, service, repair, alteration, testing or maintenance work in the State of Oklahoma.

(B) Responsible party(ies) may be changed or added to the license at any time by providing written notice to the Department of such change.

(9) Written notice of change shall be provided to the Department when any item on the application changes.

(10) A limited contractor license may be issued to those facilities that have a maintenance program for elevators and/or conveyances using mechanics trained in elevator and/or conveyance maintenance and employed by that facility. The limited contractor license shall not apply to installation, major repair or alterations as required by the applicable ASME code.

(A) The limited contractor shall be required to submit an application for approval listing qualifications, scope of work to be performed under the license, and any additional information deemed necessary by the Chief Elevator Inspector.

(B) Mechanics working under a limited contractor license shall be required to make application to the Department and provide evidence to the Commissioner or Chief Elevator Inspector they are qualified to perform the work under the limited contractor scope of work.

(C) All other requirements of the Elevator Safety Act shall apply.

(e) Upon approval of an application and receipt of fees as provided for by the Act, the Commissioner may issue the elevator contractor's license.

(f) Upon receipt of fees as established in the Act, and such additional documentation as may be required by the Commissioner, a license may be issued to a sole proprietor, firm or corporation holding a valid license from a state or jurisdiction having standards substantially equal to those contained in this Act.

(g) The Department may deny approval or renewal of an elevator contractor's license for cause. The Department shall mail written notice to the applicant of the denial, the reason for the denial, and a statement that the applicant may appeal to the Commissioner provided their written request is received by the Department within fifteen (15) days of the date of the denial notice.

(h) ~~The Department shall notify holders of valid elevator contractor's licenses not more than sixty (60) days prior to the expiration date of the license that it must be renewed prior to~~

~~the last day of the month in which it was initially issued.~~ Elevator Contractor's licenses not renewed on or before the expiration date shall become invalid.

(i) Elevator Contractor's licenses not renewed prior to the expiration date shall be subject to late fee and renewal fees as provided for in the Act.

(j) Elevator contractors may have in their employ elevator inspectors licensed in accordance with the provisions of this Chapter for the purpose of witnessing and certifying conveyance tests as required by the Act, this Chapter and the applicable ASME Code(s).

380:70-5-3. Elevator Inspector's License: Issuance, denial, and renewal

(a) **Elevator Witness Inspector.** No elevator witness inspector's license shall be granted to any person unless he or she demonstrates to the satisfaction of the Commissioner or Chief Elevator Inspector that he/she meets the current ASME QEI-1 Standards for the Qualification of Elevator Inspectors ~~and/or state standards as described in this Chapter~~ or equivalent standard as determined by the Commissioner. No elevator witness inspector's license shall be granted to any person who also holds an elevator contractor's license or an elevator mechanic's license. The elevator witness inspector applicant must have at least one (1) year of experience in designing, installing, maintaining or inspecting elevators, escalators and other such conveyances. An elevator witness inspector license allows the licensee to witness periodic tests as required by the Elevator Safety Act and administrative rules.

(b) **Elevator Certificate Inspector.** Applicants for a license to inspect elevators or conveyances for the purpose of recommending the issuance of Certificates of Operation as required by this Act shall be required to meet the following qualifications:

(1) Have at least two (2) years of experience ~~in designing, installing, maintaining or inspecting~~as a licensed elevator witness inspector for elevators, escalators and other such conveyances;

(2) Have successfully passed the written examination for elevator inspectors administered by an organization accredited by the ASME to certify elevator inspectors in accordance with the ASME, QEI-1 Standard or equivalent standard as determined by the Commissioner.

~~(3) Attend an indoctrination training session covering the Oklahoma Elevator Safety Act and Department of Labor procedures for the purpose of issuing a certificate of Operation for those conveyances covered under this act. Indoctrination will be a minimum of eight (8) hours.~~

~~(4) Successfully complete an examination covering the Oklahoma Elevator Safety Act and Department of Labor procedures. This test will consist of 100 questions and the applicant will have a maximum of four (4) hours to complete the examination. A passing score will be no less than eighty percent (80%).~~

~~(5) The indoctrination training session will take place on the second Wednesday of January and the July of each year. The Examination will be given on the second Thursday of January and July of each year. The hour and place will be posted on the Department of Labor's website. If there are no applicants, the indoctrination and examination will not take place.~~

(~~6~~3) An Elevator Inspector's license may be granted to an individual not satisfying the requirements contained in 380:70-5-3(b)(1) and (2) at the discretion of the Commissioner upon the review of documents attesting to comparable qualifications. ~~An Elevator Inspector's license may be granted to an employee of the Oklahoma Department of Labor not satisfying the requirements contained in 380:70-5-3(b)(3) and (4) at the discretion of the Commissioner upon the review of documents attesting to comparable qualifications. In such event, the employee of the Department of Labor shall attend the indoctrination training session and successfully complete the examination at the next available date.~~

(~~7~~4) Must not be employed by or have any financial interest in any business or operation which manufactures, installs, repairs, modifies or services elevators, escalators, or other such conveyances. This qualification does not prohibit employees of insurance companies insuring elevators and conveyances from obtaining a license as an elevator inspector.

(5) No elevator certificate inspector's license shall be granted to any person who also holds an elevator contractor's license or an elevator mechanic's license.

(6) An elevator certificate inspector may witness periodic tests and conduct inspections for the purpose of recommending a certificate of operation.

(c) **Elevator Special Inspector.** No elevator special inspector's license shall be granted to any person unless he or she demonstrates to the satisfaction of the Commissioner or Chief Elevator Inspector that he/she meets the current ASME QEI-1 Standards for the Qualification of Elevator Inspectors or equivalent standard as determined by the Commissioner. No elevator special inspector's license shall be granted to any person who also holds an elevator contractor's license or an elevator mechanic's license. The elevator special inspector applicant must have at least one (1) year of experience in designing, installing, maintaining or inspecting elevators, escalators and other such conveyances. Elevator inspector's licenses for special inspectors may be issued and renewed upon receipt of payment of such fees as provided for in the Act and receipt of documentation on company letterhead from the inspector's employer that the licensee is an employee of the company. An elevator special inspector license allows the licensee to witness periodic tests and inspect elevators or conveyances insured by the special inspector's employer for the purpose of recommending the issuance of Certificates of Operation as required by the Elevator Safety Act and administrative rules.

(~~c~~d) The Commissioner may appoint a Chief and Deputy Elevator Inspector who at the time of appointment are not in possession of a valid ASME QEI Certification or equivalent standard as determined by the Commissioner, but are in a trainee status, provided they successfully complete the required examination within twenty-four (24) months of appointment.

(~~d~~e) Applications for an elevator inspector's license shall be on forms provided by the Department.

(~~e~~f) Elevator inspector licenses shall be valid for a period of one (1) year and shall expire each year on the last day of the month of initial issuance. Elevator inspector's licenses not renewed on or before the expiration date shall become invalid.
~~(f) Elevator inspector's licenses for special inspectors may be issued and renewed upon receipt of payment of such fees as provided for in the Act and receipt of documentation on company letterhead from the inspectors employer that the licensee is a full-time employee of the company.~~
(g) Elevator inspector's licenses not renewed prior to the expiration date shall be subject to late fees and renewal fees as provided for in this Act.
(h) The Department may deny approval or renewal of an elevator inspector's license for cause. The Department shall mail written notice to the applicant of the denial, the reason for the denial, and a statement that the applicant may be afforded the opportunity for a hearing pursuant to the provisions of the Administrative Procedures Act, provided their written request is received by the Department within fifteen (15) days of the date of the denial notice.

380:70-5-4. Elevator Apprentice Registration
(a) Upon the effective date of this Act, no person shall function in the capacity of an elevator apprentice without first having been registered as an elevator apprentice with the Department. There shall be a six (6) month grace period from the date of enactment of this Chapter to allow new and existing elevator apprentices an opportunity to comply with the provisions of this Section.
(b) Application for elevator apprentice registration shall be on forms provided by the Department and shall document enrollment in an elevator apprentice program recognized by the United States Department of Labor.
(c) Upon approval of an application and receipt of fees as provided for by this Act, the Commissioner may register an elevator apprentice.
(d) Elevator apprentice registration shall be valid for a period of one (1) year and expire on the last day of the month of initial issuance. ~~The Department shall notify holders of valid elevator apprentice registrations not less than sixty (60) days prior to the expiration date of the registration that it must be renewed within the next sixty (60) days.~~ Elevator apprentice registrations not renewed prior to the expiration date shall become invalid.
(e) Elevator apprentice registration not renewed prior to the expiration date shall be subject to late fees and renewal fees as provide for in this Act.
(f) The Department may deny approval or renewal of an elevator apprentice registration for cause. The Department shall mail written notice to the applicant of the denial, the reason for the denial, and a statement that the applicant may be afforded the opportunity for a hearing pursuant to the provisions of the Administrative Procedures Act, provided their written request is received by the Department within fifteen (15) days of the date of the denial notice

SUBCHAPTER 11. GENERAL REQUIREMENTS

380:70-11-1. Report of inspection
(a) A report of inspection shall be completed and submitted to the Department for every inspection conducted as required by the provisions of the Act and this Chapter. Reports of inspection shall be on forms acceptable to the Department.
(b) Special Inspectors and Certificate Inspectors shall submit reports of inspection to the Department within thirty (30) days of the completion of the inspection.
(c) Reports of inspection shall be provided to the owner/operator, contractor or his/her authorized agent at the time of the inspection or soon thereafter, but in no instance more than thirty (30) days following the completion of the inspection.

[OAR Docket #13-1031; filed 6-6-13]

TITLE 380. DEPARTMENT OF LABOR
CHAPTER 75. ALARM AND LOCKSMITH INDUSTRY RULES

[OAR Docket #13-1032]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions [NEW]
Subchapter 3. License Requirements [NEW]
Subchapter 5. Special Provisions [NEW]
Subchapter 7. Enforcement [NEW]
AUTHORITY:
Department of Labor; 59 O.S. §§ 1800.1, *et seq.*, Alarm and Locksmith Industry Act
DATES:
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Final adoption:
May 29, 2013
Effective:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
Incorporating standards:
The Department of Labor has incorporated by reference the following standards as adopted by the OUBCC as the minimum standards of installation for the alarm and locksmith industry in Oklahoma: International Code Council (ICC) International Building Code (IBC), National Electrical Code (NFPA 70), National Fire Alarm Code (NFPA 72), Standard for the Installation of Sprinkler Systems (NFPA 13), Standard for the Installation of Sprinkler Systems in One and Two Family Dwellings (NFPA 13D), Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four stories in Height (NFPA 13R), Standard for the Installation of Standpipe and Hose Systems (NFPA 14), Standard for Water Spray Fixed Systems for Fire Protection (NFPA 15), Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems (NFPA 16), Standard for the Installation of

Stationary Pumps for Fire Protection (NFPA 20), Standard for the Installation of Private Fire Service Mains and Their Appurtenances (NFPA 24), Standard for the Inspection, Testing, and Maintenance Water-Based Fire Protection Systems (NFPA 25), and Code for Safety to Life from Fire in Buildings and Structures (NFPA 101).

Incorporating rule:

380:75-1-3

Availability:

See contact person below.

ANALYSIS:

Jurisdiction over the Alarm and Locksmith Industry Act was transferred from the Department of Health to the Department of Labor on November 1, 2012. These proposed rules will transfer the Alarm and Locksmith Industry Rules currently in OAC 310:205 to a new chapter within the Department of Labor's rules. Some changes from the previous rules have been proposed in areas including, but not limited to the following: manager, salesperson and marketing definitions; adopted national standards; fire sprinkler technician trainee license fees; background verification fees; license expiration dates; inactive licenses for federal contractors; photographs of license applicants; rescheduling of examinations; license numbers on advertisements, websites and vehicles; providing contract information in electronic format; grace period for licensing new trainees; number of licensed managers per company rather than per office; background verifications for fire sprinkler license applicants; and the number of fire sprinkler technician trainees per job site.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

380:75-1-1. Purpose

The rules in this Chapter implement the Alarm and Locksmith Industry Act, Title 59 O.S. Section 1800.1 *et seq.*

380:75-1-2. Definitions

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

"Burglar alarm company" means a business that provides burglar alarm systems to others by any means, including, but not limited to, the sale, lease, rent, design, planning with the intent to pre-wire, pre-wiring, installation, maintenance, repair, testing, modification, improvement, alteration, inspection, or servicing of a burglar alarm system; holding oneself or one's company out for hire to perform any such task; or otherwise offering to perform any such task for compensation, either directly or indirectly.

"Burglar alarm company manager" means an officer or manager of a company, corporation, partnership or proprietorship, with the authority to bind the company by contract, who shall provide supervision over the regulated function and operations of such alarm company within the state of Oklahoma. The manager shall not be the manager of record for more than one company unless he/she is a majority owner of each company.

"Burglar alarm salesperson" means a person who sells, with the authority to sign a binding proposal to others on behalf of a burglar alarm company by any means, including, but not limited to, telephone or electronic device, public notice or advertisement, door-to-door, or any other type of personal interaction, and/or a person who participates in design, plan, specification and/or lay out of a burglar alarm system on behalf of a burglar alarm company but shall not include individuals who participate in marketing only.

"Burglar alarm technician" means an individual who is employed by an Oklahoma licensed burglar alarm company to design, plan, lay out, sell, pre-wire, install, maintain, repair, test, inspect, or service burglar alarm equipment.

"Burglar alarm trainee" means an individual who is employed by an Oklahoma licensed burglar alarm company to assist burglar alarm technicians or managers and learn to properly install, service, and sell burglar alarm equipment.

"CABO" means The Council of American Building Officials.

"Certificate of course completion" means a document acceptable to the Committee which signifies satisfactory completion of course work.

"Certification of a system" shall mean testing per applicable code of any burglar alarm, fire alarm, electronic access control, closed circuit television, nurse call, locksmithing equipment, or fire sprinkler alarm system by a properly licensed individual working for a properly licensed company to verify that the system complies with all of the requirements of the applicable code or standard.

"Closed circuit television or (CCTV)" means a system that provides video surveillance of an area or a client-prescribed area primarily by means of transmitting and/or recording of visual signals through cameras, receivers, monitors, and/or other visual imaging equipment.

"Closed circuit television company" means a business that provides closed circuit television systems to others by any means, including but not limited to, the sale, lease, rent, design, planning with the intent to pre-wire, pre-wiring, installation, maintenance, repair, testing, modification, improvement, alteration, inspection, and/or servicing of a CCTV system; holding one's company out for hire to perform any such task; or otherwise offering to perform any such task for compensation, either directly or indirectly.

"Closed circuit television manager" means an officer or manager of a company, corporation, partnership or proprietorship, with the authority to bind the company by contract, who shall provide supervision over the regulated function and operations of such company within the state of Oklahoma. The manager shall not be the manager of record for more than one company unless he/she is a majority owner of each company.

"Closed circuit television technician" means an individual who is employed by an Oklahoma licensed closed circuit television company to design, plan, lay out, sell, pre-wire, install, maintain, repair, test, inspect, or service closed circuit television equipment.

"Closed circuit television trainee" means an individual who is employed by an Oklahoma licensed closed circuit television company to learn to properly install and service closed circuit television equipment.

"Closed circuit television salesperson" means a person who sells, with the authority to sign a binding proposal to others on behalf of a closed circuit television company by any means, including but not limited to, telephone or electronic device, public notice or advertisement, door-to-door, or any other type of personal interaction, and/or a person who participates in the sale, design, plan, and/or lay out of a closed circuit television system on behalf of a closed circuit company, but shall not include individuals who participate in marketing only.

"Commercial building" means a building or structure used for any purpose or occupancy that is not defined in this section as a Residential Building.

"Commercial fire alarm license" means the category of license which authorizes a fire alarm company, manager, technician, trainee or salesperson to engage in the fire alarm industry activities in compliance with this Chapter for any work performed in residential or commercial application.

"Commercial fire sprinkler license" means the category of license which authorizes a fire sprinkler company, manager, trainee, and/or technician to engage in the fire sprinkler alarm industry activities in compliance with this Chapter for any residential or commercial application.

"Commissioner" means the Commissioner of Labor or the Commissioner's designee.

"Committee" means the Alarm and Locksmith Industry Committee.

"Department" means the Oklahoma Department of Labor.

"Electronic access control" means the use of qualifying devices or identification methods at various points to control the movement of people within pre-defined perimeters through the use of electronic card readers, keypads, biometrics devices, or a combination of technologies that receives its primary power from an external source.

"Electronic access control company" means a business that offers to, or engages in, the planning, installation, repair, alteration, maintenance, service, sale, inspection, or advertisement of electronic access control systems.

"Electronic access control company manager" means an officer or manager of a company, corporation, partnership or proprietorship, with the authority to bind the company by contract, who shall provide supervision over the regulated function and operations of such company within the state of Oklahoma. The manager shall not be the manager of record for more than one company unless he/she is a majority owner of each company.

"Electronic access control technician" means an individual who is employed by an Oklahoma licensed electronic access control company to design, plan, lay out, sell, pre-wire, install, maintain, repair, test, inspect, and/or service electronic access control equipment.

"Electronic access control trainee" means an individual who is employed by an Oklahoma licensed electronic access control company to learn to properly install and service electronic access control equipment.

"Electronic access control salesperson" means a person who sells, with the authority to sign a binding proposal to others on behalf of an electronic access control company by any means, including, but not limited to, telephone or electronic device, public notice or advertisement, door-to-door or any other type of personal interaction, and/or a person who participates in design, plan, and/or lay out of an electronic access control system on behalf of an electronic access control company, but shall not include individuals who participate in marketing only.

"Fire alarm company" means a business that provides fire alarm systems to others by any means including but not limited to, the sale, lease, rent, design, planning with the intent to pre-wire, pre-wiring, installation, maintenance, repair, testing, modification, improvement, alteration, inspection, and/or servicing of fire alarm system; holding oneself or one's company out for hire to perform any such task; or otherwise offering to perform any such task for compensation, either directly or indirectly. The company shall be licensed as a residential or commercial fire alarm company as defined by this Chapter.

"Fire alarm company manager" means an officer or manager of a company, corporation, partnership or proprietorship, with the authority to bind the company by contract, who shall provide supervision over the regulated function and operations of such alarm company within the state of Oklahoma. The manager shall not be the manager of record for more than one company unless he/she is a majority owner of each company.

"Fire alarm salesperson" means a person who sells, with the authority to sign a binding proposal to others on behalf of a fire alarm company by any means including but not limited to, telephone or electronic device, public notice or advertisement, door-to-door or any other type of personal interaction, and or a person who participates in design, plan and/or lay out of an fire alarm system on behalf of a fire alarm company, but shall not include individuals who participate in marketing only. The salesperson shall be licensed as a residential or commercial fire alarm salesperson as defined by this Chapter.

"Fire alarm technician" means an individual who is employed by an Oklahoma licensed fire alarm company to design, plan, lay out, sell, pre-wire, install, maintain, repair, test, certify, inspect, or service fire alarm equipment. The fire alarm technician shall be licensed as a residential or commercial fire alarm technician as defined by this Chapter

"Fire alarm trainee" means an individual who is employed by an Oklahoma licensed fire alarm company to assist fire alarm technicians or managers and learn to properly install, service and sell fire alarm equipment.

"Fire sprinkler company" means a business that provides fire sprinkler systems to others by any means, including but not limited to, the sale, lease, rent, design, planning with the intent to install, maintenance, repair, testing, modification, improvement, alteration, inspection, or servicing of a fire sprinkler system; holding oneself or one's company out for hire to perform any such task; or otherwise offering to perform any such task for compensation either directly or indirectly. The

company shall be licensed as a residential or commercial company as defined by this Chapter.

"Fire sprinkler company manager" means an officer or manager of a company, corporation, partnership or proprietorship, with the authority to bind the company by contract, who shall provide supervision over the regulated function and operations of such company within the state of Oklahoma. The manager shall not be the manager of record for more than one company unless he/she is a majority owner of each company.

"Fire sprinkler inspector" means an individual who is employed by an Oklahoma licensed alarm company to inspect and test a fire alarm sprinkler system to determine if it has been installed and is operating according to the appropriate code or standard.

"Fire sprinkler technician" means an individual who is employed by an Oklahoma licensed fire sprinkler company to install, service and sell, maintain, repair, and/or test fire sprinkler equipment. The fire sprinkler technician shall be licensed as a residential or commercial fire sprinkler technician as defined by this Chapter.

"Fire sprinkler technician trainee" means an individual who is employed by an Oklahoma licensed fire sprinkler company to assist fire sprinkler technicians or managers and learn to properly install and service fire sprinkler systems.

"IBC" means the International Building Code.

"ICC" means the International Code Council, Inc.

"Inspection" shall mean the visual observation or system test of any burglar alarm system, fire alarm system, electronic access control system, closed circuit television system, nurse call system, lock system, or fire sprinkler system to determine if the system has been installed and is operating according to the applicable code or standard.

"Locksmith company" means a business that provides locksmithing to others by any means, including but not limited to, design, install, service, repair, re-key, re-pin, sell, inspect, rebuild, record, adjust, unlock mechanical or electronic locks or advertisement of locksmith services; holding oneself or one's company out for hire to perform any such task; or otherwise offering to perform any such task for compensation, either directly or indirectly.

"Locksmith company manager" means an officer or manager of a company, corporation, partnership or proprietorship, with the authority to bind the company by contract, who shall provide supervision over the regulated function and operations of such company within the state of Oklahoma. The manager shall not be the manager of record for more than one company unless he/she is a majority owner of each company.

"Locksmith salesperson" means a person who sells, with the authority to sign a binding proposal to others on behalf of a locksmith company by any means, including, but not limited to, telephone or electronic device, public notice or advertisement, door-to-door, or any other type of personal interaction, or a person who participates in design, plan, and/or lay out of locksmithing equipment on behalf of a locksmith company, but shall not include individuals who participate in marketing only.

"Locksmith technician" means an individual who is employed by an Oklahoma licensed locksmith company to design, install, service, inspect, repair, re-key, re-pin, sell, rebuild, record, adjust, or unlock mechanical or electronic locks on behalf of a locksmith company.

"Locksmith trainee" means an individual who is employed by an Oklahoma licensed locksmith company to learn to properly install, service, repair, rebuild, re-key, re-pin, sell, or unlock mechanical or electronic locks on behalf of a locksmith company.

"Locksmith tool" means any tool designed specifically to aid in removal, disassembly, re-assembly, installation, or maintenance of, or to be used to defeat or by-pass any electric or mechanical lock or system.

"Manufactured housing" means a structure, transportable in one or more sections, which in the traveling mode is 8 body feet (2438 body mm) or more in width or 40 body feet (12 192 body mm) or more in length, or, when erected on site, is 320 square feet (30 m2)or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. For the purpose of these rules, a mobile home shall be considered a manufactured home, and each shall be regarded as manufactured housing.

"Marketing" means the distribution or collecting of general or basic information about products or services by any means including but not limited to telephone, electronic device, public notice, advertisement, or any other type of direct or indirect personal interaction.

"Monitoring company" means a business that offers to, or does monitor burglar alarms, electronic access control systems, closed circuit television, nurse call systems, and/or fire alarms located in Oklahoma.

"Monitoring company manager" means an individual who is employed by an Oklahoma licensed monitoring company and has control of the monitoring of systems located in Oklahoma.

"Multiple activity office" means a location where more than one regulated activity is performed or conducted.

"Multipurpose fire sprinkler system" means a single piping system within residential building and manufactured housing where the same piping system simultaneously serves both domestic and fire protection needs and are not independent systems in any manner as described by the Standard for the Installation of Sprinkler Systems in One and Two Family Dwellings (NFPA 13D).

"NFPA" means the National Fire Protection Association.

"NICET" means the National Institute of Certification in Engineering Technologies, a certification program sponsored by the National Society of Professional Engineers.

"Nurse call system" means a device or a series or assembly of interconnected devices which, when activated by automatic or manual means, produces an audible, visual, or electronic signal intended to detect or annunciate a need to summon response by a local medical staff or local medical personnel.

"Nurse call company" means a business that provides nurse call systems to others by any means, including but not limited to, the sale, lease, rent, design, planning with the intent to pre-wire, pre-wiring, installation, maintenance, repair, testing, modification, improvement, alteration, inspection, or servicing of nurse call systems; holding oneself or one's company out for hire to perform any such tasks; or otherwise offering to perform any such tasks for compensation, either directly or indirectly.

"Nurse call company manager" means an officer or manager of a company, corporation, partnership or proprietorship, with the authority to bind the company by contract, who shall provide supervision over the regulated function and operations of such company within the state of Oklahoma. The manager shall not be the manager of record for more than one company unless he/she is a majority owner of each company.

"Nurse call technician" means an individual who is employed by an Oklahoma licensed nurse call system company to design, plan, lay out, sell, pre-wire, install, maintain, repair, test, inspect, or service nurse call system equipment.

"Nurse call trainee" means an individual who is employed by an Oklahoma licensed nurse call system company to learn to properly install and service nurse call system equipment.

"Nurse call system salesperson" means a person who sells, with the authority to sign a binding proposal to others on behalf of an nurse call company by any means, including, but not limited to, telephone or electronic device, public notice or advertisement, door-to-door or any other type of personal interaction, and/or a person who participates in design, plan and/or lay out of an nurse call system on behalf of a nurse call company, but shall not include individuals who participate in marketing only.

"OUBCC" means the Oklahoma Uniform Building Code Commission.

"Ownership" means the dominion, title, or proprietary right in a company subject to the Alarm and Locksmith Industry Act and this Chapter.

"Qualifying devices" means a device or combination of devices such as retina readers, finger print pads, bio-metric readers, card swipes, etc. that are used to identify persons who have authorized entry through electronic access control systems.

"Residential building" shall mean buildings arranged for the use of one (1)- or two (2)-family dwelling units, including not more than five (5) lodgers or boarders per family and multiple single-family dwellings where each unit has an independent means of egress and is separated by a two (2)-hour fire separation assembly and all detached one (1)- or two (2)-family dwellings not more than three (3) stories in height, and the accessory structures as indicated in the ICC One and Two Family Dwelling Code.

"Residential fire alarm license" means the category of license which authorizes a fire alarm company, manager, technician, trainee or salesperson to engage in the fire alarm industry activities in compliance with this Chapter for fire alarm systems used in residential building and manufactured housing.

"Residential fire sprinkler license" means the category of license which authorizes a fire sprinkler company, manager, or technician or trainee to engage in the fire sprinkler industry activities in compliance with this Chapter for fire sprinkler systems used in residential building and manufactured housing.

"Rough-in cabling or wiring" means the act of installing the cabling or wiring required for the activities regulated by this Chapter. This will include the preparation of the site for cabling or wiring, but shall not include the installation or connection of any electronic devices or parts thereof.

"Security verification" means information submitted to the appropriate authority on each applicant to verify any criminal records.

"Supervision" means on-site supervision by a licensed manager, technician or salesperson.

"System" means a burglar alarm system, fire alarm system, fire sprinkler system, closed circuit television system, electronic access control system, locksmithing system, or a nurse call system, all as defined in these rules, or a portion or combination of such alarms or systems. However, the term "system" shall not include the following: (i) an alarm system installed in a motor vehicle; (ii) a burglar alarm system or household fire warning system sold at retail to an individual end user for self-installation; (iii) a single station fire alarm device sold at retail to an individual end user for self-installation or installed by a fire department, the State Fire Marshal, a public agency, a volunteer fire association, or their designated representatives.

"Trainee" means an individual who is employed by an Oklahoma licensed company to learn to properly engage in the activities regulated by this Chapter that can engage in any licensed category pursuant to this Chapter while under the direct supervision of an individual holding the appropriate license in the category of activity being performed.

380:75-1-3. Adopted references

The Department of Labor hereby incorporates by reference the following standards as adopted by the OUBCC as the minimum standards of installation for the alarm and locksmith industry in Oklahoma: International Code Council (ICC) International Building Code (IBC), National Electrical Code (NFPA 70), National Fire Alarm Code (NFPA 72), Standard for the Installation of Sprinkler Systems (NFPA 13), Standard for the Installation of Sprinkler Systems in One and Two Family Dwellings (NFPA 13D), Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four stories in Height (NFPA 13R), Standard for the Installation of Standpipe and Hose Systems (NFPA 14), Standard for Water Spray Fixed Systems for Fire Protection (NFPA 15), Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems (NFPA 16), Standard for the Installation of Stationary Pumps for Fire Protection (NFPA 20), Standard for the Installation of Private Fire Service Mains and Their Appurtenances (NFPA 24), Standard for the Inspection, Testing, and Maintenance Water-Based Fire Protection Systems (NFPA 25), and Code for Safety to Life from Fire in

Buildings and Structures (NFPA 101). If a conflict exists between any of the above referenced installation standards, the more stringent standard shall apply. If a conflict exists between any of the above referenced codes or standards and this Chapter, the requirements in this Chapter shall apply.

380:75-1-4. Compliance with intent of Chapter

Where no specific standards or requirements are specified in this Chapter or within other codes or regulations adopted by the Department of Labor, compliance with the applicable standards of the National Fire Protection Association, American National Standard Institute (ANSI), or other nationally recognized fire safety standards approved by the State is prima facie evidence of compliance with the intent of this Chapter.

SUBCHAPTER 3. LICENSE REQUIREMENTS

380:75-3-1. General application and license requirements

The categories of licensing in the alarm and locksmith industry shall be:

(1) Burglar alarm;
(2) Residential fire alarm;
(3) Commercial fire alarm;
(4) Alarm Monitoring;
(5) Fire sprinkler;
(6) Locksmith;
(7) Electronic access control;
(8) Closed circuit television; and
(9) Nurse call.

380:75-3-2. Application and license fees, period and display, and examination alternatives or prerequisites

(a) **Application and license fees.** The following fees apply to alarm and locksmith industry licensure:

(1) Initial application and licensing fees

(A) Company application and license - $250.00; license issued after February 1, but before the end of the State fiscal year - $125.00. A company that is owned and operated by the company manager, with only a locksmith category license and which employs no additional employees, shall be exempted from a company license fee. A company shall submit a list of employees licensed in accordance with the Alarm and Locksmith Industry Act, to the Department, with each application or renewal application for a company license.

(B) Company manager and plan and design - Application $100.00 and Licensing fee $100.00

(C) Inspector, technician, salesperson, technician trainee - Application $40.00 and Licensing fee $35.00

(D) Re-examination, per attempt - $50.00

(E) Fire Sprinkler Technician Trainee $20.00

(F) Duplicate or revised license - $25.00

(2) Renewal fees

(A) Company license - $250.00; A company that is owned and operated by the company manager, with only a locksmith category license and which employs no additional employees, shall be exempted from a company license fee.

(B) Company manager and plan and design - $100.00

(C) Inspector, technician, salesperson - $35.00

(D) Trainee - $25.00

(E) Fire Sprinkler Technician Trainee $15.00

(b) **License period.**

(1) All individual licenses shall expire annually on the last day of the licensee's birth month. Each such license shall be prorated in accordance with the licensing procedures adopted by the Department. All company licenses shall expire annually on the last day of the month the license was initially issued. A manager may choose to renew the company license in the same month as the manager license. An expired license may be renewed by paying double the renewal fee. Any individual license renewal shall require the licensee to be listed as an employee of a licensed company on the companies' renewal form or in a separate letter from the company which has been signed by the licensed manager of record. If an individual licensee cannot supply to the Department the required employment information, the licensee may request the Department to designate his or her license as inactive. The inactive designation of the license shall remain until the employment information is provided to the Department. The requirement of employment by an employer specifically licensed as a company under this Section shall not apply for individual licensees employed by a general services provider engaged by the Department of Defense for broad, general DOD facility services which would include fire sprinkler, locksmith, alarm, access control, nurse call or locksmith services.

(2) Initial applications for managers, technicians, salespersons, plan and design and trainees shall be submitted to the Department. Each applicant shall comply with the licensing procedures adopted by the Department. This registration shall be contingent on a security background investigation. Each license applicant shall provide either:

(A) An application and a current criminal history record check dated within thirty days of application from the Oklahoma State Bureau of Investigation. If the applicant has resided in any other state within the past ten (10) years, a current criminal history record check from each state of previous residence will be required. In addition, the applicant shall submit two (2) completed fingerprint cards. The applicant shall be photographed by the Department of Labor or an entity approved by the Department in accordance with the licensing procedures adopted by the Department. (This provides for temporary licensure for trainees only.); or

(B) An application and two (2) completed fingerprint cards. The applicant shall be photographed by

the Department of Labor or an entity approved by the Department in accordance with the licensing procedures adopted by the Department. (This does not provide for temporary licensure.)

(3) A license which has been expired for more than two (2) years shall not be renewed. An individual may obtain a valid license by successful completion of the appropriate examination and/or certification and other licensure requirements.

(4) A temporary trainee license will be issued to an individual who has provided the documents required in 380:75-3-2(b)(2)(A). The temporary license will be valid for a period not to exceed (90) ninety days. An individual may be issued a second temporary license for good cause shown as determined by the Department.

(c) **Examination and re-examination.** Any applicant failing to pass the appropriate examination shall be required to retake the same category examination after payment of the appropriate retest fee. Any person who fails to appear for a scheduled examination shall forfeit his/her examination fee.

(d) **Company license display.** While actively engaged in any activity regulated by this Chapter, the state issued company license number, or a statement referring to a website or toll free phone number to obtain licensing information shall be placed on all advertising and marketing materials including but not limited to, letterhead stationery, business cards, invoices, statements, contracts, bids, estimates, printed advertisements, electronic media advertisements, decals and yard signs. The license number shall be prominently displayed on any publicly accessible website, either on the home page or on every page advertising a product or service regulated by this Chapter. The state issued license number shall be displayed in numerals of two (2) inches or more in height and shall be located on all vehicles that display the company name while actively engaged in any activity regulated by this Chapter. The license number shall be placed on every side of the vehicle which displays the company name. Display shall be in letters and numerals of two (2) inches or more in height. The required license number and company name shall be displayed in either a temporary or permanent manner on at least one company vehicle at any job site unless exempted by a specific written request of the customer.

(e) **Personal license display.** Each manager, technician, technician trainee, or salesperson, shall possess the state issued card any time the person is working in such capacity. The individual license shall be presented to any authorized representative of the Department of Labor or other authorities having jurisdiction. In addition the individual shall have a valid, state-issued photo I.D. in their possession while engaged in the licensed activity.

(f) **Personal license information.**

(1) Each individual license holder shall notify the Department of Labor, on a form specified and provided by the Department, within fourteen (14) days of the following:

(A) Any change in the home address.

(B) Any separation from an employer or change in employer.

(C) Any conviction for a felony or entry of a plea of guilty or nolo contendere to a felony charge.

(2) No individual licensed under this Chapter shall contract for his/her services as an independent contractor without applying for and being issued a company and manager license under this Chapter. No company shall contract for the independent services of a holder of an individual license under this Section.

380:75-3-3. Burglar alarm license requirements

Licensing requirements for the burglar alarm industry are as follows:

(1) **Company.**

(A) Each burglar alarm company shall employ an Oklahoma licensed burglar alarm manager who is responsible for the operations of the company's office. A burglar alarm company shall notify the Department within fourteen (14) days in event of the death of the burglar alarm company manager or the manager's separation from the company for any other reason, and the company shall designate another licensed burglar alarm manager within (30) thirty days from separation.

(B) A licensed burglar alarm technician or manager shall be on site for any work being performed.

(C) A burglar alarm company may operate multiple activity offices provided each office has the same name and ownership of the parent company and shall operate in compliance with 380:75-3-3(1)(A). The company will notify the Department of the physical address and telephone number for each office in accordance with 59 O.S. Section 1800.10.

(D) Each alarm company engaged in alarm business that sells a burglar alarm system to a consumer upon request from the consumer shall within forty-eight (48) hours return the lockout, installer, or programming code of the system to the factory default setting when the consumer cancels the contract on customer-owned equipment. If a system is installed without a written contract with the consumer, the system shall have the lockout code, installer or programming code set at default.

(E) A company shall maintain and provide the customer with the following information prior to any agreement for service becoming effective. All monitoring and/or lease contracts shall include, as a minimum, the following information: the initial term of the agreement, the renewal term of the agreement, the terms for notification of cancellation of the agreement as well as the costs involved of all the terms of the agreement, the company name and the state issued license number, the sales representative's name and state issued license number, and the address where service will be provided. The minimum contract information described above shall be disclosed in one of the following ways:

(i) Printed on the front or face of the written contract in not less than twelve (12) point bold

type and at least two (2) points larger than the rest of type size of the remaining text in the written contract;

(ii) On a separate disclosure form appended to the written contract and dated, and signed by the customer and the licensed alarm company representative who made the sale; or

(iii) Electronically in a format and language that is understandable to the average consumer using bold type which is at least two (2) points larger than the type size of the remaining text in the contract.

(2) **Manager.**

(A) Each application for licensure as a manager shall include verification of four (4) years of experience in the burglar alarm business. The experience shall include two (2) years verified/or licensed experience as a burglar alarm technician or other related experience approved by the Committee.

(B) Each burglar alarm manager applicant must pass an examination prescribed by the Commissioner.

(C) Each licensed burglar alarm company manager shall be responsible for all activities conducted within the State of Oklahoma by the office where they are listed as manager.

(D) Each licensed burglar alarm company manager shall have a security background verification.

(E) Each licensed burglar alarm company manager shall also be licensed as a residential fire alarm manager.

(3) **Technician.**

(A) Each technician shall work for a licensed burglar alarm company and under the supervision of a burglar alarm company manager.

(B) Each burglar alarm technician applicant must pass an examination prescribed by the Commissioner.

(C) Each technician shall have a security background verification.

(D) Each licensed burglar alarm technician shall also be licensed as a residential fire alarm technician.

(E) An individual that holds a technician license in this category can engage in any licensed category as a trainee pursuant to this Chapter.

(4) **Technician/Salesperson Trainee.**

(A) A technician/salesperson trainee shall be employed by a licensed Oklahoma burglar alarm company.

(B) A technician/salesperson trainee shall work under the direct supervision of a licensed burglar alarm company manager, burglar alarm technician or a burglar alarm salesperson.

(C) There shall be no more than three (3) technician/salesperson trainees per burglar alarm company manager, burglar alarm technician or burglar alarm salesperson per job site or project.

(D) Each technician/salesperson trainee shall have security background verification.

(E) Each licensed burglar alarm trainee shall also be licensed as a residential fire alarm trainee.

(F) An individual that holds a trainee license can engage in any licensed category pursuant to this Chapter while under the direct supervision of an individual holding the appropriate license in the category of activity being performed.

(G) An individual who holds a trainee license can engage in the rough-in cabling or wiring under the direct supervision of a licensed company holding the appropriate license category.

(H) A technician trainee must submit a trainee application to the Department of Labor within fifteen (15) business days of being hired by a burglar alarm company.

(5) **Salesperson.**

(A) Each salesperson shall work for a licensed burglar alarm company and under the supervision of a burglar alarm company manager.

(B) Each burglar alarm salesperson applicant must pass an examination prescribed by the Commissioner.

(C) Each salesperson shall have a security background verification.

(D) Each licensed burglar alarm salesperson shall also be licensed as a residential fire alarm salesperson.

380:75-3-4. Fire alarm license requirements

Licensing requirements for the fire alarm industry are as follows:

(1) **Company.**

(A) Each fire alarm company shall employ an Oklahoma licensed fire alarm manager who is responsible for the operations of the company's office. In the event of the death of the fire alarm company manager or his/her separation from the company for any other reason, a fire alarm company shall notify the Department within fourteen (14) days and name a licensed fire alarm manager within thirty (30) days after separation.

(B) A licensed fire alarm technician or manager shall be on site for any work being performed.

(C) A company whose manager only holds a residential fire alarm manager license shall be issued a residential fire alarm company license.

(D) A company whose manager holds a commercial fire alarm manager license shall be issued a commercial fire alarm company license.

(E) A company with a residential fire alarm company license shall only offer to, or engage in the planning, installation, repair, alteration, maintenance, service, sale, inspection, or advertisement of fire alarms for use in residential building and manufactured housing.

(F) A company with a commercial fire alarm company license may offer to, or engage in the planning, installation, repair, alteration, maintenance, service, sale, inspection, or advertisement of fire alarm systems for any residential or commercial use.

(G) Any equipment installed by a company as part of a fire alarm system shall be listed by Underwriters Laboratories, Factory Mutual or any other nationally recognized testing entities for such purpose.

(H) A fire alarm company may operate multiple activity offices provided each office has the same name and ownership of the parent company and shall operate in compliance with 380:75-3-4(1)(A). The company will notify the Department of the physical address and telephone number for each office in accordance with 59 O.S. Section 1800.10.

(I) A properly licensed fire alarm technician or manager of a properly licensed alarm company shall perform the initial testing, inspection, or certification of the entire fire alarm system, and that licensed alarm company shall assume full responsibility for the installation of the alarm system.

(J) Each fire alarm company that sells a fire alarm system to a consumer upon request from the consumer shall within forty-eight (48) hours return the central station monitoring programming code of the system to the factory default setting when the consumer cancels the contract on customer owned equipment. If a system is installed without a written contract with the consumer, the system shall have the central station monitoring programming code set at default.

(2) **Manager.**

(A) Each application for licensure as a fire alarm manager shall include verification of four (4) years of experience in the fire alarm business. The experience shall include two (2) years verified/or licensed experience as a fire alarm technician. If applying for residential fire alarm manager, experience must show residential technical experience. If applying for commercial fire alarm manager, experience must show commercial technical experience.

(B) Each residential fire alarm manager applicant must pass an examination prescribed by the Commissioner.

(C) Each commercial fire alarm manager applicant must pass an examination prescribed by the Commissioner.

(D) Each licensed company manager shall be responsible for all activities of the office they are listed as manager for within the State of Oklahoma.

(E) Each licensed company manager shall have a security background verification.

(F) A manager with a residential fire alarm manager license shall only offer to, engage in, or supervise the planning, installation, repair, alteration, maintenance, service, sale, inspection, or advertisement of fire alarm systems for use in residential building and manufactured housing. Each licensed fire alarm company manager that engages in residential systems must also be licensed as a burglar alarm manager.

