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Secretary of State
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Chief**

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Notices of Rulemaking Intent

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

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

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

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

[OAR Docket #24-1159]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 17. Produce Safety

35:37-17-2. Definitions [AMENDED]

SUMMARY:

The proposed rule removes the word food from the definition of adulterated.

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2), (28) and (34).

COMMENT PERIOD:

Persons may submit written comments to Kiersten Wormus at kiersten.wormus@ag.ok.gov, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period beginning November 15, 2024, and ending December 16, 2024.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., December 16, 2024, in the ODAFF Board Room, located at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts, if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Kiersten Wormus at the address listed above during the period beginning November 15, 2024, and ending December 16, 2024.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Kiersten Wormus at the address listed above.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the address listed above.

CONTACT PERSON:

Kiersten Wormus, (405) 522-5803, e-mail address: at Kiersten.wormus@ag.ok.gov.

[OAR Docket #24-1159; filed 10-25-24]

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

[OAR Docket #24-1158]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 18. Local Food for Schools [NEW]

35:40-18-1. Purpose [NEW]

35:40-18-2. Definitions [NEW]

Notices of Rulemaking Intent

- 35:40-18-3. Eligibility [NEW]
- 35:40-18-4. Application Process [NEW]
- 35:40-18-5. Criteria for Allowed Purchases [NEW]
- 35:40-18-6. Use of Food Purchased Through the Program [NEW]
- 35:40-18-7. Supplemental Program Information [NEW]
- 35:40-18-8. Reimbursements [NEW]

SUMMARY:

The proposed rules create a subchapter for the Local Food for Schools program. The new rules layout the requirements, eligibility, reimbursement procedures for the new program.

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(11) & (A)(12).

COMMENT PERIOD:

Persons may submit written comments to Kiersten Wormus at kiersten.wormus@ag.ok.gov, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period beginning November 15, 2024, and ending December 16, 2024.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., December 16, 2024, in the ODAFF Board Room, located at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts, if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Kiersten Wormus at the address listed above during the period beginning November 15, 2024, and ending December 16, 2024.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Kiersten Wormus at the address listed above.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the address listed above.

CONTACT PERSON:

Kiersten Wormus, (405) 522-5803, e-mail address: [at Kiersten.wormus@ag.ok.gov](mailto:kiersten.wormus@ag.ok.gov).

[OAR Docket #24-1158; filed 10-25-24]

**TITLE 265. STATE FIRE MARSHAL COMMISSION
CHAPTER 25. REFERENCED STATE CODES AND STANDARDS: PERMITS**

[OAR Docket #24-1125]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

265:25-1-4. Building permits [AMENDED]

SUMMARY:

The proposed revisions amend Administrative Rules language to revise permitting requirements for change of ownership and vacant buildings.

AUTHORITY:

Title 74 O.S. Supp. 2007, § 324.11; State Fire Marshal Commission

COMMENT PERIOD:

Persons may submit written comments by 4:30 p.m. on December 16, 2024 to Susie Cain, 2501 N Lincoln Blvd, Suite 219, Oklahoma City, OK 73105, or by email to Susie.Cain@fire.ok.gov

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m. on Tuesday, December 17, 2024 at 2501 N Lincoln Blvd, Suite 219, Oklahoma City, OK 73105. Anyone who wishes to speak must sign in at the door by 9:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Notices of Rulemaking Intent

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Susie Cain at the above address before the close of the comment period on December 16, 2024

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the State Fire Marshal's Office, 2501 N Lincoln Blvd, Suite 219, Oklahoma City, OK 73105, or by email to Susie.Cain@fire.ok.gov

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement is being prepared and will be available for review on or after November 30, 2024 at the address above

CONTACT PERSON:

Susie Cain, Executive Secretary to the State Fire Marshal, (405) 522.5009 or Susie.Cain@fire.ok.gov

[OAR Docket #24-1125; filed 10-24-24]

**TITLE 265. STATE FIRE MARSHAL COMMISSION
CHAPTER 50. FIRE EXTINGUISHER INDUSTRY**

[OAR Docket #24-1126]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

265:50-1-2. Definitions [AMENDED]

Subchapter 3. License Requirements

265:50-3-1. General application and license requirements [AMENDED]

265:50-3-2. Application and license fees, period and display, and examination alternatives for prerequisites [AMENDED]

265:50-3-3. Portable fire extinguisher license requirements [AMENDED]

265:50-3-4. Pre-engineered industrial fire suppression system license requirements [AMENDED]

265:50-3-4.1. Pre-engineered kitchen/restaurant fire suppression system license requirements [NEW]

265:50-3-5. Engineered fire suppression system license requirements [AMENDED]

Subchapter 5. Special Provisions

265:50-5-2. Pre-Engineered ~~engineered~~ engineered industrial fire suppression system tagging requirements [AMENDED]

265:50-5-2.1. Pre-engineered kitchen/restaurant fire suppression system tagging requirements [NEW]

SUMMARY:

The proposed revisions will amend and add language to Definitions, License Requirements and Special Provisions sections

AUTHORITY:

Title 59 O.S. Supp. 2007, §1820.1 et seq.; State Fire Marshal Commission

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m. on December 16, 2024 at the following address: Susie Cain, 2501 N Lincoln Blvd, Suite 219, Oklahoma City, OK 73105 or by email to Susie.Cain@fire.ok.gov

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m. on Tuesday, December 17, 2024 at the Oklahoma State Fire Marshal's Office, 2501 N Lincoln Blvd, Suite 219, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 9:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Susie Cain at the above address before the close of the comment period on December 16, 2024

COPIES OF PROPOSED RULES:

Notices of Rulemaking Intent

Copies of the proposed rules may be obtained from the State Fire Marshal's Office, 2501 N Lincoln Blvd, Suite 219, Oklahoma City, OK 73105, or by email to Susie.Cain@fire.ok.gov

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement is being prepared and will be available for review on or after November 30, 2024 at the above address

CONTACT PERSON:

Susie Cain, Executive Secretary to the State Fire Marshal, (405) 522.5009 or Susie.Cain@fire.ok.gov

[OAR Docket #24-1126; filed 10-24-24]

**TITLE 265. STATE FIRE MARSHAL COMMISSION
CHAPTER 60. FEE SCHEDULE**

[OAR Docket #24-1127]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

265:60-1-2. Fees [AMENDED]

SUMMARY:

The proposed revisions amend Administrative Rules language to include Mobile Food Preparation Vehicles annual occupational permits

AUTHORITY:

State Fire Marshal Commission; Title 74 O.S. § 324 State Fire Marshal Commission and International Fire Code®, Sections 105.6.30 and 106.2

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m. on December 16, 2024 at the following address: Susie Cain, Oklahoma State Fire Marshal, 2501 N Lincoln Blvd, Suite 219, Oklahoma City, OK 73105, or email at Susie.Cain@fire.ok.gov

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m. on Tuesday, December 17, 2024 at Oklahoma State Fire Marshal's Office, 2501 N Lincoln Blvd, Suite 219, Oklahoma City, OK 73105. Anyone who wishes to speak must sign in at the front entrance to the Connor Building, 2501 N Lincoln Blvd, Oklahoma City, OK by 9:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Susie Cain, at the above addresses, before the close of the comment period on December 16, 2024.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the State Fire Marshal's Office, 2501 N Lincoln Blvd, Suite 219, Oklahoma City, OK 73105, or email at Susie.Cain@fire.ok.gov

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement is being prepared and will be available for review on or after November 30, 2024 at the above address

CONTACT PERSON:

Susie Cain, Executive Secretary to the State Fire Marshal, (405) 522.5009 or Susie.Cain@fire.ok.gov

[OAR Docket #24-1127; filed 10-24-24]

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

[OAR Docket #24-1143]

RULEMAKING ACTION:

Notices of Rulemaking Intent

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

325:1-1-9. Payment of fines [AMENDED]

SUMMARY:

Amends the rule to require the fine imposed against a suspended license holder to be due within one year of the final order.

AUTHORITY:

Oklahoma Horse Racing Commission; 75 O.S. Section 302 and 305, 3A O.S. Section 204

COMMENT PERIOD:

You may comment by mail or written statement to OHRC 2800 N. Lincoln Boulevard, Suite 101 Oklahoma City, OK 73105 or by email to richard.herren@ohrc.ok.gov. The comment period ends at 4:30 p.m. on December 16, 2024.

PUBLIC HEARING:

December 18, 2024 1:00 p.m. at the Oklahoma Department of Agriculture, 2800 N. Lincoln Boulevard Oklahoma City, Oklahoma. Each commenter will be required to sign a sheet noting attendance. Comments will be taken by written statement or oral presentation not to exceed ten minutes. The hearing will be recorded.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

See the Agency website www.ohrc.ok.gov

RULE IMPACT STATEMENT:

To obtain a Rule Impact Statement please contact Richard D. Herren, General Counsel 405 522-0718 richard.herren@ohrc.ok.gov.

CONTACT PERSON:

Richard D. Herren, General Counsel 405 522-0718 richard.herren@ohrc.ok.gov

[OAR Docket #24-1143; filed 10-25-24]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 15. LICENSING

[OAR Docket #24-1144]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Organizational Licensing

325:15-3-4. Application for organization license [AMENDED]

SUMMARY:

Adds to the organizational license application the ability to apply for conditional approval of simulcasting contracts.

AUTHORITY:

Oklahoma Horse Racing Commission; 75 O.S. Section 302, and 305, 3A O.S. Section 204, 205, 205.2 and 205.7a

COMMENT PERIOD:

You may comment by mail or written statement to OHRC 2800 N. Lincoln Boulevard, Suite 101 Oklahoma City, OK 73105 or by email to richard.herren@ohrc.ok.gov. The comment period ends at 4:30 p.m. on December 16, 2024.

PUBLIC HEARING:

December 18, 2024 1:15 p.m. at the Oklahoma Department of Agriculture, 2800 N. Lincoln Boulevard Oklahoma City, Oklahoma. Each commenter will be required to sign a sheet noting attendance. Comments will be taken by written statement or oral presentation not to exceed ten minutes. The hearing will be recorded.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

See OHRC website www.ohrc.ok.gov

RULE IMPACT STATEMENT:

To obtain a Rule Impact Statement please contact Richard D. Herren, General Counsel 405 522-0718 richard.herren@ohrc.ok.gov.

Notices of Rulemaking Intent

CONTACT PERSON:

Richard D. Herren, General Counsel OHRC (405) 522-0718 richard.herren@ohrc.ok.gov.

[OAR Docket #24-1144; filed 10-25-24]

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

[OAR Docket #24-1145]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Occupation Licensing

325:15-5-1. Occupation licenses [AMENDED]

325:15-5-2. Application for license and payment of non-refundable fees [AMENDED]

325:15-5-3. Employment of Unlicensed Person [AMENDED]

SUMMARY:

Amends the rule to allow temporary licenses for temporary employee from employment agencies utilizing a substantially similar background check. Adds a license fee schedule approved by the Commission annually. Adds a fine of \$500 per occurrence for employing unlicensed employees.

AUTHORITY:

Oklahoma Horse Racing Commission; 75 O.S. Section 302 and 305, 3A O.S. Section 204, 204.2 and 205.

COMMENT PERIOD:

You may comment by mail or written statement to OHRC 2800 N. Lincoln Boulevard, Suite 101 Oklahoma City, OK 73105 or by email to richard.herren@ohrc.ok.gov. The comment period ends at 4:30 p.m. on December 16, 2024.

PUBLIC HEARING:

December 18, 2024 1:30 p.m. at the Oklahoma Department of Agriculture, 2800 N. Lincoln Boulevard Oklahoma City, Oklahoma. Each commenter will be required to sign a sheet noting attendance. Comments will be taken by written statement or oral presentation not to exceed ten minutes. The hearing will be recorded.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

See OHRC website www.ohrc.ok.gov.

RULE IMPACT STATEMENT:

To obtain a Rule Impact Statement please contact Richard D. Herren, General Counsel 405 522-0718 richard.herren@ohrc.ok.gov.

CONTACT PERSON:

Richard D. Herren, General Counsel (405) 522-0718 richard.herren@ohrc.ok.gov.

[OAR Docket #24-1145; filed 10-25-24]

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

[OAR Docket #24-1148]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

325:25-1-30. Jockey mount fees [AMENDED]

SUMMARY:

Bifurcates the jockey mount fee schedule between the breeds and raises certain mount fees for Quarter Horse, Paints, and Appaloosa.

AUTHORITY:

Notices of Rulemaking Intent

Oklahoma Horse Racing Commission; 75 O.S. Section 302 and 305, 3A O.S. Section 204.

COMMENT PERIOD:

You may comment by mail or written statement to OHRC 2800 N. Lincoln Boulevard, Suite 101 Oklahoma City, OK 73105 or by email to richard.herren@ohrc.ok.gov. The comment period ends at 4:30 p.m. on December 16, 2024.

PUBLIC HEARING:

December 18, 2024 1:45 p.m. at the Oklahoma Department of Agriculture, 2800 N. Lincoln Boulevard Oklahoma City, Oklahoma. Each commenter will be required to sign a sheet noting attendance. Comments will be taken by written statement or oral presentation not to exceed ten minutes. The hearing will be recorded.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

See OHRC website www.ohrc.ok.gov.

RULE IMPACT STATEMENT:

To obtain a Rule Impact Statement please contact Richard D. Herren, General Counsel 405 522-0718 richard.herren@ohrc.ok.gov.

CONTACT PERSON:

Richard D. Herren, General Counsel (405) 522-0718 richard.herren@ohrc.ok.gov.

[OAR Docket #24-1148; filed 10-25-24]

**TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 45. PROHIBITED PRACTICES AND EQUINE TESTING**

[OAR Docket #24-1150]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

325:45-1-6. Use of permitted substances [AMENDED]

SUMMARY:

Amendments correct scrivener issues.

AUTHORITY:

Oklahoma Horse Racing Commission; 75 O.S. Section 302 and 305, 3A O.S. Section 204.

COMMENT PERIOD:

You may comment by mail or written statement to OHRC 2800 N. Lincoln Boulevard, Suite 101 Oklahoma City, OK 73105 or by email to richard.herren@ohrc.ok.gov. The comment period ends at 4:30 p.m. on December 16, 2024

PUBLIC HEARING:

December 18, 2024 2:00 p.m. at the Oklahoma Department of Agriculture, 2800 N. Lincoln Boulevard Oklahoma City, Oklahoma. Each commenter will be required to sign a sheet noting attendance. Comments will be taken by written statement or oral presentation not to exceed ten minutes. The hearing will be recorded.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

See OHRC website www.ohrc.ok.gov.

RULE IMPACT STATEMENT:

To obtain a Rule Impact Statement please contact Richard D. Herren, General Counsel 405 522-0718 richard.herren@ohrc.ok.gov.

CONTACT PERSON:

Richard D. Herren, General Counsel (405) 522-0718 richard.herren@ohrc.ok.gov.

[OAR Docket #24-1150; filed 10-25-24]

**TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 60. RUNNING THE RACE**

Notices of Rulemaking Intent

[OAR Docket #24-1152]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

325:60-1-20. Stewards to determine interference and placement [AMENDED]

SUMMARY:

Amends the interference and placement rule to return to the original American rule commonly known as category 2 for all horse races.

AUTHORITY:

Oklahoma Horse Racing Commission; 75 O.S. Section 302 and 305, 3A O.S. Section 204.

COMMENT PERIOD:

You may comment by mail or written statement to OHRC 2800 N. Lincoln Boulevard, Suite 101 Oklahoma City, OK 73105 or by email to richard.herren@ohrc.ok.gov. The comment period ends at 4:30 p.m. on December 16, 2024.

PUBLIC HEARING:

December 18, 2024 2:15 p.m. at the Oklahoma Department of Agriculture, 2800 N. Lincoln Boulevard Oklahoma City, Oklahoma. Each commenter will be required to sign a sheet noting attendance. Comments will be taken by written statement or oral presentation not to exceed ten minutes. The hearing will be recorded.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

See OHRC website www.ohrc.ok.gov.

RULE IMPACT STATEMENT:

To obtain a Rule Impact Statement please contact Richard D. Herren, General Counsel 405 522-0718 richard.herren@ohrc.ok.gov.

CONTACT PERSON:

Richard D. Herren, General Counsel (405) 522-0718 richard.herren@ohrc.ok.gov.

[OAR Docket #24-1152; filed 10-25-24]

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

[OAR Docket #24-1153]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

325:75-1-17. Oklahoma-Bred races to be written and offered [AMENDED]

SUMMARY:

The amendment adds the offer of an additional Oklahoma-Bred race each race day.

AUTHORITY:

Oklahoma Horse Racing Commission; 75 O.S. Section 302 and 305, 3A O.S. Section 204 and 208.3.

COMMENT PERIOD:

You may comment by mail or written statement to OHRC 2800 N. Lincoln Boulevard, Suite 101 Oklahoma City, OK 73105 or by email to richard.herren@ohrc.ok.gov. The comment period ends at 4:30 p.m. on December 16, 2024.

PUBLIC HEARING:

December 18, 2024 2:30 p.m. at the Oklahoma Department of Agriculture, 2800 N. Lincoln Boulevard Oklahoma City, Oklahoma. Each commenter will be required to sign a sheet noting attendance. Comments will be taken by written statement or oral presentation not to exceed ten minutes. The hearing will be recorded.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

See OHRC website www.ohrc.ok.gov.

RULE IMPACT STATEMENT:

Notices of Rulemaking Intent

To obtain a Rule Impact Statement please contact Richard D. Herren, General Counsel 405 522-0718
richard.herren@ohrc.ok.gov.

CONTACT PERSON:

Richard D. Herren, General Counsel (405) 522-0718 richard.herren@ohrc.ok.gov.

[OAR Docket #24-1153; filed 10-25-24]

**TITLE 442. OKLAHOMA MEDICAL MARIJUANA AUTHORITY
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #24-1147]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

442:1-1-6. Failure to appear [AMENDED]

SUMMARY:

The amendment clarifies administrative rules governing proceedings before the agency, including provisions regarding failure to appear before the assigned administrative law judge. The amendment clarifies that nonappearance of a summoned person or entity after adequate notice shall be construed as a waiver of right to be present at a hearing.

AUTHORITY:

Executive Director of the Oklahoma Medical Marijuana Authority; 63 O.S. § 420-430

COMMENT PERIOD:

November 15, 2024 through December 17, 2024. Persons wishing to present their views in writing may do so before 5:00 p.m. on December 17, 2024 at the following address: Oklahoma Medical Marijuana Authority, P.O. Box 262266, Oklahoma City, Oklahoma 73126 or by submitting public comment on the agency website at www.omma.ok.gov/rules.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303(A), the public hearing for the proposed rulemaking in this chapter shall be on December 17, 2024 at the Oklahoma State Capitol, 2300 N. Lincoln Boulevard, Oklahoma City, OK 73105 in Room 535 at 9:00 a.m. Anyone who wishes to speak must sign in at the door by 9:05 a.m. The alternate date and time in the event of an office closure due to inclement weather is December 18, 2024 at the Oklahoma Medical Marijuana Authority, 2501 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105 in Room 400 at 1:00 p.m. Anyone who wishes to speak must sign in at the door by 1:05 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, within the comment period, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through December 17, 2024 at 5:00 p.m., the close of business, on the public comment form listed at www.omma.ok.gov/rules.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the Oklahoma Medical Marijuana Authority, 2501 N. Lincoln Boulevard., Oklahoma City, Oklahoma 73105. The proposed rules are also available on the agency website at www.omma.ok.gov/rules.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement has been prepared and is available at the Oklahoma Medical Marijuana Authority at the above address or on the agency website at www.omma.ok.gov/rules.

CONTACT PERSON:

Ashley Crall, Director of Government Affairs, Oklahoma Medical Marijuana Authority, 2501 N. Lincoln Blvd., OK 73105, 405-568-5766. Ashley.Crall@omma.ok.gov.

[OAR Docket #24-1147; filed 10-24-24]

**TITLE 442. OKLAHOMA MEDICAL MARIJUANA AUTHORITY
CHAPTER 10. MEDICAL MARIJUANA REGULATIONS**

Notices of Rulemaking Intent

[OAR Docket #24-1149]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

442:10-1-4. Definitions [AMENDED]

Subchapter 2. Medical Marijuana Licenses

442:10-2-9. Prohibited acts and penalties [AMENDED]

Subchapter 3. Transporter License

442:10-3-1. License for transportation of medical marijuana [AMENDED]

442:10-3-2. Requirements for transportation of marijuana [AMENDED]

442:10-3-3. Transporter agent license [AMENDED]

442:10-3-6. Inventory manifests [AMENDED]

Subchapter 4. Research Facilities and Education Facilities

442:10-4-1. License required [AMENDED]

442:10-4-1.1. Responsibilities of the license holder [AMENDED]

442:10-4-2. Licenses [AMENDED]

442:10-4-3. Applications [AMENDED]

442:10-4-4. Inspections [AMENDED]

442:10-4-5. Inventory tracking, records, reports, and audits [AMENDED]

442:10-4-6. Penalties [AMENDED]

Subchapter 5. Medical Marijuana Businesses

442:10-5-1. License required [AMENDED]

442:10-5-1.1. Responsibilities of the license holder [AMENDED]

442:10-5-2. Licenses [AMENDED]

442:10-5-3. Applications [AMENDED]

442:10-5-3.1. Proof of residency for commercial licensees [AMENDED]

442:10-5-4. Inspections [AMENDED]

442:10-5-4.1. Operational status visit [AMENDED]

442:10-5-5. Processing medical marijuana on behalf of a patient or caregiver [AMENDED]

442:10-5-6. Inventory tracking, records, reports, and audits [AMENDED]

442:10-5-8. Food safety standards for processors [AMENDED]

442:10-5-10. Medical marijuana waste disposal [AMENDED]

442:10-5-16. Prohibited acts [AMENDED]

Subchapter 6. Commercial Licensees

442:10-6-1. General security requirements for commercial licensees [AMENDED]

Subchapter 7. Packaging, Labeling, and Advertising

442:10-7-1. Labeling and packaging [AMENDED]

442:10-7-2. Prohibited products [AMENDED]

442:10-7-3. Advertising [AMENDED]

Subchapter 8. Laboratory Testing

442:10-8-1. Testing standards and thresholds [AMENDED]

442:10-8-2. General operating requirements and procedures [AMENDED]

442:10-8-3. Sampling requirements and procedures [AMENDED]

442:10-8-4. Laboratory quality assurance and quality control [AMENDED]

Subchapter 9. Waste Disposal Facilities

442:10-9-1. License or permit required [AMENDED]

442:10-9-2. Licenses and permits [AMENDED]

442:10-9-3. License applications [AMENDED]

442:10-9-4. Permit applications [AMENDED]

442:10-9-5. Inspections [AMENDED]

442:10-9-6. Security requirements [AMENDED]

442:10-9-7. Audits and inventory [AMENDED]

442:10-9-9. Waste disposal [AMENDED]

Notices of Rulemaking Intent

Subchapter 11. Process Validation

442:10-11-1. Standards and requirements to achieve process validation [AMENDED]

SUMMARY:

The proposed permanent rules implement legislative changes mandated by HB 3361, SB 758, SB 1635, SB1939, and address changes in state statute under 63 O.S. § 422, 426.1, 427.2, 427.14, 427.14b, 427.14c, 427.17, and 431.1. The permanent rules are intended to provide a structure for the implementation of these legislative requirements. Changes to required application materials like certificates of occupancy or ownership transfers, pursuant to SB1635 and SB1939, occur at OAC 442:10-3-1(c-e), OAC 442:10-4-2(c)(2); OAC 442:10-4-2(e)(A)(i); OAC 442:10-4-3(e); OAC 442:10-5-2(c); OAC 442:10-5-2(e); OAC 442:10-5-3(e)(8-9); and OAC 442:10-9-3(e)(9). New definitions for “change of ownership request”, “license transfer application”, “location change request”, and “name change request” provide clarification of the new ownership transfer requirements pursuant to SB1939 and are added to definitions at OAC 442:10-1-4. Updated timeframes to submit renewal applications pursuant to SB1939 are incorporated at OAC 442:10-4-2(c)(6) and OAC 442:10-5-2(c)(5). Specific location prohibitions regarding multiple licenses of the same type pursuant to SB1939 are added to OAC 442:10-5-2(b)(2). Amendments regarding ownership transfers pursuant to SB1939 are added to OAC 442:10-4-2(e); OAC 442:10-5-2(e); and OAC 442:10-9-2(e)(2). Language regarding the possession, sale, or transfer of medical marijuana upon expiration of a license are added to OAC 442:10-4-2(d); OAC 442:10-5-2(d); and OAC 442:10-9-2(d)(1) as required by SB1939. The requirement that employees wear or display their employee credential pursuant to SB758 is added at OAC 442:10-5-1.1(13)(C). Changes to laboratory testing requirements, including final form testing requirements pursuant to SB1635, occur at OAC 442:10-4-5(d)(2)(D); OAC 442:10-5-5(f); OAC 442:10-5-6(d)(2)(D); OAC 442:10-7-1(f)(4); OAC 442:10-8-1; OAC 442:10-8-2; OAC 442:10-8-3; OAC 442:10-8-4; OAC 442:10-9-7(b)(2)(D); and OAC 442:10-11-1(g)(2)(C). Rules requiring medical marijuana to be sold in pre-packaged quantities pursuant to HB3361 are added to OAC 442:10-7-1 and OAC 442:10-7-2. Specific prohibitions regarding opening pre-packaged products are added to OAC 442:10-5-16(s). Amendments to streamline and clarify inventory manifest requirements are added to the rules at OAC 442:10-3-6(a), OAC 442:10-3-6(b)(1); OAC 442:10-4-5(c)(2); OAC 442:10-4-5(d)(1)(G); OAC 442:10-5-6(d)(1)(H); and OAC 442:10-9-7(b)(1)(G). Amendments to OAC 442:10-4-2(g); OAC 442:10-5-2(g)(2-3); and OAC 442:10-9-2(g) reiterate that commercial license surrender requests are effective upon written approval by the Authority and clarify when the Authority may reject surrender requests. Amendments to OAC 442:10-5-1(a) state that all requirements of Oklahoma law and these Rules are continuing in nature and must be satisfied in order to retain licensure. OAC 442:10-6-1(c) is amended to clarify that commercial growers must maintain required commercial grower signage. Expanded testing requirements for pesticide analytes occur at OAC 442:10-8-1(i)(5). The requirement that dispensaries shall produce any and all COAs for products currently in the dispensary’s inventory upon request of a licensed medical marijuana patient or caregiver is added to OAC 442:10-8-1(h). The requirement that processors verify patient license information when processing on behalf of a licensed patient is added to OAC 442:10-5-5. Amendments to labeling requirements at OAC 442:10-7-1(d)(11) provide clarification that if a package or container is relabeled, all initial labels must be completely removed before the new label is applied. Clean up and clarification of existing rules occurs throughout Chapter 10 of OAC 442. Definitions for “decontamination”, “final product”, “production batch”, and “remediation” are amended, new definitions for “final harvest batch”, “final production batch”, and “tamper-evident” are added, and definitions are alphabetized at OAC 442:10-1-4. Record retention requirements are amended for consistency at OAC 442:10-3-2(c); OAC 442:10-3-6(f); OAC 442:10-4-5(c); OAC 442:10-5-4(h); OAC 442:10-5-5(b); OAC 442:10-5-6(b); OAC 442:10-5-6(b)(6); OAC 442:10-5-6(i)(1); OAC 442:10-5-10(b)(3); OAC 442:10-9-6(c)(1)(C); OAC 442:10-9-6(c)(2)(B); OAC 442:10-9-6(e); OAC 442:10-11-(f)(3). Amendments to ensure consistent application requirements occur at OAC 442:10-4-1(b), OAC 442:10-4-1.1; OAC 442:10-4-3(b), OAC 442:10-4-3(c)(12-14); OAC 442:10-4-2(h); OAC 442:10-5-3(f); OAC 442:10-9-3(c)(7-8); OAC 442:10-9-3(f); OAC 442:10-9-4(b)(9-10) and OAC 442:10-11-(d)(4). Amendments to ensure consistent language throughout all subchapters of the rules, including adding words where numbers are used, replacing dashes with commas, removing dates that have previously passed, and ensuring consistent verbiage throughout the rules, occur at OAC 442:10-2-9(a-b); OAC 442:10-3-3; OAC 442:10-4-4(b); OAC 442:10-5-1.1(7); OAC 442:10-5-2(b)(1); OAC 442:10-5-3(b); OAC 442:10-5-4(b-c); OAC 442:10-5-4.1(a); OAC 442:10-5-6(i)(7); OAC 442:10-7-2(b); OAC 442:10-9-1(b); OAC 442:10-11-(d)(1); and OAC 442:10-11-(j).

AUTHORITY:

Executive Director of the Oklahoma Medical Marijuana Authority; 63 O.S. § 426.1, 63 O.S. § 427.14, 63 O.S. § 427.14b, 63 O.S. § 427.14c, 63 O.S. § 427.17, and 63 O.S. § 431.1.

COMMENT PERIOD:

November 15, 2024 through December 17, 2024. Persons wishing to present their views in writing may do so before 5:00 p.m. on December 17, 2024 at the following address: Oklahoma Medical Marijuana Authority, P.O. Box 262266, Oklahoma City, Oklahoma 73126 or by submitting public comment on the agency website at www.omma.ok.gov/rules.