(G) A manager with a commercial fire alarm manager license may offer to, engage in, or supervise the planning, installation, repair, alteration, maintenance, service, sale, inspection, or advertisement of fire alarm systems for any residential or commercial use.

(3) **Technician.**

(A) Each technician shall work for a licensed Oklahoma fire alarm company and under the supervision of a fire alarm company manager.

(B) Each residential fire alarm technician applicant must pass an examination prescribed by the Commissioner.

(C) Each commercial fire alarm technician applicant must pass an examination prescribed by the Commissioner.

(D) Each technician shall have a security background verification.

(E) Each technician shall perform or supervise only fire alarm work within the fire alarm license category for which the fire alarm company is licensed. Each licensed fire alarm technician that engages in residential systems must also be licensed as a burglar alarm technician.

(F) An individual that holds a technician license in this category can engage in any licensed category as a trainee pursuant to this Chapter.

(4) **Technician/salesperson trainee.**

(A) A technician/salesperson trainee shall be employed by a licensed Oklahoma fire alarm company.

(B) A technician/salesperson trainee shall work under the direct supervision of a licensed fire alarm company manager, fire alarm technician or a fire alarm salesperson.

(C) There shall be no more than three (3) technician/salesperson trainees per fire alarm company manager or fire alarm technician per job site.

(D) Each technician/salesperson trainee shall have a security background verification.

(E) Each technician/salesperson trainee shall only install, repair, alter, maintain, service, sell, or inspect fire alarm systems within the fire alarm license category for which the supervisor is licensed. Each licensed fire alarm trainee that engages in residential systems must also be licensed as a burglar alarm trainee.

(F) An individual that holds a trainee license can engage in any licensed category pursuant to this Chapter while under the direct supervision of an individual holding the appropriate license in the category of activity being performed.

(G) An individual who holds a trainee license can engage in the rough-in cabling or wiring under the direct supervision of a licensed company holding the appropriate license category.

(H) A technician trainee must submit a trainee application to the Department of Labor within fifteen

(15) business days of being hired by a fire alarm company.

(5) **Salesperson.**

(A) Each salesperson shall work for a licensed Oklahoma fire alarm company and under the supervision of a fire alarm company manager.

(B) Each salesperson shall pass an examination required by the Department which determines if the applicant is sufficiently knowledgeable in fire alarms to design and sell fire alarm systems that meet applicable code standards when installed.

(C) Each salesperson shall have a security background verification.

(D) Each residential fire alarm salesperson applicant must pass an examination prescribed by the Commissioner.

(E) Each commercial fire alarm salesperson applicant must pass an examination prescribed by the Commissioner.

(F) Each salesperson shall design and sell only fire alarm systems in the license category for which the fire alarm company is licensed. Each licensed fire alarm salesperson that engages in residential systems must also be licensed as a burglar sales person.

380:75-3-5. Monitoring license requirements

Licensing requirements for the alarm monitoring industry are as follows:

(1) **Company.**

(A) Each monitoring company shall employ an Oklahoma licensed alarm monitoring manager. A monitoring license shall be required for any company which offers and/or provides monitoring services to residential or commercial properties located within the state of Oklahoma.

(B) Enhanced call verification

(i) Except as provided in this subsection, a monitoring company shall attempt to verify that an activated signal from an alarm system designed to detect and signal an unauthorized intrusion or entry, before requesting a law enforcement response by:

(I) Calling the alarm user at the site of the alarm system with the activated signal.

(II) If no contact is made with the alarm user at the site, calling a second telephone number provided by the alarm user of an individual authorized to cancel a response.

(ii) A monitoring company is not required to contact an alarm user who has obtained a written exemption from response verification from the local chief law enforcement officer or his/her designee.

(iii) A monitoring company is not required to call an alarm user if the system provides visual or audible verification of an unauthorized intrusion or entry by electronic means incorporated into the alarm system.

(iv) A monitoring company is not required to contact an alarm user for signals from medical, emergency, holdup, panic, ambush, nurse call systems, and/or fire alarms.

(2) **Manager.**

(A) Each manager shall be responsible for all activities of the company within the State of Oklahoma. In the event of the death of the monitoring company manager or his/her separation from the company for any other reason, a monitoring company shall notify the Department with fourteen (14) days and name another licensed burglar alarm manager within thirty (30) days from separation.

(B) Each manager shall have a security background verification.

380:75-3-6. Fire sprinkler license requirements

Licensing requirements for the fire sprinkler industry are as follows:

(1) **Company.**

(A) Each fire sprinkler company shall employ an Oklahoma licensed fire sprinkler manager who shall attend the operations of that office. In the event of the death of the fire sprinkler manager or his/her separation from the company for any other reason, a fire sprinkler company shall notify the Department within fourteen (14) days and name another licensed fire sprinkler manager within thirty (30) days from separation.

(B) A licensed fire sprinkler technician or manager must be on job site of any work being performed.

(C) A company whose manager only holds a residential fire sprinkler manager license shall be issued a residential fire sprinkler license.

(D) A company whose manager holds a commercial fire sprinkler manager license shall be issued commercial fire sprinkler license.

(E) A company with a residential fire sprinkler company license shall only offer to, or engage in the planning, sales, installation, repair, alteration, service, and inspection of residential multipurpose fire sprinkler systems on residential building and manufactured housing.

(F) A company with a commercial fire sprinkler company license may offer to, or engage in the planning, installation, repair, alteration, maintenance, service, sale, inspection, or advertisement of fire sprinkler systems for any residential or commercial use.

(2) **Manager.**

(A) Each residential fire sprinkler applicant must pass an examination prescribed by the Commissioner.

(B) Each licensed residential or commercial company manager accepts full responsibility for all activities of his/her company within the State of Oklahoma.

(C) A fire sprinkler company manager is a specialty contractor whose principal contracting business is the execution of contracts requiring the art, ability, experience, knowledge, science, and skill to design,

fabricate, install, inspect (other than electrical), alter or repair, fire sprinkler systems, piping or tubing and appurtenances and equipment pertaining thereto, including both overhead and underground non-potable water mains, fire hydrant mains, standpipes, and hose connections to fire sprinkler systems, air line systems used in connection with fire sprinkler systems, and tanks and pumps connected thereto, in compliance with nationally recognized standards including state and local codes and standards for layout, installation and maintenance of fire sprinkler systems.

(D) Each commercial fire sprinkler manager applicant must pass an examination prescribed by the Commissioner.

(E) A residential fire sprinkler manager shall only offer to, engage in, or supervise the planning, installation, repair, alteration, maintenance, service, sale, inspection, or advertisement of multipurpose fire sprinkler systems for use in residential building and manufactured housing.

(F) A commercial fire sprinkler manager may offer to, engage in, or supervise the planning, installation, repair, alteration, maintenance, service, sale, inspection, or advertisement of fire sprinkler systems for any residential of commercial use.

(G) Each commercial or residential fire sprinkler manager shall have a security background verification.

(3) **Technician.**

(A) Each residential or commercial fire sprinkler technician must work for a licensed Oklahoma fire sprinkler company and work under the supervision of a fire sprinkler company manager.

(B) Each residential fire sprinkler technician applicant must pass an examination required by the Department.

(C) Each commercial fire sprinkler technician applicant must pass an examination prescribed by the Commissioner.

(D) A commercial fire sprinkler technician working for a fire sprinkler company with a residential license shall only perform fire sprinkler work for which the company is licensed.

(E) Each fire sprinkler technician shall have a security background verification.

(4) **Technician Trainee.**

(A) A technician trainee shall be employed by a licensed Oklahoma fire sprinkler company.

(B) A technician trainee shall work under the direct supervision of a licensed fire sprinkler company manager or fire sprinkler technician.

(C) There shall be no more than three (3) technician trainees per fire sprinkler company manager or fire sprinkler technician per job site.

(D) A technician trainee must submit a trainee application to the Department of Labor within fifteen (15) business days of being hired by a fire sprinkler company.

(E) Each fire sprinkler technician trainee shall have a security background verification.

(5) **Inspector.**

(A) An applicant for initial licensure as a fire sprinkler inspector applicant must pass an exam prescribed by the Commissioner.

(B) Each fire sprinkler inspector shall work for a licensed fire sprinkler company.

(C) Each fire sprinkler inspector shall inspect and test each fire sprinkler system to determine if the system has been installed and is operating according to the appropriate code and standard before certifying the system.

(D) Each fire sprinkler inspector shall work for a fire sprinkler company which possesses an unlimited fire sprinkler company license.

(E) Each fire sprinkler inspector shall have a security background verification.

380:75-3-7. Locksmith license requirements

Licensing requirements for the locksmith industry are as follows:

(1) **Company.**

(A) Each locksmith company shall employ an Oklahoma licensed locksmith manager who is responsible for the operations of the company's office. In the event of the death of the locksmith company manager or his/her separation from the company for any other reason, a locksmith company shall notify the Department within fourteen (14) days and name another licensed locksmith manager within thirty (30) days from separation.

(B) A licensed locksmith technician or manager shall be on site for any work being performed.

(C) A locksmith company may operate multiple offices provided each office has the same name and ownership of the parent company and shall operate in compliance with 380:75-3-7(1)(A). The company shall notify the Department of the physical address and telephone number for each office in accordance with 59 O.S. Section 1800.10.

(D) The initial retail sales and pinning of locks and lock system shall not require a locksmith license. However, the repinning of locks subsequent to the initial sales shall require a locksmith license.

(E) Tow truck companies/operators licensed by the Department of Public Safety are exempted from the requirements of licensure and this Chapter when performing automotive locksmith services at their business location, and when performing automotive locksmith roadside services in a vehicle appropriately licensed and identified in accordance with the Department of Public Safety requirements for tow truck companies/operators (OAC 595:25) existing at the time of the adoption of this rule or as may subsequently enumerated or adopted.

(F) An individual, company, corporation, institution, industry, business or religious organization, or

employee thereof, is exempt from the requirements of this Chapter when performing locksmith category activities on the property of the same, provided the locksmith category services are not performed as a normal business practice on the property of another.

(2) **Manager.**

(A) Each application for licensure as a manager shall include verification of experience in the locksmith business. The experience shall include verified/or licensed experience as a locksmith technician.

(B) Each locksmith manager applicant must pass an examination prescribed by the Commissioner.

(C) Each licensed locksmith company manager shall be responsible for all activities conducted within the State of Oklahoma by the office where they are listed as manager.

(D) Each licensed locksmith company manager shall have a security background verification.

(3) **Technician.**

(A) Each technician shall work for a licensed Oklahoma locksmith company and under the supervision of a locksmith company manager.

(B) Each locksmith technician applicant must pass an examination prescribed by the Commissioner.

(C) Each technician shall have a security background verification.

(D) An individual that holds a technician license in this category can engage in any licensed category as a trainee pursuant to this Chapter.

(4) **Technician Trainee.**

(A) A technician trainee shall be employed by a licensed Oklahoma locksmith company.

(B) A technician trainee shall work under the direct supervision of a licensed locksmith company manager or a locksmith technician.

(C) There shall be no more than three (3) technician trainees per locksmith company manager or locksmith technician per job site.

(D) Each technician trainee shall have security background verification.

(E) An individual that holds a trainee license can engage in any licensed category pursuant to this Chapter while under the direct supervision of an individual holding the appropriate license in the category of activity being performed.

(F) A technician trainee must submit a trainee application to the Department of Labor within fifteen (15) business days of being hired by a locksmith company.

(5) **Salesperson.**

(A) Each salesperson shall work for a licensed Oklahoma locksmith company and under the supervision of a locksmith company manager.

(B) Each locksmith salesperson applicant must pass an examination prescribed by the Commissioner.

(C) Each salesperson shall have a security background verification.

380:75-3-8. Electronic Access Control license requirements

Licensing requirements for the electronic access control are as follows:

(1) **Company.**

(A) Each electronic access control company shall employ an Oklahoma licensed electronic access control manager who is responsible for the operations of the company's office. In the event of the death of the electronic access control company manager or his/her separation from the company for any other reason, an electronic access control company shall notify the Department within fourteen (14) days and name another licensed electronic access control manager within thirty (30) days from separation.

(B) A licensed electronic access control technician or manager shall be on site for any work being performed.

(C) An electronic access control company may operate multiple offices provided each office has the same name and ownership of the parent company and shall operate in compliance with 380:75-3-8(1)(A). The company shall notify the Department of the physical address and telephone number for each office in accordance with 59 O.S. Section 1800.10.

(2) **Manager.**

(A) Each application for licensure as a manager shall include verification of experience in the electronic access control business. The experience shall include verified and/or-licensed experience as an electronic access control technician.

(B) Each electronic access control manager applicant must pass an examination prescribed by the Commissioner.

(C) Each licensed electronic access control company manager shall be responsible for all activities conducted within the State of Oklahoma by the office where they are listed as manager.

(D) Each licensed electronic access control company manager shall have a security background verification.

(3) **Technician.**

(A) Each technician shall work for a licensed Oklahoma electronic access control company and under the supervision of an electronic access control company manager.

(B) Each electronic access control technician applicant must pass an examination prescribed by the Commissioner.

(C) Each technician shall have a security background verification.

(D) An individual that holds a technician license in this category can engage in any licensed category as a trainee pursuant to this Chapter.

(4) **Technician/ Salesperson Trainee.**

(A) A technician/salesperson trainee shall be employed by a licensed Oklahoma electronic access control company.

(B) A technician/salesperson trainee shall work under the direct supervision of a licensed electronic access control company manager, electronic access control technician or an electronic access control salesperson.

(C) There shall be no more than three (3) technician/salesperson trainees per electronic access control company manager, electronic access control technician or electronic access control salesperson per job site.

(D) Each technician/salesperson trainee shall have a security background verification.

(E) An individual that holds a trainee license can engage in any licensed category pursuant to this Chapter while under the direct supervision of an individual holding the appropriate license in the category of activity being performed.

(F) An individual who holds a trainee license can engage in the rough-in cabling or wiring under the direct supervision of a licensed company holding the appropriate license category.

(G) A technician trainee must submit a trainee application to the Department of Labor within fifteen (15) business days of being hired by an electronic access control company.

(5) **Salesperson.**

(A) Each salesperson shall work for a licensed Oklahoma electronic access control company and under the supervision of an electronic access control company manager.

(B) Each electronic access control salesperson applicant must pass an examination prescribed by the Commissioner.

(C) Each salesperson shall have a security background verification.

380:75-3-9. Closed circuit television license requirements (CCTV)

Licensing requirements for the CCTV industry are as follows:

(1) **Company.**

(A) Each CCTV company shall employ an Oklahoma licensed CCTV manager who is responsible for the operations of the company's office. In the event of the death of the CCTV company manager or his/her separation from the company for any other reason, a CCTV company shall notify the Department within fourteen (14) days and name another licensed CCTV manager within thirty (30) days from separation.

(B) A licensed CCTV technician or manager shall be on site for any work being performed.

(C) A CCTV company may operate multiple offices provided each office has the same name and ownership of the parent company and shall operate in compliance with 380:75-3-9(1)(A). The company will notify the Department of the physical address and telephone number for each office in accordance with 59 O.S. Section 1800.10.

(2) **Manager.**

(A) Each application for licensure as a CCTV manager shall include verification of experience in the CCTV business. The experience shall include verified and/or licensed experience as a CCTV technician.

(B) Each closed circuit television manager applicant must pass an examination prescribed by the Commissioner.

(C) Each licensed CCTV company manager shall be responsible for all activities conducted within the State of Oklahoma by the office where they are listed as manager.

(D) Each licensed CCTV company manager shall have a security background verification.

(3) **Technician.**

(A) Each technician shall work for a licensed Oklahoma CCTV company and under the supervision of a CCTV company manager.

(B) Each closed circuit television technician applicant must pass an examination prescribed by the Commissioner.

(C) Each technician shall have a security background verification.

(D) An individual that holds a technician license in this category can engage in any licensed category as a trainee pursuant to this Chapter.

(4) **Technician/salesperson trainee.**

(A) A technician/salesperson trainee shall be employed by a licensed Oklahoma CCTV company.

(B) A technician/salesperson trainee shall work under the direct supervision of a licensed CCTV company manager, CCTV technician or a CCTV salesperson.

(C) There shall be no more than three (3) technician/salesperson trainees per CCTV company manager, CCTV technician or CCTV salesperson per job site.

(D) Each technician/salesperson trainee shall have a security background verification.

(E) An individual that holds a trainee license can engage in any licensed category pursuant to this Chapter while under the direct supervision of an individual holding the appropriate license in the category of activity being performed.

(F) An individual who holds a trainee license can engage in the rough-in cabling or wiring under the direct supervision of a licensed company holding the appropriate license category.

(G) A technician trainee must submit a trainee application to the Department of Labor within fifteen (15) business days of being hired by a CCTV company.

(5) **Salesperson.**

(A) Each salesperson shall work for a licensed Oklahoma CCTV company and under the supervision of a CCTV company manager.

(B) Each closed circuit television salesperson applicant must pass an examination prescribed by the Commissioner.

(C) Each salesperson shall have a security background verification.

380:75-3-10. Nurse call system license requirements

Licensing requirements for the nurse call industry are as follows:

(1) **Company.**

(A) Each nurse call company shall employ an Oklahoma licensed nurse call manager who is responsible for the operations of the company's office. In the event of the death of the nurse call company manager or his/her separation from the company for any other reason, a nurse call company shall notify the Department within fourteen (14) days and name another licensed nurse call manager within thirty (30) days from separation.

(B) A licensed nurse call technician or manager shall be on site for any work being performed.

(C) A nurse call company may operate multiple offices provided each office has the same name and ownership of the parent company and shall operate in compliance with 380:75-3-10(1)(A). The company shall notify the Department of the physical address and telephone number for each office in accordance with 59 O.S. Section 1800.10.

(2) **Manager.**

(A) Each application for licensure as a manager shall include verification of experience in the nurse call business. The experience shall include verified and/or licensed experience as a nurse call technician.

(B) Each nurse call manager applicant must pass an examination prescribed by the Commissioner.

(C) Each licensed nurse call company manager shall be responsible for all activities conducted within the State of Oklahoma by the office where they are listed as manager.

(D) Each licensed nurse call company manager shall have a security background verification.

(3) **Technician.**

(A) Each technician shall work for a licensed Oklahoma nurse call company and under the supervision of a nurse call company manager.

(B) Each nurse call technician applicant must pass an examination prescribed by the Commissioner.

(C) Each technician shall have a security background verification.

(D) An individual that holds a technician license in this category can engage in any licensed category as a trainee pursuant to this Chapter.

(4) **Technician/salesperson trainee.**

(A) A technician/salesperson trainee shall be employed by a licensed Oklahoma nurse call company.

(B) A technician/salesperson trainee shall work under the direct supervision of a licensed nurse call company manager, nurse call technician or a nurse call salesperson.

(C) There shall be no more than three (3) technician/salesperson trainees per nurse call company manager, nurse call technician or nurse call salesperson per job site.

(D) Each technician/salesperson trainee shall have a security background verification.

(E) An individual that holds a trainee license can engage in any licensed category pursuant to this Chapter while under the direct supervision of an individual holding the appropriate license in the category of activity being performed.

(F) An individual who holds a trainee license can engage in the rough-in cabling or wiring under the direct supervision of a licensed company holding the appropriate license category.

(G) A technician trainee must submit a trainee application to the Department of Labor within fifteen (15) business days of being hired by a nurse call company.

(5) **Salesperson.**

(A) Each salesperson shall work for a licensed Oklahoma nurse call company and under the supervision of a nurse call company manager.

(B) Each nurse call salesperson applicant must pass an examination prescribed by the Commissioner.

(C) Each salesperson shall have a security background verification.

SUBCHAPTER 5. SPECIAL PROVISIONS

380:75-5-1. Commercial fire alarm tagging requirements

(a) **White Tag (installation sticker).** The White Tag shall be the permanent visual record of the original installation and certification. The following additional requirements shall apply to the use of the White Tag:

(1) The tag must be permanently affixed to the main control panels as long as the system is in service.

(2) The tag shall be five inches (5") in height by four inches (4") in width and shall be water durable and have a self-adhesive backing.

(3) The tag shall bear the following information:

(A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL";

(B) The certifying company's name, address, and telephone number (local office);

(C) The certifying company's commercial fire alarm license number;

(D) The signature and license number of the commercial fire alarm technician certifying the system;

(E) The fire alarm permit number;

(F) The model of the control panel;

(G) The date of certification; and

(H) The code, edition and year under which the system was installed.

(4) Only the fire code official may remove an installation tag.

(b) **Traffic Light Bright Green Tag (Annual inspection tag/sticker).** The Green Tag shall be the visual record of the last annual inspection or initial certification testing where the system was found to be operable with no impairments. The following additional requirements shall apply to the use of the Green Tag:

(1) The annual inspection must be conducted in accordance with NFPA testing standards and manufacturer's specifications.

(2) The tag shall be five inches (5") in height by four inches (4") in width and shall have a self-adhesive backing or made of colored card stock placed in a plastic sleeve.

(3) The tag shall bear the following information:

(A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL";

(B) The service company's name, address, and telephone number (local office);

(C) The service company's commercial fire alarm license number;

(D) The signature and license number of the commercial fire alarm technician certifying the system; and

(E) The date the inspection was performed.

(4) Only a commercial fire alarm technician, employed by a fire alarm company or the fire code official may remove the tag.

(c) **Traffic Light Bright Yellow Tag (Annual inspection tag/sticker) Operational Fire Alarm System but with minor impairments.** The intent of the Yellow Tag is to provide notification to the authority having jurisdiction of a system that is operable with impairments that do not severely compromise the system's functional operation. The Yellow Tag shall be the visual record of the last annual inspection where the system was found to be operable but with minor impairments. The following additional requirements shall apply to the use of the Yellow Tag:

(1) The annual inspection must be conducted in accordance with NFPA testing standards and manufacturer's specifications.

(2) The tag shall be five inches (5") in height by four inches (4") in width and shall have a self-adhesive backing or made of colored card stock placed in a plastic sleeve.

(3) The tag shall bear the following information:

(A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL";

(B) The service company's name, address, and telephone number (local office);

(C) The service company's commercial fire alarm license number;

(D) The signature and license number of the commercial fire alarm technician certifying the system;

(E) The date the inspection was performed; and

(F) A list of the impairments.

(4) Only a commercial fire alarm technician, employed by a commercial fire alarm company or the fire code official may remove the tag.

(5) If a Yellow Tag is placed on a fire alarm system the commercial fire alarm company shall notify the building owner or agent and the fire code official in writing of all impairments immediately or as soon as practicable, but no later than seventy-two (72) hours.

(d) **Traffic Light Bright Red Tag (Annual inspection tag/sticker) Fire Alarm System Inoperable.** The intent of the Red Tag is to provide notification to the authority having jurisdiction of a fire alarm system that is inoperable.

(1) The annual inspection must be conducted in accordance with NFPA testing standards and manufacturer's specifications.

(2) The tag shall be five inches (5") in height by four inches (4") in width and shall have a self-adhesive backing or made of colored card stock placed in a plastic sleeve.

(3) The tag shall bear the following information:

(A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL";

(B) The service company's name, address, and telephone number (local office);

(C) The service company's commercial fire alarm license number;

(D) The signature and license number of a commercial fire alarm technician certifying the system;

(E) The date the inspection was performed;

(F) A list of the deficiencies that render the system inoperable; and

(G) A list of any deficiencies present that do not render the system inoperable.

(4) Only a commercial fire alarm technician, employed by a commercial fire alarm company or the fire code official may remove an annual inspection tag.

(5) If a Red Tag is placed on a fire alarm system the commercial fire alarm company shall notify the building owner or agent and the fire code official in writing of all impairments immediately or as soon as practicable, but no later than twenty-four (24) hours.

380:75-5-2. Fire sprinkler tagging requirements

(a) **White Sticker.** The white sticker shall be made from water durable material and permanently affixed to the riser of the fire protection system. The white sticker shall be affixed at the time of acceptance. The sticker shall be completed with waterproof ink. The following additional requirements shall apply to the use of the White Sticker:

(1) The sticker shall be a permanently affixed sticker (glued back) that is completed by the contractor. This installation sticker shall be affixed to the riser directly adjacent to the data plate. This sticker will stay on the riser indefinitely. The sticker will be five inches (5") in height and four inches (4") in width.

(2) The sticker shall bear the following information:

(A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL";

(B) The contractor's name;

(C) The contractor's complete address;
(D) The contractor's phone number;
(E) The contractor's Oklahoma state license number;
(F) The applicable version of NFPA 13 which the system was installed under;
(G) The date of installation;
(H) The technician's name responsible for installation; and
(I) The name of the authority having jurisdiction (AHJ).

(3) All information shall be printed and be legible.

(4) Any subsequent addition(s) to the sprinkler shall require a new white sticker with the same data referenced above. The new sticker shall be placed on top of the previous sticker.

(b) **Traffic Light Bright Green Inspection/Service Tag.** The Traffic Light Bright Green Inspection/Service Tag shall be placed in a clear plastic sleeve and attached to the system after the system has been thoroughly inspected by a licensed fire sprinkler inspector or a licensed fire sprinkler company manager of a licensed sprinkler company and found to be operational. The following additional requirements shall apply to the use of the Traffic Light Bright Green Inspection/Service Tag:

(1) After annual inspection or initial installation of a sprinkler system the Traffic Light Bright Green Inspection/Service Tag shall be affixed to the riser when no impairments are found and the system appears to be operational.

(2) A Traffic Light Bright Green Inspection/Service Tag shall be attached to the riser each time the system is serviced or repaired and the appropriate block punched. Any necessary comments shall be printed in the provided space on the rear of the tag.

(3) The Traffic Light Bright Green Inspection/Service Tag shall bear the following information:
(A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL";
(B) The licensed fire sprinkler contractor's name and address;
(C) The licensed fire sprinkler contractor's Oklahoma state license number;
(D) The day, month and year inspected in print, and punched;
(E) The fire licensed sprinkler inspector or licensed fire sprinkler company manager's signature; and
(F) The type of work performed punched in the appropriate block for each type of work, installation, service and inspection performed.

(4) The tag shall be "traffic light bright" green in color, five and one fourth inches (5 1/4") in height and two and five-eighths inches (2 5/8") in width.

(5) The tag shall be printed with dates and may be established for any six-year period. After each printing a copy of the tag shall be sent to the State Fire Marshall and the Department of Labor.

(6) The tag can be removed only by a licensed sprinkler inspector or a licensed company manager of a licensed sprinkler company, an employee of the local or State Fire Marshal's office or an authorized representative of a governmental agency with regulatory authority. Unnecessary tags shall be removed and discarded each time a new tag is installed. The new tag shall be placed in the clear plastic sleeve.

(c) **Traffic Light Bright Yellow Inspection Tag.** The Traffic Light Bright Yellow Inspection Tag shall be placed in a clear plastic sleeve and be attached to the fire protection system after the system has been thoroughly inspected by a licensed fire sprinkler inspector or a licensed fire sprinkler company manager of a licensed sprinkler company and found to contain impairments, but continues to be operational. The application of this inspection tag requires notification to the fire code official within seventy-two (72) hours. The following additional requirements shall apply to the use of the Traffic Light Bright Yellow Inspection Tag:

(1) The Traffic Light Bright Yellow Inspection Tag cannot be removed and/or replaced by a Traffic Light Bright Green Inspection/Service Tag until the condition that caused or created the impairment(s) has been corrected. The following are some examples of impairments where the use of the Traffic Light Bright Yellow Inspection Tag would be appropriate, provided the said impairments do not render the system inoperable:
(A) Minor loading of heads;
(B) Spare wrench or heads missing;
(C) Escutcheon rings missing;
(D) Minor head clearance violations (stock or storage);
(E) FDC cap missing;
(F) Glass on a gauge missing or broken;
(G) Stock piled within three feet of a riser;
(H) Ceiling tiles missing, where there are pendant head;
(I) Improper spacing of sprinkler heads (due to structural modifications by tenant);
(J) Incorrect head rating or type (due to hazard classification change);
(K) Water flow signaling devices missing;
(L) Valves not properly secured or supervised; and
(M) Water pressure up to 20% lower than design pressure.

(2) The tag shall be attached to the riser.

(3) The tag shall bear the following information:
(A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL";
(B) The licensed fire sprinkler contractor's name and address;
(C) The licensed fire sprinkler contractor's Oklahoma state license number;
(D) The day, month and year inspected in print, and punched; and
(E) The licensed fire sprinkler inspector or licensed sprinkler company manager's signature.

(4) The tag shall be "traffic light bright" yellow in color, five and one-fourth inches (5 1/4") in height and two and five-eighths inches (2 5/8") in width.

(5) The tag shall be printed with dates and may be established for any six-year period. After each printing a copy of the tag shall be sent to the State Fire Marshal and the Department of Labor.

(6) The tag can be removed only by a licensed fire sprinkler inspector or a licensed fire sprinkler company manager of a licensed sprinkler company, an employee of the local or State Fire Marshal's office or an authorized representative of a governmental agency with regulatory authority, after a determination of the system's condition has been made consistent with subsection (1) above. Unnecessary tags shall be removed and discarded each time a new tag is installed. The new tag shall be placed in the clear plastic sleeve.

(7) After the Traffic Light Bright Yellow Inspection Tag is placed on the sprinkler system the person or authority affixing the tag shall, in addition to notifying the fire code official within seventy-two (72) hours, notify the building owner or agent immediately or as soon as practicable. Notification to the fire code official shall be accomplished by transmission of a copy of the inspection form, preferably by telephonic facsimile transmission, that was completed by the person or authority affixing the tag. When the impairments are corrected the system shall be re-inspected and the appropriate colored tag placed upon the system.

(d) **Traffic Light Bright Red Inspection Tag.** The Traffic Light Bright Red Inspection Tag shall be placed in a clear plastic sleeve and be attached to the fire protection system after the system has been thoroughly inspected by a licensed fire sprinkler inspector or a licensed fire sprinkler company manager of a licensed sprinkler company and found to contain impairments that could, or do in fact, render it inoperable. The application of this inspection tag requires notification to the fire code official within twenty-four (24) hours. The following additional requirements shall apply to the use of the Traffic Light Bright Red Inspection Tag:

(1) The Traffic Light Bright Red Inspection Tag cannot be removed and or replaced by a Traffic Light Bright Yellow Inspection Tag or a Traffic Light Bright Green Inspection/Service Tag until the condition that caused it to be inoperable has been corrected. The following deficiencies are appropriate for the use of the Traffic Light Bright Red Inspection Tag:

(A) Water pressure less than 80% of design pressure;

(B) Water turned off to the system;

(C) Frozen pipes;

(D) Inability of a licensed contractor to test the system because of obstructed drains;

(E) Severe head obstruction;

(F) Inoperable fire department connection; or

(G) Uncovered areas that the system was designed to cover.

(2) The tag shall be attached to the riser.

(3) The tag shall bear the following information:

(A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL";

(B) The licensed fire sprinkler contractor's name and address;

(C) The licensed fire sprinkler contractor's Oklahoma state license number;

(D) The day, month and year inspected in print, and punched;

(E) The licensed fire sprinkler inspector or licensed fire sprinkler company manager's signature; and

(F) The appropriate impairments check boxes and comment lines.

(4) The tag shall be "traffic light bright" red in color, five and one-fourth (5 1/4") inches in height and two and five-eighths (2 5/8") inches in width.

(5) The tag shall be printed with dates and may be established for any six-year period. After each printing, a copy of the tag shall be sent to the State Fire Marshal and the Department of Labor.

(6) The tag can be removed only by a licensed fire sprinkler inspector or a licensed fire sprinkler company manager of a licensed sprinkler company, an employee of the local or State Fire Marshal's office or an authorized representative of a governmental agency with regulatory authority, after a determination of the system's condition has been made consistent subsection (1) above. Unnecessary tags shall be removed and discarded each time a new tag is installed. The new tag shall be placed in the clear plastic sleeve.

(7) After the Traffic Light Bright Red Inspection Tag is placed on the sprinkler system the person or authority affixing the tag shall, in addition to notifying the fire code official within twenty-four (24) hours, notify the building owner or agent immediately or as soon as practicable but not later than twenty-four (24) hours. Notification to the fire code official shall be accomplished by transmission of a copy of the inspection form, preferably by telephonic facsimile transmission, that was completed by the person or authority affixing the tag. When the impairments are corrected the system shall be re-inspected and the appropriate colored tag placed upon the system.

380:75-5-3. Residential alarm tagging requirements

A white sticker shall be permanently affixed to the residential fire alarm panel or if the panel is a self-contained unit, the sticker shall be placed on the breaker panel door. The white sticker shall be affixed at the time of installation acceptance. The following additional requirements shall apply to the use of the white sticker:

(1) The white sticker shall be a permanently affixed sticker that is completed by the alarm panel contractor. The sticker shall remain on the panel indefinitely. The sticker shall be five inches (5") in length and four inches (4") in width.

(2) The white sticker shall contain the following information:

(A) "DO NOT REMOVE BY ORDER OF THE CODE OFFICIAL";
(B) The contractor's full name, complete address and phone number;
(C) The contractor's Oklahoma license number;
(D) The applicable version of the NFPA which the system was installed;
(E) The date of installation; and
(F) The installer's name and license number.
(3) All information on the white sticker shall be printed and legible.

SUBCHAPTER 7. ENFORCEMENT

380:75-7-1. License revocation and suspension

(a) The employment or use of unlicensed individuals may be grounds to suspend, revoke, or deny renewal of the license of the person so employing or using unlicensed individuals.
(b) The repeated violation of any rule or provision of the Act, or the violation of multiple sections of this Chapter or provisions of the Act, may be grounds to suspend or revoke a licensee's license.
(c) Any person convicted in a court of competent jurisdiction of burglary, larceny, arson, forgery, fraud, conspiracy to defraud, or any similar offense, or pleading guilty or nolo contendre to any such offense may be subject to license suspension or revocation.
(d) Any person failing to comply with a fine assessment or other administrative order of the Department within ninety (90) days of issuance of such assessment or order shall be subject to license suspension.
(e) Any person whose license is revoked pursuant to these rules may not perform alarm or locksmith industry work before attaining licensure pursuant to OAC 380-75.

380:75-7-2. Prohibited acts

(a) No person, entity, or firm may perform burglar alarm, fire alarm, sprinkler alarm, locksmithing, electronic access control, closed circuit television, nurse call or monitoring work without first obtaining a license pursuant to these rules.
(b) No person shall offer to engage in burglar alarm, fire alarm, sprinkler alarm, locksmithing, electronic access control, closed circuit television, nurse call or monitoring work during the period his/her license is suspended or revoked.
(c) No employing firm shall employ or use an unlicensed person to perform alarm and locksmith industry work.
(d) No person, entity, or firm may transfer a license or registration.
(e) No person, licensed pursuant to these rules, shall enter into an agreement for the use of his/her license with any firm or person who is, or has been adjudicated to be, in violation of any provision of the Act, or whose license is currently suspended or has within the last year been revoked, unless or until otherwise approved by the Department.
(f) No person shall make a materially false or fraudulent statement in an application for license, engage in cheating, or otherwise commit an act in violation of the Alarm and Locksmith Industry Act, 59 O.S. Section 1800, *et seq.*

380:75-7-3. Schedule of fines for the alarm and locksmith industry

The fine schedule for citations issued by the Department for violations of the Alarm and Locksmith Industry Act or the rules promulgated thereunder shall be subject to the fines as follows:
(1) Engaging in an Alarm and Locksmith Industry business without a license in the appropriate category or classification:
(A) First - $200
(B) Subsequent - $200
(2) Company employing unlicensed person to perform Alarm and Locksmith Industry work (per person):
(A) First - $100
(B) Subsequent - $200
(3) Altering a license:
(A) First - $200
(B) Subsequent - $200
(4) Failure to display company license in conspicuous place:
(A) First - $50
(B) Subsequent - $200
(5) Individual not carrying a personal license:
(A) First - $50
(B) Subsequent - $200
(6) Failure to display company license number as required by statute or rule:
(A) First - $200
(B) Subsequent - $200
(7) Company employing person to perform Alarm and Locksmith Industry work without supervision of properly licensed manager:
(A) First - $200
(B) Subsequent - $200
(8) Failure to have properly licensed manager or technician on site:
(A) First - $200
(B) Subsequent - $200
(9) Failure to correct code violations per day after NOV compliance date:
(A) First - $200
(B) Subsequent - $200
(10) Failure to comply with a specific provision of the Alarm and Locksmith Industry Regulations:
(A) First - $50
(B) Subsequent - $200

[OAR Docket #13-1032; filed 6-6-13]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 1. AGENCY AUTHORITY AND OBJECTIVES

[OAR Docket #13-933]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
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390:1-1-10 [AMENDED]
AUTHORITY:
Council on Law Enforcement Education and Training; 70 O. S., § 3311.2 through 3311.13; 20 O.S., §1313.2; 21 O.S., § 1289.8 and 1290.1; 51 O.S., § 24-A et. seq.; 59 O.S., § 1750.1 through 1750.14 and 1451 through 1476; 75 O.S., § 250 et seq. and 250.3.
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Additions to this chapter set procedures for CLEET to approve new or reactivated law enforcement agencies and police departments in accordance with a new statutory mandate. The changes in this chapter also clarify statutory citations related to Title 51, Section 24A.1 et. seq.
CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 13, 2013:

390:1-1-6. Public records

(a) Except as specifically exempted as a confidential record, official records of the Council on Law Enforcement Education and Training are subject to the Oklahoma Open Records Act, Title 51, Section 24A1 *et seq*.
(b) Copies of public information may be obtained from the Council office during regular business hours upon receipt of a written request and payment of a fee to cover the cost of providing copies of the requested.
(c) There may be a charge of Twenty-Five Cents ($.25) per page for copies of public records of the Council.
(d) In the event a request for copies is for a commercial purpose or would cause disruption of the performance of the regular duties of the Council or Council staff, there may be an additional charge computed and assessed for locating and copying the requested materials based upon the cost of the lowest paid employee necessary to accomplish the copying request.
(e) Pursuant to 51 O.S., Section 24A.8:
(1) Individual requests for records will only be accepted if received by U.S. Mail or facsimile.
(2) Agency requests for records will be accepted if on agency letterhead and received by U.S. Mail with original signature.
(3) If documents requested are not submitted by the individual or a law enforcement agency for investigative purposes, an *Order to Compel and Protective Order for Materials Produced by CLEET* must be received. This Order must be certified by the issuing Court.
(4) A subpoena without an *Order to Compel and Protective Order for Materials Produced by CLEET* is not sufficient.
(f) All social security numbers except for the last four digits will be redacted from any documents supplied by CLEET.

390:1-1-10. Electronic signatures, photographs and records

(a) CLEET may issue and receive electronic signatures, photographs, and records as defined in this Chapter.
(b) Information received electronically is subject to verification and may be denied if CLEET is unable to validate the source.
(c) CLEET reserves the right to request signatures, photographs and records in a particular format.
(d) Name changes in the CLEET database will only be made when certified documents are received.

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TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 2. ADMINISTRATIVE PROCEDURES

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Additions to this chapter set procedures for CLEET to approve new or reactivated law enforcement agencies and police departments in accordance with a new statutory mandate. The changes in this chapter also clarify statutory citations related to Title 51, Section 24A.1 et. seq.
CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 13, 2013:

390:2-1-1. Purpose

(a) The purpose of this chapter is to outline the different administrative sanctions imposed against individuals who are governed by the Council.

(b) Further, this chapter sets forth the procedural aspects of individual proceedings and hearings provided for in accordance with the Oklahoma Administrative Procedures Act.

(c) CLEET does not issue advisory opinions. Decisions will not be made on an advisory basis and applications will only be reviewed upon completion of the application.

390:2-1-4. Discovery

(a) **Purpose.** Discovery is designed to enable a party to obtain relevant information needed for presentation of the party's case. These Rules are intended to provide a simple method of discovery. Discovery rules and time limitations will be pursuant to Oklahoma Discovery Code 12 O.S., Section 3224-3237.

(b) **Explanation.** Discovery is a process apart from the hearing whereby a party may obtain relevant information from another person which has not otherwise been provided. Relevant information means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the information. This information is obtained for the purpose of assisting the parties in developing, preparing and presenting their cases.

(c) **Methods.** Discovery may be obtained by written interrogatories or oral interrogatories reduced in writing, depositions, production of documents for inspection or copying.

(1) **Depositions.**

(A) Deposition of a witness for use at a hearing may be taken only when ordered upon motion by CLEET or on application of a party. The order may direct that the deposition of a witness be taken inside or outside the State of Oklahoma.

(B) The order shall state the time and place the deposition shall be taken, and the party taking the deposition shall serve a copy of the order by regular mail on each party of record at least five days prior to the date scheduled for taking the deposition.

(C) The manner of taking depositions and the attendance of witnesses shall be governed by the laws relating to taking the depositions for use in the District Courts, except that the attendance of a witness for deposition shall be required only in the county of his residence.

(D) A deposition may be offered in evidence at the hearing by any party.

(2) **Production of documents.**

(A) Upon application of a party, or upon motion of CLEET, with or without notice, CLEET may make an order requiring a party to produce designated documents or tangible objects for inspection by parties to the proceeding, or for copying at the expense of the applicant, or to be offered into evidence. The order shall direct production thereof at the hearing, and production shall be at the principal office of CLEET, unless some other place is stated in the order.

(B) The party applying therefore shall serve a copy of the order by regular mail on each party of record at least five days prior to the date upon which production is required.

(C) An order pursuant to this section may require production of any document not privileged which constitutes or contains evidence relevant to the subject matter of the proceeding, or may reasonably lead to such evidence. Business records shall not be deemed privileged as such; but confidential business records and information will be protected from disclosure except where directly relevant to the issues in the proceeding.

(D) The order shall identify the documents or object to be produced individually or by categories, with sufficient particularity to permit easy identification thereof by the party ordered to make production.

(E) An exact photographic copy of a document may be substituted for the original, at the expense of the person producing the instrument.

(3) **Admission of facts and genuineness of documents.** CLEET may order any party to respond to

requests for the admission of the genuineness of any relevant documents identified within the request or the truth of any relevant matters of fact or application of law to the facts as set forth in the request.

(4) **Stipulations.** The parties may stipulate as to any matter of fact. Such a stipulation will satisfy a party's burden of proving the fact alleged.

(d) **Witnesses.**

(1) **Lists.** All parties to a proceeding shall file a list of witnesses expected to be called during the proceeding. Such list shall include a brief statement describing the testimony to be offered. Witness lists will be made available for inspection and copying to all parties of record. The witness list shall be made available at least five days prior to the hearing.

(2) **Exclusion.** The Hearing Examiner may exclude the testimony of any witness when said testimony is deemed irrelevant, unduly repetitious or cumulative.

(3) **Testimony.** A witness present at a hearing pursuant to subpoena may be called to testify by the Hearing Examiner or by any party.

(4) **Protective orders.** CLEET may make any orders with respect to subpoenas and attendance of a witness with or without application or notice, as may be appropriate for the protection of parties and witnesses, including an order excusing attendance, or limiting documents to be produced.

(e) **Subpoenas.**

(1) **Duces Tecum.** CLEET may, upon request of a party, issue a subpoena in the name of CLEET in any pending proceeding requiring attendance of a witness from any place in the state to the place of hearing. A Subpoena Duces Tecum may require a witness to produce at the hearing, books, records, accounts, papers and other instruments and tangible objects, which shall be described with reasonable particularity in the subpoena. A subpoena duces tecum directed to a party, not an individual, may direct that the records be produced by an officer or employee responsible therefore.

(2) **Request for subpoena.** A request for subpoena shall be submitted to CLEET not less than ten days prior to the hearing. Such requests shall be supported by a showing of general relevance and reasonable scope and a statement of the facts expected to be proven.

(f) **Interrogatories.**

(1) Upon application of a party, or upon the motion of CLEET, with or without notice, an order may be entered requiring a party to answer in writing under oath of the party or a person authorized to make an answer, certain written interrogatories attached to the order. Unless otherwise ordered, the answers shall be submitted at the hearing, or at a pre-hearing conference.

(2) The party applying for the order shall serve a copy thereof, with interrogatories attached, by regular mail, upon each party of record at least ten days prior to the date upon which answer is required.

[OAR Docket #13-934; filed 5-29-13]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 10. PEACE OFFICER CERTIFICATION

[OAR Docket #13-935]

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CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 13, 2013:

390:10-1-2. Minimum certification and employment standards

(a) For the purposes of the rules of this Chapter and 70 O.S. Section 3311, a peace officer is defined as a duly appointed or elected law enforcement officer who is paid for working more than twenty-five (25) hours per week and whose duties minimally include all of the following on a full-time basis:

(1) Preserving the public peace;

(2) Preventing crime;

(3) Protecting life and property;

(4) Enforcing laws and ordinances of this state and its political subdivisions; and

(5) Executing arrest warrants and search warrants.

(b) All persons hired or elected as peace officers shall meet the employment and training standards set forth in this chapter as set forth in Section 3311 of Title 70 of the Oklahoma Statutes. Calculation of said employment shall be based on cumulative periods of employment.

(c) The Council, or its designee, may grant an extension of the time frame specified in Section 3311 of Title 70 of the Oklahoma Statutes, upon written application by the employing agency, and when good cause is shown, as determined by the Council or its designee. Peace officers granted an extension of time to attend and complete a training academy are not permitted to work in the capacity of a peace officer during the extension period.

(d) In the event any officer so appointed or elected fails to comply with the employment and training standards and an extension of time is not granted, the employing agency shall comply with 70 O.S., Section 3311(E)(3) at the first opportunity made available by CLEET. Individuals who fail to comply with employment and/or training standards may reapply for certification two (2) years from the date of final ineligibility. Individuals who reapply will be required to start the academy over again without regard to previous classwork completed.

(e) Students are expected to complete the first basic academy in which they are enrolled. In the event a student cannot complete their initial academy, the student can complete the course work in another ~~the~~ academy if such work can be completed in the next subsequent academy and within a one year period from the date of hiring or appointment as a peace officer. If reentry exceeds one year, students will be required to start the academy over again without regard to previous classwork completed unless reentry was delayed by a documented medical condition or military orders prohibiting participation. Exceptions may be made by the Director, or Director designee, for students who have been granted extensions of time as authorized by 70 O.S., Section 3311 (E)(3).

(f) The Council may provide options for remedial or make-up training for students attending approved academy or CLEET basic academy programs pursuant to academy rules.

390:10-1-5. Requirements for certification

(a) No person may be certified as a peace officer under the laws and the rules of this chapter until the following requirements have been met.

(1) The agency employing an officer seeking certification, or in the case of an elected official, the elected official himself must certify to CLEET that the employment standards set forth in 70 O.S. Section 3311 (E)(F)(G)(J) have been met. This certification shall be in a format accepted by CLEET.

(2) Having met the employment standards set forth herein, an officer must certify to CLEET that he or she is physically able to fully participate in and complete all phases of the CLEET Basic Peace Officer Certification Academy. This certification shall be in writing on forms to be provided by CLEET. CLEET shall reserve the right to refuse training to persons found to be physically unable to complete all phases of basic certification training.

(3) The head of the agency employing an officer enrolling in a CLEET Basic Certification Academy, shall first certify to CLEET that the ~~officers's~~officer's employing agency will fully assume all medical expenses incurred by said officers as a result of any injury or illness incurred during basic certification training.

(4) Any officer seeking peace officer certification must successfully complete all phases of a CLEET Basic Certification Academy, or a CLEET - approved basic certification academy.

(5) Every full-time peace officer, certified by the Council, who has ~~been inactive~~ not been employed as a full-time officer in Oklahoma for five or more years, upon re-entry to full-time status, must complete refresher training as prescribed by CLEET and successfully pass a written examination as prescribed by the Council, within one (1) year of employment.

(A) Trainees must achieve a passing score as determined by CLEET on the examination.

(B) Any trainee that fails the examination will be permitted to retake that examination within ~~five (5)~~ten (10) business days of the first examination.

(C) If the trainee fails the retake examination, the trainee's agency head must petition the Director in writing, to receive additional training and examination opportunities.

(b) The Council on Law Enforcement Education and Training, pursuant to relevant provisions of the Americans With Disabilities Act, will not discriminate against persons capable of performing essential functions required in peace officer training programs with or without reasonable accommodation.

390:10-1-6. Certification by reciprocity

Any officer seeking Oklahoma Peace Officer Certification, who has been certified by a state peace officer standards and training agency as a peace officer in another state, or any officer who has been certified as a federal peace officer by a Council recognized federal law enforcement agency, may obtain certification by reciprocity, under the following conditions:

(1) The officer must meet the minimum peace officer employment standards set forth by law~~.~~, military service is generally not recognized as federal law enforcement employment.

(2) The officer must have been employed as a full time peace officer for at least three (3) months within the two

(2) year period immediately preceding the request for Oklahoma certification.
(3) The officer must attend the legal block and training as specified by CLEET.
(4) The officer must successfully pass a certification examination.
(5) Officers may have one retest for the certification examination. Any retest would follow the guidelines listed in OAC 390:15-1-13.
(6) The director may, in the exercise of discretion, award a certificate to any person who has been duly certified under the laws of another state if, in the opinion of the director, the education, training and experience of that officer equal or exceed the qualifications required to complete satisfactorily the basic course of instruction required for Oklahoma certification. In any event, each officer must attend the legal refresher block of instruction as specified by CLEET.

[OAR Docket #13-935; filed 5-29-13]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 15. BASIC PEACE OFFICER CERTIFICATION TRAINING

[OAR Docket #13-936]

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Additions to this chapter set procedures for CLEET to approve new or reactivated law enforcement agencies and police departments in accordance with a new statutory mandate. The changes in this chapter also clarify statutory citations related to Title 51, Section 24A.1 et. seq.
CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 13, 2013:

SUBCHAPTER 3. COLLEGIATE OFFICER PROGRAM

390:15-3-8. Qualification examination
(a) The CLEET qualification which is administered to COP students by an authorized CLEET representative, is a comprehensive objective examination which covers, at a minimum, those topical areas set forth in 390:15-1-2 and 390:15-3-6. Should additional topical areas be added, the qualification examination may be expanded to cover such additions.
(b) The qualification examination shall be administered on a quarterly basis at times and locations to be determined by CLEET.
(c) Students may take the qualification examination prior to their twenty-first birthday but shall not be certified until their twenty-first birthday.
(d) Students who pass the qualification examination prior to becoming commissioned shall have two-years from the date the associate's or bachelor's degree is conferred, or two years from their twenty-first birthday, whichever is latest, in which to obtain their certification. Certification shall be withheld until they have been commissioned and all requirements of 70 O.S., Section 3311 have been met.
(e) Successful achievement of the qualification examination will be at a standard established by CLEET.
(f) Students who fail their initial qualification examination may be given only two re-tests.

390:15-3-10. Student responsibilities
(a) All students admitted to a COP must meet the admission requirements of the sponsoring college or university.
(b) COP students, when commissioned, must meet the requirements set forth in 70 O.S., Section 3311 and the requirements set forth in 390:10-1-4.
(c) COP student class absences shall be recorded in accordance with individual university/college policies.
(d) COP tract students shall be accountable for 100 percent attendance in skills level courses.
(e) Prior to enrolling in a COP Firearms Training course, students shall request a current local records check from their

county of residence and the Oklahoma State Bureau of Investigation, and shall submit the returns to the COP school Director prior to the first day of firearms training.

(f) COP students are responsible for submitting documentation to CLEET of COP course completion, and any other documents required by CLEET, prior to taking the qualification examination.

(g) COP students must present a picture identification when taking the qualification examination.

(h) COP students must successfully complete all COP course work and receive an associate or bachelor degree, and ~~make a score of 70 percent or better on the qualification examination~~ successfully pass the qualification examination at a standard established by CLEET to be eligible for peace officer certification.

[OAR Docket #13-936; filed 5-29-13]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 20. RESERVE OFFICER CERTIFICATION AND TRAINING

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CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

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390:20-1-3. Reserve peace officer certification training

(a) The Council shall formulate a program of instruction for reserve peace officer certification, which shall be based on the Basic Peace Officer Academy, and which shall be known herein as the Reserve Academy.

(b) The lesson plans of each Reserve Academy shall be based upon the functional areas of the CLEET Reserve Academy curriculum. The total number of hours for all functional areas combined shall meet or exceed the number of hours required by 70 O.S., Section 3311 (E)(2) for Reserve certification.

(c) Trainee attendance is critical. One-hundred percent (100%) attendance is required in all blocks of instruction.

(d) Remedial training may be accomplished under the following conditions:

(1) The training is conducted in an academy setting and monitored by the academy coordinator as approved by CLEET.

(2) Trainees failing to successfully complete remedial training in the original academy shall be required to successfully complete remedial training within one (1) year from the date of hire.

(e) Trainees must successfully complete required classroom and/or skills proficiency testing prior to being administered the required progress or certification examinations.

(f) Trainees who fail to successfully complete any skills proficiency portion(s) of the academy will not be allowed to take the certification exam. Certification will be withheld until all requirements have been fulfilled.

(g) Any officer seeking Oklahoma Reserve Peace Officer Certification, who has been certified by a state peace officer standards and training agency as a **full-time** peace officer in another state, or any officer who has been certified as a federal peace officer by a Council recognized federal law enforcement agency, may obtain reserve certification by reciprocity, under the following conditions:

(1) The officer must meet the minimum peace officer employment standards set forth by law~~.~~, military service is generally not recognized as federal law enforcement employment.

(2) The officer must have been employed as a full time peace officer for at least three (3) months within the two (2) year period immediately preceding the request for Oklahoma Reserve Peace Officer Certification.

(3) The officer must attend the First Progress block of instruction and successfully pass all Progress and Certification examinations at a standard prescribed by

the Council. Skills training functional areas shall not be tested. Officers may have one retest for each functional examination which they fail.

(4) If an officer fails both a test and a retest for any given functional area, then that officer must successfully complete the corresponding functional area in a CLEET Basic Reserve Academy, to include successfully passing the functional area examination(s).

(5) The director may, in the exercise of discretion, award a certificate to any person who has been duly certified under the laws of another state, if in the opinion of the director, the education, training and experience of that officer equal or exceed the qualifications required to complete satisfactorily, the basic reserve officer academy for reserve certification.

390:20-1-5. Reserve Academy Coordinator's manual

CLEET shall provide the Reserve Academy Coordinator with certain materials to assist ~~him~~ in conducting the Reserve Academy. These materials shall include a Reserve Academy Coordinator's Manual, Reserve Academy Instructor Guide and Student Manual.

390:20-1-15. Inactive reserve officers

Every reserve officer, certified by the Council, who has not been employed as a reserve officer in the State of Oklahoma for five or more years, upon re-entry to reserve status, must complete a legal update as prescribed by CLEET.

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TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 25. CONTINUING LAW ENFORCEMENT EDUCATION

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Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

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390:25-1-9. Law enforcement Instructor Certification Program

(a) **Purpose and intent.** The purpose of CLEET's Instructor Certification Program is to ensure that law enforcement training in Oklahoma remains consistent with minimum professional standards, and to enable CLEET to attest, to any interested party, that instructors so certified have successfully completed a course or courses of education or training that qualifies them to develop and teach law enforcement training courses in a responsible and professional manner. There is no intent, expressed or implied, to discourage or render invalid any training conducted by any law enforcement agency in this state, by mere reason of failure to obtain CLEET instructor certification. Military training is generally not accepted as peace officer training.

(b) **Instructor Development.** To support and encourage professional law enforcement training in Oklahoma, instructor certification shall be offered in two (2) categories,"basic" and "specialized".

(1) Basic Instructor Development shall involve training in the skills necessary to

(A) research particular subject areas;

(B) develop instructional and/or performance objectives, lesson plans, and valid testing methods; and

(C) develop instructional techniques and classroom presentation skills, for the teaching of subjects that primarily require only cognitive knowledge.

(2) Specialized Instructor Development shall involve training in the skills necessary to successfully train others in physical or highly technical skills, through coaching and repetition. Specialized instructor development certification shall include subject areas such as:

(A) Firearms Instructor

(B) Defensive-Tactics Instructor

(C) Standardized Field Sobriety
(D) Law Enforcement Driver Training
(E) Drug Recognition

390:25-1-11. Requirements for specialized instructor certification

To qualify for specialized instructor certification, applicants must meet the following qualifications:

(1) Meet the qualifications for basic instructor certification as described in OAC 390:25-1-10; and

(2) Successfully complete a CLEET recognized or approved instructor development school in the specialized field for which application is made.

(3) The director or director's designee may, in the exercise of discretion, award special instructor certification to applicants who have completed comparable training, education or experience that equal or exceed the qualifications for specialized instructor certification.

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TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 27. POLICE OFFICER ANNUAL FIREARMS REQUALIFICATION

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Additions to this chapter set procedures for CLEET to approve new or reactivated law enforcement agencies and police departments in accordance with a new statutory mandate. The changes in this chapter also clarify statutory citations related to Title 51, Section 24A.1 et. seq.
CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 13, 2013:

390:27-1-5. Proof of requalification

(a) Proof of successful firearms requalification shall be reported to CLEET by the employing agency in a format approved by CLEET. The report shall contain the following information:

(1) Date and location of requalification

(2) Full name and ~~social security number~~CLEET number or last four digits of social security number of the officer requalifying

(3) ~~A "pass"or "fail" score~~Verification of a passing score

(4) The name of the employing agency

(5) The full name of the CLEET Certified Firearms Instructor and CLEET Firearms Instructor number, or the full name of the approved instructor, the name of the agency or association granting firearms instructor status to the instructor providing the requalifying testing, and telephone number of the instructor.

(b) Firearms requalification shall not be credited for purposes of meeting the annual peace officer training requirements of 70 O. S. Section 3311.4.

(c) Proof of firearms requalification may be submitted to CLEET throughout the year as the requalification event occurs.

(d) Reports for the ending calendar year shall be submitted to CLEET by ~~January 25th of the new year.~~ December 31st of the year the training was received.

[OAR Docket #13-939; filed 5-29-13]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 35. REGULATION OF PRIVATE SECURITY INDUSTRY

[OAR Docket #13-940]

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Subchapter 7. Application Procedure
390:35-7-7 [AMENDED]
Subchapter 9. Violations and Investigations
390:35-9-5 [AMENDED]
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Additions to this chapter set procedures for CLEET to approve new or reactivated law enforcement agencies and police departments in accordance with a new statutory mandate. The changes in this chapter also clarify statutory citations related to Title 51, Section 24A.1 et. seq.
CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 13, 2013:

SUBCHAPTER 7. APPLICATION PROCEDURE

390:35-7-7. Changing from security guard license to armed security guard license

An existing security guard license may be changed to an armed security guard license, under the following conditions:

(1) The applicant must request the change;

(2) The applicant must meet all the additional requirements for an armed security guard license;

(3) A criminal history update may be conducted by CLEET, but no additional fingerprint cards, nor additional fingerprint fees shall be needed;

(4) If an applicant wants to retain the expiration date and the number of ~~his~~the original license, ~~he~~the applicant must pay ~~only an additional fee of thirty dollars ($30.00)~~the difference between an unarmed and armed license fee;

(5) If an applicant wants his armed security guard license to be effective for a full three-year term, he must accept a new license number and pay the full ~~one hundred dollar ($100.00)~~armed license fee;

(6) If a change is requested under this sub-section while ~~his~~the license is still in a conditional status, the balance payable for issuance of the armed security guard license shall be the fee difference between the unarmed and armed license.

AGENCY NOTE: *Fees may conflict with 59 O.S. 2010 § 1750.6. Where such conflict exists, the statute shall supercede.*

SUBCHAPTER 9. VIOLATIONS AND INVESTIGATIONS

390:35-9-5. Grounds for actions against licenses

CLEET may take an action against a license issued under this Chapter, if the licensee:

(1) Violates any provisions of the Act or rules and regulations promulgated hereunder;

(2) Practices fraud, deceit or misrepresentation;

(3) Commits an act which would disqualify the licensee;

(4) Conviction of a crime related to the practice of the occupation; and

(5) Willful or grossly negligent failure to comply with substantial provisions of federal law or state statute governing the practice of the occupation.

(6) Involuntary commitment of a licensee in a mental institution or licensed private mental health facility for any mental illness, condition or disorder that is diagnosed by a licensed physician or psychologist as a substantial disorder of thought, mood, perception, psychological orientation, or memory that significantly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life. Provided, the license may be reinstated upon the Council receiving notification of a psychological evaluation conducted by a licensed physician or psychologist which attests and states by affidavit that the licensee and the evaluation test data of the licensee have been examined and that, in the professional opinion of the physician or psychologist, the licensee is psychologically suitable to return to duty as a security guard or private investigator.

[OAR Docket #13-940; filed 5-29-13]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 40. OKLAHOMA SELF-DEFENSE ACT

[OAR Docket #13-941]

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Subchapter 1. General Provisions
390:40-1-1 [AMENDED]
390:40-1-3 [AMENDED]
Subchapter 5. Instructor Approval
390:40-5-5 [AMENDED]
Subchapter 9. Training Standards and Requirements

390:40-9-2 [AMENDED]

AUTHORITY:

Council on Law Enforcement Education and Training; 21 O.S., § 1289.8 and 1290.1 et. seq.; 70 O.S., § 3311 et. seq.

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Additions to this chapter set procedures for CLEET to approve new or reactivated law enforcement agencies and police departments in accordance with a new statutory mandate. The changes in this chapter also clarify statutory citations related to Title 51, Section 24A.1 et. seq.

CONTACT PERSON:

Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 13, 2013:

SUBCHAPTER 1. GENERAL PROVISIONS

390:40-1-1. Purpose

The purpose of the rules of this Chapter is to set forth the requirements and guidelines needed to efficiently and effectively implement and enforce the provisions of the Oklahoma Self-Defense Act. This chapter outlines the standards for instructor qualifications, the procedure to obtain instructor status, and establishes the firearms safety and training course required for individuals seeking a ~~concealed~~ handgun license.

390:40-1-3. Definitions

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

"Act" means the Oklahoma Self-Defense Act, Title 21, O.S., Section 1290.1, et seq.

"Applicant" means a person applying for a license or instructor certificate under the provisions of the Act.

"Armed security guard" means an individual who has successfully completed firearms training required to receive a license as an armed security guard.

"CLEET" means the Council on Law Enforcement Education and Training, and its administrative officers and personnel.

"Concealed handgun" means a loaded or unloaded pistol carried hidden from the detection and view of another person either upon or about the person, in a purse or other container belonging to the person, or in a vehicle which is operated by the person or in which the person is riding as a passenger.

"Council" means the appointed members of the Council on Law Enforcement Education and Training, as defined in Title 70 O.S., Section 3311.

"Curriculum" means the collective, written documentation of the material content of a training course, or any particular phase of training prescribed by the Act, minimally consisting of course objectives, student objectives, lesson plans, training aids, and examinations.

"Director" means the Director of the Council on Law Enforcement Education and Training, or his designated agent.

"Exemption certificate" means a document issued by a registered and approved SDA Firearms Instructor indicating the instructor has accepted documentation from an applicant of previous firearms training for all or part of the training requirements necessary for licensing pursuant to the Act.

"Instructor assistant" means a person who assists with training under the supervision of an SDA Approved Firearms Instructor, but is limited in areas of instruction or participation.

"OSBI" means the Oklahoma State Bureau of Investigation.

"Person" means any corporation, company, association, operation, firm, partnership, institution, trust, or other form of business association, as well as a natural person.

"Pistol" means any derringer, revolver, or semi-automatic firearm which:

(A) has an overall length of less than sixteen (16) inches ~~and is able to be fully concealed from detection and view~~,

(B) is capable of discharging a projectile composed of any material which may reasonably be expected to be able to cause lethal injury,

(C) is designed to be held and fired by the use of a single hand, and

(D) uses either gunpowder, gas or any means of rocket propulsion to discharge the projectile.

"Registration Certificate" means the instructor registration certificate issued by the OSBI.

"Registered Instructor" means a person who has been approved by CLEET and registered with the OSBI to conduct SDA firearms training.

"Qualification" means familiarization with safety rules, loading and unloading a firearm, as it relates to firearms training for individuals to carry a concealed weapon.

"SDA" means the Oklahoma Self-Defense Act.

"SDA firearm instructor" means a person who directly facilitates learning through means of lecture, group participation, practical exercise, or other means, where there is a direct

student-teacher relationship and who has been approved by CLEET and registered by the OSBI.

"SDA firearm instructor approval certificate" means a document issued by CLEET under the provisions of the Act, permitting the holder to conduct a firearms safety and training course approved by CLEET.

"SDA firearms training" means the training course established and approved by CLEET for approved and registered instructors to train individuals to qualify for a ~~concealed~~ handgun license.

"Training course" means a complete course of instruction required to qualify for a license or certificate under the provisions of the Act.

"Unconcealed handgun" means a loaded or unloaded pistol carried upon the person in a belt or shoulder holster that is wholly or partially visible, or carried upon the person in a scabbard or case designed for carrying firearms that is wholly or partially visible.

SUBCHAPTER 5. INSTRUCTOR APPROVAL

390:40-5-5. Notification of change of address or telephone number

(a) All active, SDA Firearm Instructors shall ~~maintain an operative telephone. The phone number shall be on file with CLEET.~~ keep a current physical address, mailing address, and telephone number on file with CLEET.

~~(b) Changes must be reported within 10 days of the effective date of the change.~~

(b) All active SDA Firearm Instructors shall maintain an operative telephone.

(c) Changes in address or telephone number must be submitted to CLEET in writing by U.S. Mail or facsimile within ten (10) days of the effective date of the change.

SUBCHAPTER 9. TRAINING STANDARDS AND REQUIREMENTS

390:40-9-2. Firearms training, instructors, instructor assistants

(a) Instructors approved by CLEET to conduct training related to the ~~concealed~~ weapon permit shall do so in accordance with the Act and all applicable rules set forth in this subchapter.

(b) CLEET shall establish the course content, curriculum, and provide a copy of the curriculum to all approved firearms instructors.

(1) The curriculum for the firearms safety and training course shall include instruction on the following:

(A) Pistol handling, safety and storage

(B) Dynamics of ammunition and firing

(C) Methods or positions for firing a pistol

(D) Information about the criminal provisions of the Oklahoma law relating to firearms

(E) Requirements of the Oklahoma Self-Defense Act as it relates to the applicant

(F) Self-defense and the use of appropriate force

(2) The course content shall include the following:

(A) A safety inspection of the firearm to be used by the applicant in the training course

(B) A practice shooting session

(C) A familiarization course

(c) Instructors shall adhere to the curriculum as published or revised by CLEET.

(d) The number of hours of training and fees shall be determined as set forth in 21 O.S. 1290.1 et seq.

(e) Prior to conducting SDA firearms training, SDA instructors shall submit a completed Intent to Conduct Training Notification Form to CLEET.

(f) Training conducted by any instructor without the prior notice to CLEET may be considered null and void, and not in compliance with the provisions of this Act, or these rules and regulations.

(g) Instructors must possess a current SDA Firearm Instructor Approval Certificate and be registered by the OSBI.

(h) Instructor Assistants may be utilized under the direction and responsibility of the SDA Firearm Instructor.

(1) The SDA Firearm Instructor will be responsible for the actions of the instructor assistant.

(2) An approved SDA Firearm Instructor must be present during all phases of training.

(3) Instructor Assistants may be used only in the following areas:

(A) line safety on the range, but not firearms instruction;

(B) logistical support, moving targets, distributing ammunition, administering first-aid, etc.

(C) inspection of firearms if the individual has completed an armorer's course;

(D) legal portion of training if the individual is a licensed attorney by the Supreme Court of Oklahoma.

[OAR Docket #13-941; filed 5-29-13]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 45. RETIRED PEACE OFFICER FIREARMS PERMITS

[OAR Docket #13-942]

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390:45-1-7 [AMENDED]
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Additions to this chapter set procedures for CLEET to approve new or reactivated law enforcement agencies and police departments in accordance with a new statutory mandate. The changes in this chapter also clarify statutory citations related to Title 51, Section 24A.1 et. seq.
CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 13, 2013:

390:45-1-3. Definitions

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

"Act" means the Oklahoma Firearms Act Title 21 O.S., Section 1289.8. and applicable sections of the Oklahoma Self-Defense Act Title 21 O.S., Sections 1290.1 et seq.

"Applicant" means a person applying for a retired peace officer's firearms permit under the provisions of the Act.

"CLEET" means the Council on Law Enforcement Education and Training, and its administrative officers and personnel.

"Concealed handgun" means a loaded or unloaded pistol carried hidden from the detection and view of another person either upon or about the person, in a purse or other container belonging to the person, or in a vehicle which is operated by the person or in which the person is riding as a passenger.

"Council" means the appointed members of the Council on Law Enforcement Education and Training, as defined in Title 70 O.S., Section 3311.

"Director" means the Director of the Council on Law Enforcement Education and Training, or his designated agent.

"Peace Officer" means any peace officer as defined in 21 O.S. Section 99, and who is authorized to carry a firearm in the performance of official duties. The term does not include auxiliary, private security, private investigators or military police.

"Pistol" means any derringer, revolver, or semi-automatic firearm which:

(A) has an overall length of less than sixteen (16) inches, ~~and is able to be fully concealed from detection and view~~,

(B) is capable of discharging a projectile composed of any material which may reasonably be expected to be able to cause lethal injury,

(C) is designed to be held and fired by the use of a single hand, and

(D) uses either gunpowder, gas or any means of rocket propulsion to discharge the projectile.

"Retired" means any fire marshal inspector, state, county, or municipal peace officer of this state or any federal law enforcement officer who meets the criteria and definition in 21 O.S. Section 1289.8.

"SDA" means the Oklahoma Self-Defense Act.

"State" means the State of Oklahoma.

390:45-1-7. Permits

(a) A firearm permit shall be issued to all eligible applicants. This card shall clearly indicate that the licensee is authorized by the State of Oklahoma to carry a ~~concealed~~ firearm under the provisions of this Act.

(b) The permit to carry a ~~concealed~~ weapon is not valid unless the permit card is in the person's possession.

(c) The licensee shall present his firearm permit upon demand, for inspection by a law enforcement officer.

(d) All permit cards or other written authorization shall remain the property of CLEET, and the licensee shall surrender his card to the Director or his designated representative upon written notice setting forth the reasons for such surrender.

(e) All permit holders must maintain a current address or telephone number with CLEET and report changes within a 30 day period of the change.

(f) Failure to provide the information necessary to complete the application shall preclude any further processing and shall result in denial of said application.

(g) Permits shall not expire, but eligibility to retain the permit will be reviewed every four (4) years through a state and national criminal record check by the OSBI.

[OAR Docket #13-942; filed 5-29-13]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 50. PENALTY ASSESSMENT FEES

[OAR Docket #13-943]

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CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 13, 2013:

390:50-1-3. Definitions

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

"Adjustment" means a credit or debit adjustment due to calculation and reporting errors.

"CLEET" means the Council on Law Enforcement Education and Training, and its administrative officers and personnel.

"Council" means the appointed members of the Council on Law Enforcement Education and Training, as defined in 70 O. S., §3311.

"Court" means any state or municipal court having jurisdiction to impose a criminal fine or penalty.

"Convicted" means any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere or otherwise, and any deferred judgement or suspended sentence.

"Director" means the Director of the Council on Law Enforcement Education and Training, or ~~his~~ designated agent.

"Late Fee" means a fee imposed for failure to make timely deposits.

"Penalty Assessment Fee" means a separate fee in addition to and not in substitution for any and all fines and penalties otherwise provided for by law as defined in 20 O. S., §1313.2.

"Rounding Adjustment" means an adjustment to zero balances of one dollar ($ 1.00) or less as the result of rounding errors on a report.

390:50-1-6. Late fees

(a) Late fees will be assessed courts for failure to make timely deposits as provided in 20 O. S., §1313.2 (D).

(b) Late fees are due upon receipt of the late fee notice.

(c) Courts may request that part or all late fees be waived as follows:

(1) A request for waiver of part or all of an assessed late fee must be submitted in writing to the Director.

(2) The written request must contain an explanation of the circumstances leading to the assessment of late fees and be signed by the Judge, Mayor, City Manager or Treasurer.

(3) A court requesting waiver of late fees must diligently respond to inquiry from CLEET requesting clarification of information included in the written request or for requests of supplemental documentation.

(4) Failure to timely respond to any request from CLEET for supplemental information in processing the request for waiver of late fees may result in denial of the request for waiver.

(5) Upon receipt by CLEET of a written request for waiver of late fees, accumulation of additional late fees shall be suspended until a decision on the written request has been issued by the Director.

(d) The Director will determine whether the request for waiver of late fees will be granted or denied.

(1) The Director shall take into consideration all information provided in the written request for waiver of late fees.

(2) The Director should grant a waiver of late fees if ~~she finds~~ clear and convincing evidence is found that late fees were incurred as a result of circumstances outside the control of the court requesting the waiver or for other good cause.

(3) If the Director is not convinced by clear and convincing evidence that good cause for the late pate payment of the penalty assessment fee has been shown, the request shall be denied.

(4) Unless a written notice or request for supplemental information has been given to the requesting court, the written request will be considered complete when received.

(5) The Director shall issue a ruling on a completed request for waiver within ten (10) days.

(6) The Director may waive all or part of any moneys due to the Council, if deemed uncollectable by the Council.

(e) Failure to respond to the second request within thirty days may result in additional attempts to force compliance including but not limited to filing a Writ of Mandamus and notification to the State Auditor's Office.

[OAR Docket #13-943; filed 5-29-13]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 55. FACILITIES MANAGEMENT

[OAR Docket #13-944]

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CONTACT PERSON:
Norma Floyd, Council on Law Enforcement Education and Training, 2401 Egypt Road, Ada, Oklahoma 74820-0669, 405-239-5166.

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390:55-1-12. Provisions for events

The following provisions apply to all events:

(1) Sponsors shall confine events and exhibits to the areas specified in the reservation and shall not relocate to, install, or erect additional paraphernalia in other areas of the complex unless CLEET grants prior approval.

(2) No intoxicating beverage or low-point beer will be dispensed or consumed on state property. No tobacco use in any form will be allowed on state property.

(3) Use of cooking or heating elements of any kind is prohibited except for the contracted vendor providing cafeteria services for CLEET.

(4) Placement of materials of any kind on structures, fixtures or vehicles in a state parking lot in conjunction with an event or exhibit is prohibited unless written permission is obtained from the Director.

(5) Unless authorized in the reservation application, affixing banners, signs, or materials in any manner on or in the complex is prohibited.

(6) CLEET prohibits commercial activity, collection of fees, solicitation of money, or fund raising events which solicit or collect money on the complex. Governmental agencies and non-profit organizations that sell goods or host fund raising events to benefit or promote the function of the agency or non-profit organization may request an exemption from the Director.

(7) CLEET may order or seek to cause cessation of an event which may pose a hazard, as determined by CLEET, to an individual, group, building, contents of the building, or building fixtures and appurtenances.

(8) A sponsor shall place electrical cords and cables used for events so that the cords and cables limit potential hazard to persons in the area. Electrical cords and cables must be placed out of walkways unless secured to the floor.

(9) Open flames (including candles) used in conjunction with events are prohibited except for the contracted vendor providing cafeteria services for CLEET.

(10) No outside catered events or food service will be allowed unless approved by the contracted vendor providing cafeteria services for CLEET. Arrangements must be made directly with the contracted vendor providing cafeteria services for CLEET if such food services are desired.

(11) Sponsors shall be responsible for providing expendable supplies or special equipment required for an event to include items such as ammunition, targets, hearing protection, eye protection, handcuffs and batons.

(12) CLEET reserves the right to inspect and approved any equipment and expendable supplies for the event for purposes of ensuring safety.

[OAR Docket #13-944; filed 5-29-13]

TITLE 420. OKLAHOMA LIQUEFIED PETROLEUM GAS BOARD
CHAPTER 10. LIQUEFIED PETROLEUM GAS ADMINISTRATION

[OAR Docket #13-1054]

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420:10-1-15. Standards for installations of gas appliances, gas piping and testing [AMENDED]

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n/a
ANALYSIS:
The proposed amendments to 420:10-1-14 adds new language for safety purposes that restricts items that can be placed near a cylinder exchange cabinet. The proposed language includes verbiage from the National Fire Protection Agency (NFPA 30), which is the Flammable and Combustible Liquid Code. Many retail locations will store/sell firewood in the winter, or place other exchange cabinets that sell racing fuel in 5 gallon pails too close to a propane cylinder exchange cabinet. This language will restrict these items and other combustible/flammable material to no less than ten (10) feet from a propane cylinder exchange cabinet. Also, some language was stricken and replaced with new language that allows for automated cylinder exchange cabinets. This proposed language establishing the automated cylinder exchange cabinets is the same verbiage that will be included in the next edition of the National Fire Protection Agency (NFPA 58), which will come out in 2014. The proposed rule will allow consumers to exchange their own propane cylinders via an automated vending system.

The proposed amendments to 420:10-1-15 deletes language that requires a Class I or Class X manager to co-sign a Form 4 when completed by a Class IV or IV-D permit holder employed by the Class I or Class X. Class IV and/or IV-D permit holders are trained and capable of properly conducting a pressure test and/or leak test and documenting the test on a Form 4. The Class I or Class X will obviously continue to have oversight over the Class IV or IV-D permit holder but there is no reason for them to co-sign a form they did not complete.
CONTACT PERSON:
Mr. Bill Glass, Administrator, (405)521-2458.

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 11, 2013:

420:10-1-14. Standards for the storage and handling of liquefied petroleum gas

(a) **NFPA standards.** The standards for the storage and handling of liquefied petroleum gases adopted by the National Fire Protection Association and published in its pamphlets No. 58, and the standards for the installation of gas appliances and gas piping adopted by said National Fire Protection Association published in its pamphlet No. 54 have been adopted by the Legislature in 52 O.S. 1991, Section 402.3 (e) and shall be accepted standards for the State of Oklahoma. All Class I permit holders must have a current copy of NFPA 58 and 54 on file at each separate branch.

(b) **Supplemental standards.** The following standards are supplemental to NFPA pamphlet No. 58 and shall be part of the rules and regulations of the Oklahoma Liquefied Petroleum Gas Board:

(1) **Definitions.**

(A) The word "approved" as used in this section means acceptable to the State Liquefied Petroleum Gas Administrator. A device or system having materials or forms different from those detailed in this section may be examined and tested according to the intent of the regulations and if found equivalent, may be approved.

(B) In this section those provisions which are considered essential for adequate protection of life and property from fire are indicated by the words "shall" and "must. The words "should" or "preferably" indicate advisory provisions concerning which the State Liquefied Petroleum Gas Administrator of Oklahoma should be consulted.

(C) In each place mentioned in NFPA No. 54 and NFPA No. 58 where it refers to "the authority having jurisdiction" this would mean the Liquefied Petroleum Gas Administrator.

(D) An "important building" shall be any building, open to the public, or inhabited by people, in which any LP Gas system or any type is installed.

(2) **Submittal of plans.**

(A) Prior to the installation of new, or the modification of liquefied petroleum gas plumbing systems, excluding tank change outs, in school buildings, churches, courthouses, office building and other building to which the public is invited, such as cafes, dance halls, tourist courts and parks, plans and specifications for such installation in duplicate, shall be submitted to, and approved, by the State Liquefied Petroleum Gas Administrator, and before such systems are filled with liquefied petroleum gas, they shall be physically inspected and approved by a licensed installer and a report made by him to the State Liquefied Petroleum Gas Administrator on LPG Form 4, or its revision, furnished by the LP Gas Administrator's office.

(B) Plans must be submitted on any dispenser used to fill DOT cylinders and/or ASME containers, and used for public resale of LP Gas. These plans must be submitted to the Administration office along with the proper fee, and an onsite inspection must be performed by a Safety Code Enforcement Officer prior to final approval and before the dispenser can be placed into service. A Ten Dollar ($10.00) plan review fee must accompany all dispenser plans submitted. If a dispenser is taken out of service, written notice must

be given to the Administration office within seven (7) working days. If a dispenser is moved to a new location, new plans must be submitted to the Administrator and onsite inspection performed by a Safety Code Enforcement Officer prior to final approval and dispenser being placed into service. A complete list of dispensers by location shall be submitted to the LP Gas Administration as indicated on Class I permit renewal forms.

(C) Plans must be submitted to, and approved, by the Administrator on any fixed installation with individual water capacity of 2,000 gallons or more, or aggregate water capacity exceeding 4,000 gallons.

(3) **Report of accident.** In case of accident or fire at any location where a liquefied petroleum gas system or equipment is involved, or any accident involving liquefied petroleum gas systems or equipment, the dealer owning, operating or servicing the equipment or installation shall notify the State Liquefied Petroleum Gas Administrator. This notification shall be forwarded as soon as feasibly possible after the dealer has knowledge of the accident in order that an inspection may be made by the State Liquefied Petroleum Gas Administrator before the site has been disturbed.

(4) **Piping - including pipe, tubing and fittings.**

(A) No person, firm, or corporation shall connect a liquefied petroleum gas tank to any piping without having first determined that such piping complies with the laws of the State of Oklahoma and the rules and regulations of the State Liquefied Petroleum Gas Administrator relative to liquefied petroleum gas piping.

(B) All installations, installed after July 1, 2002, of storage containers, with more than 4,000 gallon water capacity, shall have internal valves installed as per NFPA 58.

(C) On installations of stationary or portable storage, with an aggregate of more than 4,000 gallon water capacity, a bulkhead approved by the LP Gas Administrator shall be required on each liquid line of one and one-half (1-1/2) inch or larger and each vapor line of one and one-quarter (1-1/4) inch or larger.

(5) **Vaporizers and housings.**

(A) The minimum capacity of the storage container feeding the vaporizer shall not be less than ten (10) times the hourly capacity of the vaporizer in gallons.

(B) The minimum capacity of a storage container being heated by a direct fired tank heater shall not be less than ten (10) times the hourly vaporizing capacity of the tank heater in gallons.

(6) **Container charging.** Containers, including DOT cylinders, with water capacity less than 300 pounds shall be charged by weight, except containers covered by Ch. 4-4.3, 1998 Edition of NFPA 58 or later revisions as made by NFPA 58.

(7) **Liquid metering systems.** Each bulk retail delivery of liquid LP Gas shall be measured by a suitable LP Gas liquid meter system, except those deliveries of liquid LP Gas in cylinders which are filled by weight and deliveries of LP Gas vapor through vapor meters otherwise, are exempt from the requirements of this paragraph.

(A) LP Gas Liquid meters shall indicate deliveries in terms of gallons and to the nearest tenth of a gallon.

(B) The LP Gas liquid meter shall meet, in addition to the other requirements of this paragraph, the following requirements:

(i) The system shall include a device (such as a differential back-pressure regulator) so designed and installed that the product being measured will remain in a liquid state during passage through the meter.

(ii) No means shall be provided by which any measured liquid can be diverted from the measuring chamber, differential valve equipment or the discharge line therefrom.

(iii) Effective January 1, 1994, in accordance with the National Institute of Standards and Technology (NIST) Handbook 44, all LP Gas Liquid meters used for bulk delivery shall be designed with the necessary equipment for mechanically printing gallons on a delivery ticket and the customer served thereby shall be given a ticket mechanically imprinted by the printing device. The customer's name and Class I Dealer's name must be included on the metered ticket. Meters used for stationary dispensing of motor fuel will not be required to be equipped with such printing device.

(iv) All bulk metered sales of propane, via bobtail or transport, shall be made by temperature compensated measure. Except, any truck now operating without a temperature compensation meter shall be retrofitted by no later than July 1, 2003.