PUBLIC HEARING:

Notices of Rulemaking Intent

Pursuant to 75 O.S. § 303(A), the public hearing for the proposed rulemaking in this chapter shall be on December 17, 2024 at the Oklahoma State Capitol, 2300 N. Lincoln Boulevard, Oklahoma City, OK 73105 in Room 535 at 9:00 a.m. Anyone who wishes to speak must sign in at the door by 9:05a.m. The alternate date and time in the event of an office closure due to inclement weather is December 18, 2024 at the Oklahoma Medical Marijuana Authority, 2501 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105 in Room 400 at 1:00 p.m. Anyone who wishes to speak must sign in at the door by 1:05p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, within the comment period, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through December 17, 2024 at 5:00 p.m., the close of business, on the public comment form listed at www.omma.ok.gov/rules.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the Oklahoma Medical Marijuana Authority, 2501 N. Lincoln Boulevard., Oklahoma City, Oklahoma 73105. The proposed rules are also available on the agency website at www.omma.ok.gov/rules.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement has been prepared and is available at the Oklahoma Medical Marijuana Authority at the above address or on the agency website at www.omma.ok.gov/rules.

CONTACT PERSON:

Ashley Crall, Director of Government Affairs, Oklahoma Medical Marijuana Authority, 2501 N. Lincoln Blvd., OK 73105, 405-568-5766. Ashley.Crall@omma.ok.gov.

[OAR Docket #24-1149; filed 10-24-24]

TITLE 465. OKLAHOMA NEW MOTOR VEHICLE COMMISSION CHAPTER 20. TEMPORARY LICENSE PLATES

[OAR Docket #24-1146]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

465:20-1-1. Purpose [AMENDED]

Subchapter 3. Design and Placement

465:20-3-1. Form and substance of the temporary license plate [AMENDED]

465:20-3-2. Content of the temporary license plate [AMENDED]

465:20-3-3. Location and visibility of the temporary license plate [AMENDED]

Subchapter 5. Registration Procedures, Qualifications and Fees [NEW]

465:20-5-1. Scope [NEW]

465:20-5-2. Temporary license plate vendors [NEW]

465:20-5-3. Applicant [NEW]

465:20-5-4. Place of business [NEW]

465:20-5-5. Bond and insurance [NEW]

465:20-5-6. Issuance of registration [NEW]

465:20-5-7. Renewal of registration [NEW]

465:20-5-8. Fees [NEW]

465:20-5-9. Vendor ownership changes [NEW]

Subchapter 7. Operation [NEW]

465:20-7-1. Services [NEW]

465:20-7-2. Records [NEW]

465:20-7-3. Prohibited acts [NEW]

Subchapter 9. Software and Security [NEW]

Notices of Rulemaking Intent

465:20-9-1. Sales data transfer format and security requirement [NEW]
Subchapter 11. Assessment of Fine or Denial, Suspension or Revocation of Registration [NEW]
465:20-11-1. Grounds [NEW]
465:20-11-2. Prohibition [NEW]

SUMMARY:

These Rules were approved as Emergency Rules September 2024, as a result of the Mason Treat Act, SB2035. Now we are requesting the same rules with no changes, to become Permanent Rules. These rules affect the design of temporary license plates, registration of temporary license plate vendors and enforcement of those vendors.

AUTHORITY:

Oklahoma New Motor Vehicle Commission; Title 47, Section 563(F) and Service Oklahoma Law Title 47, Section 1137.4

COMMENT PERIOD:

Written comments will be accepted November 15, 2024 through December 17, 2024, at the Oklahoma New Motor Vehicle Commission, 4334 NW Expressway, Suite 183, Oklahoma City, OK 73116 or by email to: email@onmvc.ok.gov

PUBLIC HEARING:

A public hearing has not been scheduled, however, pursuant to 75 O.S. Section 303(B)(9), "persons may demand a hearing" in writing to ONMVC, 4334 NW Expressway, Suite 183, Oklahoma City, OK 73116, or by email to: email@onmvc.ok.gov, attention of Brad Bailey. Requests must be received no later than 4:30pm on December 17, 2024

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Brad Bailey at the address or email address above from November 15 to December 17, 2024.

COPIES OF PROPOSED RULES:

Copies of the rules may be obtained by contacting Marilyn Maxwell at the ONMVC, 4334 NW Expressway, Suite 183, Oklahoma City, OK 73116, or by phone (405) 607-8227, ext 101, or by email to: email@onmvc.ok.gov

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. Section 303 (D), a rule impact statement will be prepared and available on November 27, 2024 at the same location listed above for obtaining copies of the proposed rules.

CONTACT PERSON:

Marilyn Maxwell, Deputy Director, (405) 607-8227, ext 101, email@onmvc.ok.gov

[OAR Docket #24-1146; filed 10-24-24]

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

[OAR Docket #24-1107]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Petition to Promulgate, Amend or Repeal a Rule
595:1-5-2. Petition [AMENDED]
595:1-5-3. Decision of Department of Public Safety [AMENDED]

SUMMARY:

The proposed rules bring the Department's administrative rules into alignment with Oklahoma Statute.

AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 2-108

COMMENT PERIOD:

Written comments will be accepted until closed of business, Monday December 16, 2024. Written comments may be mailed to the Department of Public Safety, ATTN: Kimberly Dammen, P.O. Box 53004, Oklahoma City, OK 73152-2900, or emailed to kimberly.dammen@dps.ok.gov.

PUBLIC HEARING:

Notices of Rulemaking Intent

A public hearing will be held at 8:30 a.m., Tuesday, December 17, 2024, at the Department of Public Safety, 3600 N. Martin Luther King Ave., Oklahoma City, OK 73111. Interested parties must sign in at the door.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts, if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Kimberly Dammen at the mailing address provided in the "Comment Period" section above no later than the close of business on the date of the public hearing.

COPIES OF PROPOSED RULES:

The proposed rules may be viewed on the agency's website at <http://www.ok.gov/dps> and copies may be obtained from the Department of Public Safety's office located at 3600 N. Martin Luther King Ave., Oklahoma City, OK 73111. Copies may also be obtained by written request mailed to the attention of Kimberly Dammen, P.O. Box 53004, Oklahoma City, OK 73152-9998, or emailed to kimberly.dammen@dps.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is being prepared and will be available for review after November 30, 2024, on the agency's website at <http://www.ok.gov/dps> and a copy may be obtained from the Department of Public Safety's office located at 3600 N. Martin Luther King Ave., Oklahoma City, OK 73111. A copy may also be obtained by written request mailed to the attention of Kimberly Dammen, P.O. Box 53004, Oklahoma City, OK 73152-9998, or emailed to kimberly.dammen@dps.ok.gov.

CONTACT PERSON:

Kimberly Dammen, kimberly.dammen@dps.ok.gov, 405-425-2148

[OAR Docket #24-1107; filed 10-20-24]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 25. WRECKERS AND TOWING SERVICES

[OAR Docket #24-1108]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
 - 595:25-1-1. Purpose [AMENDED]
 - 595:25-1-2. Definitions [AMENDED]
 - 595:25-1-3. General policies [REVOKED]
 - 595:25-1-4. Individual proceedings [NEW]
 - 595:25-1-5. Petition for rulemaking [NEW]
 - 595:25-1-6. Wrecker Services Division management system [NEW]
 - 595:25-1-7. Release of information from Departmental Records [NEW]
- Subchapter 3. Wrecker License
 - 595:25-3-1. General requirements [REVOKED]
 - 595:25-3-2. Applications [REVOKED]
 - 595:25-3-3. Renewal [REVOKED]
 - 595:25-3-4. Trade name [REVOKED]
 - 595:25-3-5. Licenses required [NEW]
 - 595:25-3-6. Wrecker services license [NEW]
 - 595:25-3-7. Original wrecker service application [NEW]
 - 595:25-3-8. Renewal application [NEW]
 - 595:25-3-9. Wrecker vehicle operator license - scope and effect [NEW]
 - 595:25-3-10. Minimum qualifications for wrecker vehicle operators [NEW]
 - 595:25-3-11. Drug testing [NEW]
 - 595:25-3-12. Wrecker Vehicle License [NEW]
- Subchapter 5. All Wrecker Operators
 - 595:25-5-1. Physical requirements for storage facility [REVOKED]

Notices of Rulemaking Intent

- 595:25-5-2. Equipment requirements for all classes of wrecker vehicles [REVOKED]
- 595:25-5-3. Operation [REVOKED]
- 595:25-5-4. Insurance [REVOKED]
- 595:25-5-5. Records [REVOKED]
- 595:25-5-7. Tow request and authorization forms [REVOKED]
- 595:25-5-8. Conflicts of interest [REVOKED]
- 595:25-5-9. Inspections [REVOKED]
- 595:25-5-10. General requirements [NEW]
- 595:25-5-11. General prohibitions [NEW]
- 595:25-5-12. Traffic Incident Management [RESERVED]
- 595:25-5-13. Towing vehicles from private property [NEW]
- 595:25-5-14. Place of business [NEW]
- 595:25-5-15. Storage facility requirements - general [NEW]
- 595:25-5-16. Outdoor storage facility requirements [NEW]
- 595:25-5-17. Exception from storage facility requirements [NEW]
- 595:25-5-18. Indoor storage facility requirements [NEW]
- 595:25-5-19. Personal property [NEW]
- 595:25-5-20. Exceptions to vehicle release rules [NEW]
- 595:25-5-21. Release of stored vehicles [NEW]
- 595:25-5-22. Release of stored vehicle to another licensed wrecker service [NEW]
- 595:25-5-23. Insurance requirements [NEW]
- Subchapter 7. Class AA Operators [REVOKED]
- 595:25-7-2. Release and holding of vehicle [REVOKED]
- Subchapter 9. Oklahoma Highway Patrol ~~Rotation Log - Additional Requirements~~ Wrecker Rotation [AMENDED]
- 595:25-9-1. Oklahoma Highway Patrol Rotation Log [REVOKED]
- 595:25-9-2. Operator requirements [REVOKED]
- 595:25-9-3. Rotation calls for truck wreckers (Class AA-TL) [REVOKED]
- 595:25-9-4. Oklahoma Highway Patrol wrecker rotation - general [NEW]
- 595:25-9-5. Oklahoma Highway Patrol wrecker rotation - placement and removal [NEW]
- 595:25-9-6. Oklahoma Highway Patrol wrecker rotation - process [NEW]
- 595:25-9-7. Oklahoma Highway Patrol wrecker rotation - special situations [NEW]
- 595:25-9-8. Oklahoma Highway Patrol wrecker rotation - minimum response requirements [NEW]
- 595:25-9-9. Oklahoma Highway Patrol wrecker rotation - geographic boundaires [NEW]
- Subchapter 11. Denial, Suspension, Revocation or Cancellation of License; Denial or Removal of Class AA Operators from Rotation Log of the Oklahoma Highway Patrol [REVOKED]
- 595:25-11-1. Failure to qualify [REVOKED]
- 595:25-11-2. Violation of rules [REVOKED]
- 595:25-11-3. Procedure [REVOKED]
- Subchapter 13. Training and Education [NEW]
- 595:25-13-1. Continuing education requirements [NEW]
- 595:25-13-2. Approved training [NEW]
- Subchapter 15. WRECKER VEHICLES [NEW]
- 595:25-15-1. Classes of wrecker vehicles [NEW]
- 595:25-15-2. Licensed wrecker vehicle requirements [NEW]
- Subchapter 17. Administration [NEW]
- 595:25-17-1. Required records [NEW]
- 595:25-17-2. Initial business, wrecker vehicle, and storage facility inspections [NEW]
- 595:25-17-3. Supplemental wrecker vehicle and storage facility inspections [NEW]
- 595:25-17-4. Transfer of ownership [NEW]
- 595:25-17-5. Administrative action by the Department [NEW]

SUMMARY:

The proposed amendments further clarify the licensing requirements for wrecker and towing companies; make clear the requirement for wrecker and towing company operations and services provided by those companies; revoking rules that are considered outdated or duplicative; and updates the requirements for a wrecker or tow company to remain on the Oklahoma Highway Patrol rotation log.

AUTHORITY:

Notices of Rulemaking Intent

The Commissioner of the Department of Public Safety; 47 O.S. §952

COMMENT PERIOD:

Persons wishing to express their views in writing may do so by close of business, Monday December 16, 2024, at the following address: Department of Public Safety, Attn: Kimberly Dammen, P.O. Box 53004, Oklahoma City, OK 73152-2900, or by email to kimberly.dammen@dps.ok.gov.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m. on Tuesday, December 17, 2024, at the Department of Public Safety, 3600 N. Martin Luther King Ave, Oklahoma City, OK 73111. Anyone wishing to speak must sign in at the door.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Department of Public Safety requests business entities affected by these proposed rules provide the Department, within the comment period described above, in dollar amounts if possible, the increase in the level of direct costs, revenue loss, or other costs expected to be incurred by said entities such as fees; and indirect costs such as reporting, recordkeeping, professional services, labor, construction, or equipment expected to be incurred by the entity due to compliance with the proposed rules. Business entities may submit this information in writing to Kimberly Dammen at the mailing address provided in the "Comment Period" section of this notice no later than the close of business on the date of the public hearing.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of Public Safety, Legal Division, P.O. Box 53004, Oklahoma City, OK 731152-2900, or kimberly.dammen@dps.ok.gov. The proposed rules are also posted on the DPS website at www.dps.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D) a rule impact statement will be prepared and will be available at the above address beginning November 30, 2024.

CONTACT PERSON:

Kimberly Dammen, Administrative Programs Officer IV; 405-245-2148, or kimberly.dammen@dps.ok.gov.

[OAR Docket #24-1108; filed 10-20-24]

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

[OAR Docket #24-1109]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

595:35-1-5. Applicability [AMENDED]

SUMMARY:

A Commercial Motor Vehicle (CMV) operating in intrastate commerce is not subject to the federal requirements of interstate commerce. The 2024 permanent rule amendment unintentionally subjected intrastate CMVs to the federal requirements of interstate CMVs.

AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 2-108

COMMENT PERIOD:

Written comments will be accepted until close of business, Monday December 16, 2024. Written comments may be mailed to the Department of Public Safety, ATTN: Kimberly Dammen, P.O. Box 53004, Oklahoma City, OK 73152-2900, or emailed to kimberly.dammen@dps.ok.gov.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., Tuesday, December 17, 2024, at the Department of Public Safety, 3600 N. Martin Luther King Ave., Oklahoma City, OK 73111. Interested parties must sign in at the door.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Notices of Rulemaking Intent

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts, if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Kimberly Dammen at the mailing address provided in the “Comment Period” section above no later than the close of business on the date of the public hearing.

COPIES OF PROPOSED RULES:

The proposed rules may be viewed on the agency’s website at <http://www.ok.gov/dps> and copies may be obtained from the Department of Public Safety’s office located at 3600 N. Martin Luther King Ave., Oklahoma City, OK 73111. Copies may also be obtained by written request mailed to the attention of Kimberly Dammen, P.O. Box 53004, Oklahoma City, OK 73152-9998, or emailed to kimberly.dammen@dps.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is being prepared and will be available for review after November 30, 2024, on the agency’s website at <http://www.ok.gov/dps> and a copy may be obtained from the Department of Public Safety’s office located at 3600 N. Martin Luther King Ave., Oklahoma City, OK 73111. A copy may also be obtained by written request mailed to the attention of Kimberly Dammen, P.O. Box 53004, Oklahoma City, OK 73152-9998, or emailed to kimberly.dammen@dps.ok.gov.

CONTACT PERSON:

Kimberly Dammen, kimberly.dammen@dps.ok.gov, 405-425-2148.

[OAR Docket #24-1109; filed 10-20-24]

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 75. MOTORCYCLE RIDER SAFETY [NEW]**

[OAR Docket #24-1110]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 595:75-1-1. Purpose [NEW]
- 595:75-1-2. Definitions [NEW]
- 595:75-1-3. Approved Commercial Motorcycle Schools [NEW]
- 595:75-1-4. Term of Approval – Commercial Motorcycle Schools [NEW]
- 595:75-1-5. Application Requirements – Commercial Motorcycle Schools [NEW]
- 595:75-1-6. Insurance [NEW]
- 595:75-1-7. Approved Commercial Motorcycle Instructors [NEW]
- 595:75-1-8. Term of Approval – Commercial Motorcycle Instructors [NEW]
- 595:75-1-9. Application Requirements – Commercial Motorcycle Instructors [NEW]
- 595:75-1-10. Range requirements [NEW]
- 595:75-1-11. Motorcycle requirements [NEW]
- 595:75-1-12. Motorcycle inspections [NEW]
- 595:75-1-13. Classroom requirements [NEW]
- 595:75-1-14. Safety [NEW]
- 595:75-1-15. Personal protective equipment [NEW]
- 595:75-1-16. Prescribed course of study [NEW]
- 595:75-1-17. Required reports [NEW]
- 595:75-1-18. Recordkeeping requirements [NEW]
- 595:75-1-19. Advertising [NEW]
- 595:75-1-20. Professionalism [NEW]
- 595:75-1-21. Commissioner's designee [NEW]
- 595:75-1-22. Review of license and school [NEW]
- 595:75-1-23. Grounds for Disapproval of a Commercial Motorcycle School [NEW]
- 595:75-1-24. Grounds for Disapproval of a Commercial Motorcycle Instructor [NEW]
- 595:75-1-25. Administrative Action by the Department [NEW]

SUMMARY:

Notices of Rulemaking Intent

These rules are being promulgated to effectuate the provisions of 47 O.S. § 40-121, et seq. The Department is required to adopt "guidelines and standards for courses of instruction, as established and approved by the Commissioner and which are taught by certified instructors, as prescribed by the Commissioner".

AUTHORITY:

Department of Public Safety; 47 O.S. § 40-121

COMMENT PERIOD:

Persons wishing to express their views in writing may do so by close of business, Monday December 16, 2024, at the following address: Department of Public Safety, Attn: Kimberly Dammen, P.O. Box 53004, Oklahoma City, OK 73152-2900, or by email to kimberly.dammen@dps.ok.gov.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Tuesday, December 17, 2024, at the Department of Public Safety, 3600 N. Martin Luther King Ave, Oklahoma City, OK 73111. Anyone wishing to speak must sign in at the door.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Department of Public Safety requests business entities affected by these proposed rules provide the Department, within the comment period described above, in dollar amounts if possible, the increase in the level of direct costs, revenue loss, or other costs expected to be incurred by said entities such as fees; and indirect costs such as reporting, recordkeeping, professional services, labor, construction, or equipment expected to be incurred by the entity due to compliance with the proposed rules. Business entities may submit this information in writing to Kimberly Dammen at the mailing address provided in the "Comment Period" section of this notice no later than the close of business on the date of the public hearing.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of Public Safety, Legal Division, P.O. Box 53004, Oklahoma City, OK 73152-2900, or kimberly.dammen@dps.ok.gov. The proposed rules are also posted on the DPS website at www.dps.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D) a rule impact statement will be prepared and will be available at the above address beginning November 30, 2024.

CONTACT PERSON:

Kimberly Dammen, Administrative Programs Officer IV; 405-245-2148, or kimberly.dammen@dps.ok.gov.

[OAR Docket #24-1110; filed 10-20-24]

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE, DISMANTLER, AND MANUFACTURED HOUSING COMMISSION
CHAPTER 4. GENERAL LICENSING PROVISIONS**

[OAR Docket #24-1113]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

765:4-1-4. Criminal Record Report [AMENDED]

SUMMARY:

Removing language to clarify the rule to include all applicant types.

AUTHORITY:

Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission; 47 O.S. Section 582(E)(1); 75 O.S. Section 583 B.3.; 75 O.S. Section 302 et.seq

COMMENT PERIOD:

Persons wishing to present their views regarding this action may do so by delivering or mailing their written comments to the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 330, Oklahoma City, Oklahoma 73103 by December 16, 2024.

PUBLIC HEARING:

The public hearing will be held on Tuesday, January 14th, 2025, at 10:30 AM, at the office of the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 100, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Notices of Rulemaking Intent

The Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission requests that business entities affected by these proposed rules provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Brian Wilson, at the above address, before the close of the comment period on December 16th, 2024.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review at the office of the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 330, Oklahoma City, Oklahoma or by email at commission@oumvdhmc.ok.gov.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and be available after November 30th, 2024, at the office of the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission.

CONTACT PERSON:

Brian Wilson, Director, Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421, NW 13th, Suite 330, Oklahoma City, Oklahoma 73103 (405)521-3600.

[OAR Docket #24-1113; filed 10-22-24]

**TITLE 765. OKLAHOMA USED MOTOR VEHICLE, DISMANTLER, AND MANUFACTURED HOUSING
COMMISSION
CHAPTER 13. TEMPORARY LICENSE PLATES**

[OAR Docket #24-1111]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Design

765:13-3-1. Purpose [AMENDED]

765:13-3-2. Form and substance of the temporary license plate [AMENDED]

765:13-3-3. Content of the temporary license plate [AMENDED]

765:13-3-4. Location of the temporary license plate [AMENDED]

765:13-3-5. ~~Records~~ Requirement [AMENDED]

765:13-3-6. Pre-registration by dealer [NEW]

765:13-3-7. Records [NEW]

SUMMARY:

The Rule Amendments make the Emergency Rules permanent to conform to SB 2035 by modifying the current temporary license plate to make them readable for the Oklahoma Turnpike Authority and requiring dealers to submit pre-registration documentation to Service Oklahoma on motor vehicles sold.

AUTHORITY:

Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission; 47 O.S. Section 582(E)(1); 75 O.S. Section 583 B.3.; 75 O.S. Section 302 et.seq

COMMENT PERIOD:

Persons wishing to present their views regarding this action may do so by delivering or mailing their written comments to the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 330, Oklahoma City, Oklahoma 73103 by December 16, 2024.

PUBLIC HEARING:

The public hearing will be held on Tuesday, January 14th, 2025, at 10:30 AM, at the office of the Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 100, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission requests that business entities affected by these proposed rules provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Brian Wilson, at the above address, before the close of the comment period on December 16th, 2024.

Notices of Rulemaking Intent

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review at the office of the Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 330, Oklahoma City, Oklahoma or by email at comission@oumvdhmc.ok.gov.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and be available after November 30th, 2024, at the office of the Used Motor Vehicle Dismantler, and Manufactured Housing Commission.

CONTACT PERSON:

Brian Wilson, Director, Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421, NW 13th, Suite 330, Oklahoma City, Oklahoma 73103 (405)521-3600.

[OAR Docket #24-1111; filed 10-22-24]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE, DISMANTLER, AND MANUFACTURED HOUSING COMMISSION **CHAPTER 14. AUTHORIZED TEMPORARY LICENSE PLATE VENDORS [NEW]**

[OAR Docket #24-1112]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Registration Qualifications, Procedures and Fees [NEW]

765:14-1-1. Purpose [NEW]

765:14-1-2. Scope [NEW]

765:14-1-3. Fees [NEW]

765:14-1-4. Place of business [NEW]

765:14-1-5. Applicant [NEW]

765:14-1-6. Bonds and insurance [NEW]

765:14-1-7. Issuance of registration [NEW]

765:14-1-8. Renewal of registration [NEW]

765:14-1-9. Changes [NEW]

Subchapter 3. Operation [NEW]

765:14-3-1. Services [NEW]

765:14-3-2. Records [NEW]

765:14-3-3. Prohibited Acts [NEW]

Subchapter 5. Software and Security [NEW]

765:14-5-1. Software [NEW]

765:14-5-2. Security [NEW]

Subchapter 7. Assessment of fine or denial, suspension, or revocation of registration [NEW]

765:14-7-1. Grounds [NEW]

765:14-7-2. Prohibition [NEW]

SUMMARY:

The Rule Amendments change the present Rules to conform to SB 2035 by creating requirements, qualifications, and procedures for Authorized Temporary License Plate Vendors.

AUTHORITY:

Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission; 47 O.S. Section 582(E)(1); 75 O.S. Section 583 B.3.; 75 O.S. Section 302 et.seq

COMMENT PERIOD:

Persons wishing to present their views regarding this action may do so by delivering or mailing their written comments to the Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 330, Oklahoma City, Oklahoma 73103 by December 16, 2024.

PUBLIC HEARING:

The public hearing will be held on Tuesday, January 14th, 2025, at 10:30 AM, at the office of the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 100, Oklahoma City, Oklahoma.

Notices of Rulemaking Intent

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission requests that business entities affected by these proposed rules provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Brian Wilson, at the above address, before the close of the comment period on December 16th, 2024.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review at the office of the Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 330, Oklahoma City, Oklahoma or by email at commission@oumvdhmc.ok.gov

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and be available after November 30th, 2024, at the office of the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission.

CONTACT PERSON:

Brian Wilson, Director, Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421, NW 13th, Suite 330, Oklahoma City, Oklahoma 73103 (405)521-3600.

[OAR Docket #24-1112; filed 10-22-24]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE, DISMANTLER, AND MANUFACTURED HOUSING COMMISSION CHAPTER 35. MANUFACTURED HOME DEALERS

[OAR Docket #24-1114]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Assessment of Fine or Denial, Suspension, or Revocation of License

765:35-7-2. Prohibition [AMENDED]

SUMMARY:

The Rule Amendment prohibits the display or offering for sale a manufactured home at any location other than their licensed location.

AUTHORITY:

Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission; 47 O.S. Section 582(E)(1); 75 O.S. Section 583 B.3.; 75 O.S. Section 302 et.seq

COMMENT PERIOD:

Persons wishing to present their views regarding this action may do so by delivering or mailing their written comments to the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 330, Oklahoma City, Oklahoma by December 16, 2024.

PUBLIC HEARING:

The public hearing will be held on Tuesday, January 14th, 2025, at 10:30 AM, at the office of the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 100, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission requests that business entities affected by these proposed rules provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Brian Wilson, at the above address, before the close of the comment period on December 16th, 2024.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review at the office of the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 330, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and be available after November 30th, 2024, at the office of the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission.

Notices of Rulemaking Intent

CONTACT PERSON:

Brian Wilson, Director, Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421, NW 13th, Suite 330, Oklahoma City, Oklahoma 73103 (405)521-3600.

[OAR Docket #24-1114; filed 10-22-24]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE, DISMANTLER, AND MANUFACTURED HOUSING COMMISSION CHAPTER 36. MANUFACTURED HOME MANUFACTURERS

[OAR Docket #24-1115]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

765:36-1-2. Definitions [NEW]

Subchapter 5. Operation

765:36-5-2. Reports and Records [AMENDED]

Subchapter 6. Manufactured Home Inspection Fees

765:36-6-1. Manufacturer's Fees [AMENDED]

Subchapter 7. Assessment of Fine or Denial, Suspension, or Revocation of License

765:36-7-1. Grounds for assessment of fines or denial, suspension, or revocation [AMENDED]

SUMMARY:

The Rule Amendments add a warranty seal on manufactured homes shipped into the State of Oklahoma, amends the due date of the manufactured home shipment report inspection fee and reporting requirements, and adds failure to submit the manufactured home shipment report with the inspection fee as a violation of the rules.

AUTHORITY:

Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission; 47 O.S. Section 582(E)(1); 75 O.S. Section 583 B.3.; 75 O.S. Section 302 et.seq

COMMENT PERIOD:

Persons wishing to present their views regarding this action may do so by delivering or mailing their written comments to the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 330, Oklahoma City, Oklahoma 73103, by December 16th, 2024.

PUBLIC HEARING:

The public hearing will be held on Tuesday, January 14th, 2025, at 10:30 AM, at the office of the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 100, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission requests that business entities affected by these proposed rules provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Brian Wilson, at the above address, before the close of the comment period on December 16th, 2024.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review at the office of the Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 330, Oklahoma City, Oklahoma or by email at commission@oumvdhmc.ok.gov.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and be available after November 30th, 2024, at the office of the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission.

CONTACT PERSON:

Brian Wilson, Director, Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421, NW 13th, Suite 330, Oklahoma City, Oklahoma 73103 (405)521-3600.

[OAR Docket #24-1115; filed 10-22-24]

Notices of Rulemaking Intent

TITLE 765. OKLAHOMA USED MOTOR VEHICLE, DISMANTLER, AND MANUFACTURED HOUSING COMMISSION CHAPTER 37. MANUFACTURED HOME INSTALLERS

[OAR Docket #24-1116]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

765:37-1-2. Definitions [NEW]

Subchapter 5. Operation

765:37-5-2. ~~Installation label~~ Manufactured home installation [AMENDED]

765:37-5-5. Submission of set-up inspection forms [AMENDED]

765:37-5-6. Installer's Fees [AMENDED]

Subchapter 6. Definitions [REVOKED]

765:37-6-1. Terms used [REVOKED]

Subchapter 7. Installation Standards

765:37-7-1. Acceptable procedure [AMENDED]

Subchapter 8. Certified Inspection Program

765:37-8-2. Certified installation insignia [NEW]

765:37-8-3. Submission of certified inspection [NEW]

SUMMARY:

The Rule Amendments adds definitions to clarify rules, changes the material of the installation label, amends the due date of the manufactured home set up inspection forms and installer's fees and removes outdated language.

AUTHORITY:

Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission; 47 O.S. Section 582(E)(1); 75 O.S. Section 583 B.3.; 75 O.S. Section 302 et.seq

COMMENT PERIOD:

Persons wishing to present their views regarding this action may do so by delivering or mailing their written comments to the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 330, Oklahoma City, Oklahoma 73103, by December 16th, 2024.

PUBLIC HEARING:

The public hearing will be held on Tuesday, January 14th, 2025, at 10:30 AM, at the office of the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 100, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission requests that business entities affected by these proposed rules provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Brian Wilson, at the above address, before the close of the comment period on December 16th, 2024.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review at the office of the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 330, Oklahoma City, Oklahoma or by email at commission@oumvdhmc.ok.gov.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and be available after November 30th, 2024, at the office of the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission.

CONTACT PERSON:

Brian Wilson, Director, Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421, NW 13th, Suite 330, Oklahoma City, Oklahoma 73103 (405)521-3600.