(C) All meters where product is sold to the public must be proved annually by an approved meter tester/inspector and have written certification on file at permit holders place of business. All meters and temperature compensators must be accurate within the manufacturers tolerance not to exceed + or -1% at any time. The LP Gas liquid meter system shall be designed and constructed to provide for applying lead-and-wire seals in such a manner that no modifications or adjustments which would affect the accuracy of deliveries, can be made without mutilating the seal or seals. If a seal is broken, notification must be made to the Administrator and resealed by a Safety Code Enforcement Officer, an approved meter tester, or a person approved by the Administrator. In addition, the Administrator at his discretion may require proving of metering system to determine the accuracy.

(D) No dealer or firm controlled or affiliated with a dealer may calibrate or certify its own meters. All meters must be tested with a volumetric meter prover.

(8) **Qualified personnel.** Each holder of an LP Gas permit shall be responsible for having qualified personnel operating and installing LP Gas equipment.

(9) **Filling unsafe or unapproved dispensing or storage tanks prohibited.** No person, firm, or corporation shall introduce liquefied petroleum gas into a dispensing or storage tank in the State with knowledge that such dispensing or storage tank or piping is known to be in an unsafe operating condition.

(10) **Basement installations.** No appliance shall be installed in any basement or semi-basement unless it is fully automatically controlled and properly vented and must have the approval of the State Liquefied Petroleum Gas Administrator.

(11) **Standards for containers.**

(A) In accordance with 52 O.S. Sec. 420.5, all first sales, rentals, purchases or uses of DOT cylinders and ASME tanks in this State, must have Oklahoma Identification tags attached to such cylinders or tanks. However, all DOT cylinders and ASME tanks in Oklahoma, with a manufacturers date prior to September 1, 1993, are not required to have Oklahoma Identification tags. These Oklahoma Identification tags are not transferable from one cylinder or tank to another.

(B) Any new container sold or installed in Oklahoma for use in this State shall carry a five year warranty covering workmanship and material. This warranty shall provide that any container not in compliance with this regulation must be repaired or replaced by the fabricator at no expense to the dealer or customer. This provision is to take care of "pin-hole" leaks in the weld that were not detected at the time of fabrication and does not apply to fittings.

(C) Containers shall be filled or used only upon authorization of the fee simple owner. The name of the fee simple owner, if other than the consumer, shall be conspicuously shown on the container.

(D) Any stationary storage container converted from anhydrous ammonia to propane shall be converted as follows:

(i) The container shall be purged of anhydrous ammonia by water flooding, steam or other methods described by the National Propane Gas Association's (NPGA) Recommendation for Prevention of Ammonia Contamination; and

(ii) It shall then be properly purged with propane vapor and tested with the red litmus paper as described in NFPA 58 or by any other test approved by the Board; and

(iii) The test shall be completed by the permit holder that performs the conversion; and

(iv) The results shall be documented and shall contain the container manufacturer, water capacity, serial number, the results of the test, the capacity of the relief valve, the date of the test, and the signature of the permit holder conducting the test. A copy of the results shall be provided to the owner of the container; and

(v) Any dealer filling a converted anhydrous ammonia container for the first time shall either be provided a copy of the test or complete the test as described above; and

(vi) The container shall meet all requirements of NFPA 58.

(12) **Underground containers.**

(A) Underground containers before being reinstalled must be inspected by the State Liquefied Petroleum Gas Administrator, and a fee of $25.00 paid to the State Liquefied Petroleum Gas Administrator's office, and reinstalled by a licensed LP Gas installer.

(B) Underground containers shall be dug up at the expense of the owner at any time at the discretion of the State Liquefied Petroleum Gas Administrator.

(C) Any person installing an underground container must notify the Administrator prior to installation.

(13) **Minimum storage.** All new Class I permit holders must provide bulk propane storage capacity of not less than an aggregate of 18,000 water gallons. The minimum storage must be maintained and operational, with installation approved by the authority having jurisdiction, and within a fifty (50) mile radius of the corporate office or branch location. Any exceptions to the minimum storage requirement may be granted by the Board. Current active Class I permit holders, as of September 1, 1994, are not required to meet this minimum storage requirement. After a change of ownership the new Class I permit holder must secure the minimum storage requirement within one year.

(14) **Painting.** All bulk storage containers of a capacity 120 gallons water capacity or greater shall be painted a heat reflection color.

(15) **Lettering bulk storage and dispensers.**

(A) All bulk storage 2,000 gallons and above shall be lettered with the name of the contents, such as LP Gas, butane, propane, and a "No Smoking" sign in letters not less than six (6) inches high.

(B) In addition to subparagraph (A) of this paragraph, all bulk storage used for loading and unloading facilities, and all container filling storages (dispensers) shall include the name of the person, firm, or corporation operating the bulk storage or dispenser and their phone number in letters not less than two (2) inches high. This information shall be placed so as to be readily visible to the public.

(C) For all size bulk storage containers the name of the fee simple owners, if other than the consumer, shall be conspicuously shown on the container.

(16) **Extinguishers required.** Extinguishers of the dry chemical type, with a B:C or A:B:C rating, are required. Extinguishers shall have a net content of not less than the current NFPA 58 requirements and shall be inspected at least once each year by an authorized inspector such as Fire Departments or Fire Appliance Company representatives. Current weatherproof inspection tags shall be attached to the extinguisher.

(17) **Marking cargo vehicles.** Every tank vehicle used for transportation of liquefied petroleum gas shall be

marked and placarded according to current DOT requirements. Each tank vehicle must also have the name of the person, firm or corporation on each side of the cargo tank in letters a minimum of two (2) inches in height. This information shall be placed so as to be readily visible to the public. This name shall be the same as permit holder has designated on the Class I or Class II permit.

(18) **Parking and garaging LP gas tank vehicles.** Any tank vehicle used for transportation of Liquefied petroleum gas shall not be parked beneath or adjacent to any electric transmission line in such position that there is a possibility of a conductor contacting the tank in event of breakage.

(19) **Filling unapproved truck, trailer or cargo tanks prohibited.**

(A) An inspection form, when properly completed, and a LPG registration decal (the serial number of which is shown on the inspection form), shall be evidence that the liquefied petroleum gas truck, trailer or cargo tank described on the inspection form by its serial number has been approved by the Liquefied Petroleum Gas Administrator for use in the transportation of liquefied petroleum gas. Such LPG registration decal and inspection form also shall authorize the person, firm or corporation whose name appears on the inspection form or its bona fide employees to operate the truck or trailer tank described on the inspection form, and further shall authorize the filling of such truck, trailer or cargo tank with liquefied petroleum gas.

(B) The LPG registration decal shall be displayed at all times in an easily visible location on the left front of the cargo tank, which is on the driver's side. A copy of the inspection form shall be retained, until the expiration date, in the office of the person, firm or corporation whose name appears thereon. It will not be necessary to keep or display a copy of the inspection form on the truck, trailer or cargo tank.

(C) No person, firm or corporation shall operate a truck, ~~or~~ trailer or cargo tank in the transportation of liquefied petroleum gas in this State unless such person, firm or corporation has been issued a LPG registration decal and an inspection form certifying that such tank has been registered with and approved by the State Liquefied Petroleum Gas Administrator, or unless its operation has been specifically approved by a communication from the State Liquefied Petroleum Gas Administrator.

(D) The LPG registration decal and the inspection form required in this paragraph are not transferable by the person, firm or corporation to whom they are issued or from one truck, trailer or cargo tank to another, and they are not to be used after the expiration date of the fiscal year for which they were issued, or in the event the Class I permit becomes inactive.

(20) **Vaporizers.** Exhaust gases shall not be used as a direct means of heat supply for the vaporization of fuel.

(21) **Stationary engines in building.**

(A) All engine rooms shall be well ventilated at the floor level.

(B) When engines are installed below grade level, suitable floor level mechanical exhaust ventilation shall be provided and operated continuously or adequate means shall be provided to purge the room before the engine is started. In any case the mechanical ventilation shall be in operation when the engine is running. Before and during any repairs to the engine the room shall be ventilated.

(C) Automatic fire doors shall be provided at openings in the engine room that open into other sections of the building.

(D) Exhaust gases shall be discharged outside the building in a manner that will not create a fire or any other hazard.

(E) Regulators and pressure relief valves installed in buildings and engine rooms shall be vented to the outside and discharge at least five feet away from any building opening. Such venting will not be required for combination engine fuel vaporizing - fuel reducing - fuel metering devices providing an acceptable automatic shut-off valve is installed immediately ahead of such devices.

(22) **Storage outside of buildings.** Valves and safety relief devices shall be protected against accumulations of ice and snow. Protective caps shall be deemed adequate.

(23) **Appliances.** Any mobile home, travel trailer, camper or recreational vehicle shall be delivered to the buying public by the permit holder with the system properly installed and free of leaks.

(24) **Maximum vapor pressure and container working pressure.**

(A) The maximum vapor pressure of the product at 100 degree Fahrenheit which may be transferred to a container shall not exceed the design working pressure of the container. Exception: 200 psig ASME working pressure vessels in LP Gas service in Oklahoma prior to January 1, 1994, may be continued in service for commercial propane, provided that they are fitted with relief valves and meet the start-to-leak setting in relation to the design pressure of the container, shall be in accordance with NFPA 58. For the purpose of this exception, "commercial propane" is defined as having a vapor pressure not in excess of 210 psig at 100 degree Fahrenheit. This exception does not apply to LP Gas motor fuel and mobile fuel containers.

(B) Any stationary 200 psig ASME containers brought into Oklahoma from out of state and intended for stationary LP Gas installation in Oklahoma at any facility requiring submission of plans and specification must be tested by at least two (2) of the following nondestructive test methods recognized by ASME to determine if the container or assembly is safe for LP Gas use in Oklahoma. The following test results must be submitted to the Oklahoma LP Gas Administration for approval.

(i) Hydrostatic Test;
(ii) Ultrasonic thickness test;
(iii) Wet particle fluorescent or magnaflux.

(25) **Testing, leakage and visual inspection, and meter calibration.**

(A) Hydrostatic testers operating in Oklahoma that are hydrostatic testing cargo containers for LP Gas use in Oklahoma must be approved by the Oklahoma LP Gas Board and shall:

(i) Hold a Federal C.T. number;
(ii) Include in their testing the use of a calibrated pressure chart recorder;
(iii) Hold a Class IV installer permit.

(B) Leakage and visual inspectors operating in Oklahoma and performing this inspection on cargo containers and their systems for LP Gas use in Oklahoma must be approved by the Oklahoma LP Gas Board and meet the following requirements:

(i) Inspectors shall hold a Federal C.T. number;
(ii) If the inspection includes repairs that require the LP Gas system to be re-plumbed, a Class IV permit is required.

(C) Meter calibrators operating in Oklahoma that are calibrating meters for LP Gas use in Oklahoma must be approved by the Oklahoma LP Gas Board and meet the following requirements:

(i) Meters shall be tested in accordance to Oklahoma Rules and Regulations, Section 420:10-1-14(7);
(ii) Meter calibrators shall furnish the meter owner a copy of the calibration showing the correct gear numbers and temperature compensator settings;
(iii) Meter calibration results shall be on a form approved by the LP Gas Administrator and a copy of the completed form shall be furnished to the meter owner;
(iv) Meter calibrators shall hold a Class IV permit.
(v) Meter calibration testers shall test meters according to National Institute of Standards and Technology (NIST) standards.

(26) **Cylinder exchange ~~program~~stations.**

(A) Cylinder exchange cabinets shall be constructed as per NFPA 58.

(B) The cabinet shall have the following signs affixed to it and readily visible to the public:

(i) "Propane" or "Flammable Gas" and "No Smoking" in letters not less than two (2) inches high;
(ii) "Net Weight ____ lbs." with the net weight of the cylinders to be specified, all of which shall be displayed on the front of the cabinet in letters not less than two (2) inches high;
(iii) Name of Class I permit holder who supplies the cylinders;
(iv) 24-hour Emergency telephone number.

(C) The cabinet shall be located for distance and number of cylinders as per NFPA 58 with a minimum five (5) feet distance away from any source of ignition.

(D) The cylinder storage area shall be kept free of wood, debris, and other combustible/flammable material not necessary to the storage for a distance of ten (10) feet, not to include the construction materials of the building itself.

(~~D~~E) Protection against vehicle impact shall be provided in accordance with good engineering practice where vehicle traffic normally is expected at the location as per NFPA 58.

(~~E~~F) A fire extinguisher shall be provided as per NFPA 58.

(~~F~~G) A warning sign shall be posted at or near any entrance doorway stating the "LP GAS EXCHANGE CYLINDERS EMPTY OR FULL SHALL NOT BE TAKEN INDOORS FOR ANY REASON."

(~~G~~H) ~~All employees who exchange cylinders shall be properly trained and know how to check for leaks and what emergency procedures to take if a leak is discovered. Only properly trained employees can remove or install exchange cylinders from the cylinder exchange cabinets. This training material shall be provided by the Class I permit holder who is supplying the exchange cylinders. The Class VII permit holder is responsible for training all employees who exchange cylinders.~~The Class I permit holder shall provide safety training materials to the Class VII permit holder. The Class VII permit holder is responsible for providing appropriate safety information to the individual exchanging the cylinder. This documentation of training will be kept by the Class VII permit holder at the Class VII location.

(I) Automated cylinder exchange cabinets that include an automated vending system for exchanging cylinders shall comply with the following additional requirements:

(i) Electrical equipment installed in cylinder storage compartments shall comply with the requirements for Class I, Division 2 equipment in accordance with NFPA 70, National Electrical Code;
(ii) Cabinets shall be designed such that cylinders can be placed inside only in the upright position;
(iii) Door releases for access to stored cylinders shall be permitted to be pneumatic, mechanical or electrically powered;
(iv) A manual override control shall be permitted for use by authorized personnel;
(v) The vending system shall not be capable of returning to automatic operation after a manual override until the system has been inspected and reset by authorized personnel.

(~~H~~J) A Class I permit shall be required in order to supply exchange cylinders for the cylinder exchange permit holder.

(~~I~~K) A busy sidewalk and thoroughfare, as referenced in NFPA 58, shall be further defined as not being located on private property. A busy sidewalk is alongside a public road and a thoroughfare is a public road.

(27) **Recreational vehicles.** Installations or repairs on LP Gas systems on recreational vehicles shall be performed as per NFPA 1192, Standard on Recreational Vehicles.

420:10-1-15. Standards for installations of gas appliances, gas piping and testing

(a) The standards for installation of gas appliances, gas piping and testing, thereof adopted by the National Fire Protection Association and published in its Handbook No. 54, have been adopted by the Legislature in 52 O.S. 1991, Section 420.3 (e) and shall be the accepted standards for the State of Oklahoma.

(b) Pressure tests and/or leak tests that are required by NFPA 54, 58, 1192, and this chapter, shall be documented on an approved Form 4 or other Board approved form. The form shall be completed with one (1) copy in file at the office or branch office serving the account, one (1) copy filed with the LP Gas Administration within fifteen (15) working days after tests are performed, and one(1) copy to the owner, renter or responsible person.

(c) Form 4's and other approved forms must be completed in their entirety, legible and with all required signatures. ~~When Form 4's are completed by a Class IV or IV-D permit holder employed by a Class I or Class X manager, then the Class I or Class X manager must co-sign the Form 4.~~ If Form 4's are not completed properly they will not be accepted as a testing record. Form 4's or other Board approved forms shall be utilized to document pressure tests or leaks tests as follows:

(1) Prior to injecting gas in a system for the first time (new customer), or if a period of 24 months has passed since gas was injected into a system previously serviced.

(2) After any circumstance as described in NFPA 54 that would require a pressure test or leak test, such as, but not limited to the following:

(A) a section of new or modified gas piping is placed into service;

(B) gas leakage is suspected;

(C) an out of gas condition occurs;

(D) an interruption of service.

(3) In the event of a change of ownership of the propane company, properly completed and filed Form 4's or other Board approved form may be transferred to the new company. The new company must secure a Form 4 or other Board approved form on all customers transferred. If a Form 4 cannot be secured on all the customers transferred, then the Administrator will establish a time schedule for the new company to complete and file all required Form 4's, as needed to stay in compliance.

(d) For standards for installation of gas appliances, gas piping, testing and test records for public buildings refer to 420:10-1-14, (2)&(4).

[OAR Docket #13-1054; filed 6-7-13]

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

[OAR Docket #13-1052]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. Collections and Disbursements
550:1-7-5. Direct rollovers [AMENDED]
AUTHORITY:
Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), and 50-106(3)
DATES:
Comment period:
February 16, 2013 - March 25, 2013
Public hearing:
March 27, 2013
Adoption:
March 27, 2013
Submitted to Governor:
April 2, 2013
Submitted to House:
April 2, 2013
Submitted to Senate:
April 2, 2013
Gubernatorial approval:
May 15, 2013
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on May 24, 2013
Final adoption:
May 24, 2013
Effective:
July 15, 2013
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed amendments to OAC 550:1-7-5 changes the maximum days for direct rollovers to one-hundred eighty (180) days.
Related statutes/rules:
11 O.S. § 50-114.1
11 O.S. § 50-114.2 (B)
11 O.S. § 50-114.3
CONTACT PERSON:
Christina Hirschman, Executive Legal Assistant, Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Ste. 305, Oklahoma City, OK 73116-7335, 405-840-3555 Ext. 236.

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 15, 2013:

SUBCHAPTER 7. COLLECTIONS AND DISBURSEMENTS

550:1-7-5. Direct rollovers

(a) A Distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

(b) For purposes of this section, the definitions as stated in 11 O.S. Section 50-114.2~~(B)~~(B) and the provisions of 11 O.S. Section 50-114.3 shall apply.

(c) At least thirty (30) days and not more than ~~ninety (90)~~ one-hundred eighty (180) days before the date of distribution, the Distributee must be provided with the IRS Notice regarding rollover options and tax effects. The distribution may be paid less than thirty (30) days after the notice is given, provided that:

(1) The Board clearly informs the Distributee that the Distributee has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution; and

(2) The Distributee, after receiving the notice, affirmatively elects a distribution.

(d) An Eligible Retirement Plan which is selected by the Distributee shall be the result of the Distributee's own research and investigation. The Oklahoma Police Deferred Option Plan and/or the Oklahoma Police Pension and Retirement System shall not be subject to any fees or charges from the Eligible Retirement Plan.

[OAR Docket #13-1052; filed 6-7-13]

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

[OAR Docket #13-1053]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
550:15-1-2. Forward Drop [AMENDED]
550:15-1-3 Back Drop [AMENDED]
AUTHORITY:
Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), and 50-106(3)
DATES:
Comment period:
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Public hearing:
March 27, 2013
Adoption:
March 27, 2013
Submitted to Governor:
April 2, 2013
Submitted to House:
April 2, 2013
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Gubernatorial approval:
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Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on May 24, 2013
Final adoption:
May 24, 2013
Effective:
July 15, 2013
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The proposed amendments to OAC 550:15-1-3 adds the Deferred Option Payout Provision Policy in the methodology of computing interest.
Related statutes/rules:
11 O.S. § 50-111.3 et seq.
11 O.S. § 50-114.1
11 O.S. § 50-114.2
11 O.S. § 50-114.3
11 O.S. § 50-114.4
The proposed amendment of OAC 550: 15-1-2 clarifies the changes regarding interest under the Deferred Option Payout Provision Policy for retired members; changes regarding payment options to the member directly, Direct Rollover, or member's annuity provider with no recourse against the Oklahoma Police Deferred Option Plan, the Oklahoma Police Pension and Retirement System, its Executive Director and staff, and/or the Board; changes towards payment to the beneficiary or estate under the Oklahoma Police Deferred Option Plan.
Related statutes/rules:
11 O.S. § 50-111.3 et seq.
11 O.S. § 50-114.1
11 O.S. § 50-114.2
11 O.S. § 50-114.3
11 O.S. § 50-114.4
CONTACT PERSON:
Christina Hirschman, Executive Legal Assistant, Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Ste. 305, Oklahoma City, OK 73116-7335, 405-840-3555 Ext. 236.

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 15, 2013:

550:15-1-2. Forward drop

(a) **Application.**

(1) The applicant must have twenty (20) years or more of credited service with the Oklahoma Police Pension and Retirement System to be eligible.

(2) The applicant must submit his/her completed application for participation in the Oklahoma Police Deferred Option Plan. Forms will be provided by the Oklahoma Police Pension and Retirement System.

(3) The effective date of membership will be the first day of the month.

(4) Once the Board has approved a member's application and the member's option account has been credited with the first contribution or benefit, the member's participation in the Oklahoma Police Deferred Option Plan is irrevocable as long as the member remains employed.

(b) **Contributions.**

(1) The final member contribution made to the Oklahoma Police Pension and Retirement System shall be for the last pay period prior to the first of the month in which

the member becomes a participant in the Oklahoma Police Deferred Option Plan.

(2) The employer's contribution will continue to the Oklahoma Police Pension and Retirement System.

(3) The member's option account shall be credited fifty percent (50%) of the employer's contribution received for the member and the Oklahoma Police Pension and Retirement System shall be credited fifty percent (50%). The credit to the member's option account shall be made the next work day after receipt of the employer's contribution.

(4) Only the member's portion of the employer's contribution will be credited to the member's option account. No other contributions will be accepted.

(5) When a member has participated in the Oklahoma Police Deferred Option Plan for five (5) years or if the member terminates employment prior to the end of five (5) years, contributions will no longer be credited to the member's option account.

(c) **Benefits.**

(1) The monthly retirement benefit that would have been payable had the member elected to cease employment and receive a service retirement shall be credited into the member's option account.

(2) The member's service retirement benefit is frozen and at no time will he/she be allowed to increase his/her pension benefit due to additional years of service.

(3) The monthly retirement benefit will be credited to the member's option account the last day of the month.

(4) A member who participates in this plan shall be eligible to receive cost of living increases.

(d) **Interest.**

(1) The member's option account shall earn interest at a rate of two percent (2%) below the rate of return of the total investment portfolio of the System, but no less than the actuarial assumed interest rate established at the beginning of the fiscal year as certified by the actuary and approved by the Board in the yearly evaluation report of the actuary. This report is on a fiscal year basis ending on June 30.

(2) The Fund's annual rate of return shall be calculated and certified by the Board's financial consultant. The annual rate of return shall be for the fiscal year ending June 30.

(3) The interest shall be credited to the member's option account on an annual basis which is defined as fiscal year ending June 30. The amount of the interest credited shall be calculated at simple interest. The formula for calculating the interest shall be the amount of the deposit times the certified annual rate of return, less two percent (2%), divided by 365 days times the number of days the deposit was credited to the member's option account for the fiscal year.

(4) Each member shall receive an itemized statement at least on an annual basis beginning with interest credited at June 30, 1991.

(5) Upon completion of the five year term in the Oklahoma Police Deferred Option Plan or earlier termination of employment by the member, annual interest calculated through the last day of the month employed and certified by the Board's financial consultant will be credited to the member's option account provided the annual rate of return is greater than the actuarial assumed interest rate. If the rate of return is less than the actuarial assumed rate then the member's option account will be credited at the assumed interest rate of the last actuarial report.

(6) When a member has participated in the Oklahoma Police Deferred Option Plan for five (5) years or if the member terminates employment prior to the end of the five (5) years, the member's option account if left in the Plan, ceases to earn interest unless the member made a timely election pursuant to the Deferred Option Payout Provision Policy. Effective July 1, 2006, pursuant to the Deferred Option Payout Provision Policy, a retired member who has completed participation in the Oklahoma Police Deferred Option Plan under the Forward Drop or the Back Drop provisions may elect within thirty (30) days following termination of employment with a participating municipality to leave his or her Deferred Option Payout Account balance in the Plan. Under the Deferred Option Payout Provision Policy, the retired member's Deferred Option Payout Account balance will be commingled and invested with the total pension fund and as such the retired member will not be able to direct his or her investments.

(7) At the conclusion of a member's participation in the Oklahoma Police Deferred Option Plan, the member must terminate employment and start receiving the member's accrued monthly retirement benefit from the System. Such termination has at all times included reemployment of a member by a participating municipality but only in a position not covered under the System or as a police chief. Thus, such a member would receive in-service distributions of such member's accrued monthly retirement benefit from the System.

(e) **Payment.**

(1) The member shall make application to terminate participation in the Oklahoma Police Deferred Option Plan a minimum of ninety (90) days prior to termination of employment with the participating municipality. The Oklahoma Police Pension and Retirement System shall have a minimum of ninety (90) days from the date of receipt of members' application to terminate participation in the Oklahoma Police Deferred Option Plan in which to process said application and make payment, unless the member has made an affirmative election to participate in the Deferred Option Payout Provision.

(2) The member should make payment selection a minimum of thirty (30) days prior to ~~termination of employment~~ the distribution date. The form on which payment selection must be submitted will be provided by the System.

(3) The member may select a lump sum payment, equal to the member's option account, which will be paid directly to the member by the Oklahoma Police Deferred Option Plan. This payment will be made after the last

contribution has been received and interest applied following termination of employment and after receipt of the completed payment selection form.

(4) The member may select a direct rollover of his or her distribution in accordance with OAC 550:1-7-5. ~~If the member does not select an Eligible Retirement Plan as described in OAC 550:1-7-5, or an annuity, the member shall receive a lump sum payment equal to the member's option account balance.~~

(5) The member may select an annuity to be provided by a third party. The Oklahoma Police Deferred Option Plan shall not be subject to any fees or charges from the annuity provider.

(6) The member may select to participate in any other method of payment if approved by the State Board.

(7) Once the member's option account has been paid ~~to the member, as a~~ directly to the member, or as a Direct Rollover or to the member's annuity provider, the member shall not have any recourse against the Oklahoma Police Deferred Option Plan, the Oklahoma Police Pension and Retirement System, its Executive Director and staff, and/or the Board.~~Direct Rollover or to the member's annuity provider, the member shall not have any recourse against the Oklahoma Police Deferred Option Plan, the Oklahoma Police Pension and Retirement System, its Executive Director and staff, and/or the Board.~~

~~(8) For a lump sum payment, direct rollover or a combination thereof, an exclusion ratio must be calculated and applied to the distribution amount from the Oklahoma Police Deferred Option Plan to determine the portion that may be excluded from income. This exclusion ratio will equal the member's after tax contributions to the System divided by the expected return. The expected return is the sum of:~~

~~(A) the Oklahoma Police Deferred Option Plan option account balance plus~~

~~(B) the amount of value of the monthly pension that the member is expected to receive over time based on single life expectancy factors from Table V issued as part of the income tax regulations under Section 72 of the Internal Revenue Code of 1986.~~

(f) **Beneficiaries.** If the participant dies during the period of participation in the Oklahoma Police Deferred Option Plan, a beneficiary may elect to receive a lump sum payment equal to the account balance of the participant. ~~A beneficiary who is a surviving spouse of a member may~~ A beneficiary may elect a Direct Rollover of the account balance in accordance with OAC 550:1-7-5. If there is no beneficiary or if the beneficiary predeceases the participant, a lump sum payment shall be paid to the estate of the participant. Once paid out directly to the beneficiary (ies), or as a Direct Rollover, or to the estate of the member, recourse against the Oklahoma Police Deferred Option Plan, the Oklahoma Police Pension and Retirement System, its Executive Director and staff, and/or the Board. ~~elect a Direct Rollover of the account balance in accordance with OAC 550:1-7-5. If there is no beneficiary or if the beneficiary predeceases the participant a lump sum payment shall be paid to the estate of the participant.~~

550:15-1-3. Back drop

(a) **Definitions.** For purposes of this section, the definitions as stated in 11 O.S. Section 50-111.3(H)(1) shall apply.

(b) **Application.**

(1) The applicant must have greater than twenty (20) years of credited service with the Oklahoma Police Pension and Retirement System to be eligible.

(2) The applicant must submit his/her completed application for participation in the Oklahoma Police Deferred Option Plan under the back drop provision. Forms will be provided by the Oklahoma Police Pension and Retirement System.

(3) The effective date of membership will be the first day of the month.

(4) Once the Board has approved a member's application, the member's participation in the Oklahoma Police Deferred Option Plan under the back drop provision is irrevocable.

(c) **Contributions and benefits.**

(1) At the termination date, a member's monthly pension benefit shall be determined based on the earlier attained credited service and on the final average salary as of the back drop date.

(2) The member's individual deferred option account shall be credited with an amount equal to the deferred benefit balance, the member shall terminate employment with all participating municipalities as a police officer and shall start receiving the member's accrued monthly retirement benefit from the Oklahoma Police Pension and Retirement System.

(3) A member shall not participate in the back drop pursuant to subsection H of Section 50-111.3 of Title 11 of the Oklahoma Statutes if the member has elected to participate in the Oklahoma Police Deferred Option Plan pursuant to subsections A, B, C, D, E and F of Section 50-111.3 of Title 11 of the Oklahoma Statutes.

(4) The provisions of subsections B, C, E, F and G of Section 50-111.3 of Title 11 of the Oklahoma Statutes apply to the back drop.

(d) **Interest.** The methodology for computing interest described in OAC 550:15-1-2(d) ~~applies~~ and in the Deferred Option Payout Provision Policy apply with regard to this section.

(e) **Payment.** The provisions for payments in the forward drop pursuant to OAC 550:15-1-2(e) and (f) also apply to payments in the back drop.

[OAR Docket #13-1053; filed 6-7-13]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #13-954]

RULEMAKING ACTION:
PERMANENT final adoption

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]
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Sections **710:1-5-27** and **710:1-5-36** have been amended to clarify existing policy that no party to a protest shall conduct ex parte communications with the Administrative Law Judge assigned to the protest.

Section **710:1-5-38** has been amended and new Section **710:1-5-38.1** has been added for the purpose of separating Submission of Case on Briefs and Motion for Summary Disposition into two separate rules.

New **Part 10,** "*Business Compliance Proceedings*" has been added to reflect the provisions of SB 1984 (53rd Legislature, Second Regular Session) which sets out definitions, business closure procedures, notice requirements and hearing and appeal procedures.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

SUBCHAPTER 5. PRACTICE AND PROCEDURE

PART 5. ADMINISTRATIVE PROCEEDINGS RELATED TO TAX PROTESTS

710:1-5-27. Representation and participation in administrative proceedings

(a) **Representation.** In an administrative proceeding the taxpayer may represent himself at any stage of the proceeding or may be represented by:

(1) an attorney;
(2) an accountant;
(3) an enrolled agent; or
(4) a representative who has been approved by the Commission to represent the taxpayer.

(b) **Proper showing may be required.** If a taxpayer wants to be represented by someone other than himself, an attorney, an accountant, or an enrolled agent, the Administrative Law Judge may require that such person, before being recognized as a representative of the taxpayer, make a proper showing that he or she is of good character and in good repute and possessed with necessary qualifications to enable the representative to render such services to the taxpayer. Upon such showing by the representative, the Administrative Law Judge will certify the representative.

(c) **Proof of authority.** Any person representing a taxpayer in any matter may be required at any time to show written proof, in a form satisfactory to the Commission, of his or her authority to represent such taxpayer in that matter.

(d) **Confidentiality of proceedings; participation of others.** Proceedings are not open to the public unless confidentiality has been waived by the taxpayer or his representative. Any person who is not a party, not employed by a party, or not called as a witness, must obtain the permission of the Administrative Law Judge before observing or participating during any stage of the proceeding. Under provisions of Title 68 O.S. § 205, the taxpayer has the right to enforce the confidentiality of the proceedings.

(e) **Ex parte communication.** Communication with the office of the assigned Administrative Law Judge regarding scheduling and procedural matters is permitted. The taxpayer(s) and/or their representative(s), the taxing division and their attorney(s) shall have no ex parte communication on the substance of a pending case with the assigned Administrative Law Judge.

710:1-5-36. Evidence by official notice

(a) The Administrative Law Judge in an administrative proceeding may, regardless of whether requested by the parties,

take official notice of matters which the judges of district courts of Oklahoma can judicially notice and of facts within the scope of personal knowledge or within the specialized knowledge of the Tax Commission. Such official notice must be stated on the record, and the parties must have an opportunity to contest the material noticed. A party requesting the official notice must state upon the record sufficient information to enable the Administrative Law Judge to comply with the request.

(b) If an Administrative Law Judge receives any document or other evidence from a party in connection with an administrative proceeding which has not been provided to the other party, the Administrative Law Judge shall give notice of such receipt to the party not receiving the document or other evidence and advise such party of its right to receive a copy of the document or other evidence.

710:1-5-38. Submission of case on briefs ~~or on motion for summary disposition~~

~~(a)~~ When a taxpayer in an administrative proceeding does not request an oral hearing, or the parties agree that an oral hearing is not needed, the Administrative Law Judge will base the Findings, Conclusions and Recommendations on the position letters and briefs submitted by the parties. The Administrative Law Judge will mail notice of a date certain for each party to submit a position letter or brief setting out therein the statement of facts, issues to be determined, contentions and statutory and case law relied upon to support his contentions. The Administrative Law Judge may schedule a conference between the parties if it is deemed necessary to clarify the positions of the parties.

~~(b) A party may file a motion for summary disposition on any or all issues on the ground that there is no substantial controversy as to any material fact. The procedures for such motion are as follows:~~

~~(1) The motion for summary disposition shall be accompanied by a concise written statement of the material facts as to which the movant contends no genuine issue exists and a statement of argument and authority demonstrating that summary disposition of any or all issues should be granted. The moving party shall verify the facts to which such party contends no genuine controversy exists with affidavits and evidentiary material attached to the statement of material facts.~~

~~(2) If the protest has been set for hearing, the motion shall be served at least twenty (20) days before the hearing date unless an applicable scheduling order issued by the Administrative Law Judge establishes an earlier deadline. The motion shall be served on all parties and filed with the Office of the Administrative Law Judge.~~

~~(3) Any party opposing summary disposition of issues shall file with the Administrative Law Judge within fifteen (15) days after service of the motion a concise written statement of the material facts as to which a genuine issue exists and the reasons for denying the motion. The adverse party shall attach to the statement evidentiary material justifying the opposition to the motion, but may incorporate by reference material attached to the papers of the moving party. All material facts set forth in the statement of the movant which are supported by acceptable evidentiary material shall be deemed admitted for the purpose of summary disposition unless specifically controverted by the statement of the adverse party which is supported by acceptable evidentiary material.~~

~~(4) The affidavits that are filed by either party shall be made on personal knowledge, shall show that the affiant is competent to testify as to the matters stated therein, and shall set forth matters that would be admissible in evidence at a hearing. A party challenging the admissibility of any evidentiary material submitted by another party may raise the issue expressly by written objection or motion to strike such material.~~

~~(5) If the taxpayer has requested a hearing, the Administrative Law Judge will issue a notice to the parties scheduling the motion for a hearing limited to oral argument. If the taxpayer has not requested a hearing, the Administrative Law Judge will rule on the motion based on the submission of the parties, including the motion, opposition to the motion, and attachments thereto.~~

~~(6) If the Administrative Law Judge finds that there is no substantial controversy as to the material facts and that one of the parties is entitled to a decision in its favor as a matter of law, the Judge will grant summary disposition by issuing Findings of Fact, Conclusions of Law, and Recommendations. Such Findings of Fact, Conclusions of Law and Recommendations are subject to review by the Commission pursuant to *OAC* 710:1-5-10, 710:1-5-40 and 710:1-5-41. If a motion for summary disposition is denied, the Administrative Law Judge will issue an order denying such motion.~~

~~(7) If the Administrative Law Judge finds that there is no substantial controversy as to certain facts or issues, the Judge may grant partial summary disposition by issuing an order which specifies the facts or issues which are not in controversy and directing that the action proceed for a determination of the remaining facts or issues. If a hearing of factual issues is required, evidentiary rulings in the context of the summary procedure shall be treated as rulings in limine. Any ruling on partial summary disposition shall be incorporated into the Findings of Fact, Conclusions of Law, and Recommendations issued at the conclusion of the proceedings before the Administrative Law Judge.~~

710:1-5-38.1. Motion for summary disposition

A party may file a motion for summary disposition on any or all issues on the ground that there is no substantial controversy as to any material fact. The procedures for such motion are as follows:

(1) The motion for summary disposition shall be accompanied by a concise written statement of the material facts as to which the movant contends no genuine issue exists and a statement of argument and authority demonstrating that summary disposition of any or all issues should be granted. The moving party shall verify the facts to which such party contends no genuine controversy exists with affidavits and evidentiary material attached to the statement of material facts.

(2) If the protest has been set for hearing, the motion shall be served at least twenty (20) days before the hearing date unless an applicable scheduling order issued by the Administrative Law Judge establishes an earlier deadline. The motion shall be served on all parties and filed with the Office of the Administrative Law Judge.

(3) Any party opposing summary disposition of issues shall file with the Administrative Law Judge within fifteen (15) days after service of the motion a concise written statement of the material facts as to which a genuine issue exists and the reasons for denying the motion. The adverse party shall attach to the statement evidentiary material justifying the opposition to the motion, but may incorporate by reference material attached to the papers of the moving party. All material facts set forth in the statement of the movant which are supported by acceptable evidentiary material shall be deemed admitted for the purpose of summary disposition unless specifically controverted by the statement of the adverse party which is supported by acceptable evidentiary material.

(4) The affidavits that are filed by either party shall be made on personal knowledge, shall show that the affiant is competent to testify as to the matters stated therein, and shall set forth matters that would be admissible in evidence at a hearing. A party challenging the admissibility of any evidentiary material submitted by another party may raise the issue expressly by written objection or motion to strike such material.

(5) If the taxpayer has requested a hearing, the Administrative Law Judge will issue a notice to the parties scheduling the motion for a hearing limited to oral argument. If the taxpayer has not requested a hearing, the Administrative Law Judge will rule on the motion based on the submission of the parties, including the motion, opposition to the motion, and attachments thereto.

(6) If the Administrative Law Judge finds that there is no substantial controversy as to the material facts and that one of the parties is entitled to a decision in its favor as a matter of law, the Judge will grant summary disposition by issuing Findings of Fact, Conclusions of Law, and Recommendations. Such Findings of Fact, Conclusions of Law and Recommendations are subject to review by the Commission pursuant to *OAC* 710:1-5-10, 710:1-5-40 and 710:1-5-41. If a motion for summary disposition is denied, the Administrative Law Judge will issue an order denying such motion.

(7) If the Administrative Law Judge finds that there is no substantial controversy as to certain facts or issues, the Judge may grant partial summary disposition by issuing an order which specifies the facts or issues which are not in controversy and directing that the action proceed for a determination of the remaining facts or issues. If a hearing of factual issues is required, evidentiary rulings in the context of the summary procedure shall be treated as rulings in limine. Any ruling on partial summary disposition shall be incorporated into the Findings of Fact, Conclusions of Law, and Recommendations issued at the conclusion of the proceedings before the Administrative Law Judge.

PART 10. BUSINESS COMPLIANCE PROCEEDINGS

710:1-5-110. Definitions

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

"Business day" means a day on which State offices are open for regular business.

"Noncompliant taxpayer" means any taxpayer who, within any consecutive twenty-four-month period, has failed to file two (2) reports or remit tax due for any two (2) months, as required for sales taxes under the Oklahoma Sales Tax Code.

710:1-5-111. Noncompliant taxpayer determination and advisory notice

For tax periods occurring after October 31, 2012, should a taxpayer fail to file two (2) reports or remit sales tax due for two (2) months within a twenty-four-month period, the taxpayer is deemed to be noncompliant and will be issued an advisory notice that a third delinquency in reporting or remitting sales taxes occurring prior to payment of identified tax delinquencies within the twenty-four-month period will result in closure of taxpayer's business. The advisory notice provided pursuant to this Section will be sent certified by the U.S. postal service to the taxpayer's last-known address shown on taxpayer's most recent sales tax return filed with the Tax Commission or will be hand delivered to the taxpayer's business address.

710:1-5-112. Commencement of twenty-four (24) month period and examples

(a) **Commencement of twenty four month period.** Beginning November 1, 2012, a taxpayer's initial sales tax delinquency begins commencement of the twenty-four (24) month period for purposes of the business compliance proceedings.

(b) **Examples.** The following examples illustrate the application of the twenty-four (24) month period.

(1) A taxpayer is delinquent for November and December of 2012, but does not incur another delinquency until January 2015; no pending business closure notice will be issued. Taxpayer's January 2015, delinquency begins commencement of a new twenty-four (24) month period.

(2) A taxpayer is delinquent for November and December of 2012 and pays the tax, interest, penalty and fees due before incurring an additional delinquency in May 2013. A pending business closure notice will not be issued. The May 2013 delinquency begins a new twenty-four (24) month period.

710:1-5-113. Pending business closure notice

(a) **Applicability.** When a taxpayer deemed noncompliant fails to report or pay sales tax for a third month within a twenty-four-month period a Pending Business Closure Notice will be issued.

(b) **Contents of pending business closure notice.** The notice will outline the outstanding reports and tax payments and will advise the noncompliant taxpayer that the business will be closed unless taxpayer within five (5) business days from the delivery or attempted delivery of the notice exercises one of the following options:

(1) Provides proof to the satisfaction of the Tax Commission that the delinquent sales tax reports and/or sales tax payments have been previously filed and/or paid.

(2) Files all outstanding sales tax reports and remits the delinquent sales tax including any accrued interest, penalty and fees.

(3) Pursuant to the terms outlined in Section 710:1-5-115, enters into an installment payment agreement approved by the Tax Commission to satisfy the delinquent sales tax, interest, penalty and fees due.

(4) Objects to the business closure by filing a written protest and request for an administrative hearing, pursuant to the terms outlined in Section 710:1-5-117.

(c) **Notice requirements.** Pending Business Closure Notices will be sent certified by the U.S. postal service to the taxpayer's last-known address shown on taxpayer's most recent sales tax return filed with the Tax Commission or hand delivered to the taxpayer's business address.

710:1-5-114. Closure Order

If a noncompliant taxpayer fails to timely and fully exercise one of the options to avoid business closure outlined in paragraphs (1) through (4) of subsection (b) of Section 710:1-5-113, or to comply with the terms of an installment payment agreement pursuant to Section 710:1-5-115, the Tax Commission will issue a Closure Order.

710:1-5-115. Installment payment agreements

(a) **Eligibility and terms of installment payment agreements.** Noncompliant taxpayers owing sales tax delinquencies of Five Hundred Dollars ($500.00) or less are not eligible for an installment payment agreement. Installment Payment Agreements (IPA) for sales tax delinquencies over Five Hundred Dollars ($500.00) require a down payment equal to or greater than one-fourth (1/4) of the sales tax, interest, penalty and fees owed. The agreement shall not exceed twelve (12) months. A tax warrant for the delinquent sales tax, interest, penalty and fees will be filed by the Tax Commission to protect the State's interest.

(b) **Installment payment agreement conditions.**

(1) Taxpayer must file all delinquent sales tax returns prior to entering into an installment payment agreement.

(2) Taxpayer must make installment payments when due by cashier's check, money order, or credit card accepted by the Tax Commission.

(3) Taxpayer must remain in compliance, filing and paying in full all sales tax returns that come due during the term of the installment payment agreement.

(c) **Execution and form of installment payment agreement.** The installment payment agreement must be in writing and signed by both the taxpayer and a Tax Commission representative.

(d) **Default.** Taxpayers failing to abide by the requirements set out in subsection (b) of this Section will be considered in default. Once in default, a Closure Order will be served immediately without further notice to the defaulting taxpayer and a placard will be affixed to all entrances to the business pursuant to Section 710:1-5-122. While a taxpayer being or becoming delinquent for taxes other than sales tax during the pendency of an approved installment agreement does not constitute default, the Tax Commission is not precluded from taking any action to collect these taxes including setting the matter for show cause hearing pursuant to Section 710:1-5-100.

(e) **Exceptions to terms of and eligibility for installment payment agreements.** A taxpayer may request an installment payment agreement outside the parameters of subsection (a) of this Section. Requests by taxpayers with hearings scheduled pursuant to Section 710:1-5-117 may be made to the Hearing Officer. Otherwise, such requests should be made to the Executive Director of the Oklahoma Tax Commission. In the event the request for an extended installment agreement is denied by the Hearing Officer or Executive Director the taxpayer may make the request at a regularly scheduled meeting of the Tax Commissioners.

710:1-5-116. Interest and penalty waiver requests

(a) **Waiver requests.** In the event, a taxpayer prior to business closure by affixing of a placard as provided in Section 710:1-5-122, pays the delinquent sales tax in full and requests, in writing, a waiver of interest and penalty, the waiver request will be treated as a stay to the business closure and a hearing will be scheduled in the same manner as hearings to business closures in Section 710:1-5-120.

(b) **Consideration of the request.** Before the scheduled hearing date, the waiver request must be considered by the applicable Division or Tax Commissioners, dependent upon the amount requested to be waived, and the taxpayer advised regarding approval/disapproval of the request.

(c) **Applicability of waiver request.** If the waiver request is approved, the hearing will be stricken from the docket and the taxpayer will be deemed compliant for purposes of the business closure proceedings. If the waiver request is not approved or only partially approved, the taxpayer will be afforded the opportunity, prior to or at the hearing, to pay in full the outstanding interest, penalties and fees or enter into an installment agreement to pay the outstanding amounts subject to the provisions of Section 710:1-5-115.

710:1-5-117. Hearing request by noncompliant taxpayer

(a) **Contents and form of protest and request for hearing.** The protest and request for hearing must be made in writing, signed by the taxpayer or an authorized representative, and should outline therein:

(1) Taxpayer's name, address and social security number or employer's identification number;

(2) Taxpayer's sales tax permit or other identification number issued by the Tax Commission;

(3) The sales tax reporting periods at issue; and

(4) That an administrative hearing is requested including the manner in which the taxpayer desires the hearing to be held whether in person, by telephone, upon written documents furnished by the noncompliant taxpayer, or upon written documents and evidence produced by the noncompliant taxpayer at hearing.

(b) **Rule applicability.** The tax protest procedure outlined in 710:1-5-21 through 710:1-5-48 is not applicable to the business closure protest proceedings which are solely governed by the provisions of 710:1-5-117 through 710:1-5-121.

710:1-5-118. Timely filing of protest and applications for hearing

In order for the hearing request to be considered timely it must be filed within five (5) business days after the date of delivery or attempted delivery of the pending business closure notice.

710:1-5-119. Defenses to business closure

The only defenses to business closure are proof that the noncompliant taxpayer:

(1) Filed all delinquent returns and paid the delinquent sales tax due including interest, penalty and fees; or

(2) Has entered into a payment agreement pursuant to Section 710:1-5-115 to satisfy the sales tax due including interest, penalty and fees.

710:1-5-120. Hearing procedures governing hearing requests to pending business closure notice

(a) **Hearing schedule.** The date, time, and place for the hearing will be set by the hearing officer and provided to the noncompliant taxpayer by mail at least five (5) days in advance of the hearing.

(b) **Administrative hearing.** The administrative hearing will be conducted by a hearing officer appointed by the Tax Commission. The administrative hearing will be held within fourteen (14) calendar days of receipt by the Tax Commission of the noncompliant taxpayer's request for hearing. Subject to the approval of the hearing officer, the administrative hearing may be held in person, by telephone, upon written documents furnished by the noncompliant taxpayer, or upon written documents and any evidence produced by the noncompliant taxpayer at an administrative hearing. A noncompliant taxpayer who requests an administrative hearing based upon written documents is not entitled to any other administrative hearing regarding the matter prior to the date a decision is rendered by the hearing officer. The noncompliant taxpayer may be represented by an authorized representative who may present evidence in support of the position of the noncompliant taxpayer.

710:1-5-121. Hearing officer decisions

The decision of the hearing officer to affirm or deny the business closure must be rendered in writing and a decision to affirm the business closure shall constitute a Closure Order with copies delivered to the noncompliant taxpayer by the U.S. postal service or by hand delivery.

710:1-5-122. Business closure

If a noncompliant taxpayer fails to fully exercise one of the options to avoid business closure outlined in paragraphs (1) through (4) of subsection (b) of Section 710:1-5-113, or to comply with the terms of an installment payment agreement pursuant to Section 710:1-5-115, or if the business closure decision is affirmed after administrative or judicial review, the Tax Commission shall provide notice of business closure by affixing a placard to all entrances of the business that:

(1) Identifies the business as being subject to a Closure Order; and

(2) States that the business is prohibited from further operation.

710:1-5-123. District Court injunctions

After being served with a Closure Order, it shall be unlawful for any person to continue to operate the business. If a person continues or threatens to continue the unlawful operation of the business after having received a Closure Order, the Tax Commission may seek an injunction in District Court to enjoin the taxpayer from further operating or conducting the unlawful business. In all cases where injunction proceedings are brought under this Section, the Tax Commission shall not be required to furnish bond. Where notice of closure has been given in accordance with the provisions of Section 710:1-5-122, no further notice shall be required before the issuance of a temporary restraining order.

[OAR Docket #13-954; filed 5-29-13]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 50. INCOME

[OAR Docket #13-955]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 11. Intercept of Refunds
710:50-11-6 [AMENDED]
710:50-11-7 [AMENDED]
710:50-11-9 [AMENDED]
710:50-11-10 [AMENDED]
710:50-11-11 [AMENDED]
Subchapter 15. Oklahoma Taxable Income
Part 7. Credits against Tax
710:50-15-74 [AMENDED]
710:50-15-94 [AMENDED]
Subchapter 19. Oklahoma Taxable Income for Partnerships
710:50-19-1 [AMENDED]

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68 O.S. §§ 203; 205.2; and 2368; Oklahoma Tax Commission

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ANALYSIS:
Sections **710:50-11-6, 710:50-11-7, 710:50-11-9** through **710:50-11-11** have been amended to implement the provisions of Senate Bill 1471 and Senate Bill 1019, Second Regular Session of the 53rd Legislature (2012) to include debt owed to a public housing authority operating under 63 O.S. Section 1062 in the claims that may be made against a state income tax refund. Also, the Tax Commission is required to provide in an agreed electronic format to the Department of Human Services the amount withheld from an individual's tax refund, the home address and social security number of the taxpayer. A claim filed by the Department of Human Services for the collection of child support and spousal support shall have priority over all others except the Tax Commission. [**68:205.2**]
Section **710:50-15-74** has been amended to correct a scrivener's error.
Section **710:50-15-94** has been amended to reflect the provisions of House Bill 1835 relating to the income tax credit for volunteer firefighter training by changing the annual continuing education, training and certification requirements. [**68:2358.7**]
Section **710:50-19-1** has been amended to define which partners are eligible to be included in a composite partnership return, and further explains how the partners' share of income and tax will be calculated. [**68:2368**]
CONTACT PERSON:
Lisa R. Haws, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, Ok 73194, 405-521-3133.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

SUBCHAPTER 11. INTERCEPT OF REFUNDS

710:50-11-6. ~~Tax Commission shall have priority over all other agencies, municipal courts, or district courts~~Priority of claims; procedures

(a) The Tax Commission shall have first priority over all other agencies, municipal courts,~~or~~ district courts or public housing authorities when the Tax Commission is collecting a debt, municipal fines and cost, or final judgment. Subsequent to the Tax Commission priority, a claim filed by the Department of Human Services for the collection of child support and spousal support shall have priority over all other claims filed pursuant to this Subchapter. Priority in multiple claims by other agencies, authorities, municipal courts, or district courts pursuant to the provisions of this Section shall be in the order in which the Tax Commission receives the claim from the agencies, authorities, municipal courts, and district courts required by (b) of this Section. **[See: 68 O.S. § 205.2(F)]**

(b) A state agency, municipal court, ~~or a~~ district court, or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes seeking to collect a debt, unpaid fines and cost, or final judgment of at least Fifty Dollars ($50.00) from an individual who has filed a state income tax return may file a claim with the Tax Commission, requesting that the amount owed to the agency, municipal court, ~~or~~ district court, or public housing authority be deducted from any state income tax refund due to that individual. The claim shall be filed electronically in a form prescribed by the Tax Commission and shall contain information necessary to identify the person owing the debt, including the full name and Social Security Number of the debtor. **[See: 68 O.S. § 205.2(A)]**

(c) Upon receiving a claim from a state agency, municipal court, ~~or a~~ district court, or public housing authority the Tax Commission shall deduct the claim amount, plus collection expenses as provided in *OAC* 710:50-11-11, from the tax refund due the debtor and transfer the amount to the municipal court, the district court,~~or~~ the agency, or the public housing authority. Provided, the Tax Commission need not report available funds of less than Fifty Dollars ($50.00).

(d) The Tax Commission has established a central computerized record keeping system to implement the identification of such debtors and may, upon the proper establishment of a claim by a referring agency, intercept a taxpayer's Oklahoma Income Tax Refund and deliver over the proceeds to the referring agency to satisfy the debtor's or municipal court defendant's obligations.

710:50-11-7. Notice to taxpayer

(a) The referring agency, municipal court, ~~or~~ district court, or public housing authority to whom a debt is owed must notify the taxpayer/debtor of an income tax refund intercept.

(b) The state agency, municipal court, ~~or a~~ district court, or public housing authority shall send notice to the debtor by regular mail at the last-known address of the debtor as shown by the records of the Tax Commission when seeking to collect a debt not reduced to final judgment. The ~~Tax Commission,~~ state agency, municipal court, ~~or the~~ district court, or public housing authority shall send notice to the judgment debtor or municipal court defendant by first class mail at the last-known address of the judgment debtor or municipal court defendant as shown by the records of the Tax Commission when seeking to collect a final judgment or unpaid municipal fines and cost. The Tax Commission shall provide in an agreed electronic format to the Department of Human Services the amount withheld by the Tax Commission, the home address and the Social Security number of the taxpayer. The notice shall state:

(1) That a claim has been filed with the Tax Commission for any portion of the tax refund due to the debtor or municipal court defendant which would satisfy the debt, unpaid municipal fines and cost, or final judgment in full or in part;

(2) The basis for the claim;

(3) That the Tax Commission has deducted an amount from the refund and remitted it to such state agency, municipal court, ~~or~~ district court, or public housing authority;

(4) That the debtor or municipal court defendant has the right to contest the claim by sending a written request to the Tax Commission, state agency, municipal court, ~~or the~~ district court, or the public housing authority for a hearing to protest the claim and if the debtor or municipal court defendant fails to apply for a hearing within sixty (60) days of the date of mailing of the notice, the debtor or municipal court defendant shall be deemed to have waived the opportunity to contest the claim. If the claim was filed by the Department of Human Services, the notice shall state that the debtor must contest the claim by sending a written request to the Department within thirty (30) days after the date of mailing of the notice; and,

(5) That a collection expense of five percent (5%) of the gross proceeds owed to the state agency, municipal court, ~~or~~ district court, or public housing authority has been charged to the debtor or municipal court defendant and withheld from the refund.

(c) If the state agency, municipal court, ~~or~~ district court, or public housing authority determines that a refund is due the taxpayer, the state agency, municipal court,~~or~~ district court, or public housing authority shall reimburse the amount claimed plus the five percent (5%) collection expense to the taxpayer. The state agency, municipal court,~~or~~ district court, or public housing authority may request reimbursement of the two percent (2%) collection expense retained by the Tax Commission. The request shall be made within ninety (90) days of the reimbursement to the taxpayer. If timely requested, the Tax Commission will make reimbursement to the state agency, municipal court, ~~or~~ district court, or public housing authority within ninety (90) days of the request.

710:50-11-9. Joint returns intercept

(a) The Tax Commission will intercept a refund from a Joint Income Tax Return to offset a past due obligation if either spouse is legally responsible for the past due obligation.

(b) In the case of a joint return, the notice shall state:

(1) The name of the taxpayer named in the return, against whom no debt, no unpaid fines and cost, or final judgment is claimed;

(2) The fact that a debt, unpaid municipal fines and cost, or final judgment is not claimed against the taxpayer;

(3) The fact that the taxpayer is entitled to receive a refund if it is due, regardless of the debt, municipal fines and cost, or final judgment asserted against debtor or municipal court defendant; and,

(4) That in order to obtain the refund due, the taxpayer must apply, in writing, for a hearing with the Tax Commission, municipal court, district court, ~~or~~ referring agency, or public housing authority named in the notice within sixty (60) days after the date of the mailing of the notice. If the claim was filed by the Department of Human Services, the notice shall state that the taxpayer must apply, in writing, for a hearing with the Department within thirty (30) days after the date of the mailing of the notice. Tax Commission Form 505 can only be used to claim the refund when the Tax Commission is the agency claiming that a debt is owed.

(c) If the taxpayer against whom no debt, no unpaid municipal fines and cost, or final judgment is claimed fails to apply in writing for a hearing within sixty (60) days after the mailing of the notice, the taxpayer shall have waived his or her right to a refund. If the claim was filed by the Department of Human Services, the notice must state that if the taxpayer fails to apply in writing for a hearing with the Department within thirty (30) days after the date of the mailing of the notice, the taxpayer shall have waived his or her right to a refund. [**See:** 68 O.S. § 205.2(A)(4))]

710:50-11-10. Nondebtor spouse protest

If the municipal court, district court,~~or~~ agency, or public housing authority asserting the claim receives a written request for hearing from the debtor or taxpayer against whom no debt, no municipal fines and cost, or final judgment is claimed, the agency, municipal court, ~~or the~~ district court, or the public housing authority shall grant a hearing according to the provisions of the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes. It shall be determined at the hearing whether the claimed sum is correct or whether an adjustment to the claim shall be made. Pending final determination at the hearing of the validity of the debt, unpaid fines and cost, or final judgment asserted by the municipal court, district court,~~or the~~ agency, or the public housing authority, no action shall be taken in furtherance of the collection of the debt, unpaid fines and cost, or final judgment. Appeals from actions taken at the hearing shall be in accordance with the provisions of the Administrative Procedures Act. **[See: 68 O.S. § 205.2(B)]**

710:50-11-11. Notification after final determination at hearing

(a) Upon final determination at a hearing, as provided for in 710:50-11-10, of the amount of the debt, unpaid fines and cost, or final judgment, or upon failure of the debtor or taxpayer against whom no debt, no unpaid fines and cost, or final judgment is claimed to request such a hearing, the municipal court, district court,~~or the~~ agency, or the public housing authority shall apply the amount of the claim to the debt owed. Any amounts held by the municipal court, district court, ~~or~~ agency, or public housing authority in excess of the final determination of the debt and collection expense must be refunded by the municipal court, district court, ~~or~~ agency, or public housing authority to the taxpayer. However, if the tax refund due is inadequate to pay the collection expense and debt, unpaid fines and cost, or final judgment, the balance due the state agency, the municipal court, ~~or the~~ district court, or public housing

authority shall be a continuing debt or final judgment until paid in full.

(b) Upon receipt of a claim as provided in *OAC* 710:50-11-6 the Tax Commission shall:

(1) Deduct from the refund five percent (5%) of the gross proceeds owed to the state agency, municipal court, ~~or~~ district court, or public housing authority and distribute it by retaining two percent (2%) and transferring three percent to the municipal court, district court, ~~or the~~ state agency, or the public housing authority as an expense of collection. The two percent (2%) retained by the Tax Commission shall be deposited in the Tax Commission Fund;

(2) Transfer the amount of the claimed debt, unpaid fines and cost, or final judgment or so much thereof as is available to the state agency, municipal court, ~~or the~~ district court, or the public housing authority;

(3) Notify the debtor in writing as to how the refund was applied; and,

(4) Refund to the debtor any balance remaining after deducting the collection expense and debt, unpaid fines and cost, or final judgment. [**See:** 68 O.S. § 205.2(C) and (D)]

SUBCHAPTER 15. OKLAHOMA TAXABLE INCOME

PART 7. CREDITS AGAINST TAX

710:50-15-74. Credit for investment/new jobs

(a) **For tax years 1981 through 1987.** For tax years 1981 through 1987 the Oklahoma Investment/New Jobs Credit is allowed for Oklahoma Income Tax purposes only on investment in qualified depreciable property which directly results in a net increase in the number of employees engaged in manufacturing or processing in this state.

(b) **For 1988, and later years.** For 1988, and later years, the Oklahoma Investment/New Jobs Credit may be calculated on the investment or new employees when other qualifications are met. (See OTC Form 506).

(c) **Examples.** A company engaged in the process of cooking hamburgers for sale to the general public does not qualify for the Investment/New Jobs Credit. The Oklahoma Supreme Court determined, in the case **McDonald's Corp. vs. Oklahoma Tax Commission**, 563 P.2d 635 (Okla. 1977), that a company engaged in retail sales or a service organization (laundry, transportation, oil & gas production, drilling, restaurant, repair services, etc.) does not qualify for Oklahoma Investment/New Jobs Credit. [**See:** 68 O.S. §§ 2357.4, 2357.5]

(d) **"Processing" defined.** For purposes of this Section, **"processing"** means the preparation of tangible personal property for market. "Processing" begins when the form, context, or condition of the tangible personal property is changed with the intent of eventually transforming the property into a saleable product. "Processing" ends when the property being processed is in the form in which it is ultimately intended to be sold at retail. A business that has the majority of its emphasis on the retail side of business does not qualify as a processor or a manufacturer for purposes of this credit.

(e) **Leasing of employees by manufacturing or processing entity for purposes of the new jobs credit.** A company that engages in manufacturing or processing may still qualify for the Oklahoma New Jobs Credit pursuant to 68 O.S. § 2357.4 even though they lease their employees through an employee leasing company. The leased employees must still meet the requirements of 68 O.S. § 2357.4 for full-time equivalent employees and there must exist an employer-employee relationship between the leased employees and the employer who seeks the new jobs credit pursuant to 68 O.S. § 2357.4. Whether the employer-employee relationship ~~exits~~exists between the employer manufacturing or processing entity and an employee who is leased will be determined on a case by case basis by considering the following factors:

(1) The right of the employer to control the details of the employees work;

(2) The employer furnishing the tools and the workplace;

(3) The employee having taxes, worker's compensation and unemployment insurance funds withheld and the employer being liable for these items;

(4) The employer's right to discharge the employee; and

(5) The permanency of the employer-employee relationship.

(f) **Transfer of employees.** The transfer of employees to or from a leasing company cannot generate any additional credit, nor will any transfer of employees extend the period of time in which a current credit may be claimed.

(g) **Carryover.** Any credits allowed based on assets placed into service prior to January 1, 2000, or an increase in employment but not used may be carried over, in order, to each of the four (4) years following the year of qualification, and to the extent not used in those years, in order, to each of the fifteen (15) years following the initial five-year period. Credits allowed for assets placed into service after December 31, 1999, but not used may be carried over, in order, to each of the four (4) years following the year of qualification, and to the extent not used in those years, to any year following the initial five-year period.

(h) **Limitations.**

(1) No qualified establishment, nor its contractors or subcontractors, that has received or is receiving an incentive payment pursuant to Section 3601 et seq. of the Oklahoma Statutes, (Oklahoma Quality Jobs Program Act), Section 3901 et seq. of the Oklahoma Statutes, (Small Employer Quality Jobs Incentive Act) or Section 3911 et seq. of the Oklahoma Statutes (21st Century Quality Jobs Incentive Act) shall be eligible to receive the credit described in this Section in connection with the activity and establishment for which incentive payments have been, or are being received. Effective January 1, 2010, this limitation does not apply to the investment / new jobs credit earned under 68 O.S. § 2357.4 (which requires a $40 million investment within a three (3) year time period). Further, the entity must pay an annualized

wage which equals or exceeds the state average wage. The qualifying entity must also obtain a determination letter from the Oklahoma Department of Commerce that the business activity of the entity will result in a positive net benefit rate. [**See:** 68 O.S. §§ 3607, 3909 and 3919]

(2) Business entities that benefit from proceeds of obligations issued by the Oklahoma Development Finance Authority from the Economic Development Pool may not claim any investment tax credits during the period of time that withholding taxes attributable to the payroll of said entity are being paid to the Community Economic Development Pooled Finance Revolving Fund or in any manner used for the payment of principal, interest or other costs associated with any obligations issued by the Oklahoma Development Finance Authority pursuant to the provisions Oklahoma Community Economic Development Pooled Finance Act.

(i) **Tax credit moratorium.**

(1) Credits based on assets placed in service or jobs created prior to July 1, 2010 are not affected by the tax credit moratorium and may be claimed as provided under 68 O.S. § 2357.4.

(2) No credit may be claimed for assets placed in service or new jobs created on or after July 1, 2010 through June 30, 2012. Credits generated during this time period are deferred, and may be claimed beginning with tax year 2012 returns, subject to the following limitations:

(A) Credits accrued during the period from July 1, 2010 through June 30, 2012, shall be limited to a period of two (2) taxable years.

(B) Only fifty percent (50%) of the total amount of the credit generated between July 1, 2010 and June 30, 2012 may be claimed each taxable year.

(C) Amended returns shall not be filed after July 1, 2012 to claim the credits generated between July 1, 2010 and June 30, 2012 for tax years prior to tax year 2012.

(3) For example, a calendar year taxpayer places qualifying assets of $150,000.00 in service in August 2010 which generates $1,500.00 of credit for investment/new jobs per tax year for a five (5) year period (tax year 2010 through 2014) for a total of $7,500.00. This results in the taxpayer generating $3,000.00 of tax credits between July 1, 2010 and June 30, 2012. The taxpayer can initially claim $1,500.00 in tax year 2012 and $1,500.00 in tax year 2013 of credits generated during the moratorium. Taxpayer may also claim an additional $1,500.00 of credits in both tax year 2012 and 2013. Final $1,500.00 of credits can be claimed in tax year 2014.

710:50-15-94. Volunteer firefighter credit

(a) **General provisions.** An income tax credit of ~~twohundreddollars~~Two Hundred Dollars ($200.00) is available for a volunteer firefighter who has completed at least twelve (12) hours toward the ~~Volunteer Firefighter Practices program~~State Support or State Basic Firefighter or Firefighter I offered by Oklahoma State University Fire Service Training or Oklahoma Department of Career and Technology Education. After the initial year, an additional ~~two hundred dollar~~TwoHundred Dollar ($200.00) income tax credit is allowed each year the volunteer firefighter has completed an additional six (6) hours of ~~Fire Service Training Volunteer Firefighter Practices program~~State Support or State Basic Firefighter or Firefighter I from an internationally recognized accrediting assembly or board, their equivalent, or other related fire or emergency medical services training approved by the Council on Firefighter Training until such program or its equivalent is completed.

(b) **Advanced training credit.** An income tax credit of ~~four hundred dollars~~Four Hundred Dollars ($400.00) each year is available for a volunteer firefighter who, after completing ~~at least thirty (30) hours of instruction, and having completed the Volunteer Firefighter Practices program~~ the State Support or State Basic Firefighter program:

(1) ~~Attends and receives certification for annual chemical, biological, radiological, and nuclear (CBRN) response training; and weapons of mass destruction (WMD) training of at least one (1) hour per subject;~~

~~(2)~~ Completes at least six (6) hours of continuing education each year until the firefighter completes ~~certification as a~~Intermediate or Advanced Firefighter or Firefighter I from an internationally recognized accrediting assembly or board, their equivalent, or other related fire or emergency medical services training approved by the Council on Firefighter Training or its equivalent;

(2) After completion of Intermediate or Advanced Firefighter or Firefighter I, the volunteer firefighter shall complete six (6) hours of training per year to claim the tax credit;

(3) Provides documentation from the fire chief of the applicable department that the firefighter has participated in all annual training as required by federal and state authorities; and,

(4) Provides documentation from the fire chief of the applicable department that the volunteer firefighter has met the requirements under the fire department's constitution and bylaws and is a member in good standing of the department together with a record of the total number of years of service in good standing with such department.

SUBCHAPTER 19. OKLAHOMA TAXABLE INCOME FOR PARTNERSHIPS

710:50-19-1. Partnership return

(a) **General provisions.** The Oklahoma distributive share of partnership income shall be the same portion of that reported for Federal Income Tax purposes. OTC Form 514 is used to report income. [See: 68 O.S. §§2358, 2362, 2363]

(1) **Oklahoma source income or loss.** When a partnership has source income or loss then that partnership must file a return showing the income or loss applicable to Oklahoma. The partnership shall also furnish a detailed schedule stating the amount of income distributable to each partner from Oklahoma sources.

(2) **Duty to file and report; determination of shares.** All resident partners must file individual income tax returns with Oklahoma if they are required to file individual Federal Income Tax Returns. All nonresident partners that have gross income of $1,000.00 must file an Oklahoma Return even though their net may actually be a loss. The partnership income for Oklahoma may be apportioned using the three factor formula unless its operations are from real and tangible personal property, such as rents, oil and mining production or royalties, and gains or losses from sales of such property; then the income or loss shall be allocated in accordance with the situs of such property. The partner's distributive share of Oklahoma income or loss shall be the same proportion to the partner's distributive share of income or loss shown on the Federal Partnership Return.

(3) **No credit for income taxes paid other jurisdictions.** Neither residents nor nonresidents are allowed a credit for income taxes paid to other jurisdictions on partnership income.

(4) **Composite returns.** For tax years beginning on or after January 1, 2013, Oklahoma will allow partnerships with two or more partners to file composite returns for nonresident partners as ~~described~~set forth in (A) through (D) of this paragraph. ~~Any individual nonresident partner may be included in the composite return so long as the partner has no income from an Oklahoma source other than the partnership. Partners that are S Corporations (or elect to be so treated) and partnerships, trusts, and C Corporations generally may not be included in the composite return. However, partners that are ineligible to be included in the composite return as outlined herein may be included in the composite return upon approval from the Oklahoma Tax Commission Audit Division.~~

(A) **Individual partners and trust partners.** Compute each nonresident individual or trust partner's share of Oklahoma distributive income and income tax as follows:

(i) Calculate the Oklahoma distributive share of each nonresident individual and trust partner's income as if all of the partnership income was earned in Oklahoma.

~~(ii) Deduct a standard deduction for each individual partner, to determine the taxable income for the partner. The standard deduction to be used is outlined in 68 O.S. § 2358.~~

~~(I)~~ In determining taxable income of individual partners filing a composite return, no deductions for the standard deduction, personal exemptions, federal income tax paid, or dependents is permitted.

~~(II) For trust partners, taxable income is each partner's share of the Oklahoma distributive income in (i) of this subparagraph.~~

(~~iii~~ii) Using the Oklahoma individual income tax rates for the applicable tax year,~~and the partner's federal income tax filing status,~~ compute a **base tax** for each partner using the highest marginal tax rate, based on the taxable income from ~~(ii)~~(i) of this subparagraph. ~~If the partner's federal filing status is not known, use the individual tax rates for single taxpayers.~~

(~~iv~~iii) Calculate the actual Oklahoma distributive share of income of each partner.

(~~v~~iv) The base tax determined from ~~(iii)~~(ii) of this subparagraph is to be prorated to determine the Oklahoma income tax of each partner. Divide each partner's actual Oklahoma distributive share as determined in ~~(iv)~~(iii) of this subparagraph, by each partner's distributive income from all sources as determined by (i) of this subparagraph. Multiply this percentage times the base tax to calculate the actual Oklahoma income tax of each partner. Nothing in this section shall be construed to allow for more than one hundred percent (100%) of a nonresident partner's income to be taxed.

(B) **Corporate partners~~.~~ ,S Corporation partners and Partnership partners.** Compute each nonresident corporate, S corp or partnership partner's share of Oklahoma distributive income, using the partner's share of Oklahoma distributive income and the Oklahoma corporate income tax rates, to compute each partner's Oklahoma tax.

(C) **Form.** The income and tax of all partners included in the composite return must be combined on Oklahoma Tax Commission Form 514.

(D) **Schedule to be provided.** Oklahoma Tax Commission Form 514 PT must be enclosed with the Form 514 to show the computation of each nonresident partner's Oklahoma distributive income and Oklahoma tax. The schedule of nonresident partner's information may be provided on magnetic media, electronically, or in another format which meets Tax Commission guidelines.

(b) **When electronic filing is required.** For tax years beginning on or after December 31, 2004, partnerships with more than one hundred (100) partners are required to electronically file their Schedule K-1's with the Oklahoma Tax Commission. The format for filing electronically will be in either a spreadsheet format, such as Lotus 1-2-3 or Excel~~)~~; or a database format, such as DBF or Access. A partnership is deemed to have "more than one hundred (100) partners" if, over the course of the partnership's tax year, the partnership had more than one hundred (100) partners at any time.

(c) **When electronic filing is not permitted.** Partnerships filing the following types of returns are not required to file Schedule K-1's electronically:

(1) A non-calendar year return;
(2) Returns with a non-U.S. address; or,
(3) Amended returns.

(d) **Waiver of electronic filing requirement for hardship.** Partnerships may also obtain a waiver from the electronic filing requirement if the partnership demonstrates that a hardship would result if it were required to file electronically.

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TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 60. MOTOR VEHICLES

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710:60-3-54 [AMENDED]
Part 9. Commercial Vehicles
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710:60-3-97 [AMENDED]
Part 17. Special Permits
710:60-3-202 [AMENDED]
Subchapter 5. Motor Vehicle Titles
Part 5. Certificates of Title
710:60-5-65 [NEW]
Part 7. Transfer of Title
710:60-5-71 [AMENDED]
Part 9. Affidavits for Use in Titles
710:60-5-91 [AMENDED]
710:60-5-97 [NEW]
710:60-5-98 [NEW]
Subchapter 9. Motor Vehicle License Agents/Agencies
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ANALYSIS:
Section **710:60-3-37** has been amended to reflect the provisions of Senate Bill 1983 which removes the ability for taxpayers to receive a waiver of delinquent vehicle registration penalties pursuant to specific conditions, with the exception of Oklahoma resident armed forces personnel stationed out of state.

Section **710:60-3-54** has been amended to allow Oklahoma used vehicle dealers to reassign ownership of vehicles acquired from out of state on an out of state dealer reassignment sheet and to clarify existing policy relating to notarization of out of state documents.

Section **710:60-3-91** has been amended to reflect the provisions of House Bill 2242 providing that the commercial license fee of wrecker or tow vehicles shall be based on the gross weight of the wrecker or tow vehicle alone without any inclusion of weight for a vehicle towed by the wrecker or tow vehicle.

Section **710:60-3-97** has been amended to reflect the provisions of Senate Bill 1935, which creates an annual license fee of Sixty Dollars ($60.00) for each motor vehicle used for the purpose of transporting cotton modules from the point of production to the first point of delivery or cotton gin and the provisions of House Bill 2242, which provides that the commercial license fee of wrecker or tow vehicles shall be based on the gross weight of the wrecker or tow vehicle alone without any inclusion of weight for a vehicle towed by the wrecker or tow vehicle.

Section **710:60-3-202** has been amended to reflect change in policy regarding the issuance of special mobilized machinery qualification certificates by a motor license agency.

New Section **710:60-5-65** has been added to implement the provisions of Senate Bill 1439 which provides that when an applicant for a certificate of title or salvage certificate presents to the Oklahoma Tax Commission proof that the applicant purchased or acquired an item at a public sale and the fact is attested to by the seizing agency, the Oklahoma Tax Commission shall issue the appropriate certificate of title upon receipt of the statutory fee and properly executed application for a certificate of title.

Section **710:60-5-71** has been amended to clarify policy relating to notary requirements of Oklahoma certificates of title. Assignments of Oklahoma certificates of title to, or by, out of state dealers located in non-notary states are not required to be notarized.

Section **710:60-5-91** has been amended to clarify policy regarding the definition of a "major component" for a motorcycle.

New Section **710:60-5-97** has been added to implement the provisions of House Bill 2575, which allows an insurer to go directly to a salvage or junk title in the insurance company's name, following payment of a loss, without having to first obtain a duplicate title in the insured's name. This rule facilitates the processing of insurance company applications for salvage or junk vehicle titles under the applicable statutory provisions.

New Section **710:60-5-98** has been added to implement the provisions of House Bill 2575, which authorizes insurance companies to obtain a proper salvage title in their name, should they encounter difficulty in obtaining the title from their insured following settlement of a total loss claim. This rule facilitates the processing of insurance company applications for salvage vehicle titles under the applicable statutory provisions.

Section **710:60-9-137** has been amended to reflect the title change of the administrator of the Tax Commission to Executive Director.

New Section **710:60-9-138** has been added to allow the Executive Director to order a temporary suspension in a motor license agent's operation, when continued operation poses a potential threat to the public interest.
CONTACT PERSON:
Lisa R. Haws, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, Ok 73194, 405-521-3133.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

SUBCHAPTER 3. REGISTRATION AND LICENSING

PART 3. PENALTIES

710:60-3-37. Waiver of penalties

(a) **Annual registration required generally.** A vehicle must be registered yearly, whether in use or not. If an owner fails to do so, fees and penalties are due for the current year and one previous year.

(b) ~~**Waiver of penalty available for inoperable vehicle; procedure.** If an applicant provides parts or repair receipts and~~

~~an Affidavit of Inoperative Motor Vehicle (OTC 758) declaring the vehicle was inoperable, the penalties (on both years) may be waived. The repairs must be of a substantial nature and the required documentation must be attached to the request for waiver.~~

~~(c)~~ **Waiver of penalty for certain armed forces personnel.** Oklahoma resident armed forces personnel stationed outside of this state due to official assignment of the US armed forces or Oklahoma National Guard are exempt from the assessment of delinquent registration penalties for the duration of that assignment and for a period of sixty (60) days following that assignment. A completed Armed Forces Affidavit (OTC Form 779), including the delinquent penalty waiver section, is required.

PART 5. DEALERS

710:60-3-54. Used vehicle dealer's registration policy

(a) **Renewal not required; registration to be current when vehicle acquired.** A licensed used trailer dealer or used motor vehicle dealer is not required to renew the registration of a vehicle that expires on his lot while being held for resale, provided the registration was current when the vehicle was assigned to him. However, any dealer who is assigned a vehicle when it is in the registration penalty period must renew the registration for a full year, paying any penalty due. Manufactured home dealers are required to keep all manufactured homes registered. [**See:** 710:60-3-132, paragraph (5)]

(b) **Used vehicles acquired from other states.** Used vehicles from other states, acquired for resale by Oklahoma used dealers require an Oklahoma title in the dealership name. No registration is required. Used motor vehicles acquired from other states by licensed Oklahoma motor vehicle dealers may either be titled in the dealership's name, or ownership may be reassigned by the dealership on the out of state title. When reassigning an out of state title, the motor vehicle dealer must satisfy the inspection and dealer reassignment provisions of 47 O.S. § 1105. Oklahoma dealers may reassign on another state's reassignment sheet only when ownership was assigned to the Oklahoma dealer by a dealer in that other state, on that other state's reassignment sheet ~~and attached to that other state's title. An Oklahoma dealer may not reassign ownership on another state's reassignment sheet if that sheet is attached to either an Oklahoma title, or any other state's title that does not correspond both to the reassignment sheet and the state in which the assigning out of state dealer is licensed~~. No notarization of an Oklahoma dealer's reassignment is required if the title, or reassignment sheet, being reassigned is from a non-notary state.

(c) **Exemption from transfer registration fee; revenue stamps required.** Used Vehicle Dealers are exempt from the transfer registration fee when getting a transfer title in their name. However, each time a used dealer makes an assignment, a revenue stamp must be attached on the back of the Oklahoma Title. Commercial trailer dealers or manufactured home dealers are not required to attach tax stamps.

(d) **Removal of out-of-state license plates.** If a dealer obtains a vehicle with an out-of-state tag, it should be removed. If the vehicle has an Oklahoma tag, it shall remain on the vehicle.

(e) **Procedure upon sale of vehicle.** When a used dealer sells a vehicle, he shall advise the owners to title and register the vehicle within thirty (30) days. If the Oklahoma plate is still current, the new owner shall title, pay excise and a transfer registration fee. If, on the assignment date, the decal has expired, the new owner must register from the month of assignment. The transfer registration fee would be due at the time of registration.

PART 9. COMMERCIAL VEHICLES

710:60-3-91. Commercial trucks and truck tractors

(a) **Basis of registration.** Commercial Trucks and Truck Tractors are registered on the basis of combined laden weight. Commercial trucks registered for 15,000 lbs. or less are registered on a combination of age and combined laden weight of the vehicle. Combined laden weight is the combined weight of a vehicle when fully equipped for use and the cargo or payload transported thereon. The registered laden weight of a wrecker or tow vehicle is the gross weight of the wrecker or tow vehicle alone, without any inclusion of weight for a vehicle towed by the wrecker or tow vehicle. The combined laden weight declared for the purposes of registration is at the discretion of the registrant, provided that in no event may the figure be less than the unladen weight of the vehicle fully equipped for use.

(b) **Minimum weight for truck tractors; minimum fee.** The minimum weight allowed on a truck tractor is 15,000 lbs., with no reduction in the annual registration fee for number of years registered.

(c) **Display of commercial status; inspections.** All commercial trucks and truck tractors must have the name of the commercial establishment or the words "Commercial Vehicle" permanently and prominently displayed upon the outside of the vehicle in letters not less than 2" high. The letters must be in contrast to their background in order to be legible from a distance of 50 feet when the vehicle is not in motion. Vehicles registering at 15,000 lbs. or less must also meet additional requirements.

710:60-3-97. Other commercial vehicles

(a) **Ambulances and hearses.** Ambulances and hearses are registered as commercial vehicles pursuant to 47 O.S. §1133.1 when used commercially and properly identified as a commercial vehicle as provided by 47 O.S. §1102.

(b) **Definition and treatment of funeral hearse. "Funeral Hearse"** is a vehicle having a platform in place of seats modified to carry the remains of a deceased person or persons. They may be registered as commercial vehicles if they meet all requirements.

(c) **Forest products vehicles.** For each motor vehicle used primarily for the purpose of transporting unfinished and unprocessed forest products, logs, ties, stave bolts and posts, originating and produced in this state from the point of production or harvesting to the point at which they shall first

undergo any processing, preparation for processing, conversion or transformation from their raw or natural state, an annual license fee shall be collected plus an insurance verification fee for each power unit.

(1) Such license plates shall be permanent in nature and shall be designed in such manner as to remain with the vehicle for the duration of the vehicle's life span or until the title is transferred or the vehicle is no longer used for the purposes specified in this Subsection.

(2) For purposes of this Subsection, the term **"motor vehicle"** means a truck or truck-tractor or the combination of a truck or truck-tractor pulling a trailer or semitrailer. When a truck or truck-tractor pulling a trailer or semitrailer is licensed pursuant to the provisions of this Subsection, a separate license plate shall be issued for each truck or truck-tractor and for each trailer or semitrailer for the fee prescribed in this Subsection.

(3) Before a person shall be allowed to license a vehicle pursuant to the provisions of this Subsection, the person shall sign an affidavit (OTC Form 754-2) attesting to the fact that he is familiar with the purposes for which vehicles may be used and that he will not use such vehicle for any other purpose. Any person who signs such an affidavit when such person does not believe that the information in the affidavit is true or knows it is not true, upon conviction, shall be guilty of perjury and shall be punished as provided for by law. A violation of the provisions of this Subsection shall also be grounds for revocation of driver's license.

(4) The penalty on forest power plates shall be charged, as provided in 710:60-3-35(a). Excise tax on forest power vehicles is based upon the TDP of the power unit or trailer.

(d) **Wrecker/towing service registration and license plate.** A distinctive license plate is issued to all wrecker/towing vehicles operated by licensed wrecker/towing services, with the exception of apportioned wrecker/towing vehicles, which display apportioned plates. Wrecker/towing services are licensed annually by the Oklahoma Department of Public Safety. A copy of the current Department of Public Safety individual vehicle permit, listing the vehicle identification number of the vehicle being registered, is required to be presented at the time of each original and renewal registration. The registered laden weight of a wrecker or tow vehicle is the gross weight of the wrecker or tow vehicle alone, without any inclusion of weight for a vehicle towed by the wrecker or tow vehicle. Standard commercial vehicle registration fees apply.

(e) **Cotton module transporter truck and license plate.** A motor vehicle used for the purpose of transporting cotton modules from the point of production to the first point of delivery or cotton gin, shall be registered as a cotton module transporter, at the statutorily designated registration fee. A distinctive license plate shall be issued. Any person registering a cotton module transporter must also complete and submit a "Declaration of Gross Vehicle Weight for a Cotton Module Transporter" (OTC Form 786 CMT). If a laden weight of 55,000 pounds or more is indicated, the owner must verify compliance with federal heavy highway vehicle use tax guidelines.