[OAR Docket #24-1116; filed 10-22-24]

Notices of Rulemaking Intent

TITLE 765. OKLAHOMA USED MOTOR VEHICLE, DISMANTLER, AND MANUFACTURED HOUSING COMMISSION CHAPTER 38. MANUFACTURED HOME SALESPERSON

[OAR Docket #24-1117]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Registration Qualifications, Procedures and Fees
765:38-1-4. Issuance of certificate of registration [AMENDED]

SUMMARY:

The Rule Amendments add a temporary certificate of registration for manufactured home salespersons.

AUTHORITY:

Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission; 47 O.S. Section 582(E)(1); 75 O.S. Section 583 B.3.; 75 O.S. Section 302 et.seq

COMMENT PERIOD:

Persons wishing to present their views regarding this action may do so by delivering or mailing their written comments to the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 330, Oklahoma City, Oklahoma 73103, by December 16th, 2024.

PUBLIC HEARING:

The public hearing will be held on Tuesday, January 14th, 2025, at 10:30 AM, at the office of the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 100, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission requests that business entities affected by these proposed rules provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Brian Wilson, at the above address, before the close of the comment period on December 16th, 2024.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review at the office of the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421 NW 13th, Suite 330, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and be available after November 30th, 2024, at the office of the Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission.

CONTACT PERSON:

Brian Wilson, Director, Oklahoma Used Motor Vehicle Dismantler, and Manufactured Housing Commission, 421, NW 13th, Suite 330, Oklahoma City, Oklahoma 73103 (405)521-3600.

[OAR Docket #24-1117; filed 10-22-24]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 5. FEES

[OAR Docket #24-1118]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
785:5-1-9. Dam safety and inspection fees [AMENDED]
785:5-1-21. Documentation reviews related water trapped in producing mines [AMENDED]

SUMMARY:

Notices of Rulemaking Intent

Last year, the Oklahoma Water Resources Board ("OWRB") is amended rules in Oklahoma Administrative Code ("OAC") 785:5 by amending OAC 785:5-1-9 to reflect increased cost of labor to review dam safety construction applications. The current change proposed by staff is to correct errors in the numerical values within the rule. Staff also proposes a change related to documentation reviews related to water trapped in producing mines to reflect a change in the citation in Title 785, Chapter 30.

AUTHORITY:

Oklahoma Water Resources Board; 82 O.S., § 1085.2; 82 O.S. § 1085.4

COMMENT PERIOD:

Persons wishing to present written comments may do so at 3800 North Classen Blvd., Oklahoma City, Oklahoma 73118 before 5:00 p.m. on December 16, 2024. Written comments may also be submitted via e-mail to Cris.Krittenbrink@owrb.ok.gov before 5:00 p.m. on December 16, 2024. Persons wishing to present oral comment to the OWRB may do so at the public hearing on December 17, 2024.

PUBLIC HEARING:

A public hearing will be held December 17, 2024, during the monthly meeting of the Board which will begin at 9:30 a.m. in the Board Room of the OWRB's offices located at 3800 North Classen Blvd., Oklahoma City, Oklahoma, 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The OWRB requests that any business entities affected by these proposed rules provide the Board, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules. Business entities may submit this information in writing to Chrystal Krittenbrink at 3800 North Classen, Oklahoma City, Oklahoma before the close of the comment period.

COPIES OF PROPOSED RULES:

Copies of the proposed amendments may be reviewed by appointment at the OWRB's office location at 3800 North Classen Blvd., Oklahoma City, Oklahoma 73118, or may be obtained from Chrystal Krittenbrink, Legal Assistant, at Cris.Krittenbrink@owrb.ok.gov. The proposed amendments may also be viewed on the OWRB web site at <http://www.oklahoma.gov/owrb>.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a Rule Impact Statement is available for review by appointment at the OWRB's office, 3800 North Classen Blvd., Oklahoma City, Oklahoma. The Rule Impact Statement may also be viewed on the OWRB web site at <http://www.oklahoma.gov/owrb>.

CONTACT PERSON:

Sara D. Gibson, General Counsel, 405-530-8800, Sara.Gibson@owrb.ok.gov.

[OAR Docket #24-1118; filed 10-25-24]

**TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 20. APPROPRIATION AND USE OF STREAM WATER**

[OAR Docket #24-1119]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

785:20-1-3. Statutory provisions on violations and penalties [AMENDED]

Subchapter 3. Application Requirements and Processing

785:20-3-2. General application requirements [AMENDED]

785:20-3-9. Defective applications; when applications deemed withdrawn [AMENDED]

Subchapter 7. Permits

785:20-7-1. Classes of stream water permits [AMENDED]

Subchapter 9. Actions After Stream Water Right Obtained

785:20-9-5. Reports [AMENDED]

Appendix A. Application for a Permit to Use Surface or Stream Water [REVOKED]

SUMMARY:

Notices of Rulemaking Intent

The staff of the Oklahoma Water Resources Board ("OWRB") is proposing amended or new rules in Oklahoma Administrative Code ("OAC") 785:20 as follows: OAC 785:20-3-2 and Appendix A are proposed to be amended to strike out the water right application in the rule. This action would allow OWRB staff to make simplifications or enhancements to the application in a more timely fashion. OAC 785:20-9-5 is proposed to be amended to ensure that an owner of more than one surface water permit at a specific location for the same purpose applies water use to the older permit first. Currently written, the rule is a loophole, allowing a surface water permit holder to tie its seniority to all of its permits (that withdraw from the same diversion point). Other amendments may be considered or proposed as a result of public comments.

AUTHORITY:

Oklahoma Water Resources Board; 82 O.S., §§ 105.1, et seq and 82 O.S., § 1085.2

COMMENT PERIOD:

Persons wishing to present written comments may do so at 3800 North Classen Blvd., Oklahoma City, Oklahoma 73118 before 5:00 p.m. on December 16, 2024. Written comments may also be submitted via e-mail to Cris.Krittenbrink@owrb.ok.gov before 5:00 p.m. on December 16, 2024. Persons wishing to present oral comment to the OWRB may do so at the public hearing on December 17, 2024.

PUBLIC HEARING:

A public hearing will be held December 17, 2024, during the monthly meeting of the Board which will begin at 9:30 a.m. in the Board Room of the OWRB's offices located at 3800 North Classen Blvd., Oklahoma City, Oklahoma, 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The OWRB requests that any business entities affected by these proposed rules provide the Board, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules. Business entities may submit this information in writing to Chrystal Krittenbrink at 3800 North Classen, Oklahoma City, Oklahoma before the close of the comment period.

COPIES OF PROPOSED RULES:

Copies of the proposed amendments may be reviewed by appointment at the OWRB's office location at 3800 North Classen Blvd., Oklahoma City, Oklahoma 73118, or may be obtained from Chrystal Krittenbrink, Legal Assistant, at Cris.Krittenbrink@owrb.ok.gov. The proposed amendments may also be viewed on the OWRB web site at <http://www.oklahoma.gov/owrb>.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a Rule Impact Statement is available for review by appointment at the OWRB's office, 3800 North Classen Blvd., Oklahoma City, Oklahoma. The Rule Impact Statement may also be viewed on the OWRB web site at <http://www.oklahoma.gov/owrb>.

CONTACT PERSON:

Sara D. Gibson, General Counsel, 405-530-8800, Sara.Gibson@owrb.ok.gov.

[OAR Docket #24-1119; filed 10-25-24]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 25. DAMS AND RESERVOIRS

[OAR Docket #24-1120]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Responsibility, Classification and Design Standards
785:25-3-6. Minimum spillways performance standards [AMENDED]
Subchapter 7. Post Approval Actions
785:25-7-8. Certificate of completion [AMENDED]
Subchapter 9. Actions After Construction
785:25-9-1. Inspections of dams [AMENDED]

SUMMARY:

Notices of Rulemaking Intent

The staff of the Oklahoma Water Resources Board (“OWRB”) is proposing amended or new rules in Oklahoma Administrative Code (“OAC”) 785:25 DAMS AND RESERVOIRS as follows: OAC 785:25-3-6(f)(7) is proposed to be amended for clarity and consistency. OAC 785:25-7-8(a)(1) is proposed to be amended so a designated representative of the Executive Director can sign the certificate of completion for OWRB approved dam projects. Please let me know if additional information is needed. OAC 785:25-9-1 would be reorganized for clarity. Subsection (c) would be given a more descriptive title. The minimum standards for dam inspections would have an additional requirement to assign a condition rating of all dam appurtenances in accordance with the Board’s dam inspection guidelines.

AUTHORITY:

Oklahoma Water Resources Board; 82 O.S. § 1085.2; 82 O.S. § 110.1 and following; 82 O.S. § 105.20 and 105.27.

COMMENT PERIOD:

Persons wishing to present written comments may do so at 3800 North Classen Blvd., Oklahoma City, Oklahoma 73118 before 5:00 p.m. on December 16, 2024. Written comments may also be submitted via e-mail to Cris.Krittenbrink@owrb.ok.gov before 5:00 p.m. on December 16, 2024. Persons wishing to present oral comment to the OWRB may do so at the public hearing on December 17, 2024.

PUBLIC HEARING:

A public hearing will be held December 17, 2024, during the monthly meeting of the Board which will begin at 9:30 a.m. in the Board Room of the OWRB's offices located at 3800 North Classen Blvd., Oklahoma City, Oklahoma, 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The OWRB requests that any business entities affected by these proposed rules provide the Board, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules. Business entities may submit this information in writing to Chrystal Krittenbrink at 3800 North Classen, Oklahoma City, Oklahoma before the close of the comment period.

COPIES OF PROPOSED RULES:

Copies of the proposed amendments may be reviewed by appointment at the OWRB's office location at 3800 North Classen Blvd., Oklahoma City, Oklahoma 73118, or may be obtained from Chrystal Krittenbrink, Legal Assistant, at Cris.Krittenbrink@owrb.ok.gov. The proposed amendments may also be viewed on the OWRB web site at <http://www.oklahoma.gov/owrb>.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a Rule Impact Statement is available for review by appointment at the OWRB's office, 3800 North Classen Blvd., Oklahoma City, Oklahoma. The Rule Impact Statement may also be viewed on the OWRB web site at <http://www.oklahoma.gov/owrb>.

CONTACT PERSON:

Sara D. Gibson, General Counsel, 405-530-8800, Sara.Gibson@owrb.ok.gov.

[OAR Docket #24-1120; filed 10-25-24]

**TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 30. TAKING AND USE OF GROUNDWATER**

[OAR Docket #24-1123]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Permit Application Requirements and Processing

785:30-3-1. General application requirements [AMENDED]

785:30-3-3. Acceptance of application for filing; when applications deemed withdrawn [AMENDED]

Subchapter 5. Groundwater Permits

785:30-5-4. Provisional temporary permits [AMENDED]

Subchapter 7. Amendments to Groundwater Rights

785:30-7-4. Adding or replacing a well for the purpose of exercising prior rights or existing permits [AMENDED]

785:30-7-8. Consolidation of permits [REVOKED]

Subchapter 13. Miscellaneous Provisions

785:30-13-5. Allocation of municipal water [AMENDED]

Notices of Rulemaking Intent

Appendix D. Identified Springs that Emanate From a Sensitive Sole Source Groundwater Basin [AMENDED]

SUMMARY:

The staff of the Oklahoma Water Resources Board ("OWRB") is proposing amended or new rules in Oklahoma Administrative Code ("OAC") 785:30 as follows: OAC 785:30-3-1(c)(1) is proposed to clean up language and clarify existing and proposed well locations on the application. OAC 785:30-5-8(b) is proposed to drop the notary requirement on a signature to surrender a water right. OAC 785:30-7-4(a)(2) is proposed to drop the language referring to Appendix A, since that appendix was previously removed from the rules. OAC 785:30-7-4(b) is being proposed to remove language allowing a permit holder to drill a replacement well without notifying the OWRB. This language change is a result of the addition of an intent-to-drill process implemented in fiscal year 2023 requiring well drillers to notify the OWRB when a well requiring a water right is intended to be drilled. OAC 785:30-7-8 is proposed to be revoked, which has allowed permit holders to report all of their water use on one permit instead of the location where the water was withdrawn. This rule change will allow for more accurate data regarding water use in Oklahoma. OAC 785:30-13-5(c) proposes to take out the 600-ft spacing requirement from municipal lands for drilling municipal wells as a result of a change in 82 O.S. §1020.21. OAC 785:30 Appendix D is being proposed to add and update locations of springs in the Arbuckle-Simpson Groundwater Basin. Other amendments may be considered or proposed as a result of public comments.

AUTHORITY:

Oklahoma Water Resources Board; 82 O.S. § 1085.2; 82 O.S. §1020.21

COMMENT PERIOD:

Persons wishing to present written comments may do so at 3800 North Classen Blvd., Oklahoma City, Oklahoma 73118 before 5:00 p.m. on December 16, 2024. Written comments may also be submitted via e-mail to Cris.Krittenbrink@owrb.ok.gov before 5:00 p.m. on December 16, 2024. Persons wishing to present oral comment to the OWRB may do so at the public hearing on December 17, 2024.

PUBLIC HEARING:

A public hearing will be held December 17, 2024, during the monthly meeting of the Board which will begin at 9:30 a.m. in the Board Room of the OWRB's offices located at 3800 North Classen Blvd., Oklahoma City, Oklahoma, 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The OWRB requests that any business entities affected by these proposed rules provide the Board, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules. Business entities may submit this information in writing to Chrystal Krittenbrink at 3800 North Classen, Oklahoma City, Oklahoma before the close of the comment period.

COPIES OF PROPOSED RULES:

Copies of the proposed amendments may be reviewed by appointment at the OWRB's office location at 3800 North Classen Blvd., Oklahoma City, Oklahoma 73118, or may be obtained from Chrystal Krittenbrink, Legal Assistant, at Cris.Krittenbrink@owrb.ok.gov. The proposed amendments may also be viewed on the OWRB web site at <http://www.oklahoma.gov/owrb>.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a Rule Impact Statement is available for review by appointment at the OWRB's office, 3800 North Classen Blvd., Oklahoma City, Oklahoma. The Rule Impact Statement may also be viewed on the OWRB web site at <http://www.oklahoma.gov/owrb>.

CONTACT PERSON:

Sara D. Gibson, General Counsel, 405-530-8800, Sara.Gibson@owrb.ok.gov.

[OAR Docket #24-1123; filed 10-25-24]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 35. WELL DRILLER AND PUMP INSTALLER LICENSING

[OAR Docket #24-1124]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 13. Authorization to Drill Groundwater Wells
785:35-13-1. Authorization to drill groundwater wells [AMENDED]

Notices of Rulemaking Intent

SUMMARY:

OAC 785:35-13-1 is proposed to be amended to specify the well construction categories requiring pre-authorization through a notice of intent-to-drill application. Specifically, test holes that will be cased will require pre-authorization.

AUTHORITY:

Oklahoma Water Resources Board; 82.O.S. § 1085.2; 82 O.S. § 1020.16

COMMENT PERIOD:

Persons wishing to present written comments may do so at 3800 North Classen Blvd., Oklahoma City, Oklahoma 73118 before 5:00 P.M. on December 16, 2024. Written comments may also be submitted via e-mail to Cris.Krittenbrink@owrb.ok.gov before 5:00 PM on December 16, 2024. Persons wishing to present oral comments to the Board may do so at the public hearing on December 17, 2024.

PUBLIC HEARING:

A public hearing will be held December 17, 2024, during the monthly meeting of the Board which will begin at 9:30 a.m. in the Board Room of the Board's offices located at 3800 North Classen Blvd., Oklahoma City, Oklahoma, 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Board requests that any business entities affected by these proposed rules provide, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules. Business entities may submit this information in writing to Chrystal Krittenbrink at 3800 North Classen, Oklahoma City, Oklahoma before the close of the comment period.

COPIES OF PROPOSED RULES:

Copies of the proposed amendments may be reviewed at the Board's office location at 3800 North Classen Blvd., Oklahoma City, Oklahoma 73118, or may be obtained from the "Contact Person" identified below upon prepayment of the copying charge. The proposed rules may also be viewed on the Board web site at <http://www.owrb.ok.gov>.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a Rule Impact Statement is available for review at the OWRB's office, 3800 North Classen, Oklahoma City, Oklahoma. The Rule Impact Statement may also be viewed on the OWRB web site at <http://www.owrb.ok.gov>.

CONTACT PERSON:

Sara Gibson, General Counsel, 405-530-8800, Sara.Gibson@owrb.ok.gov.

[OAR Docket #24-1124; filed 10-25-24]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 50. FINANCIAL ASSISTANCE

[OAR Docket #24-1136]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 6. Water and Sewer Program Emergency Grants Requirements and Procedures

785:50-6-1. Approval criteria [AMENDED]

785:50-6-3. Emergency grant priority point system [AMENDED]

785:50-6-4. Disbursement of grant funds [AMENDED]

Subchapter 8. Rural Economic Action Plan (REAP) Grant Program Requirements and Procedures

785:50-8-2. Definitions [AMENDED]

785:50-8-3. Application review and disposition [AMENDED]

785:50-8-4. Applicable law; deadline for applications; eligible project costs [AMENDED]

785:50-8-5. REAP grant priority point system [AMENDED]

Subchapter 9. Clean Water State Revolving Fund Regulations

Part 3. GENERAL PROGRAM REQUIREMENTS

785:50-9-23. Clean Water SRF Project Priority System [AMENDED]

Subchapter 20. Safeguarding Tomorrow Revolving Loan Program Regulations [NEW]

785:50-20-1. General program description and procedures [NEW]

785:50-20-2. General approval standards and criteria [NEW]

Notices of Rulemaking Intent

785:50-20-3. Terms and conditions [NEW]

785:50-20-4. Disbursement of funds and conditions for disbursement [NEW]

SUMMARY:

The staff of the Oklahoma Water Resources Board ("OWRB") proposes the following changes to Oklahoma Administrative Code ("OAC") Title 785, Chapter 50: The proposed changes to Subchapter 6 are to make the language more concise and easier for staff understanding and public understanding and perception. The current rules need correction as they have long had grammatical errors and were not presented in a manner that was easy to read and interpret. The proposed changes to Subchapter 8 are to make it more concise and easier for staff understanding and public understanding and perception. The current rules need correction as they have long had grammatical errors and were not presented in a manner that was easy to read and interpret. Also, this proposed change adds points to the ranking of the REAP grant affording eligible entities the opportunity to increase their opportunity for receiving REAP grant funding. The proposed change to Subchapter 9 has been requested to allow OWRB Staff the flexibility of amending the point structure in the Intended Use Plan for each fiscal year as needs of the eligible entities change. This allows staff to offer the best funding opportunities possible to Oklahoma communities.

AUTHORITY:

Oklahoma Water Resources Board; 82 O.S., § 1085.2

COMMENT PERIOD:

Persons wishing to present written comments may do so at 3800 North Classen Blvd., Oklahoma City, Oklahoma 73118 before 5:00 P.M. on December 16, 2024. Written comments may also be submitted via e-mail to Cris.Krittenbrink@owrb.ok.gov before 5:00 PM on December 16, 2024. Persons wishing to present oral comments to the Board may do so at the public hearing on December 17, 2024.

PUBLIC HEARING:

A public hearing will be held December 17, 2024, during the monthly meeting of the Board which will begin at 9:30 a.m. in the Board Room of the Board's offices located at 3800 North Classen Blvd., Oklahoma City, Oklahoma, 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Board requests that any business entities affected by these proposed rules provide, within the Comment Period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules. Business entities may submit this information in writing to Chrystal Krittenbrink at 3800 North Classen Blvd., Oklahoma City, Oklahoma 73118 before 5:00 P.M. on December 16, 2024 or Cris.Krittenbrink@owrb.ok.gov.

COPIES OF PROPOSED RULES:

Copies of the proposed amendments may be reviewed by appointment at the Board's office location at 3800 North Classen Blvd., Oklahoma City, Oklahoma 73118, or may be obtained from the Chrystal Krittenbrink, Legal Assistant, at Cris.Krittenbrink@owrb.ok.gov. The proposed amendments may also be viewed on the Board's web site at <http://www.oklahoma.gov/owrb>.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a Rule Impact Statement is available for review by appointment at the OWRB's office, 3800 North Classen Blvd., Oklahoma City, Oklahoma. The Rule Impact Statement may also be viewed on the OWRB web site at <http://www.oklahoma.gov/owrb>.

CONTACT PERSON:

Sara D. Gibson, General Counsel, 405-530-8800, Sara.Gibson@owrb.ok.gov.

[OAR Docket #24-1136; filed 10-25-24]

TITLE 810. OKLAHOMA WORKERS' COMPENSATION COMMISSION CHAPTER 1. GENERAL INFORMATION

[OAR Docket #24-1095]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

810:1-1-3. General description of the Oklahoma Workers' Compensation Commission [AMENDED]

810:1-1-4. Petitions to promulgate, amend or repeal rules [AMENDED]

Notices of Rulemaking Intent

810:1-1-5. Petition for declaratory ruling relating to rules [AMENDED]

SUMMARY:

One of the proposed rule amendments establishes that the assessment rate in Section 31 of the AWCA (Administrative Workers' Compensation Act) will be rounded to the nearest hundredth of a percent if it falls below the statutory cap. Other amendments provide that certain documents will be accepted by the Commission via email, in addition to regular mail. The other amendments are grammar clean-up items.

AUTHORITY:

Workers' Compensation Commission; 85A O.S. §§ 19, 22, and 31

COMMENT PERIOD:

Persons may submit data, views, or arguments in writing before 5:00 p.m. on December 17, 2024, to the Oklahoma Workers' Compensation Commission, Attn: General Counsel at 1915 N. Stiles, Oklahoma City, OK 73105, or by email to rules@wcc.ok.gov.

PUBLIC HEARING:

A public hearing to afford a comment period for all interested persons to submit data, views, or arguments, orally will be held at 10:00 a.m. on Wednesday, December 18, 2024, in the Commission En Banc Courtroom of the Denver N. Davison Building, 1915 N. Stiles Avenue, Oklahoma City, Oklahoma. Interested parties must sign in at the door.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Lauren Hammonds Johnson at the above address on or before 5:00 p.m. on December 17, 2024.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review by the public from the Workers' Compensation Commission, 1915 N. Stiles, Oklahoma City, OK 73105. Copies of proposed rules may be obtained at a cost of 10 cents per page. The proposed rules will also be available at wcc.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and may be obtained from the Workers' Compensation Commission at the above address beginning November 15, 2024.

CONTACT PERSON:

Lauren Hammonds Johnson, Commission Executive Director and General Counsel, 405-522-3222, LaurenH.Johnson@wcc.ok.gov.

[OAR Docket #24-1095; filed 10-22-24]

TITLE 810. OKLAHOMA WORKERS' COMPENSATION COMMISSION CHAPTER 10. PRACTICE AND PROCEDURE

[OAR Docket #24-1096]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

810:10-1-7. Forms and other documents generally [AMENDED]

810:10-1-11. Designation of agent for service of notice [AMENDED]

Subchapter 3. Informal Dispute Resolution Processes

810:10-3-6. Certified mediators [AMENDED]

Subchapter 5. Hearings Conducted by Administrative Law Judges and Commissioners

Part 1. COMMENCEMENT OF CLAIMS

810:10-5-2. Claim for compensation [AMENDED]

SUMMARY:

The proposed amendments ensure clear and legible copies of forms and documents are sent to the Commission or uploaded into CaseOK, ensures the Commission has the current contact information for designated service agents by asking the designation forms be resubmitted each year, seeks additional contact information from claimants - mailing and email address - to be provided on claim filings to ensure the Commission can provide legal notice, provides that

Notices of Rulemaking Intent

applications for certified mediators can be submitted online via CaseOK, and cleans up grammar and punctuation.

AUTHORITY:

Workers' Compensation Commission; 85A O.S. §§ 19, 22

COMMENT PERIOD:

Persons may submit data, views, or arguments in writing before 5:00 p.m. on December 17, 2024, to the Oklahoma Workers' Compensation Commission, Attn: General Counsel at 1915 N. Stiles, Oklahoma City, OK 73105, or by email to rules@wcc.ok.gov.

PUBLIC HEARING:

A public hearing to afford a comment period for all interested persons to submit data, views, or arguments, orally will be held at 10:00 a.m. on Wednesday, December 18, 2024, in the Commission En Banc Courtroom of the Denver N. Davison Building, 1915 N. Stiles Avenue, Oklahoma City, Oklahoma. Interested parties must sign in at the door.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Lauren Hammonds Johnson at the above address on or before 5:00 p.m. on December 17, 2024.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review by the public from the Workers' Compensation Commission, 1915 N. Stiles, Oklahoma City, OK 73105. Copies of proposed rules may be obtained at a cost of 10 cents per page. The proposed rules will also be available at wcc.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and may be obtained from the Workers' Compensation Commission at the above address beginning November 15, 2024.

CONTACT PERSON:

Lauren Hammonds Johnson, Commission Executive Director and General Counsel, 405-522-3222, LaurenH.Johnson@wcc.ok.gov.

[OAR Docket #24-1096; filed 10-22-24]

TITLE 810. OKLAHOMA WORKERS' COMPENSATION COMMISSION CHAPTER 15. MEDICAL SERVICES

[OAR Docket #24-1097]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Independent Medical Examiners

810:15-9-2. Application and appointment process [AMENDED]

Subchapter 11. Medical Case Management

810:15-11-2. Application and appointment process [AMENDED]

SUMMARY:

The proposed amendments provide that IME and medical case manager applications can be submitted online via CaseOK, and the amendments also make grammar and punctuation corrections.

AUTHORITY:

Workers' Compensation Commission; 85A O.S. §§ 19, 22, 112

COMMENT PERIOD:

Persons may submit data, views, or arguments in writing before 5:00 p.m. on December 17, 2024, to the Oklahoma Workers' Compensation Commission, Attn: General Counsel at 1915 N. Stiles, Oklahoma City, OK 73105, or by email to rules@wcc.ok.gov.

PUBLIC HEARING:

A public hearing to afford a comment period for all interested persons to submit data, views, or arguments, orally will be held at 10:00 a.m. on Wednesday, December 18, 2024, in the Commission En Banc Courtroom of the Denver N. Davison Building, 1915 N. Stiles Avenue, Oklahoma City, Oklahoma. Interested parties must sign in at the door.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Notices of Rulemaking Intent

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Lauren Hammonds Johnson at the above address on or before 5:00 p.m. on December 17, 2024.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review by the public from the Workers' Compensation Commission, 1915 N. Stiles, Oklahoma City, OK 73105. Copies of proposed rules may be obtained at a cost of 10 cents per page. The proposed rules will also available at www.wcc.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and may be obtained from the Workers' Compensation Commission at the above address beginning November 15, 2024.

CONTACT PERSON:

Lauren Hammonds Johnson, Commission Executive Director and General Counsel, 405-522-3222, LaurenH.Johnson@wcc.ok.gov.

[OAR Docket #24-1097; filed 10-22-24]

TITLE 810. OKLAHOMA WORKERS' COMPENSATION COMMISSION CHAPTER 20. VOCATIONAL REHABILITATION SERVICES

[OAR Docket #24-1098]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

810:20-1-5. Registry of private providers of vocational rehabilitation services [AMENDED]

SUMMARY:

The proposed rule amendments offer private providers of vocational rehabilitation services the option to submit an application online via CaseOK, and the amendments also strike an errant comma.

AUTHORITY:

Workers' Compensation Commission; 85A O.S. §§ 19, 22

COMMENT PERIOD:

Persons may submit data, views, or arguments in writing before 5:00 p.m. on December 17, 2024, to the Oklahoma Workers' Compensation Commission, Attn: General Counsel at 1915 N. Stiles, Oklahoma City, OK 73105, or by email to rules@wcc.ok.gov.

PUBLIC HEARING:

A public hearing to afford a comment period for all interested persons to submit data, views, or arguments, orally will be held at 10:00 a.m. on Wednesday, December 18, 2024, in the Commission En Banc Courtroom of the Denver N. Davison Building, 1915 N. Stiles Avenue, Oklahoma City, Oklahoma. Interested parties must sign in at the door.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Lauren Hammonds Johnson at the above address on or before 5:00 p.m. on December 17, 2024.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review by the public from the Workers' Compensation Commission, 1915 N. Stiles, Oklahoma City, OK 73105. Copies of proposed rules may be obtained at a cost of 10 cents per page. The proposed rules will also available at www.wcc.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and may be obtained from the Workers' Compensation Commission at the above address beginning November 15, 2024.

CONTACT PERSON:

Lauren Hammonds Johnson, Commission Executive Director and General Counsel, 405-522-3222, LaurenH.Johnson@wcc.ok.gov.

[OAR Docket #24-1098; filed 10-22-24]

Notices of Rulemaking Intent

TITLE 810. OKLAHOMA WORKERS' COMPENSATION COMMISSION CHAPTER 25. WORKERS' COMPENSATION INSURANCE AND SELF INSURANCE

[OAR Docket #24-1099]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Documentation of Exempt Status

810:25-5-1. Affidavit of exempt status requirements [AMENDED]

Subchapter 7. Enforcement of Workers' Compensation Insurance Requirements

810:25-7-2. Hearing process and consent agreements [AMENDED]

SUMMARY:

The proposed rule amendments update the Commission website address, provide clarification for the best form to use to contest a proposed judgment, remove an errant comma, and add a section symbol and space to correct statutory citations.

AUTHORITY:

Workers' Compensation Commission; 85A O.S. §§ 19, 22, 40

COMMENT PERIOD:

Persons may submit data, views, or arguments in writing before 5:00 p.m. on December 17, 2024, to the Oklahoma Workers' Compensation Commission, Attn: General Counsel at 1915 N. Stiles, Oklahoma City, OK 73105, or by email to rules@wcc.ok.gov.

PUBLIC HEARING:

A public hearing to afford a comment period for all interested persons to submit data, views, or arguments, orally will be held at 10:00 a.m. on Wednesday, December 18, 2024, in the Commission En Banc Courtroom of the Denver N. Davison Building, 1915 N. Stiles Avenue, Oklahoma City, Oklahoma. Interested parties must sign in at the door.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Lauren Hammonds Johnson at the above address on or before 5:00 p.m. on December 17, 2024.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review by the public from the Workers' Compensation Commission, 1915 N. Stiles, Oklahoma City, OK 73105. Copies of proposed rules may be obtained at a cost of 10 cents per page. The proposed rules will also be available at www.wcc.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and may be obtained from the Workers' Compensation Commission at the above address beginning November 15, 2024.

CONTACT PERSON:

Lauren Hammonds Johnson, Commission Executive Director and General Counsel, 405-522-3222, LaurenH.Johnson@wcc.ok.gov.

[OAR Docket #24-1099; filed 10-22-24]

Withdrawn Rules

An agency may withdraw proposed PERMANENT rules prior to "final adoption," as defined in 75 O.S., Section 250.3(5), by notifying the Governor and the Legislature, and by publishing a notice of such a withdrawal in the *Register*

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. However, the withdrawal notice is not published in the unless the agency published a Notice of Rulemaking Intent in the *Register* before adopting the emergency rules.

An agency may withdraw proposed EXPEDITED rule repeals prior to "final legislative adoption" as defined in OAC 655:10-1-2, by notifying the Legislature and publishing a notice of such withdrawal in the *Register*

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 150. OKLAHOMA DEPARTMENT OF COMMERCE CHAPTER 1. GENERAL RULES OF PRACTICE AND PROCEDURE

[OAR Docket #24-1089]

RULEMAKING ACTION:

Withdrawal of EMERGENCY rulemaking

WITHDRAWN RULES:

Chapter 1. Organization

150: 1-1-3. Deputy; Chief of Staff [AMENDED]

DATES:

Adoption:

September 19, 2024

Submission of adopted rules to Governor and Legislature:

September 19, 2024

Withdrawn:

October 11, 2024

ADDITIONAL INFORMATION:

N/A

[OAR Docket #24-1089; filed 10-11-24]

Emergency Adoptions

"If an agency finds that a rule is necessary as an emergency measure, the rule may be promulgated" if the Governor approves the rules after determining "that the rule is necessary as an emergency measure to do any of the following:

- a. protect the public health, safety or welfare,
- b. comply with deadlines in amendments to an agency's governing law or federal programs,
- c. avoid violation of federal law or regulation or other state law,
- d. avoid imminent reduction to the agency's budget, or
- e. avoid serious prejudice to the public interest." [75 O.S., Section 253(A)]

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

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which cites to the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action. *For additional information on the emergency rulemaking process, see 75 O.S., Section 253.*

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #24-1083]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 39. Innovation Services

Part 3. OKLAHOMA DEPARTMENT OF HUMAN SERVICES INSTITUTIONAL REVIEW BOARD (DHSIRB)

340:2-39-8. Membership [AMENDED]

340:2-39-12. Review and approval process [AMENDED]

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); Section 1-9-112 & 1-9-112a of Title 10A (10A O.S. §§1-9-112, 1-9-112a); and Section 6103 of Title 26 of the United State Code (26 U.S.C. § 6103)

COMMENT PERIOD:

N/A

PUBLIC HEARING:

N/A

ADOPTION:

August 22, 2024

EFFECTIVE:

Immediately upon Governor's approval

APPROVED BY GOVERNOR:

October 8, 2024

EXPIRATION:

Effective through September 14, 2025, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

SUPERSEDED RULES:

N/A

GUBERNATORIAL APPROVAL:

N/A

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INCORPORATED STANDARDS:

N/A

INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

FINDING OF EMERGENCY:

Per 75 O.S. § 253, OKDHS requests the Governor grant emergency rulemaking approval to avoid violation of state law or regulation. The emergency rulemaking process is necessary to implement changes due to governor approval of State Bill 1709.

GIST/ANALYSIS:

The proposed amendment to Oklahoma Administrative Code (OAC) 340:2-39-8 (p1) and 340:2-39-12 (p1), is to comply with approval of State Bill 1709. The proposed amendment achieves Oklahoma Human Services (OKDHS) goals by: (1) removing references to the Office of Client Advocacy (OCA) which will be transferred to and become a part of the Oklahoma State Department of Health (OSDH); and (2) removing references to OCA from the Oklahoma Human Services Institutional Review Board (DHSIRB).

CONTACT PERSON:

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

SUBCHAPTER 39. INNOVATION SERVICES

PART 3. OKLAHOMA DEPARTMENT OF HUMAN SERVICES INSTITUTIONAL REVIEW BOARD (DHSIRB)

340:2-39-8. Membership [AMENDED]**(a) Oklahoma Department of Human Services Institutional Review Board (DHSIRB) membership requirements**

- (1) The DHSIRB is comprised of at least seven members. Membership criteria includes, but is not limited to, consideration of earned degrees, representative capacity, and indications of experience, such as board certifications or licenses sufficient to describe each member's chief anticipated contributions to DHSIRB deliberations.
- (2) Prior to serving on the DHSIRB, all members submit certificates of completed Human Subject Assurance Training offered by the federal Office for Human Research Protections (OHRP).
- (3) Prior to serving on the DHSIRB, all members must sign an Acknowledgment of Receipt stating they have received and reviewed the DHSIRB rules.
- (4) To the greatest extent reasonably possible, the DHSIRB members have varying academic, professional, and personal backgrounds to promote complete and adequate review of research activities commonly conducted by the Oklahoma Department of Human Services (~~DHS~~)(OKDHS) or at state-operated facilities. In addition to possessing the experience and expertise necessary to review specific research activities, the members are expected to ascertain the acceptability of proposed research in terms of ~~DHS~~OKDHS commitments and rules and regulations, applicable law, and standards of professional conduct and practice.
- (5) The DHSIRB similarly strives, through member experience, expertise, and diversity, including race, gender, cultural backgrounds, and sensitivity to issues, such as community attitudes, to promote respect for its advice and counsel in safeguarding the rights and welfare of human subjects.
 - (A) **Scientific background.** The DHSIRB includes at least one member whose primary concerns are in scientific areas and at least one member whose primary concerns are in nonscientific areas.
 - (B) **A member not affiliated with ~~DHS~~ OKDHS.** The DHSIRB includes at least one member who is not otherwise affiliated with ~~DHS~~OKDHS and who is not an immediate family of a person who is affiliated with ~~DHS~~OKDHS.
 - (C) **Ad hoc members with special competence.** The DHSIRB may, in its discretion, invite individuals with competence in special areas to assist in the review of issues that require expertise beyond, or in addition to, that normally available to DHSIRB members. These individuals may not vote on any DHSIRB matter.
- (6) DHSIRB membership consists of at least a member of ~~DHS~~OKDHS:
 - (A) ~~Office of Client Advocacy (OCA)~~;
 - (B) Legal Services;

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- ~~(C)~~(B) Child Welfare Services;
- ~~(D)~~(C) Children's Services;
- ~~(E)~~(D) Adult and Family Services;
- ~~(F)~~(E) Adult Services;
- ~~(G)~~(F) Information Security; and
- ~~(H)~~(G) Innovation Services. The Innovation Services member serves on the DHSIRB representing scientific areas.

(7) The ~~DHSOKDHS~~ Director approves the selection of DHSIRB members, including the Chair, Vice-Chair, and alternates, and is notified by the Chair of any studies that are disapproved by the DHSIRB.

(b) Alternate members.

(1) Primary DHSIRB members may designate an alternate member from his or her respective programs or divisions, who subject to Director approval, serves as a voting member in the event the primary member is not available to attend any regularly scheduled meeting. Alternate members complete any primary DHSIRB member required training, and may then vote on any new submission, when needed. Alternate members receive meeting documents, such as agendas, minutes, and protocols for review and are encouraged to attend all meetings.

(2) An alternate member-at-large is designated and approved by the Director to serve when both a voting member and his or her alternate are not available to attend a regularly scheduled meeting. The alternate member-at-large is approved based on the same criteria per (a)(5), of this Section.

(c) Ad hoc members.

(1) When the DHSIRB reviews research applications involving prospective research subjects who have impaired decision-making capacity or who otherwise are considered vulnerable to coercion or undue influence, consideration is given to including one or more individuals who are knowledgeable about, and experienced in, working with these prospective subjects.

(2) DHSIRB may, at its discretion, invite individuals with competence in specific areas to assist in the review of issues that require expertise beyond or in addition to that available on the DHSIRB.

(3) Ad hoc members are non-voting members.

(4) No person outside of the DHSIRB may override a not-approved vote.

(d) Roles and responsibilities.

(1) DHSIRB Chair:

- (A) is appointed by the ~~DHSOKDHS~~ Director;
- (B) serves for a minimum of one year, with the possibility of reappointment;
- (C) does not resign when the majority of the DHSIRB membership consists of new members who have served for less than one year;
- (D) serves as a member of the DHSIRB in addition to his or her authority as Chair;
- (E) prepares for, and convenes meetings with, the assistance of the human protections administrator (HPA);
- (F) ensures meeting coverage by the Vice-Chair when not able to serve as chair;
- (G) ensures a quorum is present for all meetings;
- (H) carries out an initial assessment of submissions with the Vice-Chair and ~~the OCA~~ a third member appointed by the Chair;
- (I) carries out an expedited review of submissions that qualify under such conditions by convening a DHSIRB subcommittee to complete the expedited review, per Oklahoma Administrative Code 340:2-39-12(d);
- (J) distributes copies of the submissions to the appropriate DHSIRB members with HPA assistance;
- (K) ensures adequate expertise for review and determinations;
- (L) consults with investigators as necessary;
- (M) assists the reviewers and other members with any concerns in preparing for the meeting;
- (N) ensures assigned reviewers present a clear and concise review of research materials;
- (O) votes on each DHSIRB action;
- (P) is temporarily removed in the event of a conflict of interest;
- (Q) is permanently removed in the event of termination of employment or at the Director's discretion; and
- (R) notifies the Director of any disapproval.

(2) DHSIRB Vice-Chair:

- (A) is appointed by the Director;
- (B) serves for a minimum of one year, with the possibility of reappointment;

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- (C) serves as a member of the DHSIRB in addition to his or her DHSIRB authority as Vice-Chair;
 - (D) assists or acts on behalf of the Chair in particular DHSIRB matters and at DHSIRB meetings;
 - (E) carries out an initial assessment of submissions with the Chair and ~~the OCA~~ a third member appointed by the Chair;
 - (F) carries out an expedited review of submissions that qualify under such conditions by participating on a DHSIRB subcommittee to complete the expedited review, per OAC 340:2-39-12(d);
 - (G) is temporarily removed in the event of a conflict of interest;
 - (H) is permanently removed in the event of termination of employment or at the Director's discretion.
- (3) DHSIRB members:
- (A) are approved by the Director;
 - (B) serve at least one year with the option of rotating with designated alternate;
 - (C) do not resign from the DHSIRB, without good cause, when the majority of the members are in their first year of serving;
 - (D) are responsible for reviewing research protocols submitted for full DHSIRB review;
 - (E) are responsible for attending all scheduled meetings;
 - (F) are removed from the DHSIRB when more than two consecutive meetings are missed without having the designated alternate attend;
 - (G) are temporarily removed in the event of a conflict of interest; and
 - (H) are permanently removed in the event of termination of employment or at the Director's discretion.
- (4) DHSIRB Chair, Vice-Chair, and members:
- (A) ensure any required IRB training is completed and sufficient IRB training certification is submitted as necessary;
 - (B) annually ensure DHSIRB primary members and designates submit signed acknowledgments affirming the DHSIRB procedures and that supporting documents were reviewed and submitted as necessary;
 - (C) have access to the reference materials available through the DHSIRB HPA-maintained library;
 - (D) receive no compensation for serving as members of the DHSIRB;
 - (E) conduct reviews of submitted research proposals as delegated, mandated, or requested;
 - (F) provide written responses to the research investigator and organization containing DHSIRB findings;
 - (G) determine which research requires review more often than annually;
 - (H) determine which research needs verification that material changes have not occurred since previous DHSIRB review, from sources other than the investigators;
 - (I) advise research investigators to report changes to the approved research activities;
 - (J) advise research investigators that changes in approved research are not initiated without DHSIRB review and approval, except when necessary to eliminate apparent immediate hazards; and
 - (K) advise research investigators to promptly, within five-business days, report to DHSIRB and appropriate DHS officials of:
 - (i) unanticipated problems involving risks to research participants, interviewers, or others;
 - (ii) serious or continuing noncompliance with DHSIRB requirements;
 - (iii) suspension or termination of DHSIRB approval; or
 - (iv) disapproval of other DHSIRB submissions.
- (5) Consultants may be invited to review submissions and attend meetings when a proposal contains information outside of the scope of DHSIRB members' collective knowledge. No individual with an interest or involvement in the research study application under DHSIRB consideration is utilized in any consultative capacity.
- (e) **Conflict of Interest.** No DHSIRB member votes on a submission when there is an actual or potential conflict of interest with regard to member's professional or personal interests, including financial interests. Every DHSIRB member recuses himself or herself from consideration of any research study application in which that member or the member's immediate family has any involvement or interest in the study or its outcome.
- (1) Based on a DHSIRB majority vote, any DHSIRB member may be excluded from participating in an initial or continuing review of any project in which the member has an actual, apparent, or potential conflicting interest.
 - (2) A conflict of interest exists when any DHSIRB member, including alternate members and ad hoc members, has an interest sufficient to influence, or appear to influence, the objective exercise of his or her official duties. A conflicting interest may:
 - (A) be personal in nature or may result from divergent professional responsibilities;

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- (B) arise when a DHSIRB member is involved with a research project as an investigator, a researcher, a director, an assistant, an advisor, or as another type of stakeholder;
 - (C) arise when any DHSIRB member or the member's immediate family has a financial interest in the outcome of the research. Immediate family includes spouses/domestic partners, siblings, parents, and dependent minors and adult children; and
 - (D) be recognized for any other reason that is considered to be an unacceptable conflict of interest by the member or by DHSIRB.
- (3) When a DHSIRB member has a conflict of interest, the member:
- (A) discloses his or her conflict of interest; and
 - (B) recuses himself or herself from participation in the meeting while the submission is reviewed or discussed, and
 - (C) abstains from voting on the submission.
- (4) Recusal means the member with a conflict of interest:
- (A) refrains from discussing any research project in which he or she has a conflict of interest;
 - (B) does not seek to influence other DHSIRB members prior to a vote; and
 - (C) removes himself/herself from the meeting room while the discussion and DHSIRB vote takes place, except to provide DHSIRB-requested information.
- (5) It is each DHSIRB member's duty to ensure participant protection, DHSIRB review integrity, and that research projects conducted are not jeopardized by an undisclosed, unidentified, or unmanaged conflict of interest.

340:2-39-12. Review and approval process [AMENDED]

(a) Preliminary review and assessment.

- (1) Upon receipt of a completed application for a proposed research project, a preliminary assessment of the application is performed by ~~the Oklahoma Department of Human Services (OKDHS)~~ Institution Review Board (DHSIRB).
- (2) The preliminary assessment is completed by the chair or the Chair's designee. The assessment determines if the applicant is seeking a full review, an expedited review, or an exemption from review and ensures the provided documentation complies with the pertinent application, per Oklahoma Administrative Code (OAC) 340:2-39-11.
- (3) When the application is incomplete in any way, the Chair or the Chair's designee notifies the applicant and explains any deficiencies. The applicant is invited to re-submit the application with deficiencies corrected.
- (4) When the application is determined to be complete, the Chair or the Chair's designee assigns a unique identifier number to the proposed research project. This number is used in all future correspondence with the applicant and/or investigator.
- (5) When the chair determines the application satisfactorily seeks an expedited review or exemption review, the application and its materials are presented to the Vice-Chair and ~~the a~~ third DHSIRB Office of Client Advocacy member appointed by the Chair for review.
- (6) When the chair determines the application requires a full review, the application and its materials are presented to all DHSIRB members for review and consideration at the next DHSIRB meeting.
- (7) When it is determined that additional information and/or clarification is needed for an application's review, the Chair or the Chair's designee notifies the applicant. The applicant has 90-calendar days to respond.
 - (A) When the applicant does not respond in a satisfactory manner to the request for additional information and/or clarification within 90-calendar days, the DHSIRB notifies the applicant that the application was administratively closed.
 - (B) An application that is administratively closed may not be re-opened; however, a new application may be submitted.

(b) Determination that a proposed research project is not human subjects research.

- (1) When an investigator or researcher submits an application with a request for a determination of not human subjects research, the DHSIRB chair follows the procedures described in (A) and (B) of this paragraph.
 - (A) The Chair convenes a subcommittee consisting of the Chair, the Vice-Chair, and ~~a the Office of Client Advocacy~~ third member appointed by the Chair.
 - (B) The subcommittee reviews completed Form 0AD085E and the principal investigator's justification why the proposed research does not qualify as human subjects research.

- (i) Based on this review, if the subcommittee determines the proposed research project does not constitute human subjects research, the Chair or the Chair's designee informs the applicant, in writing, of the DHSIRB decision.
 - (ii) When the subcommittee determines that the proposed research project does constitute human subjects research, the Chair or the Chair's designee informs the applicant, in writing, of the DHSIRB subcommittee decision. The applicant is directed to re-submit the application with a request for an exempt, expedited, or full board review.
- (2) DHSIRB members are notified each time a research proposal is determined to not constitute human subjects research. The information is presented electronically or in hard copy format at the earliest possible DHSIRB regular meeting.
- (3) If the investigator or researcher disagrees with the DHSIRB decision, a request for reconsideration may be submitted, per OAC 340:2-39-13(c).
- (c) Applications with an exemption request.**
- (1) When an investigator or researcher submits an application with a request for recognition that his or her project is exempt from review, the DHSIRB chair follows the procedures in (A) and (B) in this paragraph.
- (A) The chair convenes a subcommittee consisting of the Chair, the Vice-Chair, and ~~the Office of Client Advocacy~~ a third member appointed by the Chair.
 - (B) The subcommittee reviews the completed application and materials supporting the justification why the research project is exempt from review.
 - (i) Based on this review, if the subcommittee determines that the proposed research project is properly exempt from any review, the Chair or the Chair's designee informs the applicant, in writing, of the DHSIRB decision.
 - (ii) If the subcommittee determines that the proposed research project is conditionally exempt from DHSIRB review, the subcommittee must also conduct a limited review, per (g) of this Section.
 - (I) The subcommittee conducts a limited review when the proposed research is of a type described in the federal regulations at Title 45 C.F.R. § 46.104(d)(2)(iii), (d)(3)(i)(C), (d)(7) or (8).
 - (II) The subcommittee may conduct a limited review when the subcommittee believes a limited review is necessary in order to protect the privacy of subjects or to maintain the confidentiality of data or to ensure broad consent was properly obtained and documented.
 - (iii) If the subcommittee determines that the proposed research project is not exempt from a review, the subcommittee proceeds with an expedited review of the project using the procedures in (e) of this Section.
- (2) Within 14-calendar days after the DHSIRB action on the exemption request, the Chair or Chair's designee sends a written notification informing the applicant of the determination. The written notification includes:
- (A) the unique identifier DHSIRB number;
 - (B) research name; and
 - (C) reason(s) the exemption request was approved or denied.
- (3) If the investigator or researcher disagrees with the DHSIRB decision, a request for reconsideration may be submitted, per OAC 340:2-39-13(c).
- (4) The DHSIRB members are notified each time a research proposal is approved through exemption. The information is presented electronically or in hard copy format at the earliest possible DHSIRB regular meeting.
- (d) Applications with a request for an expedited review.**
- (1) When an investigator or researcher submits an application with a request for an expedited review, the DHSIRB Chair follows the procedures described in this paragraph.
- (A) The chair convenes a subcommittee consisting of the Chair, Vice-Chair, and ~~the Office of Client Advocacy~~ a third member appointed by the Chair. The subcommittee reviews the completed application and assesses the proposed research project based upon the criteria for an expedited review, per OAC 340:2-39-11(e).
 - (i) Based on this review, if the subcommittee determines that the proposed research project satisfies the criteria for an expedited review, the subcommittee carries out the proposed project initial review.
 - (I) The subcommittee may exercise all DHSIRB authorities except disapproving research.

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(II) When the subcommittee fails to accept the research project for an expedited review, then the proposed research project is reviewed in accordance with the non-expedited procedures described in (e) of this Section.

(III) A research project may be disapproved only after review in accordance with the non-expedited procedure.

(ii) If the subcommittee determines that the proposed research project does not meet the criteria for an expedited review, the Chair presents the application to the DHSIRB for a non-expedited review at the next scheduled meeting.

(B) The Director may restrict, suspend, terminate, or choose not to authorize the DHSIRB's use of this expedited review procedure.

(2) The DHSIRB members are notified each time a research proposal is approved through the use of this expedited process. Information about each expedited approval is given to the DHSIRB members in a written report of expedited actions. The report is presented in written or electronic form and disseminated to all board members or at the earliest possible DHSIRB regular meeting. DHSIRB members are given an opportunity to review the report of expedited actions. The review must include an opportunity for members to ask questions or raise concerns about any expedited action. A motion to accept or approve the report may be entertained.

(e) Full review of new research projects, non-exempt, non-expedited.

(1) **Review at a convened meeting.** Except when an expedited review procedure is used, per (d), the DHSIRB performs an initial review of proposed new research projects at a convened meeting when a quorum is present. In order for the research to be approved, it must receive the approval of a majority of those members present at the meeting.

(2) **Reliance on the written application.** To complete its review, the DHSIRB may choose to rely solely on the written application, including attachments submitted by the applicant.

(3) **Optional review of other information.** In addition to its review of the written application, including attachments, the DHSIRB may also choose to invite:

(A) the primary investigator to provide additional information;

(B) subject matter experts to assist in the review; or

(C) experts and guests to attend the meeting when the review takes place.

(4) **Review criteria.** In order to approve new research covered by this subsection, the DHSIRB determines, per 45 C.F.R. § 46.111 that the requirements in (A) through (G) are satisfied.

(A) Risks to subjects are minimized by using procedures:

(i) consistent with sound research design and that do not unnecessarily expose subjects to risk; and

(ii) already performed on the subjects for diagnostic or treatment purposes, whenever appropriate.

(B) Risks are reasonable in relation to anticipated benefits to subjects, if any, and the importance of the knowledge that may be expected to be gained. In evaluating risks and benefits, DHSIRB considers only those risks and benefits that may result from the research as distinguished from risks and benefits of therapies subjects would receive even if not participating in the research. Per 45 C.F.R. § 46.111(a) (2), DHSIRB does not consider possible long-range effects of applying the knowledge gained in the research.

(C) Selection of subjects is equitable. In making this assessment the DHSIRB takes into account the research purposes and the setting in which the research is conducted. Additionally, the DHSIRB is particularly cognizant of the special problems of research involving subjects who are likely to be vulnerable to coercion or undue influence, such as children, prisoners, economically or educationally disadvantaged persons, or individuals with impaired decision-making capacities.

(D) The proposed research includes a plan to seek informed consent from each prospective participant or the subject's legally authorized representative, per OAC 340:2-39-11.1.

(E) Informed consent is appropriately documented or appropriately waived, per OAC 340:2-39-11.1.

(F) When appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the subjects' safety.

(G) When appropriate, there are adequate provisions to protect the subjects' privacy and maintain the confidentiality of data.

(5) **Additional requirements.** In order to approve new research projects covered by this subsection the DHSIRB reviews the investigator's qualifications to conduct and supervise the proposed research. This process may include:

- (A) reviewing the investigators', sub-investigators', and other necessary research staffs' resumes, verifying professional associations and licenses and may include a review of the investigators' previous specific experience as demonstrated by recent presentations or publications;
- (B) using previous DHSIRB experience with the investigators; and
- (C) requesting additional information confirming the investigators' qualifications from an administrator of the investigators' institutions.

(f) Review and approval of cooperative research projects.

(1) Cooperative research projects are those projects that involve ~~the Oklahoma Department of Human Services (DHS)~~OKDHS as well as one or more additional institutions.

(A) In the conduct of cooperative research projects, DHSIRB and the other institution(s) are responsible for safeguarding the rights and welfare of human subjects.

(B) DHSIRB makes arrangements with the other institution(s) to avoid duplication of efforts.

(C) When a cooperative research project is sponsored by a federal department or agency that is supporting or conducting the research, DHSIRB relies on the federal department or agency to identify the reviewing Institution Review Board (IRB).

(D) Consistent with the federal regulations, per Title 45 C.F.R. § 46.114(b), DHSIRB recognizes that any institution located in the United States (U.S.) engaged in cooperative research must generally rely upon approval by a single IRB for the portion of the research conducted in the U.S., unless:

- (i) more than a single IRB review is required by law, including tribal law passed by the official governing body of an American Indian or Alaska Native tribe;
- (ii) a federal department or agency supporting or conducting the research determines and documents that the use of a single IRB is not appropriate for the particular context; or
- (iii) the cooperative research project does not have a federal sponsor.

(2) When DHSIRB participates with another institution in a cooperative research project that does not have a federal sponsor, DHSIRB seeks to avoid duplication of effort by:

- (A) entering into a joint review agreement with the other institution;
- (B) relying on the review of the other institution's IRB; or
- (C) making similar arrangements for avoiding duplication of effort.

(g) Limited reviews.

(1) If the DHSIRB affirms that a research proposal meets the criteria for a conditional exemption from review, per OAC 340:2-39-12(c), the DHSIRB performs a limited review of the proposal.

(2) The scope of the limited review depends on the type of research proposal. The four types of research are in (A) through (D).

(A) Mildly obtrusive interactions research, per 45 C.F.R. § 46.104(d)(2)(iii), is defined as research with features in (i) and (ii) of this subparagraph.

(i) Mildly obtrusive interactions research only includes interactions involving:

- (I) educational tests, such as cognitive, diagnostic, aptitude, and achievement tests;
- (II) survey procedures;
- (III) interview procedures; or
- (IV) observation of public behavior, including visual or auditory recording; and

(ii) the information obtained is recorded by the investigator so the human subjects' identity can readily be ascertained, directly or through identifiers linked to the subjects.

(B) Benign behavioral interventions, per 45 C.F.R. § 46.104(d)(3)(i)(C), is defined as research with features in (i) and (ii) of this subparagraph.

(i) Benign behavioral interventions involves interventions in conjunction with the collection of information from an adult subject through verbal or written responses, including data entry, or audiovisual recording if the subject prospectively agrees to the intervention and information collection.

(ii) The information obtained is recorded by the investigator so the identity of the human subjects can readily be ascertained, directly or through identifiers linked to the subjects.

(C) Storage or maintenance for secondary research for which broad consent is required, per 45 C.F.R. § 46.104(d)(7), is defined as research involving the storage or maintenance of identifiable private information or identifiable biospecimens for potential secondary research use.

(D) Secondary research for which broad consent is required, per 45 C.F.R. § 46.104(d)(8), is defined as research involving the use of identifiable private information or identifiable biospecimens for secondary research use, when the conditions in (i) through (iii) are present.

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- (i) Broad consent for the storage, maintenance, and secondary research use of the identifiable private information or identifiable biospecimens was obtained.
- (ii) Documentation of informed consent or waiver of documentation of consent was obtained, per OAC 340:2-39-11.1.
- (iii) The investigator does not include returning individual research results to subjects as part of the study plan.

(3) For mildly obtrusive interactions research and for benign behavioral interventions, the DHSIRB review is limited to determining that there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.

(4) For storage or maintenance for secondary research for which broad consent is required, and for secondary research for which broad consent is required, the DHSIRB review is limited to determining that:

- (A) broad consent for storage, maintenance, and secondary research use of identifiable private information or identifiable biospecimens is obtained, per OAC 340:2-39-11.1(b);
- (B) broad consent is appropriately documented or waiver of documentation is appropriate, per OAC 340:2-39-11.1(d); and
- (C) if there is a change made for research purposes in the way the identifiable private information or identifiable biospecimens are stored or maintained, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.

(h) Review and approval notification.

(1) **Approval categories.** As a result of the DHSIRB review, each research proposal is assigned to one of the categories in (A) through (E) of this paragraph.

(A) **Not human subjects research.** Proposal determined to not constitute human subjects research. Investigators whose proposals receive this determination may begin work immediately.

(B) **Approved.** Research is approved as submitted. Investigators whose proposals are approved may begin work immediately.

(C) **Conditionally approved.** Research is conditionally approved, but research may not begin until investigators comply with items identified by the DHSIRB for final approval.

(D) **Deferred.** DHSIRB does not have enough information to make a determination. Investigators whose proposals receive a deferral must resubmit the entire application to address the required changes.

(E) **Not approved.** The magnitude and/or number of concerns are such that conditional approval is not appropriate. Investigators whose work is disapproved may not conduct the research or resubmit their proposals.

(2) **Notification required.** The DHSIRB notifies investigators and appropriate managers, supervisors, and directors within DHS in writing of its decision regarding the proposed research activity, including any modifications or conditions required to secure DHSIRB approval of the research activity.

(A) Approved applications.

(i) At a minimum, the approval letter contains:

- (I) the unique identifier DHSIRB number;
- (II) the research name;
- (III) the date of approval;
- (IV) all reviewed and approved DHSIRB documents;
- (V) the duration of the approval; and
- (VI) circumstances, such as adverse events or closure of the research, for which DHSIRB must be contacted.