PART 17. SPECIAL PERMITS

710:60-3-202. Special mobilized machinery

(a) **Description.** Special Mobilized Machinery (SMM) are special purpose machines or devices which derive no revenue from the transportation of persons or property, whose use of the highways is only incidental and whose useful revenue producing service is performed at destinations in an area away from the traveled surface of an established open highway. ~~The machinery's use of the highway is only incidental. The owner must elect to register the equipment as Special Mobilized Machinery.~~SMM may be either truck or trailer mounted. Unless stated specifically otherwise, the following provisions apply to both configurations.

(b) **Truck mounted SMM - excise tax assessment.** Truck mounted SMM may register either as SMM, or at any other registration classification for which the vehicle type, vehicle use and vehicle owner qualify. Standard excise tax applies to truck mounted SMM registered as such.

(c) **Trailer mounted SMM - excise tax assessment.** Trailer mounted SMM may register only as SMM, as such equipment does not qualify under any other registration classification. An expiring commercial trailer license plate is to be issued, at the applicable SMM registration rate. Standard excise tax applies.

(~~b~~d) **Qualification certificate and fee.** ~~Once the owner has elected to register the vehicle as~~ Special Mobilized Machinery, ~~it~~ is required to have a qualification certificate (authority) before any registration or permit can be issued. The qualification certificate may be obtained through the Commission, or any motor license agency.~~can be reserved by calling (405) 521-2830. The fee for the qualification certification is to be collected by the Motor License Agent and sent by separate mail to the Oklahoma Tax Commission Cashier.~~ The qualification certificate ~~is good~~ remains valid for as long as ~~the title~~ownership of the SMM does not change ~~names~~. If this qualification certificate is lost, or should ownership of the SMM change, a new ~~one~~certificate must be ~~purchased~~obtained.

(~~c~~e) **Motor license agent to issue title and registration.** Agents are authorized to ~~issue~~ title and register~~collect excise tax onthese vehicles.~~SMM,~~The Motor License Agent will issue a Special Mobilized Machinery Registration~~ using the qualification certificate number assigned by the agent or the Oklahoma Tax Commission ~~Cashier. The qualification certificate number must be typed in the lessee field of the registration.~~

(~~d~~f) **Registration fee; expiration; penalties.** The fee for a full year registration is set forth by statute. All Special Mobilized Machinery registrations expire in December. On February 2, the registration fee doubles. ~~Trailer mounted Special Mobilized machinery does not get a permanent trailer tag. It must be issued an expiring trailer plate to be renewed each year with the appropriate decal.~~

(~~e~~g) **Reciprocity for out-of-state vehicles~~; fees~~.** ~~If a Special Mobilized Machinery is only passing through the state of Oklahoma, from border to border, and not staying to work off-road, the current registration from another state will be honored.~~Special Mobilized Machinery properly registered in another state may pass through this state under that out of state registration, provided the unit is not put into service within this state.~~If~~

~~a~~ Special Mobilized ~~Machineis staying to work~~Machinery entering from another state and placed into service in the State of Oklahoma~~, it~~ must be registered for the remainder of the year ~~and a qualification certificate must be purchased. The only exception to this is Special Mobilized Equipment which will be used only for the construction of highways or road material production in Oklahoma~~.

~~(f) **Basis of registration not related to weight classification.** Special Mobilized Machinery is not registered on the basis of laden weight and does not, therefore, qualify for the reduced excise tax rate that heavy weight commercial trucks are entitled to.~~

~~(g) **Truck mounted special mobilized machinery.** When in storage, truck mounted special mobilized machinery may be renewed for the weight of the vehicle only. Minimum weight is 15,000 pounds, with no reduction in fee for the number of years registered. Once the vehicle is returned to service, tax will be due for any remaining calendar quarters.~~

(h) **Temporary operation.** SMM registered in another state and utilized for temporary service in this state may operate by temporary permit for not more than thirty (30) days in any calendar year. Absent a change of ownership, if an out of state registered SMM unit to which a temporary permit has been issued is operated in excess of thirty (30) days in Oklahoma in any calendar year, the unit must be titled and registered for the remainder of the year.

SUBCHAPTER 5. MOTOR VEHICLE TITLES

PART 5. CERTIFICATES OF TITLE

710:60-5-65. Insurance fraud forfeiture sale

Requests for issuance of an Oklahoma title resulting from an insurance fraud forfeiture sale pursuant to the provisions of 36 O.S. § 365 must be reviewed by the Oklahoma Tax Commission to ensure compliance with the conditions therein.

PART 7. TRANSFER OF TITLE

710:60-5-71. General provisions; assignments; liens; registration; notice of transfer

(a) **Transfer of title.** In most instances, an Oklahoma transfer title is issued upon receipt of a properly assigned and notarized Oklahoma title and proof of liability insurance. Assignments of Oklahoma certificates of title to, or by, out of state dealers located in non-notary states are not required to be notarized. Other instances where a transfer title may be issued are covered in the following subsections.

(b) **Use of assignment space provided on title document.** The first assignment space on an Oklahoma title is to be used by the owner on the face of the title to assign ownership. The subsequent reassignment spaces may be used by appropriately licensed Oklahoma dealers only.

(c) **Liens transfer.** Any active liens indicated on the face of an assigned Oklahoma title will be carried forward to the transfer title being issued unless a lien release is presented.

(d) **Current registration required; exceptions.** Registration must be current on a vehicle before a transfer title may be issued, unless the vehicle is in a salvage or junked status. Licensed used motor vehicle dealers are exempt from this requirement when transferring to other licensed dealers, provided the vehicle was currently registered, or in the registration expiration grace month, when it was assigned to the first dealer. Salvage dealers are exempt from registration requirements when obtaining salvage or junked titles.

(e) **Actual sales price documentation.** The actual sales price is required for any vehicle on which an Oklahoma title is to be issued and excise tax collected. The actual sales price is commonly referred to as the "purchase price". One of the following documents is required to establish the actual sales price:

(1) A purchase contract;

(2) A bill of sale;

(3) A "Declaration of Vehicle Purchase Price" (OTC Form 722-1); or

(4) Oklahoma title certificate, with a purchase price entry listing where indicated;

(5) A purchase contract or bill of sale offered only to establish purchase price pursuant to this subsection, and not to convey ownership, need not be notarized.

(f) **Notice of Transfer of Ownership of a Vehicle.** The seller or buyer of a motor vehicle may file a Notice of Transfer of Ownership of a Vehicle (OTC Form 773) to record the assignment of ownership in the Oklahoma Tax Commission Motor Vehicle Division computer system. The filing of Notices of Transfer is optional. The filing of the Notice of Transfer does not constitute a transfer of ownership and does not alleviate the buyer/new owner of the responsibility of properly and timely transferring title and paying all applicable taxes and fees. To be acceptable, notices must be submitted containing all required information. Incomplete forms will not be filed. There are two (2) acceptable types of notice:

(1) Seller or buyers may submit a **Notice of Transfer of Ownership of a Vehicle (OTC form 733)** and the appropriate statutory filing fee to the Oklahoma Tax Commission or a motor license agent.

(2) Effective January 2006, a removable tear-off tab, **Oklahoma Certificate of Title Tear-Off Notice of Transfer Tab,** was incorporated on Oklahoma vehicle title certificates. This tab, properly completed, is to be accepted and processed in the same manner as the Notice of Transfer of Ownership of a Vehicle Form (OTC form 733).

PART 9. AFFIDAVITS FOR USE IN TITLES

710:60-5-91. Affidavit of assembly and ownership

(a) **When Affidavit of Assembly and Ownership is required.** An Affidavit of Assembly and Ownership is required:

(1) When major components from two or more vehicles or motorcycles are being incorporated into a single unit.

(2) In applying for an Oklahoma title for a kit car that comes with a Manufacturer's Statement of Origin and an invoice.

(3) When a combination of new components with original (notarized) Manufacturer's Statements of Origin and used components with bills of sale, invoices or receipts are used to make one vehicle or motorcycle.

(b) **Documentation required.** Documentation required to support application for Oklahoma title using an Affidavit of Assembly and Ownership includes:

(1) **A completed Affidavit of Assembly and Ownership (OTC Form 761 or 761MC).** The applicant must complete the Affidavit of Assembly and Ownership (OTC Form 761 or 761MC) and supporting documentation. Title or notarized bills of sale for all major components included on the Affidavit must be submitted, listing the vehicle identification number (VIN) of the vehicle from which the part was removed.

(2) **A completed Application for Oklahoma Certificate of Title (OTC Form 701-6).** The applicant must complete the Application for Oklahoma Certificate of Title (OTC Form 701-6), as follows:

(A) The **year** to be listed on the certificate of title will be the year of the body or cab of the vehicle which is reconstructed.

(B) The **make** of the vehicle will be noted as: "AV", followed by a two (2) character year designation and two (2) character make designation.

(C) The **model** of the vehicle will be the three (3) or (4)-letter code reflected on the Oklahoma Certificate of Title of the appropriate component vehicle.

(D) The **body type** of the vehicle will reflect the current body type of the vehicle. Example: 2DR

(E) The Total Purchase Price will be the combined purchase price for all components, less those parts on which sales tax was paid.

(F) Excise **taxes due** on the assembled vehicle will be determined as follows:

(i) Excise tax will not be collected if the title was in the registrant's name on each of the major components used to build the current vehicle.

(ii) Excise tax will be due upon transfer if the title was not in the registrant's name on each of the major components used to build the current vehicle.

(G) The **year** of an assembled motorcycle is the current year (completion date).

(H) The **make** of the Assembled Motorcycle will be "ASVE".

(I) The **model** will be "O".

(J) The **body** type will reflect "MC".

(c) **Approval required.** Any application for title using the Affidavit of Assembly and Ownership must be approved by the Motor Vehicle Division. Such approval relates only to the issuance of an Oklahoma title and registration to the assembled vehicle. No attestation or confirmation of the roadworthiness of the vehicle is expressed or implied by the Division's approval.

(d) **Inspection required.** Following approval of the application for title by the Motor Vehicle Division, the assembled vehicle or motorcycle must be inspected by a motor license agent to confirm the vehicle identification number (VIN).

(e) **Oklahoma assigned identification number required.** An Oklahoma assigned identification number, when required for an assembled vehicle or motorcycle, shall be assigned by the Motor Vehicle Division.

(f) **Active liens.** If an active lien is reflected on any vehicle identification number (VIN) of a component used to build a vehicle or motorcycle on which an Oklahoma assigned identification number has been, or will be, assigned, or on which an identification number from a major component has been, or will be, approved by the Commission to be assigned to the completed vehicle, the following will apply:

(1) The applicant must provide either a proper lien release(s), or written acknowledgement from the active lienholder(s) of their knowledge of the application for an assembled vehicle which will display a newly assigned VIN and their understanding that any other liens reflected on other components of the assembled vehicle will also be reflected on the vehicle record, listed in order of original perfection date.

(2) Upon receipt of the lienholder acknowledgement, the Motor Vehicle Division will issue a revised Lien Entry Form, reflecting the newly assigned vehicle identification number and will forward the forms and written notification of the new vehicle identification number (VIN) to any lienholder of record.

(g) **No active liens.** If no liens are active on any vehicle identification number (VIN) used to build the vehicle or motorcycle, the approved Oklahoma Tax Commission Application for Title (OTC Form 701-6), Assembly and Ownership Affidavit (OTC Form 761 or 761 MC), all original receipts and notarized bills of sale associated with the transaction may be submitted to an Oklahoma Motor License Agency for processing.

(h) **Issuance of title; tag and decal, if applicable.** At the time the Oklahoma Certificate of Title is issued, a current tag and decal will be issued also, if applicable. All plates and/or registration decals issued to any original vehicle or motorcycle used as a component for the rebuilt vehicle become invalid.

(i) **Major component.** For purposes of this Section, "**major component**" for a vehicle means a body, cab, frame, front end clip, or rear end clip. "Major component" for a motorcycle means a frame or front fork assembly.

710:60-5-97. In Lieu of Replacement Title Affidavit (OTC Form 780-A)

This affidavit is required when an insurance company makes application for a salvage or junk certificate of title pursuant to the applicable provisions of 47 O.S. § 1105 (H). The affidavit is to be completed in its entirety by the applying insurance company, or authorized representative, with the appropriate title type indicated. The insured owner's name as

indicated on the affidavit by the applicant must be reflected as an owner of the vehicle on the Oklahoma title record.

710:60-5-98. Unobtainable Ownership Documentation Affidavit (OTC Form 780-B)

This affidavit is required when an insurance company makes application for a salvage certificate of title pursuant to the provisions of 47 O.S. § 1105 (P). The affidavit is to be completed in its entirety by the applying insurance company, or authorized representative. The insured owner's name as indicated on the affidavit by the applicant must be reflected as an owner of the vehicle on the Oklahoma title record. Photocopies of the statutorily mandated two (2) written contact attempts directed to the insured owner must be affixed. At least thirty (30) days must elapse since the date of settlement acceptance by the insured, before this affidavit may be submitted.

SUBCHAPTER 9. MOTOR VEHICLE LICENSE AGENTS/AGENCIES

PART 13. PROVISIONS FOR MOTOR LICENSE AGENT APPLICATION AND APPOINTMENT

710:60-9-137. Appointment

(a) Based upon the findings of a feasibility study performed by the Commission and other information as may be deemed applicable, the ~~Administrator~~Executive Director of the Commission may, at ~~the Administrator's~~his or her discretion, make motor license agent appointment recommendations to the Commission.

(b) The successful applicant will be furnished a letter of appointment.

(c) If the applicant is rejected, the applicant will be forwarded a notification of rejection along with the reason for rejection.

(d) The successful applicant must accept or reject the appointment, in writing, within thirty (30) days of the appointment letter.

(e) If the applicant accepts the appointment, the applicant will be required to open the agency within fifteen (15) days after acceptance of the appointment, unless a time extension is granted by the Commission.

710:60-9-138. Suspension of appointment

When determined to be in the public interest, the Executive Director of the Commission may order an immediate, temporary suspension of a motor license agent's operation, pending review and appropriate action by the Commission.

[OAR Docket #13-950; filed 5-29-13]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 60. MOTOR VEHICLES

[OAR Docket #13-949]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 8. Rental Tax on Motor Vehicle Rentals [REVOKED]
710:60-8-1 [REVOKED]
710:60-8-2 [REVOKED]
710:60-8-3 [REVOKED]
710:60-8-4 [REVOKED]
710:60-8-5 [REVOKED]
710:60-8-6 [REVOKED]
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DATES:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Subchapter 8, which outlines the application of rental tax on certain rentals of motor vehicles with durations of ninety days or less, has been revoked from *Chapter 60 Motor Vehicles* and added as Subchapter 4 to *Chapter 95 Miscellaneous Areas of Regulatory and Administrative Authority*.
CONTACT PERSON:
Lisa R. Haws, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, Ok 73194, 405-521-3133.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

SUBCHAPTER 8. RENTAL TAX ON MOTOR VEHICLE RENTALS [REVOKED]

710:60-8-1. Purpose [REVOKED]

~~The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq. and to facilitate~~

~~the administration, enforcement, and collection of the levy enacted by the Oklahoma Legislature pursuant to 68 O.S. §2110.~~

710:60-8-2. Definitions [REVOKED]

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

~~**"Lease agreement"** or **"rental agreement"** will be used synonymously when referencing a single agreement by which an owner gives exclusive use of a vehicle to another for a period of ninety (90) days or less, for a consideration.~~

~~**"Motor vehicle"**, as used in this Subchapter means an automobile, bus, or Class A, B, C commercial motor vehicle or Class D motor vehicle as those terms are defined by Title 47 of the Oklahoma Statutes.~~

710:60-8-3. Applicability of the rental tax on motor vehicle rentals [REVOKED]

~~(a) **General provisions.** The tax levied on the rental of motor vehicles is assessed on all rental agreements, except those agreements made with agencies of the United States government and with those federal instrumentalities upon which the states are prohibited from levying a tax by specific provision of the United States Code, such as federally chartered credit unions.~~

~~(b) **Transactions to which the tax is inapplicable.** The rental tax on motor vehicles is not applicable to:~~

~~(1) An agreement termed a "lease agreement", if in excess of ninety (90) days in duration.~~

~~(2) A single agreement termed a "rental agreement", if more than 90 days in duration. However, if a rental business and its customer sign more than one agreement, and the term of each agreement is less than 90 days, the tax applies even though the agreements are to run consecutively and sum of the number of days covered by the agreements exceeds 90 days.~~

~~(3) A rental agreement for any truck or truck tractor registered pursuant to the provisions of 47 O.S. §§ 1120 or 1133, having a laden weight or combined laden weight of eight thousand (8,000) pounds or more.~~

~~(c) **Rental tax in lieu of Motor Vehicle Excise Tax only; other taxes may be applicable.** The rental tax on motor vehicle rentals is not in lieu of sales tax, nor tourism tax, either of which may be due on the gross receipts of the rental. The rental tax is due on all rental agreements, except those described in (b) of this Section and 68 O.S. Sections 2110(A)(1) (3), even if the consumer entering into the rental agreement is exempt from sales tax.~~

710:60-8-4. Collection, reporting, remittance of the tax; interest and penalties [REVOKED]

~~(a) The tax is to be collected by the rental business at the time of the payment of the rental agreement.~~

~~(b) The following filing requirements apply to all taxpayers required to report and remit tax on motor vehicle rentals:~~

~~(1) Taxpayers must report the tax on forms prescribed and furnished by the Oklahoma Tax Commission.~~

~~(2) Returns are due on the 20th day of each month, for the liability incurred the previous calendar month. However, taxpayers who are permitted to file semiannual sales tax reports pursuant to 68 O.S. § 1365(B) may file semiannual Rental Tax Reports and remit taxes due thereunder to the Tax Commission on or before the 20th day of January and July of each year for the preceding six-month period.~~

~~(c) If payment of the tax is not postmarked or delivered to the Oklahoma Tax Commission on or before the 20th of the month, the tax shall be delinquent from that date. Reports timely mailed shall be considered timely filed. If a remittance is not timely made, interest at the rate of one and one-fourth percent ($1\frac{1}{4}$%) per month shall be charged from the date the remittance should have been made until the tax is actually paid.~~

~~(d) If payment of the tax due is not made within thirty (30) days of the due date, a ten percent (10%) penalty will be applied.~~

710:60-8-5. Recordkeeping [REVOKED]

~~All persons required to collect, report, and remit rental tax on motor vehicle rentals must make and preserve adequate records of sales and other pertinent information, including copies of rental agreements, to substantiate the amount of tax due. An establishment wherein only a portion of the gross receipts are subject to the rental tax on motor vehicle rentals must maintain records of its sales adequate to differentiate those sales which are not subject to the tax.~~

710:60-8-6. Examples and applications [REVOKED]

~~(a) The tax is due on all rental agreements for motor vehicles generally known as automobiles, pickups, "light" trucks and truck tractors (less than 8,000 pounds) or, if greater than 8,000 pounds, trucks and truck tractors which are not registered as commercial vehicles or registered pursuant to the International Registration Plan. The rental tax applies also to the rental of recreational vehicles, as defined by 47 O.S. § 1-152.1, but is inapplicable to the rental of trailers or commercially registered trailers.~~

~~(b) The tax is to be collected on rental agreements where possession of the vehicle is transferred in Oklahoma, to the person who is renting the vehicle, regardless of where the vehicle is to be used, returned, or where or how payment is to be made.~~

~~(c) The tax is levied on all proceeds received for the rental of the motor vehicle, including any charges for optional collision damage waivers, cleaning, drop-off charges or any other charges, with the exception of a per gallon charge for fuel.~~

~~(d) If a motor vehicle, as defined in Section 710:60-8-2 is rented, and non-transferrable title was not previously obtained for the vehicle pursuant to 68 O.S. § 2110 and Section 710:60-3-111, the gross receipts of the rental agreement are subject to the vehicle rental tax.~~

~~(e) The tax is also due on the use of a motor vehicle, for which the special registration fees have been paid and non-transferrable title obtained pursuant to 68 O.S. § 2110 and Section 710:60-3-111, by a business for a purpose other than the rental of the vehicle. For example, if the non-transferable title has been obtained for a vehicle and the vehicle is allowed to be~~

~~driven when it is not subject to a rental agreement, or driven for purposes other than to pick up or deliver a prospective customer or facilitate the transfer of vehicles between rental locations, the vehicle rental tax will apply, and must be accrued and remitted based on the lowest rate at which the vehicle would be rented in the normal course of business.~~

[OAR Docket #13-949; filed 5-29-13]

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

[OAR Docket #13-951]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 19. Specific Applications and Examples
Part 1. "A"
710:65-19-11 [AMENDED]
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SUPERSEDED EMERGENCY ACTIONS:
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n/a
ANALYSIS:
Section 710:65-19-11 is amended to clarify the Tax Commission's policy regarding the sales tax treatment of parts, materials and other property utilized by repair shops, service centers and body shops to repair automobiles distinguishing between repair shops that charge a lump sum price for parts and labor and those that make sales of parts and separately charge for labor or installation.
CONTACT PERSON:
Lisa R. Haws, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, Ok 73194, 405-521-3133.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

SUBCHAPTER 19. SPECIFIC APPLICATIONS AND EXAMPLES

PART 1. "A"

710:65-19-11. Automotive ~~transactions~~repair

(a) ~~**Automobile repairers.** Automobile repairers, service centers and body shops ("Repairers") are vendors of repair parts and as such must hold an Oklahoma sales tax permit and collect, report and remit the applicable state and local sales tax on the sales price of any parts, accessories, or other tangible personal property which they furnish to customers in connection with the repair, service, or enhancement of their customers' automobiles.~~**Lump-sum charge for automotive repairs.**Automotive repair shops, service centers and body shops ("repair shops") that charge customers a single price for parts and labor should not collect sales tax from their customers, but instead should pay sales tax to suppliers when purchasing parts, materials and other property used to perform repair service. For example, a repair shop performs a windshield replacement for the lump-sum price of $150.00. The repair shop should pay tax when buying the windshield, gasket, and other items used in the repair, and should not collect tax on any portion of the $150.00 charge to the customer. If a repair shop erroneously charges sales tax, it must remit the tax collected in error or refund the tax to its customer even when sales tax was previously paid on the purchase of the items used in the repair.

(b) ~~**Parts utilized by the repairer.** Repairers, holding a sales tax permit, may purchase parts and materials sold in connection with automobile repair, exempt from sales tax. Charges for labor to install the parts, accessories and similar property are not subject to tax if such charges are separately stated on the customers' invoices; otherwise, the total charges are subject to tax. Repairers are considered consumers of supplies e.g., shop rags, safety glasses, masking tape, tools, equipment, and related materials that are not incorporated by Repairer into its customer's automobile when the repair service is performed and therefore sales or use tax is due and payable at the time of purchase of such items.~~**Separately stated sales of parts and other property.** Repair shops making sales of parts and other property and separately charging customers for labor or installation are required to hold a sales tax permit and collect sales tax on the gross receipts attributable to the sales of parts and other property. Separately stated labor/installation charges are not subject to sales tax. Pursuant to its sales tax permit, a repair shop can purchase parts and other property which are furnished to customers in connection with the automobile repair service without the payment of tax. For example, if a repair shop replaces a car windshield for $50.00 labor and $100.00 for a windshield and gasket, it can purchase the windshield and gasket exempt from sales tax and must collect tax on the $100 separately stated charge for parts.

(c) ~~**Wheel balancing.** The balancing of wheels of automobiles is a service by the balancer. Receipts from such wheel balancing are not taxable. Where the customer is not separately invoiced for the wheel weights used by a balancer, they are~~

~~considered to be tangible personal property consumed by the wheel balancer and are taxable when sold to him.~~**Body shops deemed consumers of certain materials.** Repair shops are considered the consumer of certain materials outlined in paragraphs (1) and (2) of this subsection utilized in performing repair services and must pay tax on these items at the time of purchase.

(1) **Tools, equipment and supplies utilized by repair shops.** Materials such as shop rags, safety glasses, sandpaper, masking tape, tools, equipment, and related items that are not incorporated into the customer's automobile when the repair service is performed.

(2) **Materials transferred by repair shops to customers in irregular quantities.** Materials used in performing repair services which are transferred to customers in varying volumes or amounts and which the repair shop has determined are incapable of a fixed or definite sales price. The following is a nonexclusive list of items that may be included in the described category of materials.

(A) Paint, primer, paint thinner
(B) Body filler
(C) Undercoating
(D) Spray on bed liner
(E) Lubricants and coolants
(F) Abrasives and or polishing compounds
(G) Window tinting
(H) Glues, resins, sealants, and adhesives
(I) Cleaning solvents and other related chemicals

(d) ~~**Sales of weights used by wheel balancers.** Sales of weights used by wheel balancers for which a separate charge is made to their customers, are sales for resale, provided the wheel balancer has a valid sales tax permit.~~**Erroneously charged sales tax.** If a repair shop charges and collects sales tax in error, it must remit the tax collected in error or refund the tax to its customer.

[OAR Docket #13-951; filed 5-29-13]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 90. WITHHOLDING

[OAR Docket #13-952]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Returns and Payments
710:90-3-4 [AMENDED]
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SUPERSEDED EMERGENCY ACTIONS:
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INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Proposed amendments to **Subchapter 3**, "*Returns and Payments*" have been made to implement the provisions of House Bill 2576 which modified certain withholding tax remitters reporting requirements and changed the date late payment penalty is imposed for wage, royalty and pass through withholding.
CONTACT PERSON:
Lisa R. Haws, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, Ok 73194, 405-521-3133.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

SUBCHAPTER 3. RETURNS AND PAYMENTS

710:90-3-4. Payment of tax and ~~Filing~~filing of tax returns

(a) Every employer required to deduct and withhold Oklahoma Income Tax from employee wages shall pay over the amount so withheld to the Tax Commission pursuant to the schedule outlined in subsections (b), (c) and (e) of this Section. Employers, regardless of date of remittance schedules, shall file a quarterly return ~~and remit the tax withheld to the Commission~~ on or before the twentieth (20th) day of the month following the close of each quarter. Quarterly returns shall be filed on a calendar year basis and not a fiscal year basis.

(b) Every employer owing an average of less than Five Hundred Dollars ($500.00) per quarter in taxes in the previous fiscal year must remit the amount withheld on or before the twentieth (20th) day of the month following the close of each succeeding quarter.

(c) Except as specified in subsection ~~(c)~~(e), if the amount of Oklahoma Income Tax withheld exceeds Five Hundred Dollars ($500.00) for any quarter, the employer is required to ~~file and~~ remit the taxes withheld monthly, for each monthly period after the quarter in which taxes withheld exceeded Five Hundred Dollars ($500.00). ~~Such monthly reports~~ Such tax remittances shall be due on or before the twentieth (20th) day of each succeeding month.

(~~c~~d) Every ~~employer owing an average of Five Thousand Dollars ($5,000.00) or more per month in taxes in the previous fiscal year and every~~ employer required to remit federal withholding under the Federal Semiweekly Deposit Schedule shall file returns pursuant to the Tax Commission's electronic data interchange program.

(~~d~~e) Every ~~employer owing an average of Ten Thousand Dollars ($10,000.00), or more, per month in taxes for the previous fiscal year and every~~ employer required to remit federal withholding under the Federal Semiweekly Deposit Schedule, shall pay over the amount so withheld on the same dates as required under the Federal Semiweekly Deposit Schedule for federal withholding taxes.

(1) ~~Employers exceeding the Ten Thousand Dollar threshold will be notified annually in writing by the Commission to begin payments under the Federal Semiweekly Deposit Schedule.~~

~~(2) For employers making payments other than by electronic funds transfer, a withholding return shall be filed with each payment.~~

~~(3) For employers making payments by electronic funds transfer, a withholding return shall not be required to be filed with each payment.~~

~~(4) Employers shall file withholding returns pursuant to the Tax Commission's electronic data interchange program on or before the twentieth day of the month following the close of each monthly period.~~

~~(5)~~ If a payment is required to be made on a day that is not a banking day, the payment is considered timely if it is made by the close of the next banking day. In addition to Federal and State bank holidays, Saturdays and Sundays are treated as non-banking days.

(~~6~~2) Semiweekly schedule employers have at least three (3) banking days to make a payment. If any of the three (3) weekdays after the end of a semiweekly period is a banking holiday, the employer will have one (1) additional banking day for payment.

~~(e) An employer, who because of an unusual and nonrecurring event or occurrence withholds Five Hundred Dollars ($500.00) or more for any quarter, may apply to the Commission for permission to remain on a quarterly filing frequency status. To qualify, the employer must substantiate that such occurrence is not an accurate reflection of the normal or expected future amounts to be withheld. Employer filing records must substantiate that for the four (4) consecutive quarters preceding the occurrence, Oklahoma Withholding Tax liability has been less than Five Hundred Dollars ($500.00) each quarter. It should be clearly understood that a change from monthly to quarterly filing cannot be commenced until official permission from the Commission is received in writing.~~

~~(1) There are certain conditions that could cause denial or revocation of this authorization by the Commission:~~

~~(A) If the employer is or becomes delinquent in either the filing of the return or the payment of the taxes due thereon; or~~

~~(B) In the event that for any subsequent quarterly period the liability of an employer who has been authorized to file returns and to make payments quarterly exceeds Five Hundred Dollars ($500.00) in Withholding Tax for any one quarter; or~~

~~(C) In the event that the Commission determines that any such quarterly filing or return any payment of tax due thereon would unduly jeopardize the proper administration of the Oklahoma Withholding Tax Law.~~

~~(2) If the Commission decides it is necessary to revoke the authorization to file quarterly in relation to any of the conditions in (1) of this subsection, the taxpayer will be required to file returns and pay the tax due on a monthly basis.~~

(f) Any returns and remittances not filed or paid on or before the date due shall be considered delinquent.

(g) Every employer registered with the Commission for purposes of reporting and remitting withheld taxes shall file a return for each reporting period required, whether or not wages subject to Oklahoma Withholding Taxes are paid, unless otherwise provided. On the return for such a reporting period, the employer should indicate that zero wages were paid and that no tax is due. [**See:** 68 O.S. Section 2385.3]

[OAR Docket #13-952; filed 5-29-13]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND ADMINISTRATIVE AUTHORITY

[OAR Docket #13-953]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 3. Telecommunication for the Hearing-Impaired Surcharge
710:95-3-3 [AMENDED]
Subchapter 4. Rental Tax on Motor Vehicle Rentals [NEW]
710:95-4-1 [NEW]
710:95-4-2 [NEW]
710:95-4-3 [NEW]
710:95-4-4 [NEW]
710:95-4-5 [NEW]
710:95-4-6 [NEW]
Subchapter 5. Used Tire Recycling
710:95-5-3 [AMENDED]
710:95-5-8 [AMENDED]
710:95-5-9 [AMENDED]
Subchapter 22. Registration Requirements for Resident and Nonresident Contractors [NEW]
710:95-22-1 [NEW]
710:95-22-2 [NEW]
710:95-22-3 [NEW]
710:95-22-4 [NEW]
710:95-22-5 [NEW]
710:95-22-6 [NEW]
710:95-22-7 [NEW]
710:95-22-8 [NEW]
710:95-22-9 [NEW]

AUTHORITY:
Oklahoma Tax Commission; 27A O.S. § 2-11-401.6; 68 O.S §§ 203, 1709 & 2110

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n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
Subchapter 3 has been amended to conform to the provisions of Section 3 of House Bill 2576 which changed the due date for the telephone surcharge from 15 to 20 days following the end of each quarter. [**63:2418**]
New Subchapter 4 and the new sections contained therein have been added to outline the application of rental tax on certain rentals of motor vehicles with durations of ninety days or less. [**68:2110**]
Subchapter 5 has been amended in accordance with Senate Bill 441 [2010] which related to the imposition of the used tire recycling fee on tires to be used on implements of husbandry and agricultural equipment.
New Subchapter 22 has been added to implement the provisions of House Bill 2258 which provides for imposition of fines for contractors violating certain registration requirements and misclassifying employees as independent contractors with the intent to affect tax payments. [**68:1708**]
CONTACT PERSON:
Lisa R. Haws, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, Ok 73194, 405-521-3133.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2013:

SUBCHAPTER 3. TELECOMMUNICATION FOR THE HEARING-IMPAIRED SURCHARGE

710:95-3-3. Telecommunications for the hearing-impaired surcharge

(a) The Telecommunications for the Hearing-Impaired Act levies a five cent per month surcharge on each access line provided by a local exchange telephone company. The surcharge must be added to the subscriber's telephone bill, unless the subscriber is exempt from sales tax.
(b) The local exchange telephone company shall remit the surcharge to the Oklahoma Tax Commission, on forms prescribed, on or before the ~~15th~~20th day of the month following the end of each quarter.
(c) When the balance of the Hearing Impaired Revolving Fund equals the three-year average of expenditures, collection of the surcharge by the local exchange telephone company will temporarily stop. Collection of the surcharge is to be resumed when the account balance has been reduced to one-half the original surplus.
(d) The Taxpayer Assistance Division will notify, in writing, the local exchange telephone companies on the effective date of the moratorium on collections. Subscribers shall not be billed for the surcharge for any billing cycle that begins on or after the moratorium effective date.
(e) When the Fund balance requires the surcharge to be resumed, the Taxpayer Assistance Division will notify the local exchange telephone companies, in writing, the effective date of resumption of the surcharge. Subscribers shall be billed and the surcharge on the next billing cycle that begins on or after the effective date the charge is to be resumed. [**See:** 63 O.S. §§2418-2419]

SUBCHAPTER 4. RENTAL TAX ON MOTOR VEHICLE RENTALS

710:95-4-1. Purpose

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq. and to facilitate the administration, enforcement, and collection of the levy enacted by the Oklahoma Legislature pursuant to 68 O.S. §2110.

710:95-4-2. Definitions

The following words and terms, when used in the Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:
"Lease agreement" or **"rental agreement"** will be used synonymously when referencing a single agreement by which an owner gives exclusive use of a vehicle to another for a period of ninety (90) days or less, for a consideration.
"Motor vehicle", as used in this Subchapter means an automobile, bus, or Class A, B, C commercial motor vehicle or Class D motor vehicle as those terms are defined by Title 47 of the Oklahoma Statutes.

710:95-4-3. Applicability of the rental tax on motor vehicle rentals

(a) **General provisions.** The tax levied on the rental of motor vehicles is assessed on all rental agreements, except those agreements made with agencies of the State of Oklahoma, the United States government and with those federal instrumentalities upon which the states are prohibited from levying a tax by specific provision of the United States Code, such as federally-chartered credit unions.
(b) **Transactions to which the tax is inapplicable.** The rental tax on motor vehicles is not applicable to:
(1) An agreement termed a "lease agreement", if in excess of ninety (90) days in duration.
(2) A single agreement termed a "rental agreement", if more than ninety (90) days in duration. However, if a rental business and its customer sign more than one agreement, and the term of each agreement is less than ninety

(90) days, the tax applies even though the agreements are to run consecutively and sum of the number of days covered by the agreements exceeds ninety (90) days.

(3) A rental agreement for any truck or truck-tractor registered pursuant to the provisions of 47 O.S. §§ 1120 or 1133, having a laden weight or combined laden weight of eight thousand (8,000) pounds or more.

(c) **Rental tax in lieu of motor vehicle excise tax only; other taxes may be applicable.** The rental tax on motor vehicle rentals is not in lieu of sales tax, which may be due on the gross receipts of the rental. The rental tax is due on all rental agreements, except those described in (b) of this Section and 68 O.S. Sections 2110(A)(1)-(3), even if the consumer entering into the rental agreement is exempt from sales tax.

710:95-4-4. Collection, reporting, remittance of the tax; interest and penalties

(a) The tax is to be collected by the rental business at the time of the payment of the rental agreement.

(b) The following filing requirements apply to all taxpayers required to report and remit tax on motor vehicle rentals:

(1) Taxpayers must report the tax on forms prescribed and furnished by the Oklahoma Tax Commission.

(2) Returns are due on the 20th day of each month, for the liability incurred the previous calendar month. However, taxpayers who are permitted to file semiannual sales tax reports pursuant to 68 O.S. § 1365(B) may file semiannual Rental Tax Reports and remit taxes due thereunder to the Tax Commission on or before the 20th day of January and July of each year for the preceding six-month period.

(c) If payment of the tax is not postmarked or delivered to the Oklahoma Tax Commission on or before the 20th of the month, the tax shall be delinquent from that date. Reports timely mailed shall be considered timely filed. If a remittance is not timely made, interest at the rate of one and one-fourth percent ($1\frac{1}{4}$ %) per month shall be charged from the date the remittance should have been made until the tax is actually paid.

(d) If payment of the tax due is not made within thirty (30) days of the due date, a ten percent (10%) penalty will be applied.

710:95-4-5. Recordkeeping

All persons required to collect, report, and remit rental tax on motor vehicle rentals must make and preserve adequate records of sales and other pertinent information, including copies of rental agreements, to substantiate the amount of tax due. An establishment wherein only a portion of the gross receipts are subject to the rental tax on motor vehicle rentals must maintain records of its sales adequate to differentiate those sales which are not subject to the tax.

710:95-4-6. Examples and applications

(a) The tax is due on all rental agreements for motor vehicles generally known as automobiles, pickups, "light" trucks and truck tractors (less than 8,000 pounds) or, if greater than 8,000 pounds, trucks and truck tractors which are not registered as commercial vehicles or registered pursuant to the International Registration Plan. The rental tax applies also to the rental of recreational vehicles, as defined by 47 O.S. § 1-152.1, but is inapplicable to the rental of trailers or commercially-registered trailers.

(b) The tax is to be collected on rental agreements where possession of the vehicle is transferred in Oklahoma, to the person who is renting the vehicle, regardless of where the vehicle is to be used, returned, or where or how payment is to be made.

(c) The tax is levied on all proceeds received for the rental of the motor vehicle, including any charges for optional collision damage waivers, cleaning, drop-off charges or any other charges, with the exception of a per-gallon charge for fuel.

(d) If a motor vehicle, as defined in Section 710:95-4-2 is rented, and non-transferrable title was not previously obtained for the vehicle pursuant to 68 O.S. § 2110 and Section 710:60-3-111, the gross receipts of the rental agreement are subject to the vehicle rental tax.

(e) The tax is also due on the use of a motor vehicle, for which the special registration fees have been paid and non-transferrable title obtained pursuant to 68 O.S. § 2110 and Section 710:60-3-111, by a business for a purpose other than the rental of the vehicle. For example, if the non-transferable title has been obtained for a vehicle and the vehicle is allowed to be driven when it is not subject to a rental agreement, or driven for purposes other than to pick up or deliver a prospective customer or facilitate the transfer of vehicles between rental locations, the vehicle rental tax will apply, and must be accrued and remitted based on the lowest rate at which the vehicle would be rented in the normal course of business.

SUBCHAPTER 5. USED TIRE RECYCLING

710:95-5-3. Used tire recycling fee

(a) **Applicability of the fee.** The fee levied by the Oklahoma Used Tire Recycling Act is assessed in the following instances:

(1) All sales of tires for motor vehicles, whether used on or off road, and all sales of tires that are not more than fourteen (14) inches wide and forty-four (44) inches in diameter for implements of husbandry and agricultural equipment.

(2) All first registrations of motor vehicles required to be registered, except those registered under a proportional registration plan, as provided by 47 O.S. § 1120;

(b) **Amounts.** The amount of the fee due will be determined based upon the size of the tire rim or use of the tire, as follows:

(1) $2.50 per tire, where the tire rim diameter is less than or equal to nineteen and one-half 19 $\frac{1}{2}$") inches;

(2) $3.50 per tire, where the tire rim diameter if greater than nineteen and one-half (19 $\frac{1}{2}$") inches.

(3) $1.00 per tire, for tires to be used on motorcycles, minibikes, motor-driven cycles, or motorized bicycles.

(4) Beginning July 1, 2010 through June 30, 2013, a fee of five cents ($0.05) per pound of the weight of the tire with a minimum fee of Two Dollars and fifty cents ($2.50) per tire, for tires to be used on implements of husbandry

and agricultural equipment that are not more than fourteen (14) inches wide and forty-four (44) inches in diameter.

(5) Beginning July 1, 2013, a fee of five cents ($0.05) per pound of the weight of the tire with a minimum fee of Two Dollars and fifty cents ($2.50) per tire, for all tires to be used on implements of husbandry and agricultural equipment.

(c) **Report.** The Commission shall provide a report, on a monthly basis, to the DEQ of the fees remitted by each tire dealer and motor license agent.

(d) **Payments.** Upon receipt of monthly reports from the DEQ, the Commission will issue payments from the Fund to qualified applicants.

710:95-5-8. Transactions to which the fee is inapplicable

(a) The Oklahoma Used Tire Recycling Fee is not applicable to sales for resale to holders of valid Oklahoma Sales Tax Permits who are in the business of selling tires. The sale for resale provision will only be valid if the purchaser holds an Oklahoma resale permit and actually resells the tires. The fee applies to tires sold to mechanics or others not holding sales tax permits.

(b) Pursuant to 27A O.S.Supp.2002. § 2-11-403(A)(3), the Oklahoma Used Tire Recycling Fee is not applicable to the sale of a used tire by a tire dealer on which the used_tire fee has previously been paid, provided that the tire dealer can document that the tire carcass was one on which the fee was previously paid when the tire was originally purchased, either as a new tire or as a used tire, or when the vehicle upon which it was mounted was first registered in Oklahoma. This documentation may consist of a copy of the bill of sale, invoice, or other document showing when, where, by whom, and the circumstances under which the fee was collected.

(c) The Oklahoma Used Tire Recycling Fee is not applicable to the transfer of a tire carcass by a tire owner to a tire recapper, who after completion of the recapping, delivers the recapped tire back to the owner of the tire, since no sale of the tire has been ~~make~~made, but rather, a service has been performed.

(d) The Oklahoma Used Tire Recycling Fee is not applicable to the sale of a recapped tire by a tire dealer where the fee has previously been paid and the documentation described in (b) of this Section has been obtained.