(ii) The approval date is the date when the application is approved.

(iii) Continuing review is not required except when there is a good reason for doing so, per OAC 340:2-39-12.2(c).

(B) Conditionally approved applications.

(i) A letter describing the concerns of the DHSIRB is sent to the investigator. The letter makes it clear the research may not begin until DHSIRB issues a letter of approval.

(ii) Investigators have 90-calendar days from the day they are notified about the conditionally approved research to respond. If a response is not received during this period, investigators must resubmit the entire application.

(iii) To review the investigator's response, the chair convenes a subcommittee consisting of the Chair, the Vice-Chair, and a third the Office of Client Advocacy member appointed by the Chair. The subcommittee reviews the investigator's response for appropriateness.

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(iv) The subcommittee makes a determination as to whether the response adequately addresses the DHSIRB concerns.

(v) A DHSIRB final approval letter is sent to the investigator when the response is approved. At that time, the research may begin. The approval date is the date the investigator's response is approved. Continuing review is not required except when there is a good reason for doing so, per OAC 340:2-39-12.2(c).

(C) **Deferred.** A letter describing the determination is sent to the investigator.

(D) **Not approved.** A designation of not approved indicates the magnitude and/or number of concerns is such that conditional approval is not appropriate, as determined by the DHSIRB.

(i) A letter describing the DHSIRB decision and concerns is sent to the investigator. The investigator is notified of the opportunity to respond to the DHSIRB, in writing or in person, regarding the determination, per OAC 340:2-39-13.

(ii) The DHSIRB accomplishes any reconsideration in the same manner as the preliminary review and assessment described in (a) of this Section.

(iii) The investigator is not advised to resubmit disapproved research without consulting the DHSIRB.

(iv) In the event of a resubmission, the DHSIRB submission is given a new number and addressed as a completely new submission.

(3) In general, action on all proposals is taken within two months after submission. Investigators are notified, in writing, of the DHSIRB decisions within two weeks of board action.

(i) **Further reviews by DHS.** Research covered by this Part approved by the DHSIRB may be subject to further appropriate review and approval or disapproval by DHSOKDHS officials. However, DHSOKDHS officials may not approve the research if it was not approved by the DHSIRB.

[OAR Docket #24-1083; filed 10-10-24]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 5. ADULT PROTECTIVE SERVICES

[OAR Docket #24-1086]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Maltreatment Allegations

340:5-3-4. Referrals under the jurisdiction of entities other than Adult Protective Services (APS) [AMENDED]

Subchapter 7. Long-Term care Investigations

340:5-7-5. Initiating Long-Term Care Investigations [AMENDED]

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); Section 1-2211 et seq. of Title 63 (63 O.S. § 1-2211 et seq.); and Section 6103 of Title 26 of the United State Code (26 U.S.C. § 6103)

COMMENT PERIOD:

N/A

PUBLIC HEARING:

N/A

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SUPERSEDED RULES:

Emergency Adoptions

N/A

GUBERNATORIAL APPROVAL:

N/A

REGISTER PUBLICATION:

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INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:

N/A

INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

FINDING OF EMERGENCY:

Per 75 O.S. § 253, OKDHS requests the Governor grant emergency rulemaking approval to avoid violation of state law or regulation. The emergency rulemaking process is necessary to implement changes due to governor approval of State Bill 1709.

GIST/ANALYSIS:

The proposed amendment to Chapter 5, Subchapters 3 and 7, are to comply with approval of State Bill 1709. The proposed amendment achieves Oklahoma Human Services (OKDHS) goals by: (1) removing references to the Office of Client Advocacy (OCA) which will be transferred to and become a part of the Oklahoma State Department of Health (OSDH); (2) removing references to the State Long-Term Care Ombudsman while will be transferred to and become a part of the Office of the Attorney General (OAG) pursuant to the governor approval of State Bill 1709; and (3) ensuring accurate program administration.

CONTACT PERSON:

Cathy Wood, Programs Supervisor, 580-421-5807

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

SUBCHAPTER 3. MALTREATMENT ALLEGATIONS

340:5-3-4. Referrals under the jurisdiction of entities other than Adult Protective Services (APS) [AMENDED]

Some referrals of alleged maltreatment of vulnerable adults are not investigated by APS staff.

- (1) **Robert M. Greer Center (Greer) resident or former Hissom Memorial Center resident referrals.** When the alleged victim is a current Greer resident, or a former Hissom Memorial Center resident, who suffered maltreatment by a facility employee or by a current caretaker, the referral is sent to Office of Client Advocacy (OCA).
- (2) **Reports of maltreatment by persons providing services to alleged victims receiving services from a community services worker, community services provider, SoonerCare (Medicaid) personal care services provider, or Medicaid personal care assistant (MPCA).** When the alleged victim receives services from a community services worker, community services provider, SoonerCare (Medicaid) personal care services provider, or MPCA, as those terms are defined in Section 1025.1 of Title 56 of the Oklahoma Statutes, the referral is sent to ~~Office of Client Advocacy (OCA).~~
- (3) **Alleged maltreatment in hospital settings.** APS staff refers allegations of maltreatment of vulnerable adults who are receiving services in medical hospitals, rehabilitation facilities, or private psychiatric hospitals, by facility staff to the Oklahoma State Department of Health (OSDH), Protective Health Services, Medical Facilities Service.
- (4) **Alleged maltreatment by Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) staff and contracted providers.** APS staff refers allegations of maltreatment of vulnerable adults by public or private community mental health agency staff to the ODMHSAS Advocacy Division. Certain residential care facilities may also be under the jurisdiction of ODMHSAS and receiving a stipend.

(5) **Alleged maltreatment of residents by nursing facility staff.** APS staff refers allegations of maltreatment of nursing facility residents by facility staff to APS Long-Term Care Investigations and to OSDH, Protective Health Services, Medical Facilities Service.

(6) **Alleged maltreatment of incarcerated individuals in federal or state custody.** APS staff refers allegations of maltreatment of incarcerated individuals by federal or state public hospitals, jails, prisons, or similar facilities staff to the facility's regulatory department for investigation and to the local district attorney.

(7) **Alleged maltreatment of individuals who are deceased at the time of referral.** Maltreatment allegations of persons who are deceased are not accepted by APS. Reporters are referred to the state Office of the Medical Examiner, law enforcement, or when the death occurred in a nursing facility, to the Office of the Attorney General, Medicaid Fraud Control Unit.

(8) **Alleged impaired driving.** Reporters with concerns about impaired driving are referred to the Oklahoma Department of Public Safety. APS does not investigate impaired driving, but may address related issues.

SUBCHAPTER 7. LONG-TERM CARE INVESTIGATIONS

340:5-7-5. Initiating Long-Term Care Investigations [AMENDED]

A Long Term Care Investigation is initiated by visiting the vulnerable adult in the nursing facility.

(1) **Long-Term Care Investigation timeframes.** Maltreatment reports are initiated within 20-business days or sooner when circumstances indicate immediate action is needed.

(2) **Long-Term Care investigative report completion.**

(A) The long-term care investigator determines within 60-business days of the receipt of the report, if the evidence indicates the report is substantiated, unsubstantiated, or inconclusive, per Oklahoma Administrative Code (OAC) 340:5-1-6. The program manager may extend the case closure date when necessary.

(B) The findings are sent to state entities with concurrent jurisdiction over the persons or issues identified in the investigation, such as the Oklahoma State Department of Health, local district attorney, Long-Term Care Ombudsman in Aging Services, and appropriate state licensure or certification boards, agencies, or registries. The special considerations in OAC 340:5-5-4(d) and (e) apply to Long-Term Care Investigations.

[OAR Docket #24-1086; filed 10-10-24]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 60. REFUGEE RESETTLEMENT PROGRAM

[OAR Docket #24-1084]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

340:60-1-3. Refugee Resettlement Program (RRP) [AMENDED]

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); Section 301 of the Ukraine Security Supplemental Appropriations Act, 2024, P.L. 188-50; and Section 401 of Additional Ukraine Supplemental Appropriations Act, 2022, P.L. 177-128

COMMENT PERIOD:

N/A

PUBLIC HEARING:

N/A

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Emergency Adoptions

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SUPERSEDED EMERGENCY ACTIONS:

SUPERSEDED RULES:

N/A

GUBERNATORIAL APPROVAL:

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INCORPORATED STANDARDS:

N/A

INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

FINDING OF EMERGENCY:

OKDHS RRP seeks emergency rulemaking authority to comply with a change in federal law. Section 301 of the Ukraine Security Supplemental Appropriations Act amends Section 401 of Additional Ukraine Supplemental Appropriations Act, 2022, P.L. 177-128. The Ukraine Security Supplement Appropriations Act extended the deadline for a Ukrainian parolee to receive parole and become an eligible refugee from September 30, 2023, to September 30, 2024. President Biden signed this bill on April 24, 2024.

GIST/ANALYSIS:

The proposed amendments to Chapter 60 amend the rules to allow a Ukrainian humanitarian parolee until September 30, 2024, to receive parole and be an eligible refugee, per Section 301 of the Ukraine Security Supplemental Appropriations Act, 2024, Public Law (P.L.) 188-50.

CONTACT PERSON:

Caleb Turner, Programs Manager III, 405-982-3685

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

340:60-1-3. Refugee Resettlement Program (RRP) [AMENDED]

(a) **Purpose.** The RRP purpose is to provide for effective refugee resettlement and to assist refugees to achieve economic self-sufficiency as quickly as possible, per Section 400.1 of Title 45 of the Code of Federal Regulations (45 C.F.R. § 400.1.).

(b) **Legal basis and funding availability.** The Refugee Act of 1980 (Public Law 96-212) provides assistance to refugees, regardless of national origin, to be administered by the states, with up to 100 percent reimbursement from federal funds. Provision of RRP benefits is based on federal fund availability. If federal funding is reduced or terminated, RRP benefits are reduced or terminated accordingly.

(c) **Refugee documentation.** A refugee applying for RRP must provide United States Citizenship and Immigration Services (USCIS) documentation to verify the person's refugee status. Acceptable documentation includes, but is not limited to:

- (1) Form I-94, Departure Record;
- (2) Form I-551, Legal Permanent Resident Card;
- (3) a passport stamped with the classification status;
- (4) a T-Visa; or
- (5) a letter or order from USCIS or court granting asylum.

(d) **Refugee status.** The USCIS documentation the applicant provides must show the applicant's status is:

- (1) paroled as a refugee or asylee under Section 212(d)(5) of the Immigration and Nationality Act (INA);
- (2) admitted as a refugee under Section 207 of the INA;
- (3) granted asylum under Section 208 of the INA;

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- (4) admitted as an Amerasian immigrant from Vietnam under Section 584 of the Foreign Operations, Export Financing and Related Program Appropriations Act of 1989, as amended;
- (5) admitted for permanent residence, provided the person previously held one of the statuses identified in this Section;
- (6) a Cuban or Haitian entrant, per requirements in 45 C.F.R Part 401;
- (7) an alien and the alien's eligible relatives who are victims of a severe form of trafficking per Section 107(b) of the Trafficking Victims Protection Act of 2000 as reauthorized and amended by the Trafficking Victims Protection Reauthorization Act of 2003;
- (8) an Iraqi admitted in special immigrant status as defined in Section 101(a)(27) of Title 8 of the United States Code (8 U.S.C. 1101(a)(27)), and per Section 1059 of P.L. 109-163, the National Defense Authorization Act for Fiscal Year 2006, and Section 1244 of P.L. 110-181, the National Defense Authorization Act for Fiscal Year 2008 per Section 525 of Division G of P.L. 110-161, the Consolidated Appropriations Act of 2008, and Section 1244 of P.L. 110-181, the National Defense Authorization Act for Fiscal Year 2008;
- (9) an Afghan admitted in special immigrant status as defined per 8 U.S.C. 1101(a)(27) and per Section 1059 of P.L. 109-163, the National Defense Authorization Act for Fiscal Year 2006, Section 602, Division F of P.L. 111-08, the Omnibus Appropriations Act, 2009, per Section 525 of Division G of P.L. 110-161 of the Consolidated Appropriations Act, 2009;
- (10) an Afghan who receives special immigrant (SI) conditional permanent residence, SI/SQ parole or who is a humanitarian parolee admitted to the United States (U.S.) due to urgent humanitarian reasons or significant public benefit, per Section 2502 of the Afghanistan Supplemental Appropriations Act, 2022, P. L. 117-43, as modified by Section 106(3) and 149(a) of the Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023, P. L. 117-180. Humanitarian parolees paroled into the U.S. between July 31, 2021, through December 16, 2022 are eligible for refugee cash assistance (RCA) and refugee medical assistance (RMA) benefits for 12 months beginning October 1, 2021, or the date the parolee "enters the community" in the U.S., such as when they leave a military base, whichever is later. The latest date humanitarian parolees may receive RCA and RMA benefits is March 31, 2023 or the end of their parole term, whichever is later; or
- (11) a Ukrainian citizen or national or person who last habitually resided in Ukraine and received parole per Section 401 of the Additional Ukraine Supplemental Appropriations Act of 2022, P.L. 117-128. The parole must occur between February 24, 2022, and September 30, ~~2023~~2024. If after September 30, ~~2023~~2024, the parolee must be the child, spouse, parent, legal guardian, or primary caretaker of a Ukrainian parolee who was paroled between February 24, 2022 and September 30, ~~2023~~2024.

(e) **Alien status declaration.** Under penalty of perjury, the applicant declares the alien status of all persons applying for RRP benefits on the application and signs the application. Before adding an additional person to the benefit after certification, this declaration is made on Form 08MP022E, Declaration of Citizenship Status.

The Systematic Alien Verification for Entitlement (SAVE) process is used to verify alien status, per OAC 340:65-3-4(5).

(f) **Exclusions from RRP.** Persons excluded from participation in RRP are:

- (1) resident aliens who did not previously have refugee or asylee status; or
- (2) any asylum applicant who has not been granted asylum status.

[OAR Docket #24-1084; filed 10-10-24]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 65. PUBLIC ASSISTANCE PROCEDURES

[OAR Docket #24-1088]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Eligibility for Benefits
340:65-3-2. Definitions [AMENDED]

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162) and 7 C.F.R. § 273(c)(1) (iv)

COMMENT PERIOD:

Emergency Adoptions

N/A

PUBLIC HEARING:

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INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

FINDING OF EMERGENCY:

OKDHS SNAP rules conflict with the federal regulation at 7 C.F.R. § 273.2(c)(iv) that requires OKDHS to assign the next business day as the application date when OKDHS receives SNAP applications outside of business hours. The current practice creates administrative problems that are contrary to the public welfare. The current practice does not differentiate between operating or business hours for these applications. This practice creates backlogs over weekends, holidays, or any other time outside of operating hours. It complicates meeting the federally required seven-day expedited-service and 30-day application processing times and leads OKDHS to offer less than ideal customer service since staff must address this backlog. Making the change will enable OKDHS to better manage its federally required obligations and offer improved service delivery and customer service. Food and Nutrition Services (FNS) has noted this inconsistency in the OKDHS Application Processing Timeliness (APT). On June 4, 2024, FNS escalated issues with our APT to ensure prompt action to improve state timeliness. FNS considers an APT rate of 95 percent and above acceptable performance. An APT below 90 percent may require corrective action. The Oklahoma APT rate for fiscal year 2023 is 89.54 percent. When the APT rate falls below 90 percent, states are subject to an escalation procedure that includes five steps that include Pre-escalation and Identification, APT Corrective Action Plan (CAP), Advanced Letter, Formal Warning Letter, and Sanction of Administrative funding. OKDHS expects to receive notification of an APT CAP soon.

GIST/ANALYSIS:

The proposed amendments to Chapter 65, Subchapter 3 amend the rules to update the handling of applications received outside of Oklahoma Human Services (OKDHS) operating hours. The proposed amendments achieve OKDHS goals by communicating updated eligibility information to applicants, recipients, OKDHS staff, and contracted partners; aligning eligibility standards with federal regulations; and ensuring effective and efficient program administration.

CONTACT PERSON:

Caleb Turner, Programs Manager III, 405-982-3685

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

SUBCHAPTER 3. ELIGIBILITY FOR BENEFITS

340:65-3-2. Definitions [AMENDED]

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

"Applicant" means a person who directly, or through a person acting responsibly on the applicant's behalf, requests a formal eligibility determination for one or more programs ~~administered by~~ Oklahoma Human Services (OKDHS) Adult and Family Services administers.

"Application process" means the process by which the applicant requests benefits, completes program requirements, and provides necessary proof, and the worker determines eligibility. Any person who fraudulently represents facts, acts without authority, or exceeds his or her authority to perform a transaction may be prosecuted under all applicable criminal and civil laws.

"Client" means a person applying for or receiving services, cash assistance, or other benefits.

"Date of application" means:

(A) the Child Care Subsidy Program does not define the application date, per Oklahoma Administrative Code (OAC) 340:40-3-1.

(i) "Request date" ~~is~~ means the date the applicant requests subsidized child care benefits verbally or in writing. When the household requests child care outside of operating hours, the request date is the next day OKDHS is open.

(ii) "Certification date" ~~is~~ means date the applicant or the applicant's authorized representative completes the child care interview and provides all necessary verification to the OKDHS office, including the name of the child care provider the client chooses to use;

(B) for Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP) food benefits, SoonerCare (Medicaid), State Supplemental Payment (SSP), and the Low Income Home Energy Assistance Program (LIHEAP), the application date is the date the applicant or a person acting on the applicant's behalf signs the application.

(i) When the application is initiated outside of OKDHS, the application date is the ~~date the application is stamped in the day~~ OKDHS office or received electronically through okdhslive.org receives the application during operating hours. When the household applies outside of operating hours, the application date is the next day OKDHS is open.

(ii) Receipt of Form 08MA005E, Notification of Needed Medical Services, preserves the application date of application for SoonerCare (Medicaid) eligibility groups for which OKDHS ~~is responsible for determining~~ determines eligibility, per OAC 317:35-5-63;

(C) when OKDHS staff receives a verbal request prior to the signature date on the application, staff enters documents the verbal request date in ~~red above the signature date~~ the case record. The verbal request date is the application date for TANF, SSP, and SoonerCare (Medicaid) eligibility groups for which OKDHS determines eligibility.

(i) Per OAC 340:50-3-1, a verbal request for food benefits does not preserve the application date unless the applicant informs staff a hardship exists that prevents him or her from signing a request on that date. A hardship may exist when the applicant states no one can come to an OKDHS office because of a situation beyond the applicant's control, such as illness, disability, or lack of transportation; and the applicant is unable to submit the application online or by ~~phoning an OKDHS office or the phone number on the www.okdhslive.org website~~ calling OKDHS to obtain help in submitting the application.

(ii) A verbal request for LIHEAP does not preserve the application date as funding for the program is limited.

(iii) The verbal request date preserves the application date only when the applicant signs the application within 30-calendar days.

(I) When the applicant fails to sign the application within 30-calendar days, no application request is made.

(II) When the applicant subsequently contacts OKDHS after 30-calendar days and completes the application process, the application date is the date the applicant completes and signs the application; and

(D) when the applicant comes to an OKDHS office to request benefits and cannot stay to complete the application with a worker ~~or no appointment times are available that day~~, the applicant must submit a completed and signed Form 08MP001E, Request for Benefits, to preserve the application date. When the applicant does not leave a completed and signed Form 08MP001E, an application date is not preserved.

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"**Inquiry**" means a request for information but does not imply a request for assistance.

"**Payee**" means the person in the household in whose name benefits are issued. The ~~person considered the~~ payee varies depending on the requested programs. The payee may or may not be included in the benefit.

(A) For the Child Care Subsidy Program, the payee must be the person responsible for the child for whom benefits are requested. The payee is not required to be related to the child. When the parent of the child is in the home, the parent is the payee, per OAC 340:40-3-1(a)(2).

(B) For the TANF Program, the payee must have a certain degree of relationship to the child for whom benefits are requested, per OAC 340:10-3-56 and 340:10-9-1.

(C) For SNAP, the payee may be any responsible adult living in the home, per OAC 340:50-3-1.

(D) For the SoonerCare (Medicaid) Program, the payee is the person for whom benefits are requested or the person responsible for the minor child for whom benefits are requested. The payee is not required to be related to the child. When the parent of the child is in the home, the parent must be the payee.

(E) For the SSP Program, the payee is the person for whom benefits are requested. When the person for whom benefits are requested is a minor child, the child is coded as a payee with a guardian.

(F) For LIHEAP, the payee may be any responsible adult living in the home. When the household receives other benefits, the payee is the same person shown as payee for the other benefits.

"**Recipient**" means a person who receives services, cash assistance, or other benefits.

[OAR Docket #24-1088; filed 10-10-24]

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

[OAR Docket #24-1082]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Administration

Part 3. ADMINISTRATION

340:100-3-33.2. Provision of waiver services by legally responsible persons and other family members or guardians

[AMENDED]

340:100-3-38.14. Training requirements for staff providing extensive residential supports (ERS) [NEW]

Subchapter 5. Client Services

Part 3. SERVICE PROVISIONS

340:100-5-22.1. Community residential supports [AMENDED]

340:100-5-35. Non-Residential Habilitation Training Specialist (HTS) services [AMENDED]

Subchapter 11. Admission to Robert M. Greer Center

340:100-11-2. Intake, Diagnosis and Evaluation Process [AMENDED]

AUTHORITY:

Director of Human Services; 56 O.S. § 162

COMMENT PERIOD:

N/A

PUBLIC HEARING:

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INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

FINDING OF EMERGENCY:

The proposed amendments permit OKDHS policy to remain consistent with DDSHCBS waivers due to changes resulting from amendments to the DDS HCBS waivers effective July, 2023 and June, 2024 and will bring OKDHS into compliance with established state rules and regulations.

GIST/ANALYSIS:

The proposed amendments update the rules to: (1) clarify services a legally responsible individual can provide to a member for whom they are legally responsible; (2) identify a new residential service, extensive residential supports (ERS), and training requirements for staff providing ERS; and (3) implement a change recommended after the Oklahoma Department of Health completed a survey of the Robert M. Greer Center.

CONTACT PERSON:

Darrin Thompson 405-301-2895

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

SUBCHAPTER 3. ADMINISTRATION

PART 3. ADMINISTRATION

340:100-3-33.2. Provision of waiver services by legally responsible persons and other family members or guardians [AMENDED]

(a) Legally responsible persons ~~individuals~~.

~~(1) Persons who are legally responsible for the care of service recipients are prohibited from providing Developmental Disabilities Services Division (DDSD) Home and Community-Based Waiver Services to service recipients for whom they are responsible. For the purpose of this Section, a legally responsible individual is:~~

- ~~(A) a biological or adoptive parent(s) of a minor child;~~
- ~~(B) a step-parent of a minor child;~~
- ~~(C) a foster parent of a minor child;~~
- ~~(D) a legal non-volunteer guardian of a minor child;~~
- ~~(E) a spouse of a service recipient; or~~
- ~~(F) anyone deemed legally responsible by court order.~~

~~(2) For purposes of OAC 340:100-3-33.2, a person who is legally responsible is: Legally responsible individuals may serve as a paid habilitation training specialist (HTS) provided through the Developmental Disabilities Services (DDS) Home and Community-Based Services (HCBS) Community Waiver or In-Home Supports Waiver for a person for whom they are legally responsible when the DDS HCBS waiver recipient requires extraordinary care as documented in the annual Oklahoma Choice Assessment. To serve as an HTS, the responsible individual;~~

- ~~(A) a biological or adoptive parent(s) of a minor child;~~
- ~~(B) a legal guardian of a minor child;~~
- ~~(C) a spouse of a service recipient; or~~

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~~(D)~~ anyone deemed legally responsible by court order;

~~(A)~~ is qualified per applicable DDS and Oklahoma Health Care Authority (OHCA) rules;

~~(B)~~ meets specific service provider requirements; and

~~(C)~~ is employed by provider agencies, except per Oklahoma Administrative Code (OAC) 340:100-3-33.2(b)(3); or

~~(D)~~ is employed by an Employer of Record, per OAC 317:40-9-1.

~~(3)~~ A legally responsible individual may only provide HTS services in a non-residential setting and are bound by the number of hours worked per OAC 340:100-5-35.

~~(4)~~ The service must:

~~(A)~~ be related to the waiver recipient's disability and not be an activity that a parent of a minor or spouse would ordinarily perform or is responsible to perform; and

~~(B)~~ be necessary to meet at least one identified dependency in activities of daily living (ADL), which is determined based on the ADL items included in the assessment the waiver recipient receives.

~~(5)~~ Parents of a waiver recipient whose parental rights have been terminated cannot be paid to provide care to the waiver recipient.

~~(6)~~ Parents of a waiver recipient who is in state custody cannot be paid to care for the waiver recipient while the recipient is in state custody.

~~(7)~~ Parents of minors and spouses of service recipients may only be paid for providing supports as indicated by the Oklahoma Choice Assessment.

~~(8)~~ Parents of minors and spouses of service recipients may not be reimbursed for mileage expenses.

~~(9)~~ The provision of services by a legally responsible individual is in the best interest of the waiver recipient using the Team approach and must be documented in the Individual Plan (IP).

~~(10)~~ Married waiver recipients must be offered a choice of providers. If they choose a spouse as their care provider, it must be documented in the IP.

(b) Family members or guardians not legally responsible. Family members or guardians who are not legally responsible for the care of service recipients:

(1) may provide Home and Community-Based Services (HCBS) under specific circumstances when they:

(A) are qualified per applicable Oklahoma ~~Department of~~ Human Services (OKDHS) and ~~Oklahoma~~ Health Care Authority (OHCA) rules; and

(B) meet specific service provider requirements;

~~(2)~~~~(C)~~ must be employed by provider agencies, except per OAC 340:100-3-33.2(b)(3). Provider agencies must:

~~(A)~~~~(i)~~ provide supervision and oversight of such employees; and

~~(B)~~~~(ii)~~ ensure claims are submitted only for services rendered; and

~~(3)~~~~(D)~~ are prohibited from not being paid as direct contract providers of ~~DDS~~DDS HCBS, except when such persons are:

~~(A)~~~~(i)~~ the only available provider of covered services due to geographic remoteness; or

~~(B)~~~~(ii)~~ uniquely qualified to provide covered services due to considerations such as language; and

~~(4)~~~~(2)~~ may provide services, such as:

(A) audiology;

(B) dental;

(C) respite;

(D) agency companion;

(E) assistive technology;

(F) homemaker;

(G) ~~habilitation training specialist~~HTS;

(H) nutrition;

(I) occupational therapy;

(J) physical therapy;

(K) speech therapy;

(L) transportation; and

(M) specialized foster care.

(c) Volunteer guardians. Volunteer guardians appointed by the court, per OAC 340:100-3-5.1, are prohibited from providing ~~DDS~~DDS HCBS to their wards.

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340:100-3-38.14. Training requirements for staff providing extensive residential supports (ERS) [NEW]

- (a) **Applicability.** Oklahoma Administrative Code (OAC) 340:100-3-38.14 sets forth training requirements for staff, volunteers, and direct supervisors providing either full- or part-time direct supports for a service recipient receiving ERS per OAC 317:40-5-154.
- (b) **New employee training.** No later than 30-calendar days following the hire date, staff providing direct supports or supervising the delivery of direct supports at any level must complete the online or first available Developmental Disabilities Services (DDS)-approved foundation training course and effective teaching course. The first available class is the first unfilled class held within 60 miles of the staff's work location following the staff's hire date.
- (c) **Incident Reporting Training, First aid and cardio-pulmonary resuscitation (CPR).** Direct support staff must be certified in an approved course of first aid and CPR and receive training on the DDS Incident Reporting process before providing services alone or with other untrained staff.
- (1) Incident Reporting Training, First aid and CPR certification must occur within 90-calendar days following the staff's hire date.
 - (2) The service recipient's Personal Support Team (Team) may determine, based on the service recipient's needs, that staff must receive first aid and CPR certification in less than 90-calendar days.
- (d) **Medication administration training.** Staff must be certified in an approved medication administration course per OAC 340:100-3-38.10, before administering medication to a service recipient or assisting with a service recipient's medication support plan.
- (e) **Individual-specific in-service training.** Individual-specific in-service training is identified for direct support staff in the service recipient's Individual Plan (Plan).
- (1) Training requirements are based on the service recipient's identified needs through Team discussion and review of available assessment information.
 - (2) A service recipient's Team specifies required completion time frames for individual-specific in-service training. When time frames are not identified in the Plan, required individual-specific in-service training must be completed before working with the service recipient.
 - (3) As the service recipient's needs require changes in supports or programs, the Team documents in the Plan or in addenda to the Plan, any new or additional in-service training required, with completion time frames.
 - (4) Individual-specific training is provided by the person(s) designated by the Team and identified by position in the Plan, per rule, statute, and professional practice regulations, when applicable.
 - (5) The responsible Team member verifies staff has knowledge and skills necessary to provide the identified services. Videos may be used when approved by the Team.
- (f) **Job-specific training.**
- (1) Staff must complete training as identified in Appendix D-27:
 - (2) Staff who works in both residential and employment or other settings must meet the job-specific training requirements of both jobs. Transfers to avoid required training completion are prohibited.
- (g) **Specialized training.** Additional specialized training may be required for direct support staff based on the service recipient's needs including significant behavior, health or physical support issues.
- (1) Staff must complete an approved:
 - (A) behavior support course before working alone or with other untrained staff and within 60 calendar days after assignment with a service recipient who has a PIP that:
 - (i) addresses challenging behavior that places the service recipient's physical safety, environment, relationships, or community participation at serious risk; or
 - (ii) contains one or more of these procedures:
 - (I) physical guidance to overcome resistance;
 - (II) physical guidance to move to safety; or
 - (III) physical hold to restrict movement.
 - (B) physical management course before implementing any physical management technique included in a PIP.
 - (i) Only staff and staff supervisors providing support to the service recipient are trained on the use of a physical management procedures.
 - (ii) Staff formally trained to use physical management procedures do not use those techniques with other service recipients, except in emergencies per OAC 340:100-5-57.
 - (iii) Training regarding physical management procedures must be obtained from trainers approved by the DDS director or designee.
 - (C) training in person centered planning from courses identified in Appendix D-27 before working alone or with other untrained staff and within 60 calendar days after assignment date.

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(D) orientation specific to community protection within 60 calendar days of assignment date; and

(E) training in trauma informed care within 60 calendar days of assignment date.

(2) Staff working with the service recipient implements the positive components of the PIP, as well as non-intrusive procedures to assist the service recipient during a crisis.

(3) The DDS director or designee approves training curricula regarding behavior support.

(h) Ongoing training. Direct support staff employed by provider agencies completes 12 hours of approved annual training.

(1) Annual retraining on physical management or physical restraint procedures in the approved PIP must be completed;

(2) Additional annual training may come from courses identified in Appendix D-27;

(3) Direct support staff who supervises other staff must take 12 hours of supervisory training annually that may be included in the hours required per this Section.

(4) Direct support staff may challenge or test out of required annual recertification when an approved option is available. Training completion hours are granted equal to the number of hours for the standard recertification class.

(i) Exceptions. The DDS director or designee may make exceptions to training requirements per this Section.

SUBCHAPTER 5. CLIENT SERVICES

PART 3. SERVICE PROVISIONS

340:100-5-22.1. Community residential supports [AMENDED]

(a) **Applicability.** Community residential supports are funded through contracts with the Oklahoma Department of Human Services ~~ÐHS~~(OKDHS), Oklahoma Health Care Authority (OHCA), or both, and must meet standards per this Section.

(1) A service recipient is considered receiving community residential supports when the service recipient receives:

(A) daily living supports ~~(DLS)~~, per Oklahoma Administrative Code (OAC) 317:40-5-150;

(B) Prader-Willi Syndrome services;

(C) agency companion services (ACS), per Part 1 of OAC 317:40-5-~~or~~

(D) specialized foster care (SFC), per Part 5 of OAC 317:40-5-~~;~~ or

(E) extensive residential supports, per OAC 317:40-5-154.

(2) This Section does not apply to:

(A) group home services, per OAC 340:100-6; or

(B) services provided to service recipients who receive assisted living services, per OAC 340:100-5-22.2.

(b) **General information.**

(1) Services for children are provided in family settings unless approved by the Developmental Disabilities Services (DDS) Community Services Unit programs administrator or designee.

(2) In addition to OAC 340:100-5-50 through 340:100-5-58, the DDS case manager ensures each Personal Support Team (Team) assesses and addresses the service recipient's needs regarding:

(A) safety in the home, including:

(i) storage of toxic chemicals, cleaning supplies, and combustibles; and

(ii) use of a tempering valve or other anti-scald device or lowered, hot water tank temperature to control water temperature;

(B) financial issues in addition to OAC 340:100-3-4, including:

(i) a household budget that provides adequate resources for housing, food, clothing, furnishings, personal supplies, and recreational opportunities; and

(ii) assistance ~~needed by~~ the service recipient needs in money management;

(C) selection, adaptation, and maintenance of a home;

(D) community inclusion and access to work, recreation, and therapies;

(E) transportation; and

(F) water safety.

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(3) Each service recipient is responsible for his or her room and board expenses, including recreational activities, clothing, furnishings, food, and other expenses for services or supports not funded through ~~DHS~~(OKDHS), except as:

(A) provided to members of the Homeward Bound class; or

(B) approved in emergency circumstances per OAC 340:100-3-33 or 340:100-5-3.

(c) **Homes.** Community residential supports are provided in the service recipient's home. The provider agency ensures:

(1) the home and yard are clean, well-maintained, safe, hazard free, and adapted to the service recipient's needs;

(2) the home has:

(A) utility service and adequate heating, cooling, and plumbing;

(B) safety items in operating condition located in strategic locations in the home, such as a:

(i) flashlight;

(ii) smoke detector;

(iii) carbon monoxide detector;

(iv) first aid kit;

(v) fire extinguisher; and

(vi) tempering valve or other anti-scald device, when ~~determined by the Team~~ determines it necessary to ensure the service recipient's safety;

(C) phone service is available and accessible to the service recipient. Emergency numbers are available at each phone, including:

(i) the DDS toll-free number;

(ii) the fire, police, ambulance, hospital, and poison control, when not in a 911 area;

(iii) a physician name and number; and

(iv) a nursing agency number, when applicable;

(D) at least two means of exit;

(E) a bedroom of at least 80 square feet for each service recipient living in the home. When a service recipient shares a bedroom with another individual, the bedroom must have 120 square feet or more;

(F) adequate enclosed storage space available for personal items;

(G) laundry equipment, when in the home, located in a safe, well ventilated, and clean area, with dryers vented to the outside;

(H) an address clearly visible from the street;

(I) a bathroom that:

(i) includes a:

(I) flush toilet;

(II) fixed basin; and

(III) shower or bath tub that meets the service recipient's needs;

(ii) is in proper working order;

(iii) provides privacy;

(iv) is adapted when needed; and

(v) provides hot and cold running water; and

(J) a kitchen and equipment to store, prepare, and serve food in a sanitary manner;

(3) dangerous or deadly weapons are not permitted in the home, except as provided in OAC 317:40-5-40.

Provider agency staff is prohibited from assisting any service recipient to obtain or possess dangerous or deadly weapons. Dangerous or deadly weapons include, but are not limited to:

(A) guns, BB guns, air rifles, or other firearms;

(B) crossbows;

(C) paint guns;

(D) arrows;

(E) explosives;

(F) stun guns; and

(G) knives, except cooking and eating utensils; and

(4) illegal substances are not permitted in the home.

(d) **Pre-service requirements.** The DDS case manager and service recipient, or, when applicable, legal guardian, complete and approve steps (1) through (3) of this subsection when community residential supports are initiated, when the service recipient changes provider agencies, and before the service recipient moves to a new home. The documentation of such is maintained in the home record and the case manager record.

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(1) Prior to service delivery, the provider completes an emergency housing back-up plan for review and approval by the service recipient's Team per OAC 340:100-5-52.

(A) The back-up plan contains the:

- (i) service recipient's name;
- (ii) description of the living arrangement;
- (iii) name and phone number for back-up staff;
- (iv) back-up housing location;
- (v) written agreement by the:
 - (I) service recipient or legal guardian;
 - (II) direct provider of service, when an ACS or SFC provider;
 - (III) agency program coordination staff (PCS), as applicable;
 - (IV) provider agency administrative representative, as applicable; and
 - (V) DDS case manager;
- (vi) dates for provider review of back-up plan, required quarterly and as changes occur; and
- (vii) review date by the DDS case manager.

(B) When the location for the back-up plan is a hotel or motel, the provider agency is responsible for including a plan to pay the cost without additional reimbursement from ~~ÐHSOKDHS~~.

(C) ~~ÐHSOKDHS~~ must complete a home profile on a private home prior to the Team's identification of the home in the back-up plan or use of the home to provide back-up services to the service recipient. A home profile is not required when the service recipient stays in the private home of a relative, per (f)(4)

(A) of this Section.

(D) The ACS or SFC provider is responsible for re-establishing a residence when his or her home becomes uninhabitable.

(2) The provider agency cooperates with the service recipient and Team to establish and maintain a household budget based on the service recipient's earned and unearned income.

(A) Expenses associated with supporting the household are maintained in an auditable fashion sufficient to track the use of money ~~collected~~the contract provider collects from the service recipient ~~by the contract provider~~.

(B) Upon request, the contract provider furnishes to the service recipient, service recipient's family, and legal guardian:

- (i) a record of all funds collected from the service recipient;
- (ii) documentation of how the money was used; and
- (iii) the amount of remaining money held by the provider.

(C) Upon termination of residential supports from the contract provider, unused funds are returned to the service recipient within 10-calendar days of service termination date.

(3) Form 06CB034E, Residential Pre-Service Checklist, is completed and this Section's requirements are satisfied.

(e) Service requirements.

(1) Unless the service recipient demonstrates the ability under varying conditions to independently and appropriately respond to emergency situations, the provider agency assists in conducting fire drills at least quarterly and weather emergency drills twice a year. The dates, times, and outcomes of the drills are available in the home for review.

(2) The provider:

(A) ensures all financial information necessary for maintaining the service recipient's financial eligibility is provided to ~~ÐHSOKDHS~~ ~~in a timely manner~~;

(B) when serving as payee, ensures the service recipient maintains financial eligibility for benefits and services by notifying appropriate authorities of a change in the service recipient's income;

(C) when a change of payee is necessary, cooperates to ensure the change is made ~~in a timely manner~~;

(D) establishes a written financial agreement with the service recipient or legal guardian that defines financial responsibilities of the provider's and service recipient's financial responsibilities. The financial agreement:

- (i) accurately reflects the ongoing financial arrangement between the provider and service recipient;
- (ii) clearly defines who purchases personal items;
- (iii) is renewed annually and when changes occur; and

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- (iv) is available to the service recipient, legal guardian, Office of Client Advocacy advocate, and DDS case manager;
- (E) as a member of the service recipient's Team, assists in determining safeguards necessary to protect the service recipient's assets;
- (F) allows service recipients to select stores for the purchase of food, clothing, and personal items;
- (G) implements the service recipient's Individual Plan (Plan);
- (H) provides necessary assistance, including staff support for each service recipient's active participation in community life;
- (I) assists the service recipient in maintaining an adequate supply of seasonal clothing that fits appropriately, personal grooming materials, and linens. All items are maintained in good condition;
- (J) promotes the service recipient's health and welfare, including providing meals that meet the service recipient's nutritional needs;
- (K) promotes visitation and contact with each service recipient's natural family, legal guardian, and friends, according to the service recipient's desires;
- (L) promotes friendships with neighbors, co-workers, and peers, according to the service recipient's desires;
- (M) when the service recipient, legal guardian, or provider wants to discontinue services, cooperates in securing alternative services and continues to serve the service recipient until the Team confirms all essential services are in place;
- (N) while providing services, ensures staff is engaged at all times in purposeful activity that directly or indirectly benefits the service recipient;
- (O) ensures the service recipient attends scheduled medical and therapy appointments.
 - (i) Transportation to the appointment is provided.
 - (ii) Adequate records, needed materials, and equipment accompany the service recipient to the appointment.
 - (iii) When the service recipient requires support in describing illness, issues, or concerns to the health care provider, knowledgeable staff accompanies the service recipient;
- (P) ensures the service recipient's prescriptions are filled and administered as prescribed, per OAC 340:100-5-32;
- (Q) ensures the Plan in a positive manner addresses issues related to maintaining the home per (c) of this Section;
- (R) ensures the service recipient has transportation to programs and services.
 - (i) Transportation is provided to and from:
 - (I) medical or therapy appointments;
 - (II) personal shopping;
 - (III) leisure or recreational activities;
 - (IV) vocational or employment activities;
 - (V) religious or cultural activities;
 - (VI) Team meetings;
 - (VII) appointments necessary to secure or maintain needed services; and
 - (VIII) voting;
 - (ii) All vehicles used to transport the service recipient meet local and state licensing, inspection, insurance, and capacity requirements.
 - (iii) A vehicle used to transport a service recipient with physical disabilities is adapted to meet the service recipient's needs.
 - (iv) Drivers of vehicles have valid and appropriate driver licenses.
- (S) ensures the hot water temperature for the home is set to no more than 120 degrees Fahrenheit. The provider tests the hot water temperature of the home at least annually, after any servicing of the home's water system, and any time the water temperature is believed to have increased above 120 degrees Fahrenheit. The provider maintains test documentation and the documentation at minimum includes the test date and the home's hot water temperature. The documentation is maintained in the home and available for inspection. The provisions within this paragraph ~~will henceforth be~~ known as the Julie Teenor Anti-Scald Protocol; and
- (T) ensures reasonable precautions are employed for safety with hot food, cooking oils, and other hot liquids.

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(f) **Provider agency policies, practices, and procedures.** The provider agency develops and maintains written policies and procedures that are consistent with ÐHSOKDHS rules and govern all aspects of service provision.

(1) Provider agency policies are made available to each service recipient, the service recipient's parent(s), legal guardian, or advocate, provider agency staff, and ÐHSOKDHS.

(2) Provider agency policies and procedures include, but are not limited to:

- (A) service recipient rights protection;
- (B) services provided;
- (C) admission and discharge criteria;
- (D) grievance procedures;
- (E) prevention and reporting of abuse, neglect, ~~and/or~~ exploitation;
- (F) confidentiality;
- (G) emergency management;
- (H) fees ~~paid by~~ the service recipient pays;
- (I) health and safety precautions; and
- (J) safeguarding service recipient funds.

(3) The provider agency designates one person who, in the absence of the agency administrator, is responsible for the administration of the agency and is empowered to act on behalf of the provider agency.

(4) The provider agency is responsible for recruitment, screening, training, and supervision of staff or volunteers providing direct services, ensuring direct support staff:

- (A) is not supervised by a relative or person living in the staff's home. A relative includes wife, husband, children, parents, stepparents, parents-in-law, grandchildren, grandparents, brothers, sisters, stepchildren, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, aunts, uncles, nieces, nephews, first cousins or any such person with whom the employee shares a foster relationship;
- (B) who provides back-up services is available and has received training per OAC 340:100-3-38;
- (C) is at least 18 years of age;
- (D) is present in sufficient numbers to ensure the service recipient's health and welfare, ~~as authorized by~~ the service recipient's Plan of Care authorizes;
- (E) is physically able and mentally alert to carry out the job duties;
- (F) implements and follows the service recipient's Plan;
- (G) does not take the service recipient to visit staff's home unless the Team has provided prior written approval; and
- (H) ~~must meet~~ meets requirements of OAC 317:40-5-40 when overnight visits are going to occur.

(5) The provider agency ensures ~~the Program Coordinator Staff (PCS)~~ supervises, guides, and oversees all aspects of programming associated with receipt of community residential supports.

(A) The PCS must:

- (i) get to know the service recipient and his or her needs;
- (ii) make announced and unannounced visits to the service recipient's home. The PCS makes a minimum of three face-to-face visits per month, to monitor the service recipient's needs and for staff supervision. ~~Agency~~ Provider agency administration staff meeting (f)(5)(A)(xii) requirements of this Section, may complete these visits in addition to ~~program coordination staff PCS~~. At least two of the three visits must be unannounced. Of the unannounced visits:
 - (I) at least one visit each month must occur on Saturday or Sunday; or
 - (II) between 8:00 p.m. and 7:00 a.m. on a weekday;
- (iii) ~~Monthly~~ monthly visits may be reduced to one unannounced face-to-face visit to the service recipient's home when the home:
 - (I) has fully trained staff;
 - (II) has had no turn-over for the past year;
 - (III) does not require restrictive or intrusive procedures; and
 - (IV) has had no medication errors during the previous calendar year.
- (iv) provide support and assistance to any service recipient who is experiencing an emotional, behavioral, or medical crisis;
- (v) be accessible to direct service staff 24 hours per day and available to respond, in person when necessary, to an emergency;
- (vi) supervise direct contact staff to promote achievement of outcomes in the Plan;
- (vii) ensure staffing levels meet the requirements of the service recipient's Plan, with staff trained per OAC 340:100-3-38;

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- (viii) ensure records are maintained according to DDS community records per OAC 340:100-3-40;
 - (ix) ensure basic household requirements are always in place, including:
 - (I) utilities and phone service;
 - (II) furniture;
 - (III) food supplies that meet the service recipient's nutritional needs;
 - (IV) linens;
 - (V) personal items;
 - (VI) adaptive equipment; and
 - (VII) prescription medications;
 - (x) assist the DDS case manager as requested to prepare for and implement the Plan and its revisions per OAC 340:100-5-50 through 340:100-5-58;
 - (xi) ensure applicable ~~ÐHSOKDHS~~ and OHCA rules are followed;
 - (xii) complete necessary training per OAC 340:100-3-38; and
 - (xiii) have a minimum of four years of any combination of college level education or full-time equivalent experience in serving persons with disabilities, or full-time equivalent experience in a supervisory position, unless the DDS director or designee waives this requirement ~~is waived in writing by the DDS director or designee.~~
- (B) Provider agencies ensure that residential PCS caseloads do not exceed 27 with the ~~following~~ calculations in (i) and (ii) of this subparagraph:
- (i) Provider agencies calculate one for persons receiving community residential supports and group home services; ~~and~~
 - (ii) Provider agencies calculate one for every five persons receiving In-home Supports Waiver services, assisted living services, or any other non-residential service on the PCS caseload.
- (C) Provider agencies providing community residential supports for less than one calendar year ensure the caseload of each PCS numbers no more than 15 service recipients when the PCS serves service recipients receiving community residential supports.
- (D) The DDS director may grant a written exception to the PCS ratios per this Section upon written request and adequate justification from the provider.
- (E) Provider agencies who fail to meet program coordination requirements per this subsection may be required to provide a reduced PCS ratio in accordance with sanctions per OAC 340:100-3-27.
- (6) Staff, who assist a service recipient with bathing or showering, must ensure the water temperature is safe and comfortable for the service recipient. The requirements of this paragraph are enforced even when an anti-scald device is used. Staff:
- (A) tests the water temperature by touch or with a thermometer designed to test hot liquids, before the service recipient enters the water. The water must be determined safe and comfortable for the service recipient, not merely comfortable for the staff;
 - (B) is trained by his or her employer in the unique needs of each service recipient including tolerance to water temperature and bathing or showering needs; and
 - (C) does not leave a service recipient who is unable to attend to safety considerations alone in the bath or shower.

340:100-5-35. Non-Residential Habilitation Training Specialist (HTS) services [AMENDED]

(a) **Applicability.** Habilitation Training Specialist (HTS) services, per OAC 317:30-5-482, are authorized per OAC 317:40-5-110 or 317:40-5-111 and OAC 340:100-3-33 and applies to nonresidential HTS services provided to service recipients not receiving community residential or group home services, per OAC 340:100-5-22.1 or OAC 340:100-6.

(b) General information.

- (1) Non-residential HTS services are authorized:
 - (A) as a result of needs identified by the Developmental Disabilities Services (DDS) Personal Support Team (Team) and informed selection by the service recipient;
 - (B) only during periods when staff are engaged in purposeful activity that directly or indirectly benefits the service recipient;
 - (C) when directed toward the development or maintenance of a skill in order to achieve a specifically stated outcome; and

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(D) when the service provided is not a function that the parent would provide for the individual without charge as a matter of course in the relationship among members of the nuclear family when the member resides in a family home.

(2) Non-residential HTS services are not authorized when a service recipient is in need of:

(A) sleep time supervision; or

(B) assistance responding to emergencies, in which case a residential alternative, per OAC 317:40-1-2, must be selected, unless unpaid natural supports are available to meet these needs and identified in the Individual Plan (Plan).

(3) Non-residential HTS services are not authorized for:

(A) services provided in the home of the HTS, unless the service recipient and the HTS reside in the same home;

(B) employment supports that are provided, per OAC 317:40-7;

(C) respite services provided, per OAC 317:30-5-517;

(D) homemaker services provided, per OAC 317:30-5-537;

(E) adult day services provided, per OAC 317:40-5-113; or

(F) child care services; or

(G) ~~services provided by the legal guardian, biological or adoptive parent of a minor child, per OAC 340:100-3-33.2.~~

(4) ~~In accordance with~~ Per OAC 340:100-3-33.1, services must be provided in the most cost effective manner. When the need for HTS services is expected to continue to exceed an average of nine hours daily, cost effective community residential services must be considered and requested, per OAC 317:40-1-2. For adults, continuation of non-residential services in excess of nine hours per day for more than one plan of care year is not authorized except:

(A) when needed for members who receive services through the Homeward Bound Waiver;

(B) when determined by the division administrator or designee to be the most cost effective option; or

(C) as a transition period of 120-calendar days or less to allow for identification of and transition to a cost effective residential option. Members who do not want to receive residential services are assisted to identify options that meet their needs within an average of nine hours daily.

(5) Non-residential HTS providers may not perform any job duties associated with other employment, including on call duties at the same time they are providing HTS services.

(6) Non-residential HTS services are limited to no more than 40 hours per week for the household when the HTS resides in the same home as the service recipients. When one or more service recipient lives in the same household, services provided by individuals living in the home may not exceed a total of 40 hours per week. If additional hours of service are needed, they must be provided by someone living outside the home. Exceptions may be authorized when needed for service recipients who receive services through the Homeward Bound Waiver.

(7) When the service recipient also receives nursing or Homemaker services or is out of the home for school, work, adult day services, or other non-HTS supported activities, the total number of hours of non-residential HTS, Homemaker, and hours away from the home cannot exceed 12 hours per day, unless an exception is granted, per OAC 317:40-5-110.

(8) Legally Responsible Individuals, per OAC 340:100-3-33.2, may provide HTS for extraordinary care as determined by the OK Choice Assessment.

(c) Service location.

(1) Non-residential HTS services are provided in the:

(A) service recipient's home; or

(B) community.

(2) Non-residential HTS services are not provided in:

(A) a school;

(B) a nursing facility;

(C) an intermediate care facility for persons with intellectual disabilities (ICF/ID);

(D) an unlicensed facility-based program;

(E) a private home except the service recipient's home or the home of a relative, unless the home was approved, per OAC 317:40-5-40; or

(F) the service recipient's employment setting or any other employment setting.

(d) **Backup plan.** Prior to service delivery, an emergency backup plan must be developed and specify how the service recipient's needs will be met when paid staff are unavailable. The emergency backup plan is included in the Plan.

(e) Service requirements.

- (1) The provider:
 - (A) implements the service recipient's Plan;
 - (B) promotes community inclusion;
 - (C) promotes the service recipient's health and welfare, increased independence, self-sufficiency; and
 - (D) cooperates in securing alternative services while continuing to provide services when the service recipient, legal guardian, or provider wants to discontinue services until the Team confirms all essential services are in place.
- (2) The provider develops and maintains written policies and procedures that are consistent with Oklahoma Human Services (OKDHS) rules and govern all aspects of service provision, with the exception of services provided, per OAC 317:40-9-1.
 - (A) Provider agency policies are made available to each service recipient, service recipient's parent(s), legal guardian, advocate, provider agency staff, and OKDHS.
 - (B) Provider agency policies and procedures include, but are not limited to:
 - (i) service recipient rights protection;
 - (ii) services provided;
 - (iii) admission and discharge criteria;
 - (iv) grievance procedures;
 - (v) prevention and reporting of abuse, neglect, and exploitation;
 - (vi) confidentiality;
 - (vii) emergency management;
 - (viii) fees paid by service recipient;
 - (ix) health and safety precautions;
 - (x) safeguarding service recipient funds;
 - (xi) medication administration; and
 - (xii) incident reporting.
- (3) The provider agency designates one person who, in the absence of the agency administrator, is responsible for the administration of the agency and is empowered to act on behalf of the provider agency, with the exception of services provided, per OAC 317:40-9-1.
- (4) The provider agency is responsible for recruitment, screening, training, and supervision of staff or volunteers providing direct services, and ensuring direct support staff:
 - (A) are not supervised by a relative or person living in the staff's home. A relative includes wife, husband, children, parents, stepparents, parents-in-law, grandchildren, grandparents, brothers, sisters, stepchildren, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, aunts, uncles, nieces, nephews, first cousins or any such person with whom the employee shares a foster relationship;
 - (B) who provide backup services are available and have received training, per OAC 340:100-3-38;
 - (C) are at least 18 years of age;
 - (D) are present as specified in the Plan and as authorized by the service recipient's Plan of Care;
 - (E) are physically able and mentally alert to carry out the job duties;
 - (F) implement and follow the service recipient's Plan; and
 - (G) do not take the service recipient to visit staff's home, unless the Team provided advance written approval of any visit with the purpose specified in the Plan.
- (5) The provider agency ensures supervision, guidance, and oversight of all aspects of programming associated with receipt of non-residential HTS supports.
 - (A) The program coordination staff (PCS) must:
 - (i) ensure staff are familiar with Plan requirements;
 - (ii) make supervisory visits to the service site. The PCS makes a minimum of one monitoring visit per:
 - (I) month, when a service recipient receives an average of 30 or more hours of HTS weekly; or
 - (II) quarter based on calendar year quarters, when a service recipient receives an average of 29 or fewer hours of HTS weekly;
 - (iii) supervise direct contact staff to promote achievement of Plan outcomes;
 - (iv) ensure staffing levels meet the requirements of the service recipient's Plan, with staff trained, per OAC 340:100-3-38;
 - (v) ensure records are maintained, per OAC 340:100-3-40;

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- (vi) assist the DDS case manager as requested to prepare for and implement the Plan and its revisions, per OAC 340:100-5-50 through 340:100-5-58;
- (vii) ensure applicable OKDHS and Oklahoma Health Care Authority (OHCA) rules are followed;
- (viii) complete necessary training, per OAC 340:100-3-38; and
- (ix) have a minimum of four years of any combination of college level education or full-time equivalent experience in serving persons with disabilities, or full-time equivalent experience in a supervisory position, unless this requirement is waived in writing by the DDS director or designee.

(B) Provider agencies assign PCS caseloads, per OAC 340:100-5-22.1.

(6) Staff, when assisting a service recipient with bathing or showering, must ensure the water temperature is safe and comfortable for the service recipient. The requirements of this paragraph are enforced even when an anti-scald device is used. Staff:

- (A) tests the water temperature by touch or with a thermometer designed to test hot liquids, before the service recipient enters the water. The water must be determined safe and comfortable for the service recipient, not merely comfortable for the staff.
- (B) is trained by his or her employer in the unique needs of each service recipient, including tolerance to water temperature and bathing or showering needs; and
- (C) does not leave a service recipient who is unable to attend to safety considerations, alone in the bath or shower.

SUBCHAPTER 11. ADMISSION TO ROBERT M. GREER CENTER

340:100-11-2. Intake, Diagnosis and Evaluation Process [AMENDED]

(a) **Legal basis.** Section 1414.1 of Title 10 of the Oklahoma Statutes (10 O.S. § 1414.1) requires Oklahoma Human Services (OKDHS) Developmental Disabilities Services (DDS) to provide care for individuals with a primary intellectual disability diagnosis and a secondary mental illness diagnosis. The Robert M. Greer Center (Greer) was established for this purpose and serves individuals through a contract with OKDHS.

(b) **Admission criteria.** All admissions are consistent with Part 483.440(b) of Title 42 of the Code of Federal Regulations, regarding intermediate care facility admissions, transfers, and discharges.

- (1) Admission criteria for an individual served through Greer includes:
 - (A) clinical evidence the applicant has challenging behaviors placing his or her physical safety, environment, relationships, and community participation at risk, or creates a risk of involvement in civil or criminal processes; and
 - (B) clear evidence documenting why the applicant cannot receive appropriate treatment in his or her current environment or through less restrictive community supports. The DDS director or designee approves Greer admissions.
- (2) A referral packet is submitted to the DDS director or designee and contains, when available:
 - (A) a physical examination within one-calendar year of referral;
 - (B) a list of current prescribed medications;
 - (C) information regarding hospitalizations in the last two-calendar years, including the reason for admission and prognosis;
 - (D) physician orders and progress notes up to one-calendar year;
 - (E) nursing notes up to one-calendar year;
 - (F) medical records up to one-calendar year;
 - (G) guardianship or legal papers;
 - (H) social history and recent social evaluation;
 - (I) psychological evaluation conducted at 16 years of age or older, by a licensed psychologist, which includes:
 - (i) intellectual disability diagnosis based on testing that yields a full scale intelligence quotient;
 - (ii) functional and or adaptive assessment; and
 - (iii) a statement noting the age of onset of the disability;
 - (J) dental records;
 - (K) immunization record;
 - (L) multi-disciplinary progress notes or assessments up to one-calendar year for:

- (i) physical therapy;
 - (ii) occupational therapy;
 - (iii) speech therapy and hearing services;
 - (iv) nutritional services;
 - (v) vocational; and
 - (vi) educational records for enrolled students; and
 - (M) behavioral incident reports;
 - (N) direct care notes; and
 - (O) current Individual Plan or treatment plan to include behavioral support plans.
- (c) **Admission.** Individuals considered for Greer admission are 18 years of age and older. ~~When an applicant is 17 and a half and in need of treatment, the~~ The DDS director or designee may grant an exception to the age limit when the applicant meets the admission criteria as set forth in subsection (b) of this Section. Former Greer residents are eligible for re-admission on the same basis as individuals initially seeking services. Admission is based on a referral packet review that includes:
- (1) clinical evidence of mental illness, behavioral, or emotional problems, per the current edition of the Diagnostic and Statistical Manual of Mental Disorders, revised and published by the American Psychiatric Association;
 - (2) documented attempts, and reasons for failure, of techniques and supports applied in the applicant's current environment; and
 - (3) consideration of other available and appropriate community or Wavier services. Placement at Greer constitutes the least restrictive alternative to provide effective treatment to meet the applicant's needs when compared to other available options.
- (d) **Discharge.** Greer is a short-term treatment facility and residents are transitioned out of the facility when they meet criteria to safely live in a less restrictive placement. When Greer determines a resident is stable and no longer meets criteria to remain, a discharge referral is provided to the DDS director or designee. Discharge planning includes:
- (1) a review of pertinent Greer information, including data to support progress made;
 - (2) discussion with facility staff regarding community supports needed to maintain the resident's stability; and
 - (3) a referral to the area DDS transition coordinators to initiate the search for potential homes in the community with necessary supports.
- (e) **Post discharge activities.** Greer staff is available after discharge to consult with the individual's community personal support team.