(e) No fee shall be assessed by a tire dealer if the customer retains the used agricultural tire for use on a farm or ranch.

710:95-5-9. Examples

(a) **Transactions to which fee is applicable.** The used tire recycling fee applies to the transactions and vehicles indicated in (1) through (8) of this subsection:

(1) Cars and light trucks.

(2) Motorcycles and mopeds.

(3) School buses and automobiles owned by schools.

(4) Tires sold to governmental agencies.

(5) Tires sold for farm tagged motor vehicles.

(6) Tires sold for commercial trucks, truck-tractor (semi-trucks), and trailers.

(7) First registration in Oklahoma of automobiles, motorcycles, mopeds, or trucks, including farm tagged motor vehicles and commercial motor vehicles which are not registered under the International Registration Plan.

(8) Tires ~~that are not more than fourteen (14) inches wide and forty-four (44) inches in diameter~~ sold for implements of husbandry and agricultural equipment.

(b) **Transactions to which fee is not applicable.** The used tire recycling fee does not apply to the transactions and vehicles indicated in (1) through (11) of this subsection:

(1) Airplanes.

(2) Bicycles.

(3) Riding lawn mowers.

(4) Wheelbarrows.

(5) Push mowers.

(6) Forklifts.

~~(7) Prior to July 1, 2013, tires that are more than fourteen (14) inches wide and forty-four (44) inches in diameter for agricultural equipment and implements of husbandry including devices designed and adapted to be used exclusively for agricultural, horticultural, or livestock raising purposes, including:~~

~~(A) Farm tank-type wagons of less than 1200 gallons capacity;~~

~~(B) Trailers and semitrailers exclusively used to and from the farm to market; and~~

~~(C) Utility, all-terrain vehicles of less than 1500 pounds which are equipped and used for farm or ranch operations.~~

(~~8~~7) Tires sold for backhoe, grader, and other construction machinery.

(~~9~~8) First registration in Oklahoma of vehicles registered under the International Registration Plan.

(~~10~~9) All-terrain vehicles.

(~~11~~10) Off-road motorcycles.

SUBCHAPTER 22. REGISTRATION REQUIREMENTS FOR RESIDENT AND NONRESIDENT CONTRACTORS

710:95-22-1. Definitions

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

"Awarding public agency" means the public agency which solicits and receives sealed bids on a particular public construction project.

"Contractor" shall have the same meaning as provided in Section 1701(1) of Title 68 of the Oklahoma Statues, and includes "**Resident Contractor**" and "**Non-Resident Contractor**" as defined in paragraphs (2) and (3) of Section 1701 of Title 68.

"Public agency" means the State of Oklahoma, and any county, city, town, school district or other political subdivision of the state, any public trust and any department, agency, board, bureau, commission, committee or authority of any of the foregoing public entities.

"Public construction project" means any project awarded by a public agency for the purpose of making any public improvements or constructing any public building or making repairs to or performing maintenance on the same.

710:95-22-2. Requirement for contractors to possess certain employer identification numbers

(a) **Requirement for employer identification numbers.** Resident and nonresident contractors must have in their possession employer identifications numbers issued to them by the Oklahoma Tax Commission, Oklahoma Employment Security Commission, Internal Revenue Service and Social Security Administration. [**See**: 68 O.S. § 1701.1]

(b) **Exceptions.** The requirement set forth in subsection (a) of this Section does not apply under the following circumstances:

(1) A contract for an entire project requiring services of less than three (3) employees.

(2) A resident contractor constructing a single family dwelling when the total cost of the project is less than the average sales price of a single family dwelling in this state as set each year by the National Association of Home Builders.

710:95-22-3. Requirement for contractors to provide proof of employer identification numbers

A contractor bidding on a public construction project shall, upon written request by an awarding public agency, provide proof of the employer identification numbers issued to the contractor by the Oklahoma Tax Commission, Oklahoma Employment Security Commission, the Internal Revenue Service and the Social Security Administration.

710:95-22-4. Fines for violating contractor requirements

A contractor who fails to provide proof of employer identification numbers, upon written request, as provided in Section 710:95-22-3 or who performs work in this state as a resident or nonresident contractor without registering for employer identification numbers with the Oklahoma Tax Commission, the Oklahoma Employment Security Commission, the Internal Revenue Service and the Social Security Administration, as required by Section 1701.1 of Title 68 of the Oklahoma Statutes, shall be subject to the following:

(1) First violation, a fine in an amount not to exceed the lessor of 10% of the contractor's total bid or $500.00.

(2) Second violation, a fine in an amount not to exceed the lessor of 10% of the contractor's total bid or $1,000.00.

(3) Third and subsequent violations, a fine in an amount not to exceed ten percent (10%) of the contractor's total bid.

710:95-22-5. Complaints

(a) **Complaints.** Complaints of awarding public agencies that a contractor, upon written request, failed to provide the information as required by *OAC* 710:95-22-3 along with complaints that contractors are performing work in this state without properly registering for employer identification numbers with the Oklahoma Tax Commission, the Oklahoma Employment Security Commission, the Internal Revenue Service and the Social Security Administration should be forwarded to the Taxpayer Assistance Division, Oklahoma Tax Commission.

(b) **Complaint review.** Taxpayer Assistance Division will review the complaint and investigate whether the contractor, about which the complaint was made, is properly registered with the agencies referenced in subsection (a) of this Section.

(c) **Determination of improper registration.** Upon a determination by the Taxpayer Assistance Division that a contractor is not properly registered with some or all of the required agencies, the Taxpayer Assistance Division will provide a written advisement of the determination to the Compliance Division along with a copy of the Complaint.

(d) **Fine imposition.** Upon receipt of the advisement, the Compliance Division shall impose a fine in writing in accordance with *OAC* 710:95-22-4. The Fine Notification will be sent by the U.S. Postal Service to the contractor's address provided on the awarding agency's complaint or to the address of the contractor available to the Tax Commission.

710:95-22-6. Fine for misclassification of employees

A contractor who intentionally misclassifies employees as independent contractors with intent to affect procedures and payments related to withholding and social security, unemployment tax or worker's compensation shall be fined in an amount not to exceed 10% of the contractor's total bid.

710:95-22-7. Fine referral, imposition and notification

(a) **Fine referrals.** Referrals for imposition of the fine provided in *OAC* 710:95-22-6 may be made by the Oklahoma Employment Security Commission, Labor Department, or Compsource after an investigation and determination by the referring agency that a contractor has intentionally misclassified its employees. The referral along with all documentation supporting the referring agency's determination should be submitted to the Compliance Division.

(b) **Fine imposition.** Upon receipt and review of the referral and supporting documentation the Compliance Division shall impose the fine in accordance with 710:95-22-6. The Compliance Division shall also impose the fine provided in 710:95-22-6 when determining upon its audit or investigation that a contractor has intentionally misclassified employees with intent to affect procedures and tax payments.

(c) **Fine Notification.** Fine Notifications will be sent by the U.S. Postal Service to the contractor's address provided on the agency's referrals or to the address of the contractor available to the Tax Commission.

710:95-22-8. Fine review procedures

(a) **Review request.** A contractor who disagrees with a fine imposed pursuant to 710:95-22-4 and 710:95-22-6 may request within thirty (30) days of mailing of the Fine Notification that the fine be reviewed by the Compliance Division.

(b) **Contents of request.** The request must be in writing, submitted to the Compliance Division at P.O. Box 269062, Oklahoma City, OK 73126-9062,and state the basis for the contractor's belief that the fine is issued in error. Documentation supporting the contractor's statement must accompany the request.

(c) **Conditions of fine withdrawal.** The fine(s) will be withdrawn under the stated circumstances:

(1) The Compliance Division determines that the fine(s) was issued in error.

(2) The Compliance Division finds that the contractor subsequent to the imposition of the fine provided for in 710:95-22-4 obtained the required employer identification numbers.

(d) **Contents of notification when fine not withdrawn.** If the Compliance Division does not agree that the fine should be withdrawn, the contractor shall be so notified in writing by the Compliance Division. The notification shall prominently state that if the contractor disagrees with the Compliance Division's final determination, the contractor must file, within 30 days of mailing of the notification, a protest with the General Counsel's Office of the Oklahoma Tax Commission at 120 North Robinson, Suite 2000W, Oklahoma City, Oklahoma 73102-7801.

(e) **Protests.** Upon receipt, the General Counsel's Office shall forward the protest to the Office of the Administrative Law Judge to be set for hearing.

710:95-22-9. Hearing procedures governing fine protests

(a) **Hearing notice.** A notice shall be issued to the contractor requiring him to appear before an Administrative Law Judge to show that the fine was issued in error. At least fifteen (15) days' notice of the hearing shall be given the parties. The notice shall contain a date, time certain and location for the hearing.

(b) **Show cause hearing.** The contractor may represent himself or be represented by an attorney, accountant, enrolled agent, or a representative approved by the Commission. Evidence and testimony of witnesses may be presented at the hearing and a record will be made in accordance with the Rules of Practice and Procedure before the Administrative Law Judges in 710:1-5-21 through 710:1-5-48.

(c) **Findings, conclusions and recommendations.** Following the hearing, the Administrative Law Judge will issue Findings, Conclusions and Recommendations. For options available to the parties after action of the Administrative Law Judge, refer to OAC 710:1-5-40.

(d) **Commission order.** Following the issuance of the Findings by the Administrative Law Judge, the Commissioners may either adopt or modify in whole or in part the Finding of the ALJ.

(e) **Appeal.** Once the Order of the Commission is issued, the contractor has thirty (30) days from mailing of the order within which to file an appeal with the Oklahoma Supreme Court.

[OAR Docket #13-953; filed 5-29-13]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 37. MANUFACTURED HOME INSTALLERS

[OAR Docket #13-1012]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 6. Definitions [NEW]
765:37-6-1 [AMENDED]
Subchapeter 7. Installation Standards for Ground Sets
765:37-7-1 [AMENDED]
765:37-7-2 [AMENDED]
765:37-7-3 [AMENDED]
765:37-7-4 [AMENDED]
765:37-7-5 [AMENDED]
Subchapter 9. Assesment of Fine or Denial, Suspension, or Revocation of License
765:37-9-3 [NEW]
AUTHORITY:
Oklahoma Used Motor Vehicle and Parts Commission; 47 O.S. Section 582(E)(1); 75 O.S. Section 302(A)(1) and 307
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The United States Department of Housing and Urban Development has enacted rules which affect the education and training of manufactured home installers, the standards for installation of new manufactured homes, and remedies for any party injured by improper manufactured home installations. It is necessary to adopt permanent rules for manufactured home installations of new manufactured homes in the state of Oklahoma to conform state standards with the new federal standards.
CONTACT PERSON:
John W. Maile, Executive Director (405)521-3600

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 11, 2013:

SUBCHAPTER 6. DEFINITIONS

765:37-6-1. Terms used

(a) **Permanent installation.** Installation of a ~~new~~ manufactured home shall be deemed a permanent installation when the certificate of title to the home will be surrendered and the home is intended to be determined to be realty~~.~~, or in any circumstance in which the manufactured home will be occupied for any length of time not a temporary trial basis.

(b) **Temporary installation.** ~~Installation~~Storage of a new manufactured home sited at the manufactured home dealer's lot or the home site pending~~not a~~ permanent installation shall be deemed to be a temporary installation.

(c) **Generic Set.** Installation of a ~~new or~~ previously occupied manufactured home according to the standards set forth in Subchapter 7 hereinafter ~~for temporary installations~~ shall be deemed a generic set.

(d) **HUD Standards and Rules.** All references to "HUD Standards" or "HUD Rules" shall refer to HUD's Model Manufactured Home Installation Standards (24 CFR Part 3285). All references in this Chapter to HUD Rules shall refer to HUD's Manufactured Home Installation Program (24 CFR Part 3286).~~any standard or rule implemented by the United States Department of Housing and Urban Development.~~

SUBCHAPTER 7. INSTALLATION STANDARDS ~~FOR GROUND SETS~~

765:37-7-1. Acceptable procedure

(a) Any new manufactured home stored at any location or in the possession of any entity (retailer, installer, distributor or manufacturer) for more than thirty (30) days must be temporarily supported in accordance with the manufacturer's installation instructions.

(b) All new manufactured homes to be ~~permanently~~ installed in the State of Oklahoma shall be installed, including site preparation, according to HUD's Manufactured Home Model Installation Standards (24 CFR Part 3285) or DAPIA approved manufacturer installation instructions.~~the installation standards set forth in the manufacturer's installation manual.~~

(~~b~~c) Any ~~new~~previously occupied manufactured home to be ~~temporarily~~ installed in the state of Oklahoma may be installed according to the installation standards set forth in the manufacturer's installation manual or according to the installation standards set forth hereinafter (generic set) or an approved plan by a qualified professional licensed engineer.

(~~c~~d) Use of an installer not licensed at the time of the installation by the Oklahoma Used Motor Vehicle and Parts Commission for the installation of any new or previously occupied manufactured home shall be deemed an unacceptable procedure and shall subject any dealer contracting with said unlicensed installer to any liabilities and penalties attributable to such unlicensed activity.

(~~d~~e) In determining the applicable frost line for permanently installed manufactured homes, the installer shall use the ANSI 225.1 map. A frost line of three inches (3") is presumed in McCurtain County. A frost line of three to six inches (3-6") is presumed in Bryan, Choctaw, Atoka, Pushmataha, Latimer, LeFlore, Haskell and Sequoyah Counties. A frost line of ten to fifteen inches (10-15") is presumed in Woods, Major, Garfield, Alfalfa and Grant Counties. A frost line of six to ten inches (6-10") is presumed in all the remaining counties of the state. An installer may rely on verifiable local standards in determining the frost line in any specific location. ~~If a local standard cannot be ascertained the applicable frost line shall be deemed to be the maximum level stated in the county where the home is to be sited.~~When the frost line depth is not available from the local authority having jurisdiction, a registered professional engineer, registered architect or registered geologist must be consulted to determine the required frost line depth.

765:37-7-2. Site preparation

(a) **~~Permanent~~New manufactured home installations.** Site preparations for all ~~permanent~~new manufactured home installations shall conform to HUD standards.

(b) **~~Temporary~~Previously occupied manufactured home installations.** The purchaser or homeowner shall bear the responsibility for adequate site preparation for any installation other than a ~~permanent~~new manufactured home installation, including grading, drainage requirements and utilities connections.

(c) **Notice.** A manufactured home manufacturer and a manufactured home dealer shall notify the purchaser by written notice signed by both parties of the applicable site preparation standards. The dealer may act as the manufacturer's agent in providing said notice to the purchaser.

765:37-7-3. Support Systems

(a) **Footers.** ~~Footers shall consist of three 4"x8"x16" solid concrete blocks positioned with the joints parallel to the I-beam if single blocks are used. When double blocking, the footer joint may be either parallel or perpendicular to the frame. Alternatively, a pad constructed of ABS, steel or treated lumber or plywood meeting the AWPA requirements for ground contact, a minimum of 384 square inches in size and tested to a load-bearing capacity of not less than 6,000 pounds may be used. Other material providing equivalent load-bearing capacity and resistance to decay, and which is approved by either the manufacturer or ANSI 225.1-1994, may be used. All organic material, sod, grassroots and topsoil shall be removed from under the footer to a depth of 3 inches, whereupon an assumption of 2,000 P.S.F. soil may be made.~~ Footing pads, when used , shall consist of three 4 X 8 X 16 solid concrete blocks or a solid 4 X 16 X 16 concrete block or steel, ABS or treated lumber and be at least 20 X 20 in size, tested to a load-bearing capacity of not less than 6,000 pounds, and be installed on a soil with an allowable soil bearing pressure of at least 1,500 P.S.F. unless the site specific information requires the use of lower values based on soil classification and type. If these conditions are encountered, a registered professional engineer, registered architect or licensed geologist shall be consulted to determine the soil bearing pressure and footing sizes required. Other material providing equivalent load-bearing capacity and resistance to decay and which is approved by the manufacturer and its DAPIA may be used. All organic material (i.e., grass, loose

top soil, etc.) must be removed from under each foundation support. The foundation for each manufactured home shall be installed on firm undisturbed soil or fill with at least 90 percent soil compaction. Supporting information, i.e., proper soil testing, such as by a pentrometer, may be used to change the assumed P.S.F.

(b) **Piers.**

(1) Piers up to 36 inches in height as measured from the top of the footer to the bottom of the frame shall be constructed of single 8"x8"x16 ~~two~~ open-celled concrete blocks with cells aligned vertically and 16 inch dimension perpendicular to the I-beam with 2"x8"x16" or 4"x8"x16" solid concrete blocks. Such piers may be capped, between the blocks and the I-beam, with 1"x8"x16" or 2"x8"x16" (nominal) wood plates, not to exceed 3-1/4 inches, and wedges driven from both sides of the I-beam, not to exceed 1 inch in thickness. Alternatively, piers up to 36 inches in height may be manufactured steel piers, provided they are rated, listed and labeled for the required load capacity. Adjustable risers may not extend more than 2 inches when finally positioned. Other engineering-approved, rated and listed systems may be used. Minimum height of any pier, as measured from the top of the footing to the bottom of the I-beam shall be 12 inches.

(2) Piers from 36 inches to ~~80~~67 inches in height as measured from the top of the footer to the bottom of the frame and all corner piers over three blocks high shall be constructed of doubled, interlocked 8"x8"x16" two-celled concrete blocks with cells aligned vertically, topped with two 4"x8"x16" solid concrete blocks. Such piers may be capped between the blocks and the I-beam with not more than two 1"x8"x16" or one 2"x8"x16"(nominal) wood plates, ~~not to exceed3 1/4 inches~~ and wedges driven from both sides of the I-beam not to exceed 1 inch in thickness.

(3) Piers over ~~80~~67 inches in height as measured from the top of the footer to the bottom of the frame shall be designed by a professional engineer or registered architect in accordance HUD standards. ~~constructed as follows. The footers shall consist of a 24"x24"x6" concrete pad poured in place into which have been embedded four 3/8" rebars bent at a 90 degree angle so that at least 12 inches of each bar is embedded with the vertical portion reaching to the height of the topmost hollow celled concrete block to be used in the pier. Doubled, interlocked 8"x8"x16" concrete blocks will then be used to construct the pier. The vertical rebars shall be centered in the open cells of the blocks and the cells filled with concrete. The blocks will be topped with two solid 4"x8"x16" concrete blocks. Such piers may be capped with two 1"x8"x16" or 2"x8"x16"(nominal) wood plates, not to exceed 3 1/4 inches, and wedges driven from both sides of the I-beam, not to exceed 1 inch in thickness.~~

(4) Miscellaneous other pier requirements shall be as follows:

(A) Mating-line or perimeter piers shall be measured from the footer to the bottom of the home~~.~~, and are allowed to up to 12" higher than the I beam piers.

(B) Any concrete footer/pier system that meets or exceeds standards is acceptable.

(c) **Spacing.**

(1) Pier spacing shall be measured from center to center of piers.

(2) For single section homes the center of end piers ~~should~~shall not exceed 2 feet from the frame-ends. Piers are to be placed under each longitudinal mainframe member, not to exceed 6 feet on-center. The frame piers must be installed so that the long sides are at right angles or perpendicular to the main frame member.~~Exterior~~Side wall openings 48 inches or wider, ~~larger~~porch transition,sliding glass doors~~and exterior doors~~ must have perimeter piers, ~~or approved adjustable outriggers,~~installed with the long dimension parallel to the perimeter rail or be supported by additional outriggers or floor joists, or by a 4 X 4 wood timber supporting a minimum of two joists under both sides of the opening. ~~, except when located over a cross member or when such piers are accepted by factory design.~~

(3) For multi-section homes the center of end piers ~~should~~shall not exceed 2 feet from the frame-ends. Piers are to be placed under each longitudinal mainframe member at a spacing, not to exceed 6 feet on-center. The frame piers must be installed so that the long sides are at right angles or perpendicular to the main frame member.~~Exterior~~Side wall openings 48 inches or ~~larger~~wider, porch transition, sliding glass doors~~and exterior doors~~ must have perimeter piers, ~~orapproved adjustable outriggers,~~installed with the long dimension parallel to the perimeter rail or be supported by additional outriggers or floor joists, or by a 4 X 4 wood timber supporting a minimum of two joists, under both sides of the opening~~, except when located over a steel cross member~~. On new homes marriage-line piers shall be located at each position marked on the underside of the home or in accordance with the manufacturer's installation~~by the manufacturer and in accord with printed~~ instructions shipped with each home by the manufacturer, specifying location and required load capacity of each such pier.

765:37-7-4. Anchoring for previously occupied manufactured homes

(a) Ties shall be as evenly spaced as practicable along the length of the home, and the distance from each end of the home and the diagonal tie nearest that end shall not exceed 2 feet. Ties will be spaced no more than 11 feet apart on a side, allowing adjustment for obstructions (any strap spacing may be exceeded by 10%, so long as the average strap spacing does not exceed 11 feet). The number of ties per side will be calculated by the formula: section-length minus 4 feet, divided by the spacing of 11 feet (rounded to next whole number), plus 1 tie. [The result for a 16'x80' (overall length) would be 8 diagonal ties per side.] (This method is based on ANSI 225.1 - 1994)

(b) Over-the-top vertical ties will not be necessary for home 13.5 feet or wider, with 10 feet or less wall height, with I-beams that are 96 inches or more apart, with no evidence that vertical

ties have been cut or removed and with diagonal ties installed extending to the nearest I-beam.

(c) Where a vertical tie and diagonal tie are located at the same place, both ties may be connected to a single anchor, provided that the anchor used is capable of carrying both loadings.

(d) Anchors shall be capable of resisting a minimum total load capacity of 4,725 pounds (2,143 kg) and a working capacity of 3,150 pounds (1,429kg).

(e) All anchoring devices shall be installed in accordance with the anchor manufacturer's instructions, including, but not limited to, the use of approved stabilizer plates or 10" diameter x 18" deep poured concrete cylinders to prevent lateral movement of the anchor through the soil.

(f) Tie down anchors are not required when the home is installed on a FOUNDATION SYSTEM designed by an architect or registered engineer, which is designed to resist all tributary vertical live and dead loads, as well as lateral loads (wind or seismic), for the local conditions.

765:37-7-5. Perimeter skirting for previously occupied manufactured homes

(a) **Skirting.** Skirting, if used shall be of durable materials suitable for exterior exposures. Any lumber used in connection with skirting within 6 inches of the ground shall be pressure treated to prevent decay and termite infestations.

(b) **Ventilation.** Ventilation shall be provided for the crawlspace at a minimum of one square foot of free area for every 150 square feet of the home's floor area. Ventilation may be obtained by:

(1) Ventilation openings shall be placed at or near each corner of the home and shall be located so as to provide cross-ventilation on at least two opposite sides of solid foundations;

(2) Self-ventilating skirting shall be used to satisfy cross ventilation in all other areas.

(c) **Moisture/Vapor retarder.** When ~~manufacturers and/or ANSI 225.1 require that~~ a polyethylene moisture-retarder sheet ~~be~~is placed on the ground underneath the home~~, or require such a vapor retarder,~~ the polyethylene shall be of a thickness of at least six (6) mil. It ~~it~~ is the responsibility of the purchaser or homeowner to see that it is installed.

(d) **Vents and drains.** Dryer vents and air conditioning condensation drains must pass through the skirting to the outside, rather than terminating underneath the home.

SUBCHAPTER 9. ASSESSMENT OF FINE OR DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

765:37-9-3. Enforcement and Inspections for Enforcement of Standards

(a) The Commission shall administer and enforce these provisions. Any person, agent, or organization approved and authorized by the Commission may inspect any installation system and equipment to insure compliance with these rules.

(b) In the event an inspection is required to enforce these provisions, inspections may be made by an approved Third Party Inspector in accordance with Design Approval Primary Inspection Agency (DAPIA) approved manufacturer's installation instructions, engineer design or HUD's Model Manufactured Home Installation Standards (24 CFR Part 3285) for new manufactured homes. An approved third party inspector includes the following: An employee of a participating jurisdiction, individual, employee of a private firm, home inspector having demonstrated proficiency in manufactured homes, or a professional licensed engineer or architect all of whom have been approved by the Commission to perform installation inspections. The Commission shall adopt a standard installation authorization form to be used statewide by the Commission and Certified Inspectors, a standard inspection form, and established minimum inspection requirements. The inspection referred to in this subsection pertains only to the first-time installation of a manufactured home. A copy of the Inspection record shall be maintained by the qualified third party, installer and retailer for a minimum of five (5) years and shall be available for review and inspection by the Commission,

[OAR Docket #13-1012; filed 6-3-13]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 10. ADMINISTRATION AND SUPERVISION

[OAR Docket #13-1027]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. Local Programs, Career Majors or Instructional Positions: Application; Student Accounting; Evaluation
780:10-7-2 [AMENDED]
Subchapter 9. Service Contracts and Equipment Guidelines
780:10-9-2 [AMENDED]
AUTHORITY:
Oklahoma State Board of Career and Technology Education; 70 O.S. 2011, Section 14-103, 70 O.S. 2011, Section 14-104, as amended.
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Failure of the Legislature to disapprove the rules resulted in approval on May 23, 2013.
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n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The rule amendment clarifies the population for which completion and placement information must be reported to the Oklahoma Department of Career and Technology Education. The rule amendment clarifies the inventory policy for all agency purchased instructional equipment.
CONTACT PERSON:
Marie Saatkamp, 405-743-5455

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 15, 2013:

SUBCHAPTER 7. LOCAL PROGRAMS, CAREER MAJORS OR INSTRUCTIONAL POSITIONS: APPLICATION; STUDENT ACCOUNTING; EVALUATION

780:10-7-2. Student accounting system

(a) **Data collection.**

(1) **Report submissions.** Each local education agency or eligible recipient shall submit student accounting reports by the established due dates as instructed by the Information Management Division in their yearly guidebooks.

(2) **Program enrollment data.** Each local education agency or eligible recipient shall submit enrollment information for every student who received *Career*Tech services during the school year or fiscal year as instructed by the Information Management Division in their yearly guidebooks.

(3) **Completion/Follow-Up Report.** ~~All secondary and full-time adult programs that have been designated occupational (skill training) are also required to submit completion data for secondary and adult students as instructed by the Information Management Division in their yearly guidebooks. Follow-up information is required for all students identified as occupational or program completers.~~ Technology centers are required to submit completion data on all students enrolled in career majors. Placement information is required on all students identified as concentrators or career major completers. Placement data is also required on all twelfth grade enrollees in the comprehensive schools.

(4) **Other Requests for Data.** As federal and state requests for data change, other types of data may be requested from each local education agency or eligible recipient. Guidebooks/instructions will be provided from the Information Management Division as needed to explain reporting requirements and due dates.

(b) **Data requests.**

(1) **Student data analysis requests.** All requests for student data analysis shall be directed to the Information Management Division. Specialized or very detailed data analysis should be requested at least three weeks prior to the needed date to allow adequate time for computer programming and/or manual data compilation.

(2) **Documentation; non-staff requests.** All information released shall be dated and documented with the date of request, person to whom data is released, and purpose of data's use. Non-staff information requests will be completed within a reasonable time.

(3) **Release of data.** All data requests that require the release of individual identifiable student data to anyone outside the Department must receive prior approval from the State Director. Third parties receiving such data are to protect against re-disclosure of the information.

SUBCHAPTER 9. SERVICE CONTRACTS AND EQUIPMENT GUIDELINES

780:10-9-2. Equipment

(a) **State-owned equipment.**

(1) **Donated or purchased equipment.** Equipment donated to or purchased by the
Department through reimbursement shall be considered the property of the Department.

(2) **Special funding.** Equipment purchased through special funding, which require that the equipment be used in specific programs, shall be placed in those programs and shall be subject to appropriate state and federal laws, rules and regulations.

(3) **Maintenance.** The receiving institution shall be responsible for maintaining equipment supplied by the Department.

(4) **Closing program.** The Program Administrator of the training program shall notify the Department inventory personnel, in writing, when a program or class is to be terminated or completed.

(b) **Loaning of equipment.** Equipment purchased for use by the Business and Industry Development Division may be loaned to other eligible training sites. The equipment shall be subject to any restrictions and is subject to recall on notice by the Department when needed for industrial training.

(1) The local education authority (LEA) agrees to maintain all equipment covered under loan in the same condition when received from the ODCTE.

(2) It is understood that all equipment is to be insured and maintained in operating condition at the expense of the local education agency (LEA) and that equipment lost or stolen will be replaced at the expense of the local education agency (LEA).

(3) The ODCTE reserves the right to withdraw this equipment at any time after giving a notification of five (5) workdays.

(4) All equipment will be picked up at the close of the training program unless the equipment is used in another Business and Industry training program.

(5) Business and Industry Services equipment is to be used for approved training only, Use for other reasons is

against state statutes and shall be cause for immediate removal of the equipment from the training site.

(c) **Identification.**

(1) **Department Purchased.** All equipment purchased by the Department with a value of $500 or more shall be affixed with an appropriate tag.

(2) **Department Reimbursement.**

(A) All equipment purchased by local education agencies (LEA) and reimbursed by the Department with state funds for Business and Industry Development Programs, with a value of $1000 or more shall be affixed with an appropriate Department asset tag. The equipment will be subject to a five day recall by the Business and Industry Development Division.

(B) Equipment purchased by local education agencies (LEA) and reimbursed by the Department for non-Business and Industry Development Programs with state funds and having a value of $2500 or more shall be affixed with an appropriate Department asset tag.

(C) Equipment purchased by local education agencies (LEA) and reimbursed by the Department based on grant awards, may or may not be added to the Department assets.The grant criteria, and funding will~~shall~~determine if the asset will be tagged. ~~not be required to be tagged as Department assets.~~

(3) **Inventory records.** The Department shall maintain inventory records on all tagged equipment. Identification tags will be assigned by the Department and sent to the local education agency or to the appropriate Department personnel to be affixed to the equipment.

(d) **Accountability.**

(1) **Tagged equipment.** Equipment to be inventoried annually will be mailed to Superintendent or their designee, by the Department, with a request to update the list and return within 60 days unless a physical inventory is conducted by Department inventory personnel

(2) **Adjustments.** The Department, after review of requests, will make necessary adjustments to the inventory.

(e) **Disposal.** Schools requesting items to be removed due to lost, stolen, salvage, or surplus must submit an inventory adjustment form for approval. Department personnel will inspect and/or make recommendations on the request.

(f) **Transfer of Ownership.** In no case shall an equipment transfer be made without advanced approval from Department inventory personnel. The ownership of state-owned equipment may be transferred upon approval of the ~~Board and the State Purchasing Director~~Division Manager, appropriate Senior Staff, and Oklahoma Management and Enterprise Services (OMES), to the local education agency (LEA) in possession of equipment unless said equipment is essential for operation of industry specific or new industry training programs. Department inventory personnel will provide requests to accept and notification of transfers.

(g) **Guidelines.** Equipment procedures and guidelines, and the inventory adjustment forms can be found on the Department Website and will be utilized to enforce these rules.

[OAR Docket #13-1027; filed 6-6-13]

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

[OAR Docket #13-1028]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Technology Centers Education
780:15-3-2. Establishment/Sustainment of a technology center district; sites and buildings [AMENDED]
AUTHORITY:
Oklahoma State Board of Career and Technology Education; 70 O.S. 2011, Section 14-103, 70 O.S. 2011, Section 14-104, as amended.
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ANALYSIS:
The rule amendment provides clarification between a three and five year provisional technology center administrator's credential. The rule change increases the number of college credit hours from eight to nine for the provisional technology center administrator's credentials. The proposed amendment will clarify that the four classes listed are each three hour classes. The change makes it consistent with current average number of college credit hours per course. There are also changes to correct formatting.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 15, 2013:

SUBCHAPTER 3. TECHNOLOGY CENTERS EDUCATION

780:15-3-2. Establishment/Sustainment of a technology center district; sites and buildings

(a) **Establishment.** A technology center district shall be established in accordance with the steps outlined in this section.

(b) **State Board study of proposed technology center district.**

(1) **Proposed district study.** The State Board, upon request of the public school(s) within a proposed district, board of county commissioners, or citizens within a proposed district, shall make a study of the proposed district in regard to the following factors:

(A) Size;

(B) Total population;

(C) Assessed valuation;

(D) Current school enrollments;

(E) Estimated secondary school enrollments;

(F) Estimated full-time adult enrollments;

(G) Other information pertinent to determining the feasibility of a technology center district.

(2) **Costs.** The study shall also include building and equipment costs, as well as estimated annual operating costs.

(3) **Sharing of study information.** The information compiled as a result of the study shall be shared with the local schools and/or county commissioners and other interested persons within the proposed technology center district.

(c) **State Board determination of technology center feasibility.**

(1) **Decision by State Board.** After a study of the proposed technology center district has been completed and reviewed by the interested and affected schools and/or county commissioners, a decision will be reached as to the course of action to be taken. The State Board shall finally determine if the proposed technology center district meets the criteria and requirements prescribed, if there is a need for the district, and if the operation of the district can be adequately funded.

(2) **Valuation of district; waivers.** A proposed technology center district shall have a minimum valuation of $100,000,000 after homestead exemptions. In situations involving low valuations and/or sparsely populated areas where this requirement is not feasible, the State Board, upon presentation of sufficient justification, may give special permission to waive the minimum criteria.

(d) **Presentation of resolutions.**

(1) **Resolutions signees.** If the State Board determines the proposed technology center district is feasible and needed, resolutions shall be presented to the State Board signed by:

(A) Local boards of education of districts desiring to become a part of a technology center district,

(B) A majority of the membership of a board of county commissioners, or

(C) A combination of (A) and (B) of this subsection where there exists a county and school districts outside that county desiring to become a part of the same technology center district.

(2) **Cooperation.** The State Board shall work with the area in order to establish a district that is feasible and will fit into its state plan.

(3) **Established school districts.** The State Board shall protect the attendance area of established technology centers and not approve any part of an existing technology center district for inclusion into a new area district unless that area cannot be served adequately by the existing technology center (Deannexation proceedings may have to be followed first.)

(e) **Technology center district formation election.**

(1) **Call for election.** The State Board shall call an election in each district submitting a resolution, or in each district within a county submitting the resolution, if a technology center district is found to be feasible and needed.

(2) **Election.** An election will be held in each independent and elementary school district, and/or entire county, having territory that would be included in the proposed technology center district, for the purpose of permitting electors of the district to vote on the question of whether the territory comprising the independent or elementary school district, and/or entire county, shall be included in the proposed technology center district.

(f) **Elections relative to the creation of new technology center district (general rules).** The rules of this subsection shall be used for conducting elections relative to the creation of a technology center district, electing the initial board of education, voting the initial operating levy, and for annexation of an independent or elementary school district to an existing technology center district.

(1) **Election date.** The State Board with advice and counsel of local boards of independent and elementary school districts and/or county commissioners shall designate the date on which an election shall be conducted.

(2) **Responsibilities of county election board; State Board.** The State Board shall cooperate with the county election board designated to conduct the election. The county election board shall receive notice from the State Board and shall conduct the elections in the school district at the time specified by the State Board. The State Board shall prepare the publication notice and submit it to at least one newspaper of general circulation in each county officially calling the election, stating the purpose of the election and listing the polling places in the county. The State Board shall assume the cost of such publication.

(3) **Forms.** All forms to be used in technology center district elections will be provided by the County Election Board.

(4) **Hours.** The polls for election shall be open from 7 a.m. until 7 p.m.

(5) **Certification of results.** The county election boards shall, when appropriate, certify to the local school boards the results of an election. The county election boards shall certify to the State Board, also, the results of any election pertaining to the creation of a new technology

center district, the initial board of education election, and the initial operating levy election.

(6) **Costs of elections.** When holding the election for the creation of a technology center district, the election of the original board of education, and the election for the first operation levy, the cost for these elections will be borne by the State Board.

(7) **Annexation election costs.** Annexation election costs of individual independent and elementary school districts will be borne by the State Board.

(g) **Formation election results determination.**

(1) **Election results.** Results of the election for the formation of a technology center district shall be submitted to the State Board and each school district involved. If the results of the election satisfy the criteria for the formation of a technology center district, the State Board may declare the district formed.

(2) **Election results from resolutions from school districts.**

(A) **Inclusion in the proposed district.** The territory comprising an independent or elementary school district shall be included in the proposed technology center district if a majority of the electors who voted cast ballots in favor of the question.

(B) **Establishment after an unfavorable vote.** Notwithstanding an unfavorable vote in an independent or elementary school district(s), a technology center district may be established and the territory comprising other independent and elementary school districts in which the votes have been favorable may be included in the technology center district, if criteria prescribed by the State Board can be met.

(i) **Study of election results.** The State Board shall study the results of the elections to determine if a sufficient number of the school districts voted in favor of becoming a part of a technology center district. If the area is deemed sufficient, the State Board shall form the district.

(ii) **Valuation; reconsideration of districts.** If the valuation of the area that voted in favor of the proposition is not sufficient to form the district, the State Board shall continue to work with the proposed area; and if the school districts that were opposed to becoming a part of the technology center district wish to vote again on the proposition, they may do so by presenting another resolution to the State Board.

(C) **District establishment suspension; second election.** If the criteria cannot be met because of unfavorable votes in one or more independent or elementary school districts, the State Board may hold establishment of the proposed technology center district in suspension for a period not to exceed one year, and in the meantime may, but no sooner than after ninety (90) days, at the request of the local board of education where the election failed, call another election on the same question.

(3) **Election results from resolutions by a majority of a board of commissioners.**

(A) **Voters.** The majority of the votes cast in the county shall determine whether the territory of the county becomes a part of a technology center district. The electors residing in any portion of a county that is already a part of an existing technology center district shall not be allowed to participate in this election.

(B) **Electors in adjoining county.** A local school district that has its main buildings within the county calling the election but has electors residing in an adjoining county should pass a resolution for that part and present it to the State Board, which shall call an election as provided in these rules and regulations.

(C) **Addition of adjoining county electors to the technology center district.** If the majority of the voting electors in the county vote to establish a technology center district, then that part of the local district located in the adjoining county shall become part of the new district, provided a majority of those voting cast ballots in the affirmative, and they shall be entitled to the rights and privileges and be subject to the assessments as are all other patrons in the district.

(D) **Second election.** If the election fails, the State Board may call another election in the county at the request of the county commissioners after a period of three months or 90 days has elapsed since the previous election.

(4) **Declaration; number designation.** Whenever there has been a compliance with these rules and regulations, the State Board may issue an order declaring the technology center district to be established and designating its number.

(5) **Validation period.** Results of school districts and/or counties that voted to become a part of a technology center district shall be held valid for a period of 12 months, or one year, to allow time for the passage of an operational mill levy election.

(6) **State Board approval of sites and additional campuses.** The State Board shall approve the location of a site for an official campus of a technology center district. If the campus employs a minimum of five full-time instructors who are teaching career majors that have been approved by the Department, then it may be recognized as an official campus and will be eligible for funding under a formula approved by the State Board. Branch campuses may be established by the technology center board of education to serve special needs or remote areas of the district. In the event the local board elects to pursue an additional campus at a site other than the existing pre-approved campus, prior approval must be granted by the State Board. Factors that will be used in determining approval will include, but not be limited to, student travel time to the nearest available technology center campus, district valuation, student enumeration, and local industry needs.

(h) **Zoning of the new technology center district.**

(1) **Advisement.** When the State Board forms a technology center district, it shall then divide the district into board districts with the advice and counsel of the local school districts.

(2) **Five board districts.** After consultation with the local school officials, the State Board will divide each technology center district into five numbered board districts of approximately equal population.

(i) **Election of members to the board of education of the new technology center district.**

(1) **Call to elect members.** When a technology center district is established, the State Board shall call, and the appropriate county election board(s) shall conduct an election to choose a board of education, which shall consist of five (5) members except as hereinafter provided, elected by all of the school district electors of the technology center district.

(2) **Composition of board.** Candidates for board district offices of the board shall be residents of the board district. Electors shall vote on all candidates in board elections.

(3) **Terms.** The newly elected board members will serve initial terms as follows:

(A) Office Number 1, Board District 1: One year
(B) Office Number 2, Board District 2: Two years
(C) Office Number 3, Board District 3: Three years
(D) Office Number 4, Board District 4: Four years
(E) Office Number 5, Board District 5: Five years

(4) **Cycle of elections; terms.** At the first regular school election, as prescribed by the state statutes, after the technology center district has become operative for one year, an election shall be held to fill the office that expires in one year. The terms of other offices shall expire in the sequence noted in the schedule above. After the initial terms of offices expire, each school board member shall be elected for a five-year term.

(5) **Notification and declaration of intent.** Each candidate shall file a written notification and declaration of intent to be a candidate for the board district in which he/she resides or as a candidate-at-large. The notification and declaration of intent shall be filed with the county election board within the time prescribed by the election board.

(6) **Seven-member board.** In the event the total area of five or more counties is involved, a seven (7) member board of education may be elected to serve the technology center district.

(7) **Seven-member terms.** When there are seven board members, they shall be elected in the same manner as board of education members of other technology center districts. The terms of office of members shall be staggered so that the term of office of only one member shall expire each year. Offices shall be numbered one through seven.

(8) **Relations with State Board.** Representatives of the State Board shall meet with the elected board and administer the oath of office, which shall be the same as for boards of independent school districts. The State Board shall provide guidance, direction, and technical assistance to the newly elected board members.

(j) **Operational tax levy election for a new technology center.**

(1) **Call for election.** As soon as practical, and when it can legally do so, after members of the board of education of a technology center district are first elected following the establishment of the district, the board of education shall call an election to vote on an operational tax levy for the district.

(2) **Educational plan.** The elected board of the technology center district shall make a study utilizing the services of the State Board and all other agencies that may be at its disposal to determine an educational plan for the district.

(3) **Tax levy.** No technology center district shall begin operations until the electors have approved a tax levy as provided by Section 9B, Article 10, Oklahoma Constitution and 70 O.S 2001, § 14-108, as amended, and the county excise board has approved an "Estimate of Needs" for the district or in compliance with the 1996 School District Budget Act in 70 O.S. Supplement 1996, §5-150, as amended.