[OAR Docket #24-1082; filed 10-10-24]

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

[OAR Docket #24-1085]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Administration

Part 3. ADMINISTRATION

340:100-3-34. Incident reporting [AMENDED]

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); Section 1-2211 et seq. of Title 63 (63 O.S. §1-2211 et seq.); and Section 6103 of Title 26 of the United State Code (26 U.S.C. § 6103)

COMMENT PERIOD:

N/A

PUBLIC HEARING:

N/A

ADOPTION:

August 22, 2024

EFFECTIVE:

Emergency Adoptions

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October 8, 2024

EXPIRATION:

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SUPERSEDED RULES:

N/A

GUBERNATORIAL APPROVAL:

N/A

REGISTER PUBLICATION:

N/A

DOCKET NUMBER:

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INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:

N/A

INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

FINDING OF EMERGENCY:

Per 75 O.S. § 253, OKDHS requests the Governor grant emergency rulemaking approval to avoid violation of state law or regulation. The emergency rulemaking process is necessary to implement changes due to governor approval of State Bill 1709.

GIST/ANALYSIS:

The proposed amendment to Chapter 100, Subchapter 3, is to comply with approval of State Bill 1709. The proposed amendment achieves Oklahoma Human Services (OKDHS) goals by: (1) removing references to the Office of Client Advocacy (OCA) which will be transferred to and become a part of the Oklahoma State Department of Health (OSDH); (2) removing references to the State Long-Term Care Ombudsman which will be transferred to and become a part of the Office of the Attorney General (OAG) pursuant to the governor approval of State Bill 1709; and (3) ensuring accurate program administration.

CONTACT PERSON:

Darrin Thompson, Programs Manager, 405-301-2895

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

SUBCHAPTER 3. ADMINISTRATION

PART 3. ADMINISTRATION

340:100-3-34. Incident reporting [AMENDED]

(a) **Reporting requirement.** Contract provider staff and Developmental Disabilities Services (DDS) staff must report critical and non-critical incidents involving the health and welfare of any person receiving DDS services, excluding Family Support Assistance Payment Program recipients per Oklahoma Administrative Code (OAC) 340:100-13.

(b) **Critical incidents.** Critical incidents include:

- (1) suspected maltreatment including abuse, verbal abuse, sexual abuse, neglect, financial neglect, exploitation, or sexual exploitation of a vulnerable adult per Section 10-103 of Title 43A of the Oklahoma Statutes (43A O.S. § 10-103) or abuse, neglect, sexual abuse, or sexual exploitation of children per 10A O.S. § 1-1-105;
- (2) threatened or attempted suicide by a service recipient;
- (3) death of a service recipient;
- (4) an unplanned hospital admission of a service recipient;
- (5) a medication event resulting in emergency medical treatment for a service recipient;

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- (6) law enforcement involvement in a situation concerning a service recipient;
- (7) property loss of more than \$500 involving a service recipient;
- (8) a service recipient who is missing; and
- (9) a highly restrictive procedure used on a service recipient, such as:
 - (A) p.r.n. medication for behavioral control; or
 - (B) physical hold.

(c) Non-critical incidents. Non-critical incidents include:

- (1) an injury or an unplanned health-related event involving a service recipient;
- (2) physical aggression by a service recipient;
- (3) fire setting by a service recipient;
- (4) deliberate harm to an animal by a service recipient;
- (5) property loss of less than \$500 involving a service recipient;
- (6) a vehicle accident involving a service recipient;
- (7) the suspension, termination, or removal of a service recipient's program, including employment; and
- (8) a medication event involving a service recipient, including:
 - (A) a dose at the wrong time;
 - (B) a missed dose;
 - (C) a wrong dose;
 - (D) the wrong medicine;
 - (E) the wrong route;
 - (F) an incorrect medicine label or instructions;
 - (G) a medication refused by the service recipient;
 - (H) incorrect medication documentation; or
 - (I) any other significant occurrence involving medication.

(d) Incident notification requirements.

- (1) For Waiver funded service recipients, contract provider staff:
 - (A) report incidents electronically via the DDS Provider Reporting System for all critical and non-critical incidents;
 - (B) program coordination staff:
 - (i) review and submit reports of all critical incidents per OAC 340:100-3-34(b) within one business day of the incident; and
 - (ii) review and submit reports of all non-critical incidents per OAC 340:100-3-34(c) within three business days of the occurrence.
 - (C) notify the service recipient's family or guardian, in accordance with provider policies;
 - (D) notify other persons or entities as required by law or regulation, including:
 - (i) when a service recipient dies per OAC 340:100-3-35; and
 - (ii) investigative authorities immediately in cases of suspected maltreatment, including:
 - (I) Office of Client Advocacy per ~~OAC 340:2-3-33~~;
 - (II) Adult Protective Services per 43A O.S. § 10-104; or
 - (III) Child Protective Services per 10A O.S. § 1-1-105.
- (2) For critical incidents involving state funded service recipients, contract provider staff submits Form 06MP046E, Incident Report, to DDS State Office within one business day of the incident. For non-critical incidents, contract provider staff maintains a copy of Form 06MP046E per OAC 340:100-3-40.

[OAR Docket #24-1085; filed 10-10-24]

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

[OAR Docket #24-1087]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. Aging Services Division

Emergency Adoptions

340:105-1-7. Advocacy assistance [AMENDED]

Subchapter 10. Policies and Procedures Manual for Title III of the Older Americans Act of 1965, as Amended
Part 9. FISCAL AND ADMINISTRATIVE POLICIES FOR AREA AGENCIES ON AGING AND TITLE III PROJECTS

340:105-10-95. Intrastate funding formula [AMENDED]

Subchapter 11. State Long-Term Care Ombudsman Program

Part 37. STATE LONG-TERM CARE OMBUDSMAN PROGRAM

340:105-11-249. Area Agency on Aging ombudsman supervisor I [AMENDED]

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); Section 1-2211 et seq. of Title 63 (63 O.S. §1-2211 et seq.); and Section 6103 of Title 26 of the United State Code (26 U.S.C. § 6103)

COMMENT PERIOD:

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INCORPORATING RULES:

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AVAILABILITY:

N/A

FINDING OF EMERGENCY:

Per 75 O.S. § 253, OKDHS requests the Governor grant emergency rulemaking approval to avoid violation of state law or regulation. The emergency rulemaking process is necessary to implement changes due to governor approval of State Bill 1709.

GIST/ANALYSIS:

The proposed amendments to Chapter 105, Subchapters 1, 10, and 11 are to comply with approval of State Bill 1709. The proposed amendment achieves Oklahoma Human Services (OKDHS) goals by: (1) updating references to the State Long-Term Care Ombudsman (LTCO) which will be transferred to and become a part of the Office of the Attorney General (OAG) pursuant to the governor approval of State Bill 1709; and (2) ensuring accurate program administration.

CONTACT PERSON:

Miranda Kieffer, Programs Administrator, 405-209-7054

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

SUBCHAPTER 1. AGING SERVICES DIVISION

340:105-1-7. Advocacy assistance [AMENDED]

(a) **Long-Term Care Ombudsman Program.** The Older Americans Act (OAA), Title 42 United States Code, Section 3001 through 3058, mandates establishment of an Office of the State Long-Term Care Ombudsman (~~Office~~)(LTCO) and a statewide Long-Term Care Ombudsman Program which provides advocacy services to older residents of long-term care facilities, including nursing ~~home~~homes, residential care and other similar adult care homes. The ~~Office~~LTCO is located within ~~Aging Services Division (ASD)~~the Office of the Oklahoma Attorney General, and operates under the general direction of the state long-term care ombudsman.

(1) Advocacy is provided through mandated activities including, but not limited to:

(A) ~~receive~~receiving, ~~investigate~~investigating, and ~~resolve~~resolving complaints;

(B) ~~collect~~collecting and ~~analyze~~analyzing complaints and other data;

(C) ~~monitor~~monitoring the development and implementation of federal, state, and local laws, regulations, and policies;

(D) ~~make~~making recommendations to address issues identified as affecting the quality of care and quality of life of residents; and

(E) ~~provide~~providing information to the public and to public officials.

(2) The ~~Office of the State Long-Term Care Ombudsman~~LTCO works through area ombudsman staff and volunteers at the local level, to assist in the improvement of the quality of life and quality of care available to long-term care facility residents, and has the authority to recommend courses of action.

(3) Statutory authority for access to facilities and residents, receipt of inspection and complaint reports, and participation of ombudsmen as observers in inspections is provided in the Oklahoma Nursing Home Care Act Sections 1-1901 through 1-1943 of Title 63 of the Oklahoma Statutes ~~{(63 O.S. § 1-1901 through 1-1943)}~~ and the Residential Care Act ~~{(63 O.S. § 1-820 through 1-840)}~~. Creation of the Office, protection for program representatives and complainants, and establishment of an advisory committee are provided in the Long-Term Care Ombudsman Act ~~{(63 O.S. § 1-221)}~~. Specific policies relating to the operation of the program are located in the Rules for Implementing the OAA of 1965, as amended.

(b) **Legal Services Development Program.** ~~The responsibility of ASD under~~Under federal and state law, Community Living, Aging and Protective Services ~~is to provide~~provides the services of an individual, hired on a full-time basis with other personnel as needed, known as the state legal services developer, to ensure:

(1) leadership to secure and maintain the legal rights of older individuals;

(2) ~~the~~ capacity to coordinate the provision of legal assistance;

(3) ~~the~~ capacity to provide technical assistance, training, and other supportive functions to Area Agencies on Aging, legal assistance providers, ombudsmen, and other persons, as appropriate;

(4) ~~the~~ capacity to promote financial management services to older individuals at risk of guardianship;

(5) ~~the~~ capacity to assist older individuals in understanding their rights, exercising choices, benefiting from services and opportunities authorized by law, and to maintain the rights of older individuals at risk of guardianship;

(6) ~~the~~ capacity to improve the quality and quantity of legal services provided to older individuals;

(7) capacity to analyze, comment on, monitor, develop, and promote federal, state, and local laws, rules and regulations, and other government policies and actions; and

(8) capacity to provide such information as necessary to public and private agencies, legislators, and other persons.

SUBCHAPTER 10. POLICIES AND PROCEDURES MANUAL FOR TITLE III OF THE OLDER AMERICANS ACT OF 1965, AS AMENDED

PART 9. FISCAL AND ADMINISTRATIVE POLICIES FOR AREA AGENCIES ON AGING AND TITLE III PROJECTS

340:105-10-95. Intrastate funding formula [AMENDED]

(a) **Policy.** In consultation with Area Agencies on Aging (AAAs) and the agency housing the State Long-Term Care Ombudsman, and in accordance with guidelines issued by the Assistant Secretary for Aging of the Administration on Aging (AoA), the State Agency uses the best available data to develop and publish for review and comment a formula for distribution within the state of funds received under Title III that takes into account the:

(1) ~~the~~ geographical distribution of older persons in the state; and

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(2) ~~the~~ distribution among planning and service areas (PSAs) of older persons with greatest economic need and older persons with greatest social need, with particular attention to ~~low income~~low-income minority older persons.

(b) **Authority.** The authority for this Section is Section 305 of the Older Americans Act (OAA) of 1965, as amended and Part 1321.37 of Title 45 of the Code of Federal Regulations.

(c) **Procedures.** The State Agency implements this Section by:

(1) obtaining input from the ~~AAA~~AAAs, including demographic data, for use in developing the intrastate funding formula;

(2) following guidelines from the regional office of AoA regarding development of the intrastate funding formula;

(3) considering the geographic distribution among PSAs of persons ~~age 60 years of age~~ and older in the development of the intrastate funding formula;

(4) considering the distribution among PSAs of older persons in greatest economic need, based on older persons at or below the poverty level as defined by the United States Bureau of Census. Particular attention is paid to ~~low income~~low-income minority older persons and older persons residing in rural areas, in the development of the intrastate funding formula;

(5) considering the distribution among PSAs of older persons in greatest social need; ~~per~~ Oklahoma Administrative Code ~~{(OAC) 340:105-10-3}~~. Particular attention is paid to ~~low income~~low-income minority older persons and older persons residing in rural areas, in the development of the intrastate funding formula;

(6) developing an intrastate funding formula that includes:

(A) funds retained for state and AAA administration, and for the State Long-Term Care Ombudsman Program, including:

(i) no more than five percent of Oklahoma's allocation of OAA Title III funds or \$300,000, whichever is greater, retained by the State Agency for State Agency administrative costs, unless the total OAA Title III allocation to all states under Section 303 of the OAA exceeds \$800,000,000, in which case the State Agency retains five percent of the state's Title III allocation, or \$500,000, whichever is greater;

(ii) no more than ten percent of the funds remaining after providing for State Agency administrative costs are awarded for meeting AAA administrative costs. In awarding administrative funds, each PSA is apportioned a minimum of \$37,500 unless available funds are insufficient to provide for such an apportionment, in which case the available funds are distributed among the PSAs in equal shares. AAA administrative funds remaining, if any, after making this apportionment are allotted among PSAs in the same proportion as each PSA's age 60 and older population bears to the total state population age 60 and older; and

(iii) no less than one percent of Oklahoma's OAA Title III, Part B allocation is retained for the Long-Term Care Ombudsman Program ~~of the State Agency~~;

(B) 50 percent of the funds remaining after providing for state and AAA administrative costs and for the Long-Term Care Ombudsman Program are apportioned among PSAs in the same proportion as each PSA's age 60 and older population bears to the total state population age 60 and older;

(C) 50 percent of the funds remaining after the apportionment described in (B) of this paragraph are apportioned among PSAs in the same proportion as each PSA's age 60 and older population living at or below the poverty level bears to the total state population age 60 and older living at or below the poverty level;

(D) all of the funds remaining after the apportionment described in (C) of this paragraph apportioned among PSAs in the same proportion as each PSA's age 60 and older population of minority racial descent bears to the total state population age 60 and older of minority racial descent;

(E) PSAs containing no medically underserved areas are ineligible to receive funds appropriated specifically for disease prevention and health promotion services. Medically underserved areas mean medically underserved areas designated by the United States Department of Health and Human Services, Public Health Service Bureau of Health Care Delivery and Assistance, Office of Shortage Designation;

(F) allotting each PSA no less than two percent of the sum of the funds apportioned in (B) through (D) of this paragraph;

(G) allotting each PSA sufficient funds to meet the requirements of Section 307(a)(3)(B) of the OAA. Not less than the total of federal fiscal year 2000 expenditures were allotted to rural areas. Rural areas are defined as those counties not included in Standard Metropolitan Statistical Areas (SMSA) as determined by the United States Census Bureau. ~~The amounts necessary to meet this requirement are:~~

- ~~(i) Arcawide AAA - \$0;~~
- ~~(ii) Association of South Central Oklahoma Governments (ASCOG) AAA - \$914,127;~~
- ~~(iii) Central Oklahoma Economic Development District (COEDD) AAA - \$803,399;~~
- ~~(iv) Eastern Oklahoma Development District (EODD) AAA - \$1,149,319;~~
- ~~(v) Grand Gateway AAA - \$876,072;~~
- ~~(vi) Kiamichi Economic Development District of Oklahoma (KEDDO) AAA - \$812,873;~~
- ~~(vii) Northern Oklahoma Development Authority (NODA) AAA - \$578,108;~~
- ~~(viii) Oklahoma Economic Development Authority (OEDA) AAA - \$252,781;~~
- ~~(ix) Southern Oklahoma Development Authority (SODA) AAA - \$900,213;~~
- ~~(x) South Western Oklahoma Development Authority (SWODA) AAA - \$441,543; and~~
- ~~(xi) Tulsa AAA - \$0;~~

(7) publishing the formula listed in this subsection for review and comment by the public. The publication includes:

- (A) a descriptive statement of the formula's assumptions and goals;
 - (B) documentation regarding the application of greatest economic need;
 - (C) documentation regarding the application of greatest social need;
 - (D) a numerical statement of the actual funding formula to be used;
 - (E) a listing of the population, economic, and social data used for each PSA; and
 - (F) a demonstration of the allocation of funds to each PSA, pursuant to the funding formula;
- (8) submitting the formula to the federal Assistant Secretary for Aging for approval; and
- (9) implementing the formula in allocating all federal OAA funds.

(d) **Cross reference.** See OAC 340:105-10-3.

SUBCHAPTER 11. STATE LONG-TERM CARE OMBUDSMAN PROGRAM

PART 37. STATE LONG-TERM CARE OMBUDSMAN PROGRAM

340:105-11-249. Area Agency on Aging ombudsman supervisor I [AMENDED]

(a) **Definition.** Under the program supervision of the Office of the State Long-Term Care Ombudsman and the general direction of the director of an Area Agency on Aging, the ombudsman supervisor I provides leadership in development, coordination, and implementation of the Long-Term Care Ombudsman Program and receives, investigates, and resolves complaints made by or on behalf of residents of long-term care facilities.

(b) **Examples of duties.** Examples of duties include:

- (1) recruiting, screening, training, and supervising ombudsman volunteers using guidelines provided by state ombudsman staff;
- (2) publicizing the services of the State Long-Term Care Ombudsman Program and issues affecting older residents of long-term care facilities through media releases, public speaking, and other means;
- (3) coordinating with state ombudsman staff in complaint investigation and resolution, ~~identification~~ ~~of identifying~~ priority issues, and ~~certification of~~ ~~certifying~~ new ombudsman volunteers;
- (4) maintaining confidentiality of files and other information pertaining to complaints and complainants;
- (5) keeping the director of the designated area ombudsman entity informed of the current situation and needs at the local level, recommending plans for meeting needs, and advising the director of resources required for their implementation;
- (6) being available to residents of long-term care facilities in the planning and service areas (PSA), visiting each facility regularly, and working cooperatively with administrators and staff; and
- (7) serving as a consultant to community organizations and agencies on issues and needs affecting older long-term care facility residents, techniques of working with these older people, and the solution of special problems.

(c) **Education and experience.** The required education and experience is graduation from an accredited four-year college or university with major course work in social work, gerontology, sociology, general social sciences, or a related field including, but not limited to, health care. ~~Any ombudsman employed as an ombudsman supervisor I prior to this effective date is deemed as eligible for the position.~~

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(1) The State Long-Term Care Ombudsman may approve a waiver of the education and experience requirement when a position has remained vacant for more than 90-calendar days after the posting of the position and conditions in (A) through (C) of this paragraph apply.

(A) No applications were received from applicants meeting the education and experience requirements.

(B) No applicant with the necessary education and experience has accepted an offer of employment.

(C) The applicant has a combination of education and experience applicable to the provision of ombudsman services.

(2) Anyone hired using a waiver of the education and experience requirement is eligible for the ombudsman supervisor II classification only when (A) or (B) of this paragraph is complete.

(A) Education requirements described in Oklahoma Administrative Code 340:105-11-249(c) are completed.

(B) Two years of service as a long-term care ombudsman are completed and the individual is in good standing with the State Long-Term Care Ombudsman Office.

(3) Any ombudsman employed as an ombudsman supervisor I prior to this effective date is deemed as eligible for the position.

(d) **Salary range.** The comparable job family descriptor for this position is Adult Protective Services Specialist, #H26A. A person in this position may not be hired at a salary more than the midpoint, nor paid more than the maximum of the approved salary range. For the purpose of determining annual salary longevity pay is not considered.

[OAR Docket #24-1087; filed 10-10-24]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 50. INCOME

[OAR Docket #24-1093]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 15. Oklahoma Taxable Income

Part 7. CREDITS AGAINST TAX

710:50-15-119. Parental Choice Tax Credit [REVOKED]

Part 9. OKLAHOMA PARENTAL CHOICE TAX CREDIT [NEW]

710:50-15-170. Purpose [NEW]

710:50-15-171. Definitions [NEW]

710:50-15-172. Private school tax credit [NEW]

710:50-15-173. Homeschool tax credit [NEW]

710:50-15-174. Credit for students attending an accredited private school exclusively serving students experiencing homelessness [NEW]

710:50-15-175. Credit for students attending an accredited private school primarily serving financially disadvantaged students [NEW]

AUTHORITY:

68 O.S. § 203 and 70 O.S. § 28-102(D); Oklahoma Tax Commission

COMMENT PERIOD:

N/A

PUBLIC HEARING:

N/A

ADOPTION:

September 10, 2024

EFFECTIVE:

Immediately upon Governor's approval

APPROVED BY GOVERNOR:

October 10, 2024

EXPIRATION:

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Effective through September 14, 2025, unless superseded by another rule or disapproved by the legislature.

SUPERSEDED EMERGENCY ACTIONS:

SUPERSEDED RULES:

N/A

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INCORPORATED STANDARDS:

N/A

INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

FINDING OF EMERGENCY:

A compelling public interest exists in the need for emergency adoption of rules to implement provisions of HB 3388 as passed in the Second Regular Session of the 59th Legislature (2024), which enacted multiple changes to the Parental Choice Tax Credit program, effective immediately upon the Governor's signature.

GIST/ANALYSIS:

The proposed revocation of Section 710:50-15-119 and new Part 9. Oklahoma Parental Choice Tax Credit under Subchapter 15. Oklahoma Taxable Income implement the provisions of HB 3388 as passed in the Second Regular Session of the 59th Legislature (2024), which enacted multiple changes to the Parental Choice Tax Credit program, effective immediately upon the Governor's signature. The new rules replace existing rules on the subject, and provide definitions, outline eligibility, application processes, and credit amounts and uses.

CONTACT PERSON:

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

SUBCHAPTER 15. OKLAHOMA TAXABLE INCOME

PART 7. CREDITS AGAINST TAX

710:50-15-119. Parental Choice Tax Credit [REVOKED]

(a) **General provisions.** There is hereby created the Oklahoma Parental Choice Tax Credit Program to provide an income tax credit to a taxpayer for qualified expenses to support the education of eligible students in Oklahoma. For tax year 2024 and subsequent tax years, there shall be allowed against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes a refundable income tax credit for any Oklahoma taxpayer who incurs a qualified expense on behalf of an eligible student. [See: 70 O.S. 2023, § 28-100, et seq.]

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Curriculum"** means a complete course of study for a particular content area or grade level.

(2) **"Education service provider"** means a person, business, public school district, public charter school, magnet school, or organization that provides educational goods and/or services to eligible students.

(3) **"Eligible student"** means a resident of Oklahoma who is eligible to enroll in a public school within the state at educational levels of pre-kindergarten through 12th grade. Eligible student shall include a student who is enrolled in and attends a private school in Oklahoma that is accredited by the State Board of Education or another accrediting association or a student who is educated pursuant to the other means of education exception provided for in 70 O.S. § 10-105(A).

(4) **"Home school tax credit"** means credits authorized pursuant to 70 O.S. 2023, § 28-101(C)(1)(b).

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(5) "**Household**" means the persons who reside in the same home as and provide financial support for the eligible student as of the date the application for the tax credit is submitted.

(6) "**Oklahoma taxpayer**" means:

(A) Any person owing or liable to pay any Oklahoma tax;

(B) Any person required to file a report, a return, or remit any tax required by the provisions of any Oklahoma tax law; or

(C) Any person required to obtain a license or a permit or to keep any records under the provisions of any Oklahoma tax law. [Sec. 68 O.S. § 202]

(7) "**Priority consideration**" means an application will be reviewed and considered for approval before other applications received by the Tax Commission, regardless of whether the other applications were submitted on an earlier date. An application for the private school tax credit will only receive priority consideration if submitted on or before the deadline set by the Tax Commission and for an eligible student who is a member of a household in which the total federal adjusted gross income (AGI) does not exceed \$150,000.

(8) "**Private school tax credit**" means credits authorized pursuant to 70 O.S. 2023, § 28-101(C)(1)(a).

(9) "**Qualified expense**" means:

(A) For the purpose of claiming the private school tax credit in subsection (c) of this Section, qualified expense means tuition and fees at a private school accredited by the State Board of Education or another accrediting association. Although not an exhaustive list fees may include enrollment, registration, or application fees; textbook fees; technology fees; activity fees; testing and assessment fees; and fees paid for school uniforms, if paid directly to the school.

(B) For the purpose of claiming the home school tax credit in subsection (d) of this Section, qualified expense means the following expenditures:

(i) *Tuition and fees for nonpublic online learning programs;*

(ii) *Academic tutoring services provided by an individual or a private academic tutoring facility;*

(iii) *Textbooks, curriculum, or other instructional materials including, but not limited to, supplemental materials or associated online instruction required by an education service provider; and*

(iv) *Fees for nationally standardized assessments including, but not limited to, assessments used to determine college admission and advanced placement examinations as well as tuition and fees for tutoring or preparatory courses for the assessments.*

(10) "**Second preceding tax year**" means the tax year occurring two taxable years prior to the tax year for which the credit application is submitted.

(11) "**Taxpayer**" means an Oklahoma taxpayer who is a biological or adoptive parent, grandparent, aunt, uncle, legal guardian, custodian, or other person with legal authority to act on behalf of an eligible student.

(A) A foster parent, or the foster parents, shall be included within the meaning of other person with legal authority to act on behalf of an eligible student.

(B) Taxpayer shall not include a parent or the parents of an eligible student whose parental rights over the eligible student has been legally terminated.

(12) "**Warrant**" means an order for payment directing the State Treasurer to disburse funds to a designated payee. A warrant operates like a paper check.

(c) Private school tax credit.

(1) **Amount of credit.** If the eligible student attends or will attend a private school accredited by the State Board of Education or another accrediting association, the credit amount shall be equal to the amount of tuition and fees charged to or that will be paid by the taxpayer for attending the private school, subject to the following limitations:

(A) The maximum credit amount allowed is \$7,500 if the eligible student is a member of a household in which the total federal (AGI) during the second preceding tax year does not exceed \$75,000;

(B) The maximum credit amount allowed is \$7,000 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than \$75,000 but does not exceed \$150,000;

(C) The maximum credit amount allowed is \$6,500 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than \$150,000 but does not exceed \$225,000;

(D) The maximum credit amount allowed is \$6,000 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than \$225,000 but does not exceed \$250,000; or

(E) The maximum credit amount allowed is \$5,000 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than \$250,000.

(2) Annual cap and limitation of credit.

(A) The total amount of private school tax credits is subject to the following caps:

(i) For tax year 2024, the total amount of credits shall not exceed \$150,000,000.

(ii) For tax year 2025, the total amount of credits shall not exceed \$200,000,000.

(iii) For tax year 2026, and subsequent tax years, the total amount of credits shall not exceed \$250,000,000.

(B) The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. 2023, § 28-101(F).

(3) Claiming the private school tax credit.

(A) Pursuant to 70 O.S. §28-101(C)(1)(a) for the tax year 2024 and subsequent tax years, if an Oklahoma taxpayer incurs or will incur a qualified expense on behalf of an eligible student during the tax year, the taxpayer may be eligible to claim the private school tax credit. If a taxpayer has more than one eligible student, the taxpayer may complete and submit a single application that includes each eligible student. The taxpayer shall complete and submit the application online, and attach the applicable documentation, which includes an Affidavit (Enrollment Verification Form). Taxpayer shall include the following with the application:

(i) The name, address, and social security or individual taxpayer identification number (ITIN) of the taxpayer;

(ii) The name, address, date of birth, and social security number or individual taxpayer identification number (ITIN) of the eligible student(s);

(iii) The name and address of the eligible student's parent(s) or legal guardians(s), if different from the taxpayer; and

(iv) Verification of federal AGI for the second preceding tax year for the household of which the eligible student is a member, which may include providing copies of the applicable Oklahoma income tax return(s) or federal income tax return(s). For example, if a taxpayer is applying for the private school tax credit for tax year 2024 and has not previously filed an Oklahoma income tax return or the Tax Commission cannot verify a tax return has been filed the taxpayer may be required to provide a copy of the 2022 Oklahoma income tax return or federal income tax return of the household, even if the student did not reside in the household during that reporting period. If the household had no tax filing requirement, the taxpayer shall submit an Affidavit for No Filing Requirement and/or an Internal Revenue Service (IRS) Verification of Non-filing Letter, which provides proof from the IRS that there is no record of a filed tax form for the tax year requested.

(B) The Tax Commission will make available an Affidavit (Enrollment Verification Form) to be completed by the private school in which the eligible student is enrolled or is expected to enroll with the following information:

(i) The name, address and date of birth of eligible student.

(ii) The designated semester(s) and tax year during which the qualified expenses will be paid;

(iii) The name and address of the school;

(iv) The name and telephone number of a contact person(s) with the private school;

(v) The amount of qualified tuition and fees to be charged the taxpayer for the eligible student during the tax year.

(C) The private school tax credit shall be exclusively claimed through the submission of an application, as set out in this paragraph:

(i) The application process for tax year 2024 will commence on December 1, 2023, at 8:30 a.m. (CST). For any eligible student who is a member of a household in which the total federal AGI does not exceed \$150,000, applications must be submitted to the Tax Commission on or before February 1, 2024, to receive priority consideration as authorized by 70 O.S. 2023, § 28-101(E). The application shall include qualified expenses paid or expected to be paid for tax year 2024.

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(ii) If the application is approved, the credit will be paid in two installments. Each installment will be half of the amount of the anticipated private school tuition and fees the taxpayer expects to incur during the tax year based on the private school's Affidavit (Enrollment Verification Form), or half the amount of the allowable credit, whichever is less.

(iii) The application deadline is on or before December 31 of the tax year the taxpayer incurs a qualified expense on behalf of an eligible student or until the annual cap has been met, whichever occurs first.