(4) **Second election.** If an election for an operational levy is held and the proposed levy fails to receive a majority of the votes cast, a second election will be held within 180 days after the original election for the purpose of voting again on an operational levy. A second election must be requested by the technology center board and approved by the State Board.

(5) **Dissolution of district; board.** The State Board has the authority to disband a newly formed technology center district, release the board of education of its obligations, and release all public school districts from any obligation in the new technology center district when an operational levy is rejected by the voters a second time. Disbanding or dissolving a newly created technology center district will be done only after consultation with the local school districts involved.

(6) **School planning.** After passage of a successful operational levy, the technology center board shall employ professional help, engage the services of an architect to plan buildings, and take such action as necessary to establish the technology center.

(k) **Selection of the technology center superintendent.**

(1) **Choice of superintendent.** Following passage of a successful operational tax levy, the local board of education shall employ a technology center district superintendent.

(2) **Duties; qualifications.** The duties and minimum qualifications of technology center superintendents shall be as follows:

(A) **Duties.** The technology center superintendent shall be the principal administrative officer of the technology center. He/she shall be responsible for the organization, curriculum development, evaluation, and improvement of instruction. The technology center superintendent shall maintain close contact

with the employment services, advisory committees, potential employers, and all agencies and institutions relative to employment needs and job opportunities in order that career and technology education instruction may be closely coordinated with current needs and anticipated employment opportunities. He/she shall evaluate instruction continuously and bring about changes and improvements that will ensure that students will obtain the skills and knowledge for which instruction is being provided. The technology center superintendent shall be responsible for assigning appropriate administrative personnel to evaluate the technology center's certified faculty and determining that such persons have a technology center administrator's credential. The technology center superintendent shall be responsible for maintaining a system of complete and accurate records and shall make such financial, statistical, and descriptive reports as may be required by the State Board.

(B) **Qualifications.** First, the technology center superintendent shall have a superintendent's certificate as defined by the State Department of Education. Second, the technology center superintendent shall have had at least five years of experience as a Career Tech teacher, supervisor, or administrator. Third, the technology center superintendent shall hold a valid Oklahoma *Career*Tech teaching certificate. Fourth, the technology center superintendent shall have a Technology Center Administrator's Credential.

(3) **Issuance by the Technology Center Services Division.** The Technology Center Services Division of the Oklahoma Department of Career and Technology Education shall be responsible for the issuance of the technology center administrator's credential.

(4) **Technology Center Administrator's Credential.** Other school administrators who are responsible for supervision and administration of Department-approved career majors and for the evaluation of certified faculty under the provisions of the Education Improvement Act of 1985 shall also be required to have a standard or a provisional Technology Center Administrator's Credential as provided for above in 780:15-3-2(k)(2) & (3) of the rules and regulations governing technology centers.

(A) **Standard technology ~~Technology~~center ~~Center~~ administrator's ~~Administrator's~~credential ~~Credential.~~** A person who has superintendent's certificate or a secondary principal's certificate and at least five years of experience as a CareerTech teacher, supervisor, or administrator of Department-approved programs and/or career majors and has a valid Oklahoma *Career*Tech teaching certificate shall be issued a standard technology center administrator's credential.

(B) **Provisional technology center administrator's credential, three year.** A person with a superintendent's certificate or a secondary principal's certificate and a valid Oklahoma teaching certificate and at least five years of experience as a CareerTech teacher, supervisor, or administrator of Department-approved programs and/or career majors and without a valid Oklahoma *Career*Tech teaching certificate shall be issued a provisional technology center administrator's credential and be given three years from the date of issuance to complete the nine~~eight~~credit~~semester~~ hours specified below to meet the requirements for a standard technology center administrator's credential. The issuance of the technology center administrator's standard credential shall be based on the completion of a minimum of nine ~~eight~~ credit ~~semester~~hours from three of the following four areas:

(i) History and Philosophy of Career and Technology Education;

(ii) Technology Center Finance;

(iii) Curriculum for Career and Technology Education; and,

(iv) Career and Technology Education Planning Instruction Development and Evaluation.

(C) **Provisional technology center administrator's credential, five year.** A person who has been employed in an administrator, counselor or coordinator position for at least five years at a technology center, who has a superintendent's certificate or a secondary principal's certificate and a valid Oklahoma teaching certificate or valid school counseling certificate shall be issued a provisional technology center administrator's credential and be given five years from the date of issuance to complete nine~~eight~~credit~~semester~~ hours specified below plus the appropriate ODCTE administrator development program(s) identified when the technology center administrator's credential is issued to meet the requirements for a standard technology center administrator's credential. The issuance of the technology center administrator's standard credential shall be based on the completion of a minimum of nine~~eight~~credit~~semester~~ hours from three of the following four areas:

(i) History and Philosophy of Career and Technology Education;

(ii) Technology Center Finance;

(iii) Curriculum for Career and Technology Education; and,

(iv) Career and Technology Education Planning Instruction Development and Evaluation.

(5) **Requirements for first-year technology center superintendents.** The State Board of Career and Technology Education reaffirms its commitment to provide support and services to new technology center superintendents in Oklahoma. To assist first-year technology center superintendents in the state in providing their respective districts with maximum leadership, effective management, and strong educational programs, the following professional development requirements shall be met by each technology center superintendent employed for the

first time in the state of Oklahoma as a technologycenter superintendent:

(A) Meet qualifications for the Provisional or Standard School Superintendent Certificate.

(B) Meet qualifications for the Provisional or Standard Technology Center Administrator's Credential.

(C) Attend professional development workshops or training seminars equal to eleven days (66 hours) of training:

(i) 1 day: Attend a meeting of the State Board of Career and Technology Education and a board meeting at a technology center where the first-year technology center superintendent is not currently employed.

(ii) 2 days: Attend the Annual CareerTech Summer Conference.

(iii) 2 days: Attend the Annual Technology Center Superintendents June Workshop.

(iv) 6 days: Attend professional development workshops or training in the following general areas:

(I) Superintendent/Board of Education Relationships

(II) Legal Issues/School Law/Open Meeting Laws

(III) Staff Relationships/Due Process

(IV) Community and Industry Relationships

(V) Technology Center Finance

(VI) Plant Management/School Facilities

(VII) Setting School District Site Goals/Strategic Planning/Planning and Implementing Continuous Improvement Strategies for Schools

(VIII) Individuals with Disabilities Act (IDEA)

(v) If a first-year technology center superintendent can provide evidence that within eighteen months prior to being employed as a technology center superintendent, that he/she has completed one of the training requirements listed above in (iv), the Technology Center Services Division will review his/her documentation and determine if credit should be given for training previously completed.

(D) After July 1, 2009, the Technology Center Services Division of the Department will provide and/or coordinate, approve and document professional development workshops and/or training seminars for first-year technology center superintendents. If content and method of delivery is approved by the Technology Center Services Division prior to a first-year technology center superintendent participating in training, a first-year technology center superintendent may complete some of the training requirements by IETV, on-line training, webinars, or similar methods of delivery. The Technology Center Services Division will issue a certificate to each new superintendent who has successfully completed the training requirements for first-year technology center superintendents. A copy of this certificate will be provided to the Oklahoma State Department of Education. To maintain certificate validity for second-year technology center superintendents, the Technology Center Services Division will provide to first-year technology center superintendents and the Oklahoma State Department of Education a report showing training completed by first-year technology center superintendents. The Technology Center Services Division will continue to consult with the Oklahoma State Department of Education regarding emerging issues that in the future may need to be integrated into first-year technology center superintendent training.

(l) **Other actions necessary to establish a new technology center.**

(1) **Funding for buildings and equipment.** The elected board may submit a building fund levy proposal or a capital outlay bond proposal to finance new buildings and equipment after a study has been made and professional help has been employed.

(2) **Election guidelines.** The building fund levy election or capital outlay bond election shall be conducted in accordance with the prescribed election rules and regulations.

(m) **Approval of capital improvement projects.** After local board approval, all plans and specifications for technology center buildings, additions, including parking lots and modifications designed for *Career*Tech instruction and/or services shall be reviewed by appropriate staff of the Oklahoma Department of Career and Technology Education and shall be approved by the Technology Center Services Division of the Oklahoma Department of Career and Technology Education. In addition all capital improvement projects must comply with local building codes and be reviewed by the local and/or state fire marshal and the State Department of Education. The State Board must grant prior approval of all plans and specifications for technology center school buildings, additions, and modifications to school buildings that are designed to provide for the offering of *Career*Tech education and services when the cost of the building project is to be paid with state appropriated funds, which includes projects funded with monies from the Educational Lottery Trust Fund, or both local levies and state appropriated funds. (70 O.S. 2001, Section 14-108, as amended.)

(n) **Ownership of instructional equipment.** Instructional equipment purchased or reimbursed with state and/or federal funds will remain the property of the State Board except equipment purchased with equipment grants. When instruction can no longer be justified, the State Board may remove the equipment and transfer it to another technology center, skills center, or place it in the Department service center.

(o) **Insurance and equipment maintenance.** The technology center district shall be responsible for insurance and maintenance and repair of state-owned equipment while it is being utilized in instruction conducted by the district.

(p) **Architect involvement.** Technology center buildings that are to be remodeled, repaired, or constructed shall have an architect engaged in the planning of such building as provided in 59 O.S. Supp. 2008, §46.3.

(q) **Accommodations for individuals with disabilities.** It shall be the responsibility of the board of education of a technology center district to follow the provisions of the Uniform Federal Accessibility Standards or the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities when constructing new facilities or altering existing structures.

[OAR Docket #13-1028; filed 6-6-13]

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

[OAR Docket #13-1029]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Secondary, Full-Time and Short-Term Adult CareerTech Programs
780:20-3-2. Programs: admissions, operations, enrollment, and length [AMENDED]
AUTHORITY:
Oklahoma State Board of Career and Technology Education; 70 O.S. 2011, Section 14-103, 70 O.S. 2011, Section 14-104, as amended.
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ANALYSIS:
The rule amendment clarifies the Technology Engineering and Science, Technology, Engineering, Math (STEM) program requirements and needs.
CONTACT PERSON:
Marie Saatkamp, 405-743-5455

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 15, 2013:

SUBCHAPTER 3. SECONDARY, FULL-TIME AND SHORT-TERM ADULT *CAREER*TECH PROGRAMS

780:20-3-2. Programs: admissions, operations, enrollment, and length

(a) **Nondiscrimination; admission guidelines.** Students shall be provided access to *Career*Tech programs and facilities without regard to race, color, national origin, sex, or disability.

(1) **Agricultural Education.** Agricultural Education programs are designed for junior high and high school students (grades 8 through 12) and adults. Secondary students must have a supervised agricultural experience project. Each ODCTE funded agricultural education program shall be provided transportation services, by the local school district, for all agricultural education/FFA (FFA is an integral part of the agricultural education program) program related duties and activities.

(2) **Business and Information Technology Education.** Business and Information Technology Education programs are designed to prepare high school students (grades 8 through 12) and adults for pathways to careers in business and information technology.

(3) **Family and Consumer Sciences Education.**

(A) **Family and Consumer Sciences Education in comprehensive schools.** Family and Consumer Sciences programs are designed for junior high and high school students (grades 6 through 12).

(B) **Family and Consumer Sciences Occupational Education.** Occupational Family and Consumer Sciences programs are designed for high school students (grades 11 and 12) and/or adults to train or retrain in a specific family and consumer sciences related occupation.

(4) **Health Careers Education.**

(A) ***Career*Tech health careers.** Health Careers Education programs are designed to prepare junior high students, high school students and adults for employment in a health career of their choice.

(B) **Requirements for applicants.** Applicants for admission to Health Careers Education programs must meet requirements as set by the individual program, state statutes, and any other requirements of the appropriate licensing or accrediting agency.

(5) **Marketing Education.** Marketing Management and Entrepreneurship Education programs are designed to prepare students (grades 8 through 12) and adults for career clusters in marketing, business management and entrepreneurship. Students may also earn additional units by participating in a supervised on-the-job internship.

(6) **Science Technology Engineering and Mathematics (STEM).** Science Technology Engineering and mathematics programs are designed to prepare students grades 6-12 for hands-on and problem based curriculum

that allows students to explore opportunities in Science, Technology, Engineering and Mathematics and prepares students for post-secondary transition and pathways for careers in STEM.

(7) Technology Engineering /TechConnect. Technology Engineering programs are designed for students in grades 5 through 10 who desire an opportunity to explore and experience technological occupations. These programs are designed to carry on technological concepts and problem-solving methods learned in the lower grade programs (i.e.: Integrating Concepts and Lessons, Missions curriculum, The Block Academy, Airbase). The programs also tie to Agriculture Education, Business Education, FACS Education, Health Education, Marketing Education, and Trade and Industrial Education in the upper grades at comprehensive high schools and technology centers. These programs give hands-on projects based core curriculum supported through the occupational areas.

(8) **Trade and Industrial Education/TechConnect Plus.** Trade and Industrial Education programs in comprehensive schools are designed for students in grades 10 through 12. TechConnect Plus programs are designed for 11th and 12th grade students when access to advanced career and technology programs are not available or special needs are identified. Schools must apply with the appropriate division for approval of a TechConnect Plus program. Trade and Industrial Education programs in technology centers are designed for students in grades 11 and 12 and/or adults. In technology center programs, tenth-grade students, or over-age students in a grade lower than the eleventh, may be enrolled upon approval of the sending school.

(b) **Program operations.**

(1) **Recommendation for program approval.** The appropriate *Career*Tech program administrator shall recommend approval of a program when criteria for the approval of new programs are met and funds are available.

(2) **Program composition.** Programs shall offer hands-on experience or supervised occupational experiences in the laboratory or clinical setting as well as classroom instruction to provide opportunities for students to achieve career objectives.

(3) **Course titles.** *Career*Tech course offerings must be in agreement with the course titles listed in the current ***Standards for Accreditation of Oklahoma Schools***, published by the State Department of Education. These same course titles (or abbreviated titles) should be the class titles entered on the student's transcript.

(4) **Units of credit.** The units of credit shall be determined by the number of periods the student is in class plus on-the-job training, clinical training, or internship served. (Refer to the ***Standards for Accreditation of Oklahoma Schools***.)

(5) **Full-time programs.** A full-time program in a comprehensive school shall consist of five *Career*Tech instruction class periods and one planning period for a six-period day, and six *Career*Tech instruction class periods and one planning period for a seven-period day. Exceptions to this rule shall include the following:

(A) **Two planning periods.** Teachers who supervise students' agricultural experience programs shall have a minimum of two periods to plan, supervise, and coordinate the activities of student learners (see 780:20-3-1(e) and 780:20-3-2(b)(7)(A)). For schools on non-traditional schedules, teachers shall have the equivalent of a minimum of 90 minutes per day for planning and supervision of students. It is recommended that the last hour of the school day be utilized as one of the planning periods. Schools offering Agricultural Education courses the final period of the day must provide a written explanation to the program administrator.

(B) **Teaching of related courses.** Teachers of Marketing Management and Entrepreneurship Education, Technology Engineering, TechConnect, Career Transitions Education, and TechConnect Plus may be allowed to teach one related course, subject to the approval of the appropriate program administrator.

(C) **Trade and Industrial Education/TechConnect Plus.** Two three-hour block courses shall constitute a full-time program in Trade and Industrial Education in a Technology Center. Three two-hour block courses or six one-hour block courses or any combination thereof shall constitute a full-time program in a TechConnect Plus program in a seven period day at a comprehensive school.

(D) **Marketing Education.** Teachers of Marketing Management and Entrepreneurship Education may be allowed to teach one related course (if the school is on a standard six- or seven-period teaching day), subject to the approval of the Marketing Education program administrator.

(E) **Health Careers Education.** Teachers of Health Careers may be allowed to teach one or two related courses with at least one conference period (if the school is on a standard six or seven-period teaching day), subject to the approval of the Health Careers Education program administrator.

(F) **Science Technology Engineering and Mathematics.** Teachers of Science Technology Engineering and Mathematics may be allowed to teach one or two related courses, subject to approval of the appropriate cluster administrator. Science and Math courses listed in the STEM Career Major will be counted as a STEM course, not a related course.

(6) **Adult Training and Development.** Adult Training and Development (short-term adult) programs in comprehensive schools may be organized under the supervision of the *Career*Tech teacher and must be occupationally specific. These programs are organized on request or as the need indicates. They may vary in length.

(7) **Program operations by occupational division.**

(A) **Agricultural Education.**

(i) **Secondary programs.** The agricultural education instructor is a full-time, 12-month employee and shall teach only approved agricultural education courses. Agricultural education instructor shall have no other extra curricular duties or responsibilities other than those required through the FFA student organization and normal school supervisory duties.Coaching, administration, or other similar full-time duties will not be approved. In the case of a non-funded agriculture education program, the program must follow state policy and guidelines to remain in good standing and be able to utilize the *Career*Tech student organization, FFA.

(ii) **Summer program.** The agricultural education instructor shall formulate a summer program of work and a calendar of activities, which are to be submitted to the local education agency at the completion of the school year.

(iii) **Activities.** Summer activities shall include supervision of students' activities; educational field days and tours; in-service and professional development activities; and, working with adults, agricultural organizations, and industries.

(iv) **Summer leave.** Agricultural Education teachers are entitled to two weeks of summer leave. In lieu of these two weeks of vacation, three weeks each year may be allowed for professional improvement. Summer leave should be coordinated with the local administration. If there is a question in regard to summer leave, the program administrator should be contacted for approval.

(v) **Full-time adult programs.** Full-time adult Agricultural Business Management programs vary in length and are designated for and intended to meet the needs of adults engaged in agriculture and agricultural business operations.

(B) **Business and Information Technology Education.**

(i) **Methods of delivery.** The Business and Information Technology Education programs provide three methods of delivery:

(I) Business and Information Technology Education internships in the comprehensive school shall consist of one or two block periods of classroom instruction and supervised work-site training through part-time employment in training-specific positions in business for students in grades 11 or 12.

(II) Business and Information Technology Education courses in the comprehensive school shall consist of one or two block periods of instruction offered in grades 9 through 12. Instructors shall teach only approved business and information technology education courses. Nine week and semester rotation courses are not approved for Business and Information Technology Education programs. Business and Information Technology Education instructors shall have no other extra curricular duties or responsibilities other than those required through the BPA student organization and normal school supervisory duties. Coaching, administration, or other similar full-time duties will not be approved.

(III) Business and Information Technology Education programs in technology centers shall consist of three-hour block periods of classroom instruction for students in grades 11 or 12 and should include a work-site learning component. Any exceptions must be approved in writing by the Program Administrator of Business and Information Technology Education.

(ii) **Course levels.** Comprehensive school Business and Information Technology Education programs shall not mix levels of courses in the same period without written permission from the State Department of Education.

(iii) **Technology/equipment.** Business and Information Technology Education programs shall provide technology that is appropriate for the defined occupational objectives and is reflective of a modern business environment. A written plan integrating curriculum, training materials, and technology shall be maintained to guide program development and maintain relevance to the marketplace.

(C) **Family and Consumer Sciences Education in comprehensive schools.**

(i) **Full-time programs.** A full-time program shall consist of at least three levels of family and consumer sciences classes with one or more conference periods in the daily schedule, and the instructor shall teach only approved family and consumer sciences courses. Family and consumer sciences instructors shall have no other extra curricular duties or responsibilities other than those required through the FCCLA student organization and normal school supervisory duties. Coaching, administration, or other similar full-time duties will not be approved.

(ii) **Part-time programs.** Programs that are less than full-time will be funded as a half-time program and will be approved only through permission of the program administrator. A part-time program shall include a minimum of two family and consumer sciences classes and a conference period for a six period day and three family and consumer sciences classes and a conference period for a seven period day.

(iii) **Course coordination.** Comprehensive school Family and Consumer Sciences Education programs shall not mix levels of courses in the same class period without written permission from the State Department of Education. This written permission does not ensure programs are meeting

Oklahoma Department of Career and Technology Education standards.

(D) **Family and Consumer Sciences Occupational Education.**

(i) **Full-time occupational programs in comprehensive schools.** A full-time family and consumer sciences related occupational education program in the comprehensive school will include two or more classes, two to three periods in length for 11th- and 12th-grade students.

(ii) **Full-time occupational programs in technology centers.** A full-time family and consumer sciences related occupational education program in a technology center will include two classes, three periods in length for 11th- and 12th-grade students and adults.

(iii) **Length; order.** Two years of occupational training may be offered. No student shall be enrolled in Occupational Training II until Occupational Training I has been successfully completed.

(E) **Health Careers Education.**

(i) **Comprehensive Schools.** Programs in 7th, 8th, and 9th grade or high schools vary in length and may be offered in one, two or three blocks of time. Secondary programs in technology centers may be one or two academic years in length and vary in hours per day.

(ii) **Technology Centers.** Programs vary in length and in hours per day according to accrediting bodies and career major requirements.

(F) **Marketing Education.**

(i) **Secondary programs.** The three basic methods of offering secondary Marketing Management and Entrepreneurship Education programs shall be as follows:

(I) Project class, providing classroom instruction and application only;

(II) Project with shadowing component, providing a combination of classroom instruction and participating in a shadowing experience with business; and,

(III) Cooperative method/internship, providing classroom instruction plus a supervised work-site learning experience in a cooperating business.

(ii) **First- and second-year students.** Comprehensive school Marketing Management and Entrepreneurship Education programs shall not mix first-and second-year marketing management students in the same class without written permission from the State Department of Education.

(iii) **Technology/equipment.** Marketing Education programs shall provide technology that is appropriate for the defined occupational objectives and is reflective of a modern business environment.

(G) **Technology Engineering/TechConnect.**

(i) **Program operation requirements.**

(I) **Program design.** The primary purpose of the Technology Engineering/TechConnect is a career and technology education program designed to transition ninth and tenth grade students to the next level of career development. These programs provide foundational competency experiences by focusing on integration of rigorous academics, all aspects of the industry, employability and technical skills. Technology Engineering /TechConnect programs are targeted for grades 9 and 10, but they may be extended an additional two years through an 11th and 12th grade TechConnect Plus program where access to advanced *Career*Tech programs is unavailable and/or limited or where special student needs are identified. Enrollment priority should be considered for students who are at-risk or who are members of special populations; however, enrollment should not be limited to these students only. Through the infusion of *Career*Tech preparation strategies in academic classes, Technology Engineering/TechConnect students develop an understanding of how principles of math, science, and English are applied in the workplace and why it is necessary for them to master academic skills. Technology Engineering /TechConnect programs are designed to provide students a solid foundation in academic skills, practical "hands-on" activities, and the ability to relate abstract concepts to the "hands-on" activities. An essential component of a Technology Engineering/TechConnect program is the development and implementation of a comprehensive career guidance program, so Technology Engineering/TechConnect students will be able to make more meaningful career choices by developing a better understanding of their own interests, skills, and abilities; understanding labor market projections; and learning to formulate a plan of study to achieve their individual career goals. The school guidance program should include a totaloccupational assessment of each student as well as components that address the student's personal, social, educational and career development needs. Technology Engineering/TechConnect programs shall consist of occupational instruction for two consecutive periods. Programs shall have laboratory experiences, where appropriate, to provide the progressive situations necessary for general occupational skills training. In order to integrate academics and *Career*Tech education, teachers of the Technology Engineering/TechConnect programs shall participate in appropriate professional improvement activities including the summer *Career*Tech conference, professional

improvement meetings, and other related activities. Technology Engineering/TechConnect students shall have access to appropriate career and technology student organizations that are consistent with the related *Career*Tech programs as well as other personal development components. Technology Engineering/TechConnect program enrollment numbers shall be consistent with related *Career*Tech program guidelines with particular attention given to work situations and available resources. Technology Engineering /TechConnect teacher certification shall be consistent with related *Career*Tech program areas. Exceptions shall be approved by the appropriate occupational division administrator.

(II) **Occupational preparation.** Programs shall be designed to introduce students to careers in "clusters" of closely related occupations, including but not limited to Construction, Mechanical-Construction, Mechanics, Electrical/Electronics, Communications, Horticulture, Food Services, Hospitality, Child/Elder Care, Health Services, Metals, Food Services, Agricultural Related, Business, and Family and Consumer Sciences Related.

(III) **Full-time program.** A six period day will require two, two-hour blocks or four one-hour blocks with one hour of related instruction for a full time program. One two-period block or less than four one-hour period blocks will constitute a half-time program in a six period day. A seven period day will require three two-hour blocks or five one-hour blocks with one hour of related instruction for a full time program. Two two-hour blocks or less than five one-hour blocks will constitute a half-time program in a seven period day.

(IV) **Full-time teacher.** A teacher who is teaching two or more Technology Engineering/TechConnect classes, which are each two consecutive periods in length, or who is teaching four or more Technology Engineering /TechConnect classes, which are each one period in length, shall be considered as a full-time *Career*Tech teacher in a six period day. A Technology Engineering/TechConnect teacher may be assigned three two period or six one period *Career*Tech classes in a seven period day.

(V) **Technology Engineering /TechConnect program operation recommendations.** Technology Engineering/TechConnect students should have access to comprehensive guidance services. These services should include the development of a plan of study that provides direction through course enrollment leading toward high school graduation. The plan should be flexible with periodic review to ensure program/course relevance in attainment of the student's career goal(s). Schools should offer applied academic courses in English, mathematics, and science for Technology Engineering/TechConnect students. Enrollment in applied courses should be consistent with each Technology Engineering/TechConnect student plan of study. Enrollment in the Technology Engineering/TechConnect applied academic courses should not be limited to Technology Engineering /TechConnect students. Teachers of the applied academic courses should participate in appropriate professional improvement activities including summer *Career*Tech conference, professional improvement meetings, and other related activities. Technology Engineering/TechConnect students should be provided support services to enhance academic competence. These services may be provided through an education enhancement center, tutoring services, or other activities that will assist the student in attainment of academic/occupational competencies.

(ii) **Supervision.** The State Board shall provide state and federal funds to enhance special populations students equal access and full participation in *Career*Tech programs. Programs shall be supervised by the appropriate occupational and Technology Engineering division.

(H) **Technology Engineering.**

(i) **Course duration.** Each technology engineering course shall be taught in a one-period block of time (45-55 minutes).

(ii) **Curriculum.** The curriculum emphasis will be placed on Project Lead the Way and Engineering by Design, both national pre-engineering curricula. Also,~~shall~~ emphasis shall continue on the following technology clusters: Architecture and Construction, Arts, A/V and Communications, Information Technology, Manufacturing, Transportation, Distribution and Logistics, Agriculture, food and natural resources, Health Science and Science, Technology, Engineering & Mathematics. Through these curricula and the Oklahoma Career Information System, all sixteen of the nationally recognized Career Clusters will be explored. ~~covered~~. ~~Also, emphasis will be placed on Gateway to Technology (GTT) and Engineering by Design (Ebd) national pre-engineering curriculums.~~

(iii) **Four periods per day.** Each program shall implement the technology engineering curriculum into a minimum of four periods per day, with one additional period allotted for a conference/planning period.

(iv) **Equipment.** Technology Engineering programs shall provide technically up-to-date equipment to allow students opportunities for

modernistic hands-on experiences. Schools are encouraged to use state program assistance funds to purchase this equipment.

(I) **Trade and Industrial Education.** All secondary trade and industrial education students in Technology Centers shall be enrolled for three consecutive periods daily, five days a week. Secondary TechConnect Plus students in comprehensive high schools may be enrolled for one period daily, five days a week. Adult trade and industrial education students may enroll for one-half day (three periods) or a full day (six periods). The Program Administrator of Trade and Industrial Education must approve any exceptions in writing.

(J) **Integrated Academics.** Academics taught in the technology center shall be delivered in the context of the program in which each student is enrolled. If academic instruction is offered for credit through the sending school, it shall be structured so as to meet current legislation and State Department of Education guidelines. Students must meet, within the structure of the academic class, the attendance requirements of their comprehensive schools in order to receive academic credit. Further, the legislated limit of 10 days of absence from the academic class for school-related activities applies.

(K) **Science, Technology, Engineering, Math-STEM**

(i) **Pre-Engineering.** The following courses are required to be taught: Introduction to Engineering Design (IED), Principles of Engineering (POE), Engineering Design and Development (EDD), a capstone in addition to the appropriate math and science courses. Other engineering courses may be approved by STEM division of ODCTE. Technology Centers and high schools are required to administer each pre-engineering end of course test if applicable, preferably by a proctor and/or testing liaison.

(ii) **Biomedical Science and Medicine.** The following courses are required to be taught: Principles of Biomedical Sciences (PBS), Human Body Systems (HBS), Medical Interventions (MI), Biomedical Innovations (BI) in addition to the appropriate science and math courses. Technology Centers and high schools are required to administer each biomedical end of course test if applicable, preferably by a proctor and/or testing liaison.

(iii) **Biotechnology.** The following courses are required to be taught in order for an ODCTE biotechnology career major to be accredited and/or funded: Survey of Biotechnology, Biotechnology I, Biotechnology II, Advanced Biotechnology I, Advanced Biotechnology II and Biotechnology Capstone in addition to the appropriate math and science courses. Other biotechnology courses may be approved by STEM division of ODCTE.

(c) **Enrollment for full-time programs.**

(1) **Guidelines compliance.** Program enrollments shall comply with the established guidelines of the appropriate occupational division. Exceptions must have written approval by the appropriate program administrator prior to the second week of class. Consideration shall be given to the availability of work stations, clinical experiences and individual student needs.

(2) **Enrollments specific to occupational divisions and programs.**

(A) **Agricultural Education.**

(i) **Student enrollment limits.** If a department has adequate space, equipment, and laboratory sites, a maximum of 25 students may be enrolled in each agricultural education class with the exception of lab classes, such as Horticulture and Ag Mechanics, and they shall be limited to 15 per class. Exceptions to these numbers must have written approval by the appropriate program administrator.

(ii) **Maximum class enrollment.** The maximum enrollment in each agricultural mechanics and horticulture class shall be 15 students per class period.

(iii) **Course prerequisite.** Introduction to Agricultural Science is the prerequisite for all other agricultural education courses with the exception of eighth-grade Agricultural Orientation.

(iv) **Employment in Agribusiness.** The Agricultural Education course, Employment in Agribusiness, is considered a Cooperative Program in which students can earn scholastic credit if the course meets all requirements listed under section (780:20-3-1 section e). It must be taught and supervised by the agricultural education instructor. Note: The work-site experience must be directly related to the curriculum offered in the program.

(B) **Business and Information Technology Education.**

(i) **Business and Information Technology Education programs in comprehensive schools.** A maximum of 25 students per class shall be enrolled in the business and computer technology internship. Other Business and Information Technology Education courses may enroll a maximum of 25 students at a ratio of one work station per student.

(ii) **Business and computer technology programs in technology centers.** Business and Information Technology Education courses may enroll a maximum of 25 students at a ratio of one work station per student.

(C) **Family and Consumer Sciences Education.**

(i) **Family and Consumer Sciences programs in comprehensive schools.** If a department has adequate space, equipment and laboratory sites, maximum enrollment for the following courses shall be: (Not all class offerings are listed,

but those not listed have enrollment determinatives in common with one of the courses listed.)

(I) Personal Development, Teen Living, and Life Management-20 Students

(II) Family and Consumer Sciences I and II-20 Students

(III) Hospitality Careers Orientation, Career Orientation, and Adult and Family Living-25 Students

(IV) Non-laboratory 60 hour courses-25 Students

(V) Laboratory 60 hour courses-21 students

(ii) **Family and Consumer Sciences Occupational Education.** A minimum of 10 and a maximum of 20 students shall be enrolled in each section of family and consumer sciences related occupational education.

(D) **Health Careers Education.**

(i) **Comprehensive Schools.** A minimum of ten and a maximum of eighteen students shall be enrolled in each course/section of a comprehensive school health careers education program.

(ii) **Technology Centers.**

(I) **Full time high school health careers programs.** A minimum of ten and 8a maximum of eighteen students per instructor shall be enrolled in a Health Careers Education program. Those programs utilizing student-centered learning as the primary method of instruction shall have a maximum of fifteen students per instructor. Program enrollment may also be limited by national and/or state accrediting bodies, by equipment, classroom and/or laboratory facilities and by clinical site availability.

(II) **Full-time adult-only health careers programs.** A minimum of eight and a maximum of twelve students per instructor shall be enrolled in a full-time adult-only Health Careers Education program. Program enrollment may also be limited by national and/or state accrediting bodies, by equipment, classroom and/or laboratory facilities and by clinical site availability.

(E) **Marketing Education.**

(i) **Student enrollment limits.** The maximum number of cooperative students in a full-time cooperative Marketing Management and Entrepreneurship program shall not exceed 25 students per marketing management teacher-coordinator. A maximum of 25 students per class may be enrolled in the marketing internship. Other Marketing Education courses may enroll a maximum of 25 students.

(ii) **Project class enrollment.** Where the marketing management teacher-coordinator teaches a marketing management project class in conjunction with the cooperative programs, enrollment in the project class is determined by the size of the classroom facility and SDE policies.

(iii) **"Marketing management project students."** Sophomore, junior or senior students may be allowed to enroll in each existing cooperative class for the theory and classroom application portion only. These students would not be required to obtain work-site learning experience and would receive only one unit of credit.

(iv) **Half-time program enrollment.** The maximum number of cooperative students in a half-time cooperative program is 25 per teacher-coordinator.

(F) **Technology Engineering and TechConnect.** The maximum enrollment for each period of Technology Engineering shall be 24 students. The maximum enrollment for each period of TechConnect shall be 20 students. Consideration should be given to the size of the facility and the number of students that the modular workstations are designed to accommodate.

(G) **Trade and Industrial Education and TechConnect.**

(i) **Maximum enrollment.** The maximum enrollment for each Trade and Industrial Education, TechConnect Plus program section shall be 20 students, with the exceptions of cosmetology, which may have a maximum of 22 students, and career transitions programs, which may have 50 students per career transitions teacher.

(ii) **Alternate program enrollment.** The Trade and Industrial Education Division shall establish a reduced maximum enrollment for any program not meeting adequate size or layout of teaching facilities, number of training stations, appropriate quality and quantity of tools, and equipment and supplies. Individual student needs, student safety and supervision shall also be considered when determining maximum student enrollment.

(iii) **Inclusion of on-the-job students.** Students involved in on-the-job training shall be included in the maximum enrollment for the program unless each school has an on-the-job training coordinator.

(d) **Length of programs.** *Career*Tech programs shall be 10 or 12 calendar months as approved by the appropriate program administrator. Exceptions must be approved by the Department.

[OAR Docket #13-1029; filed 6-6-13]

TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 25. BUSINESS AND INDUSTRY SERVICES

[OAR Docket #13-1030]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Business and Industry Development
780:25-5-1. New or expanding industries [AMENDED]
AUTHORITY:
Oklahoma State Board of Career and Technology Education; 70 O.S. 2011, Section 14-103, 70 O.S. 2011, Section 14-104, as amended.
DATES:
Comment Period:
February 19, 2013 through March 22, 2013
Public Hearing:
March 28, 2013
Adoption:
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March 28, 2013
Submitted to House:
March 28, 2013
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May 6, 2013
Legislative Approval:
Failure of the Legislature to disapprove the rules resulted in approval on May 23 2013.
Final Adoption:
May 23, 2013
Effective:
July 15, 2013
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The rule amendment clarifies the inventory policy, maintenance, repair and replacement requirements for instructional equipment purchased by Business and Industry Services.
CONTACT PERSON:
Marie Saatkamp, 405-743-5455

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 15, 2013:

SUBCHAPTER 5. BUSINESS AND INDUSTRY DEVELOPMENT

780:25-5-1. New or expanding industries

(a) **Programs and services.** Training for Industry Programs (TIP) has the responsibility of working with the appropriate delivery agency to provide new job slot training for new or expanding business and industry. This training is provided to targeted business and industry in selected manufacturing, processing, and national or regional offices of business and industry that are creating new employment opportunities or others that have significant economic impact on Oklahoma's economy. These companies are traditionally considered exporters of goods and/or services and importers of capital.

(b) **Development of training agreements.**

(1) **Statement of Understanding.** A "Statement of Understanding" shall define the specific responsibilities of each party involved in a training program, including the company, the community, the technology center, and the appropriate Training for Industry staff.

(2) **Training agreements.** Training agreements will be developed jointly, using a training needs analysis, by company representatives, local technology center personnel, and Training for Industry Programs staff.

(3) **Changes.** Any changes in training agreements will be subject to approval by Training for Industry Programs staff.

(c) **Availability of funds.** State support for TIP training is based upon the availability of funds and administered by the Business and Industry Development Division in accordance with TIP guidelines and procedures.

(d) **Equipment.** Equipment used for training shall be furnished by the local technology center or the Department (either from the Equipment Pool inventory or transferred from another technology center). In the case of highly specialized equipment, the company will be requested to loan or lease this equipment to Training for Industry Programs for the purposes of training. The local education authority (LEA) is responsible for routine and preventative maintenance on all state owned equipment, used in training. The LEA will be responsible for replacing equipment that is salvaged due to lack of maintenance, abuse of equipment, or natural disaster. The LEA is responsible for replacing equipment that is lost or stolen.

(e) **Utilities.** In programs operated in a technology center, costs of the utilities will be borne by the technology center. Costs of utilities for a program operated in a company's facilities will be borne by the company. If a training program is operated out of a temporary facility, utility (water, gas, electricity, local phone service-allowable long distance) expenses will be a coordinated effort of the community and Training for Industry Programs staff.

(f) **Training materials and expendable supplies.**

(1) **Purchaser.** Training materials and expendable supplies will be provided at the expense of Training for Industry Programs. Materials used by trainees in the process of their training will be retained and disposed of by the Department.

(2) **Resulting products.** Products produced during the training program will be the property of the Department and will be picked up by or returned to the Equipment Pool or Training for Industry Programs staff via accepted Department inventory practices.

(g) **Training aids.** Training aids, such as technical manuals, videotapes, and slide/tape presentations will be developed for training programs when determined by the needs analysis, and only when the lead time schedule allows for the completion in time to be used during the training defined by the Statement of Understanding. Training aids will be developed at the expense

of Training for Industry Programs in cooperation with the company.

(h) **Instructors.** Instructors shall be secured locally, whenever possible.

(i) **Consultants.** When deemed necessary by Training for Industry Programs, consultants may be used to assist in the development and delivery of training programs per staff recommendation/ approval.

(j) **Reimbursements.** All reimbursements for the delivery/performance of training, as specified in a Statement of Understanding, will be made to the local technology center. All reimbursements shall be submitted in accordance with established TIP guidelines and procedures.

(k) **Reporting procedures.** Program and enrollment information shall be submitted to the Information Management Division of the Oklahoma Department of Career and Technology Education as outlined in 780:10-7-2.

[OAR Docket #13-1030; filed 6-6-13]

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code.*

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2013-20.

AMENDED EXECUTIVE ORDER 2013-20

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution hereby declare the following:

1. Tornadoes, severe storms, straight-line winds and flooding beginning May 18, 2013 and continuing have caused extensive damage to public and private properties within the State of Oklahoma; and said damages have caused an undue hardship on the citizens of this state.
2. It may be necessary to provide for the rendering of mutual assistance among the State and political subdivisions of the State with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Emergency Management Act of 2003.
3. There is hereby declared a disaster emergency caused by the tornadoes, severe storms, straight-line winds, and flooding in the State of Oklahoma that threatens the lives and property of the people of this State and the public's peace, health and safety. The counties included in this declaration are:

Adair, Caddo, Canadian, Cherokee, Cleveland, Coal, Comanche, Craig, Creek, Delaware, Garfield, Garvin, Grady, Grant, Greer, Hughes, Kingfisher, Kiowa, Le Flore, Lincoln, Logan, Mayes, McClain, McCurtain, McIntosh, Muskogee, Nowata, Okfuskee, Oklahoma, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pottawatomie, Pushmataha, Sequoyah, Stephens, Tulsa, Wagoner and Washington

This declaration may be amended to add counties as conditions warrant.

4. The State Emergency Operations Plan was activated on May 18, 2013 and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.
5. State agencies, in responding to this disaster emergency, may make necessary emergency acquisitions to fulfill the purposes of this proclamation without regard to limitations or bidding requirements on such acquisitions.
6. This Executive Order shall terminate at the end of thirty (30) days.

Copies of this Executive Order shall be distributed to the Director of Emergency Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this the 3rd of June 2013.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA:

Mary Fallin

ATTEST:
Chris Morriss
Secretary of State

[OAR Docket #13-1014; filed 6-3-13]

1:2013-24.

EXECUTIVE ORDER 2013-24

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to 25 O.S. § 90.19, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 5:00 p.m. on Friday, June 14, 2013, until 8:00 a.m. on Monday, June 17, 2013, to honor Specialist Robert A. Pierce, 20, an Oklahoma soldier, who died on June 3, 2013, while on active duty supporting Operation Enduring Freedom in Afghanistan. His service to our country and state will never be forgotten.

This executive order shall be forwarded to the Division of Capital Assets Management, who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 13 day of June, 2013.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Larry V. Parman
Secretary of State

[OAR Docket #13-1088; filed 6-14-13

1:2013-25.

EXECUTIVE DEPARTMENT

I, Mary Fallin, Governor of the State of Oklahoma, by virtue of the Oklahoma Constitution and the laws of the State of Oklahoma, hereby deny clemency to Brian Darrell Davis.

On June 6, 2013, the Oklahoma Pardon and Parole Board voted 4-1 to recommend to the Governor that clemency be granted to Brian Darrell Davis. The Board recommended his sentence of death be commuted to life without parole.

Having thoroughly reviewed the arguments and evidence presented in this case, I have determined that clemency should be denied, and that the sentence of death be carried out. In accordance with 22 O.S. Section 1001.1(G), I hereby order the Department of Corrections to proceed with Brian Darrell Davis' execution as scheduled on June 25, 2013.

This Executive Order shall be forwarded to the Director of the Oklahoma Department of

Corrections and the Oklahoma Attorney General who shall cause the provisions of this Order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 13th day of June, 2013.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Larry V. Parman
Secretary of State

[OAR Docket #13-1089; filed 6-14-13