(iv) The application process for subsequent tax years will commence at 8:30 a.m. (CST) on December 1 preceding the applicable tax year. For any eligible student who is a member of a household in which the total federal AGI does not exceed \$150,000, applications must be submitted to the Tax Commission on or before February 1 of the applicable tax year to receive priority consideration as authorized by 70 O.S. 2023, § 28-101(E).

(v) If December 1 falls on a Saturday, Sunday or legal holiday, the application process will open on the next day that is not a Saturday, Sunday or legal holiday.

(D) After all timely-filed applications entitled to priority consideration have been reviewed and processed, the Tax Commission will review and process remaining applications for the credit in the order received, provided the annual cap has not been reached.

(E) Installment payments of the credit shall be made by the Tax Commission with individual warrants made payable to the taxpayer and mailed to the private school where the eligible student is enrolled or expected to enroll. The taxpayer shall restrictively endorse the warrant to the private school for deposit into the account of the school unless the tuition and fees for the eligible student have already been paid by the taxpayer.

(F) Each participating private school will respond electronically to the Tax Commission's request to verify certain information to determine if the refundable tax credit was applied toward a qualified expense during the applicable tax year. Responses to the requested information are due on or before November 1 of each year. Information requested for verification shall include the following information for each eligible student for whom the school received a credit payment for the current tax year:

(i) The name and address of the private school;

(ii) The amount of credit received by the private school on behalf of the eligible student;

(iii) Dates of attendance of the eligible student; and

(iv) The name, address and date of birth of eligible student.

(G) The credit can be claimed only for the tax year in which the qualified expenses are actually incurred. Where qualified expenses are incurred in excess of the allowable credit for any given tax year, the excess of qualified expenses shall not be used in claiming the credit for any other tax year.

(H) If a taxpayer's application for the credit is denied, the taxpayer may file an application for a hearing before the Tax Commission pursuant to the provisions of 68 O.S. § 207(c).

(I) The total federal AGI of a student's household shall be determined as follows:

(i) If the student's parents or custodians have an income tax filing status of "married, filing jointly", the federal AGI reported on the parents' or custodians' second preceding year tax return will be used.

(ii) If the student's parents or custodians have an income tax filing status of "married, filing separately", the parents' or custodians' federal AGI reported on each tax return for the second preceding tax year will be added together to determine the student's household federal AGI.

(iii) If the student's household includes any additional person that is providing financial support to the student, the additional person's federal AGI for the second preceding tax year will be added to the federal AGI of the parents or custodians for the second preceding tax year.

(J) Each private school accredited by the State Board of Education or another accrediting association, shall initially complete an online Participation Agreement with the Tax Commission. The Participation Agreement shall include:

(i) Name, address, phone number, FEIN, and website of the private school;

(ii) Contact information for the private school;

(iii) Proof of accreditation from the State Board of Education or another accrediting association; and

(iv) Other school identification information.

(d) Home school tax credit:

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- (1) If the eligible student is educated pursuant to the other means of education exception [70 O.S. § 10-105(A)] the maximum annual credit amount shall be \$1,000 per eligible student.
- (2) For tax year 2025, and subsequent tax years, the total amount of credits shall not exceed \$5,000,000 annually.
- (3) The tax credit may be claimed on the applicable tax year's Oklahoma income tax return.
- (4) The credit must be claimed for the tax year in which the qualified expenses are actually incurred and paid. Where qualified expenses are incurred in excess of the allowable credit for any given tax year, the excess of qualified expenses shall not be used in claiming the credit for any other tax year.

(e) **Records.** A taxpayer claiming the Parental Choice Tax Credit shall maintain records of proof as to the qualified expenses paid for by the taxpayer. Records maintained by the taxpayer shall be subject to inspection by the Tax Commission and its duly authorized agents and employees.

(f) **Offset.** Pursuant to 68 O.S. §205.2(F) the Tax Commission shall deduct from the amount of the credit due to a taxpayer the amount of delinquent state tax, penalty, and interest thereon, which the taxpayer owes pursuant to any state tax law prior to payment of such refund. [See 68 O.S. § 205.2(F)]

(g) **Recapture.** The Tax Commission shall recapture tax credits if:

- (1) The credit was claimed for expenditures that were not qualified expenses;
- (2) The taxpayer has claimed an eligible student who no longer attends a private school or has enrolled in a public school for the period for which the credit was claimed; or
- (3) Taxpayer fails to comply with any other provisions of 70 O.S. 2023, § 28-100, et seq.

PART 9. OKLAHOMA PARENTAL CHOICE TAX CREDIT [NEW]

710:50-15-170. Purpose [NEW]

The provisions of this Part have been promulgated to implement and administer the Oklahoma Parental Choice Tax Credit Program authorized by 70 O.S. § 28-100, et seq.

710:50-15-171. Definitions [NEW]

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

"Accredited private school" means a private school in Oklahoma accredited by the State Board of Education or another accrediting association.

"Curriculum" means *a complete course of study for a particular content area or grade level.* [70 O.S. § 28-101(2)]

"Education service provider" means *a person, business, public school district, public charter school, magnet school, or organization that provides educational goods and/or services to eligible students in this state.* [70 O.S. § 28-101(4)]

"Eligible student" means a resident of Oklahoma who is eligible to enroll in a public school within the state at educational levels of pre-kindergarten (beginning at age 4) through 12th grade. Eligible student shall include:

- (A) A student who is enrolled in and attends or is expected to enroll in and attend an accredited private school.
- (B) A student who is educated pursuant to the other means of education exception provided for in 70 O.S. § 10-105(A), (hereafter referred to as "homeschool").
- (C) A student who attends an accredited private school that exclusively serves students experiencing homelessness.
- (D) A student who attends an accredited private school that primarily serves financially disadvantaged students.

"Fiscal year" means the 12-month period from July 1 through June 30.

"Homeschool" means the full-time education of a student in the home, but does not include:

- (A) Education of a student in the home who is enrolled in a virtual charter school or virtual private school.
- (B) Tutoring or supplemental education of a student in the home who is also enrolled in public or private school.
- (C) Periods when the student is on break from a public or private school, such as during summer.

"Homeschool tax credit" means credits authorized pursuant to 70 O.S. § 28-101(C)(2).

"Oklahoma taxpayer" means:

- (A) Any person, resident or non-resident, owing or liable to pay any Oklahoma tax;

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(B) Any person, resident or non-resident, required to file a report, a return, or remit any tax required by the provisions of any Oklahoma tax law; or

(C) Any person, resident or non-resident, required to obtain a license or a permit or to keep any records under the provisions of any Oklahoma tax law. [See: 68 O.S. § 202]

"Priority consideration" means an application will be reviewed and considered for approval before other applications received by the Tax Commission, regardless of whether the other applications were submitted on an earlier date and time.

"Private school tax credit" means credits authorized pursuant to 70 O.S. § 28-101(C)(1).

"School year" means two semesters, fall and spring, during which schools are in session and students are attending classes. The school year occurs within the fiscal year.

"Second preceding tax year" means the tax year occurring two taxable years prior to the year for which the tax credit application is submitted. For example, tax credit applications submitted in 2025 for the 2025/2026 school year will utilize the federal adjusted gross income (AGI) from the 2023 income tax return.

"Taxpayer" means an Oklahoma taxpayer who is a biological or adoptive parent, grandparent, aunt, uncle, legal guardian, custodian, or other person with legal authority to act on behalf of an eligible student.

(A) A foster parent, or the foster parents, shall be included within the meaning of other person with legal authority to act on behalf of an eligible student.

(B) Taxpayer shall not include a parent or the parents of an eligible student whose parental rights over the eligible student have been legally terminated.

"Tax year" means the 12-month period from January 1 through December 31.

"Warrant" means an order for payment directing the State Treasurer to disburse funds to a designated payee. A warrant operates like a paper check.

710:50-15-172. Private school tax credit [NEW]

(a) **General provisions.** For tax year 2024, and fiscal year ending June 30, 2026, and subsequent fiscal years ending June 30, an income tax credit is allowed for qualified expenses paid for an eligible student to attend an accredited private school.

(b) **Qualified expenses.** Qualified expenses for the private school tax credit include tuition and fees at an accredited private school. Fees may, but are not limited to, include enrollment, registration, or application fees; textbook fees; technology fees; activity fees; testing and assessment fees; and fees paid for school uniforms, if paid directly to the school. Qualified expenses for the private school tax credit do not include tuition and fees paid with a scholarship or otherwise reduced or discounted by the school.

(c) **Amount of credit.** For an eligible student who attends or will attend an accredited private school, the credit amount is equal to the amount of tuition and fees charged to or will be paid by the taxpayer for attending the accredited private school for the full school year, as stated on the enrollment verification form, subject to the following limitations:

(1) The maximum credit amount allowed is \$7,500 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year does not exceed \$75,000;

(2) The maximum credit amount allowed is \$7,000 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year is more than \$75,000 but does not exceed \$150,000;

(3) The maximum credit amount allowed is \$6,500 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year is more than \$150,000 but does not exceed \$225,000;

(4) The maximum credit amount allowed is \$6,000 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year is more than \$225,000 but does not exceed \$250,000; or

(5) The maximum credit amount allowed is \$5,000 if the combined adjusted federal AGI of the parents or legal guardians of the eligible student during the second preceding tax year is more than \$250,000.

(6) The maximum credit amount allowed is \$7,500 for taxpayers who receive income-based government benefits, including the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), or SoonerCare/SoonerSelect, as of the date of the tax credit application.

(d) **Annual cap and limitation of credit.**

(1) The total amount of private school tax credits authorized by 70 O.S. § 28-101(C)(1) is subject to the following caps:

(A) For tax year 2024, the total amount of credits shall not exceed \$150,000,000.

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(B) For the period of January 1, 2025, through June 30, 2025, the total amount of credits shall not exceed \$100,000,000.

(C) For fiscal year ending June 30, 2026, and subsequent fiscal years ending June 30, the total amount of credits shall not exceed \$250,000,000.

(2) The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. § 28-101(J).

(e) Claiming the private school tax credit.

(1) **Application.** If an Oklahoma taxpayer incurs or will incur a qualified expense on behalf of an eligible student during the school year, the taxpayer may be eligible to claim the private school tax credit. To apply for the credit, the taxpayer shall complete and submit an online application for each eligible student and include the following documentation and information with the application:

(A) The name, address, and social security number or individual taxpayer identification number (ITIN) of the taxpayer.

(B) The name, address, date of birth, and social security number or ITIN of the eligible student.

(C) If the taxpayer is not the parent or legal guardian of the eligible student, the taxpayer shall provide a signed parental consent form to allow the taxpayer to apply for the credit on behalf of the eligible student.

(D) Income verification of the parents or legal guardian of the eligible student, according to one of the following:

(i) Verification of federal AGI for the second preceding tax year of the parents or legal guardians of the eligible student, which may include providing copies of the applicable Oklahoma income tax return(s) or federal income tax return(s). If, at the time of submission of the tax credit application, the taxpayer has not filed the second preceding years' tax return, but had a filing requirement, and therefore AGI cannot be verified, the tax credit application will be denied and must be resubmitted once the second preceding tax year return is filed. The resubmission date and time of a complete application will determine the applicant's place in line.

(ii) If the parents or legal guardians had no tax filing requirement for the second preceding tax year, the taxpayer shall attest within the application they did not have a tax filing requirement.

(iii) If a taxpayer is a recipient of income-based government benefits including the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), or SoonerCare/SoonerSelect, the taxpayer shall not be required to provide additional income verification. The taxpayer must attach documentation that shows he or she is a current recipient of the above-listed government benefits at the time of the tax credit application. Failure to attach the required documentation, without any other income verification documentation, may result in denial of the application. The resubmission date and time of a complete application will determine the applicant's place in line.

(E) An enrollment verification form completed by the private school in which the eligible student is enrolled or is expected to enroll with the following information:

(i) The name, address and date of birth of eligible student;

(ii) The designated semester(s) and school year during which the qualified expenses will be paid;

(iii) The name and address of the private school;

(iv) The name and telephone number of a contact person(s) with the private school; and

(v) The amount of qualified tuition and fees to be charged the taxpayer for the eligible student during the school year, less any scholarship or tuition and fees discounted or otherwise reduced by the school.

(2) **Review and submission.** The applicant is responsible for reviewing the information contained within the enrollment verification form and verifying its accuracy. Once the enrollment verification form is submitted with an application, the information included within the enrollment verification form cannot be changed. In order to adjust any information after an application has been submitted, a taxpayer must withdraw their application, request a new enrollment verification form from the private school, and submit a new application. The date and time of the new application will be used to determine applicant's place in line for the credit.

(3) **Application period opening date.** Beginning with the 2025-2026 school year and subsequent school years, the application period will open on February 15, at 9:00 a.m. (CST), prior to the beginning of the applicable school year. To ensure payment of the credit by August 30, processable applications must be submitted no later July 15. If February 15 falls on a Saturday, Sunday or legal holiday, the application process will open on the next

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day that is not a Saturday, Sunday or legal holiday.

(4) **Priority consideration.** For any eligible student whose parents or legal guardians have a combined federal AGI that does not exceed \$150,000, processible applications must be submitted to the Tax Commission on or before the sixtieth (60th) calendar day following the opening of the application period to receive priority consideration as authorized by 70 O.S. § 28-101(E). Priority will be given to eligible students of taxpayers who received the credit in the prior year and whose parents or legal guardians have a combined federal AGI that does not exceed \$150,000. After all timely-filed applications entitled to priority consideration have been reviewed and processed, the Tax Commission will review and process remaining applications for the credit in the order received, provided the Annual Cap has not been reached.

(5) **Notification of approval or denial.** Notification of tax credit approval will be sent to the applicant by email once a determination has been made that the application is complete and qualifies for the credit. For those applications that are denied, a letter will be mailed to the applicant, stating the reason for denial.

(6) **Application for review hearing.** If a taxpayer's application for the credit is denied, the taxpayer may request a hearing by filing OTC Form L-26, Application for Commission Hearing pursuant to the provisions of 68 O.S. § 207(c).

(A) The following supporting information and documentation must be included with the request:

- (i) A description of the tax credit applied for and the amount in controversy;
- (ii) A clear explanation of the alleged error(s) committed by the Tax Commission;
- (iii) The legal authority the taxpayer intends to rely upon at hearing;
- (iv) A statement of the relief requested; and
- (v) A list of witnesses, including names and addresses, and the request to subpoena witnesses if so desired.

(B) The application for hearing and supporting documentation may be submitted either online or by mail addressed to Oklahoma Tax Commission, PO Box 269060, Oklahoma City, OK 73126.

(C) The application for hearing and documentation will be reviewed by the Income Tax Accounts Division and Legal Division of the Oklahoma Tax Commission. If the matter cannot be resolved without a hearing, the application for hearing will be forwarded to the Oklahoma Tax Commission's Office of the Administrative Law Judges and set for hearing pursuant to the rules set forth in OAC 710:1-5-21 through 710:1-5-49.

(7) **Installment payments.** For eligible students enrolled in a full school year, the credit will be paid in two installments, one per school semester. Each payment will be no more than half of the total approved credit. For processible applications filed on or before July 15, payments will be issued no later than August 30 and January 15.

(A) Payments of the credit will be made by the Tax Commission with individual warrants made payable to the taxpayer and mailed to the private school where the eligible student is enrolled or expected to enroll.

(B) The taxpayer shall restrictively endorse the warrant to the private school for deposit into the account of the school unless the tuition and fees for the eligible student have already been paid by the taxpayer.

(8) **Spring 2025 credit payment.** A taxpayer who applied for and received a private school tax credit in tax year 2024 is not required to reapply for a credit payable for the period of January 1, 2025, through June 30, 2025. The amount of the credit payable for the spring 2025 semester will be the amount of the 2024 fall semester installment payment.

(9) **Reconciliation.** No later than June 15 of each year, each participating private school shall provide reconciliation information to confirm student enrollment and tuition for each semester. For the reconciliation due no later than June 15, 2025, the participating private school shall provide student enrollment and tuition information for the spring 2025 semester. For all subsequent reconciliations, beginning June 15, 2026, the participating private school shall provide student enrollment and tuition information for the fall and spring semester of the just completed school year.

(A) Reconciliation information must be provided electronically.

(B) Participating private schools shall verify the following information:

- (i) The name and address of the private school;
- (ii) The total number of instructional days per semester;
- (iii) The total number of instructional days the eligible student was enrolled in the private school each semester;
- (iv) The amount of tuition paid on behalf of the eligible student for the applicable year (the initial amount of tuition and fees, less any scholarship or discount);

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- (v) The name, grade level, address, and date of birth of the eligible student; and
- (vi) Any other information requested by the Tax Commission.
- (10) **No carryover.** The credit can be claimed only for the school year for which the qualified expenses are incurred. Where qualified expenses are incurred in excess of the allowable credit for any given year, the excess of qualified expenses shall not be used in claiming the credit for any other year.
- (11) **AGI determination.** The total federal AGI of an eligible student's parents or legal guardians shall be determined as follows:
 - (A) If the eligible student's parents or legal guardians have an income tax filing status of "married, filing jointly", the federal AGI reported on the parents' or legal guardians' second preceding year tax return will be used.
 - (B) If the eligible student's parents or legal guardians have an income tax filing status of "married, filing separately", the parents' or legal guardians' federal AGI reported on each tax return for the second preceding tax year will be added together to determine the federal AGI.
- (12) **School registration.** Each accredited private school that intends to issue enrollment verification forms for the Oklahoma Parental Choice Tax Credit Program, shall annually complete an online registration with the Tax Commission. Registration shall include the following information:
 - (A) Name, address, phone number, FEIN, and website of the private school;
 - (B) Primary and secondary contact information for the private school, including proof of employment;
 - (C) Proof of accreditation from the State Board of Education or another accrediting association; and
 - (D) Other school identification information as requested by the Tax Commission.
- (13) **Notification of non-use.** Taxpayers that claimed the credit shall notify the Tax Commission electronically no later than thirty (30) days after the date on which the eligible student:
 - (A) Enrolls in a public school, including an open-enrollment charter school;
 - (B) Enrolls in a nonaccredited private school;
 - (C) Is no longer enrolled in an accredited private school;
 - (D) Graduates from high school; or
 - (E) Is no longer utilizing private school tax credits for any reason.
- (14) **Recapture.** The Tax Commission shall recapture private school tax credits if:
 - (A) The credit was claimed for expenditures that were not qualified expenses;
 - (B) The taxpayer has claimed an eligible student who no longer attends a private school or has enrolled in a public school for the period for which the credit was claimed; or
 - (C) Taxpayer fails to comply with the applicable Oklahoma statutes and regulations.

710:50-15-173. Homeschool tax credit [NEW]

(a) **General provisions.** Beginning with tax year 2024, an income tax credit is allowed for qualified expenses paid by an Oklahoma taxpayer for the homeschool education of an eligible student. The amount of the credit is 100% of qualified expenses, not to exceed \$1,000 per eligible student per calendar year.

(b) Claiming the credit.

- (1) The homeschool tax credit may be claimed on the applicable tax year's Oklahoma income tax return and must include legible copies of receipts of eligible expenses.
- (2) The credit can be claimed only for the tax year the qualified expenses are incurred and paid. Where qualified expenses are incurred in excess of the allowable credit for any given tax year, the excess of qualified expenses shall not be used in claiming the credit for any other tax year.
- (3) The credit cannot be claimed for eligible homeschool expenses incurred during any semester when the student was enrolled in a public or private school.
- (4) The credit cannot be claimed for expenses incurred during summer or winter breaks between semesters when the student is enrolled in a public or private school.

(c) Qualified homeschool expenses.

- (1) Qualified expenses for the homeschool tax credit include the following expenditures:
 - (A) Tuition and fees for nonpublic learning programs, which may be online or in-person.
 - (B) Academic tutoring services, which are provided by an individual or a private academic tutoring facility.
 - (C) Textbooks, curriculum, or other instructional materials including, but not limited to, supplemental materials or associated online instruction required by an education service provide. Instructional materials mean all materials that are designed for use by students and their teachers as a learning resource and help students to acquire facts, skills, or opinions or to develop cognitive processes.

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(D) Costs or fees for nationally standardized assessments including, but not limited to college admission assessments and advanced placement examinations, as well as the tuition and fees for tutoring or preparatory courses for the assessments or examinations.

(2) Qualified expenses for the homeschool credit do not include internet access, laptops, computers, tablets, screens, or any other device that provides internet access or is required to make use of instructional materials, tutoring, or learning programs.

(3) Each eligible homeschool expense can be claimed only once, even if a taxpayer is claiming the credit for multiple students. For example, the parent of two homeschool students may claim only once the cost of an online learning program subscription even though both students have access to the subscription.

(d) **Annual cap and limitation of credit.** For tax year 2025, and subsequent tax years, the total amount of credits shall not exceed \$5,000,000 annually. The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. § 28-101(J).

(e) **Recapture.** The Tax Commission will recapture credits if an audit shows the credits were not claimed for a qualified homeschool expense, the student was enrolled in public or private school for two semesters in that year, or the taxpayer fails to comply with the applicable statutes and regulations.

710:50-15-174. Credit for students attending an accredited private school exclusively serving students experiencing homelessness [NEW]

(a) **General provisions.** Beginning with the 2024-2025 school year, an Oklahoma taxpayer may claim an income tax credit for an eligible student who attends an accredited private school in Oklahoma that exclusively serves students experiencing homelessness.

(b) **Claiming the credit.** To apply for the credit, the taxpayer shall complete and submit an application for each eligible student and include the following documentation and information with the application:

(1) The name, address, and social security number or ITIN of the taxpayer.

(2) The name, address, date of birth, and social security number or ITIN of the eligible student.

(3) If the taxpayer is not the parent or legal guardian of the eligible student, the taxpayer shall provide a signed parent consent form to allow the taxpayer to apply for the credit on behalf of the eligible student.

(4) Documentation from the school that specifies the amount of the cost to educate the eligible student at the private school for the school year for which the application is submitted.

(c) **Amount of the credit.**

(1) The amount of the credit for students attending an accredited private school in Oklahoma that exclusively serves students experiencing homelessness shall be \$7,500 or the amount of the cost to educate the eligible student at the private school per school year, whichever is less.

(2) The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. § 28-101(J).

(d) **Payment of the credit.**

(1) For eligible students enrolled in a full school year, the credit will be paid in two installments, one per school semester. Each payment will be no more than half of the total approved credit. For processible applications filed on or before July 15, payments will be issued no later than August 30 and January 15.

(2) Payments will be issued by the Tax Commission with individual warrants made payable to the taxpayer and mailed to the private school where the eligible student is enrolled or expected to enroll. The taxpayer will restrictively endorse the warrant to the private school for deposit into the account of the school.

(e) **Notification.** Notification of approval will be sent to the applicant by email once a determination has been made that the taxpayer qualifies for the credit. If the application is denied, a letter will also be sent to the applicant, stating the reason for denial and how to dispute the determination.

(f) **Denial of application.** If a taxpayer's application for the credit is denied, the taxpayer may request a hearing by filing OTC Form L-26, Application for Commission Hearing pursuant to the provisions of 68 O.S. § 207(c). The application for hearing and supporting documentation may be submitted either online or by mail addressed to Oklahoma Tax Commission, PO Box 269060, Oklahoma City, OK 73126.

(1) The following information and documentation must be included with the request:

(A) A description of the tax credit applied for and the amount in controversy;

(B) A clear explanation of the alleged error(s) committed by the Tax Commission;

(C) The legal authority the taxpayer intends to rely upon at hearing;

(D) A statement of the relief requested; and

(E) A list of witnesses, including names and addresses, and the request to subpoena witnesses if so desired.

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(2) The application for hearing and documentation will be reviewed by the Income Tax Accounts Division and Legal Division of the Oklahoma Tax Commission. If the matter cannot be resolved without a hearing, the application for hearing will be forwarded to the Oklahoma Tax Commission's Office of the Administrative Law Judges and set for hearing pursuant to the rules set forth in OAC 710:1-5-21 through 710:1-5-49.

(g) School registration. Each participating accredited private school that exclusively serves students experiencing homelessness shall annually complete an online registration with the Tax Commission. Registration shall include the following information:

- (1) Name, address, phone number, FEIN, and website of the private school;
- (2) Primary and secondary contact information for the private school, including proof of employment;
- (3) Proof of accreditation from the State Board of Education or another accrediting association; and
- (4) Attestation from the principal or head of the private school that the private school exclusively serves students experiencing homelessness;
- (5) The amount of the cost to educate an eligible student at the private school; and
- (6) Other school identification information as requested by the Tax Commission.

(h) Annual verification. No later than June 15 of each year, each participating private school shall provide reconciliation information to confirm student enrollment for each semester. For the reconciliation due no later than June 15, 2025, the participating private school shall provide student enrollment information for the spring 2025 semester. For all subsequent reconciliations, beginning June 15, 2026, the participating private school shall provide student enrollment information for the fall and spring semester of the just completed school year:

- (1) The name and address of the private school;
- (2) The total number of instructional days per semester;
- (3) The total number of instructional days the eligible student was enrolled in the private school each semester;
- (4) The name, grade level, address, and date of birth of the eligible student; and
- (5) Any other information requested by the Tax Commission.

(i) Recapture. The Tax Commission shall recapture tax credits from the taxpayer if:

- (1) The taxpayer has claimed an eligible student who did not or no longer attends the accredited private school that exclusively serves students experiencing homelessness;
- (2) The private school no longer qualifies as a private school that exclusively serves students experiencing homelessness; or
- (3) The taxpayer fails to comply with the applicable statutes and regulations.

(j) Notification of non-use. Taxpayers claiming the credit shall notify the Tax Commission electronically no later than thirty (30) days after the date on which the eligible student no longer attends the accredited private school that exclusively serves students experiencing homelessness.

710:50-15-175. Credit for students attending an accredited private school primarily serving financially disadvantaged students [NEW]

(a) General provisions. Beginning with the 2024-2025 school year, an income tax credit is allowed for an eligible student who attends an accredited private school in Oklahoma that primarily serves financially disadvantaged students.

(b) Claiming the credit. To apply for the credit, the taxpayer shall complete and submit an application for each eligible student and include the following documentation and information with the application:

- (1) The name, address, and social security number or individual taxpayer identification number (ITIN) of the taxpayer.
- (2) The name, address, date of birth, and social security number or ITIN of the eligible student.
- (3) If the taxpayer is not the parent or legal guardian of the eligible student, the taxpayer shall provide a signed parent consent form to allow the taxpayer to apply for the credit on behalf of the eligible student.
- (4) Documentation from the school that specifies the amount of the cost to educate the eligible student at the private school for the school year for which the application is submitted.

(c) Amount of the credit.

- (1) The amount of the credit for students attending an accredited private school in Oklahoma that primarily serves financially disadvantaged students shall be \$7,500 or the amount of the cost to educate the eligible student at the private school per school year, whichever is less.
- (2) The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. § 28-101(J).

(d) Payment of the credit.

- (1) For eligible students enrolled in a full school year, the credit will be paid in two installments, one per school semester. Each payment will be no more than half of the total approved credit. For processible applications filed on or before July 15, payments will be issued no later than August 30 and January 15.

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(2) Payments shall be made by the Tax Commission with individual warrants made payable to the taxpayer and mailed to the private school where the eligible student is enrolled or expected to enroll. The taxpayer shall restrictively endorse the warrant to the private school for deposit into the account of the school.

(e) **Notification.** Notification of approval will be sent to the applicant by email once a determination has been made that the taxpayer qualifies for the credit. If the application is denied, a letter will also be sent to the applicant, stating the reason for denial and how to dispute the determination.

(f) **Denial of application.** If a taxpayer's application for the credit is denied, the taxpayer may request a hearing by filing OTC Form L-26, Application for Commission Hearing pursuant to the provisions of 68 O.S. § 207(c). The application for hearing and supporting documentation may be submitted either online or by mail addressed to Oklahoma Tax Commission, PO Box 269060, Oklahoma City, OK 73126.

(1) The following information and documentation must be included with the request:

- (A) A description of the tax credit applied for and the amount in controversy;
- (B) A clear explanation of the alleged error(s) committed by the Tax Commission;
- (C) The legal authority the taxpayer intends to rely upon at hearing;
- (D) A statement of the relief requested; and
- (E) A list of witnesses, including names and addresses, and the request to subpoena witnesses if so desired.

(2) The application for hearing and documentation will be reviewed by the Income Tax Accounts Division and Legal Division of the Oklahoma Tax Commission. If the matter cannot be resolved without a hearing, the application for hearing will be forwarded to the Oklahoma Tax Commission's Office of the Administrative Law Judges and set for hearing pursuant to the rules set forth in OAC 710:1-5-21 through 710:1-5-49.

(g) **School registration.** Each participating accredited private school that primarily serves financially disadvantaged students shall annually complete an online registration with the Tax Commission. Registration shall include the following information:

- (1) Name, address, phone number, FEIN, and website of the private school;
- (2) Primary and secondary contact information for the private school, including proof of employment;
- (3) Proof of accreditation from the State Board of Education or another accrediting association; and
- (4) Attestation from the principal or head of the private school that 90% of the private school's admissions are based on enrolling students whose gross family income is 250% of the federal poverty threshold or below;
- (5) The amount of the cost to educate an eligible student at the private school; and
- (6) Other school identification information as requested by the Tax Commission.

(h) **Annual verification.** No later than June 15 of each year, each participating private school shall provide reconciliation information to confirm student enrollment for each semester. For the reconciliation due no later than June 15, 2025, the participating private school shall provide student enrollment information for the spring 2025 semester. For all subsequent reconciliations, beginning June 15, 2026, the participating private school shall provide student enrollment information for the fall and spring semester of the just completed school year:

- (1) The name and address of the private school;
- (2) The total number of instructional days per semester;
- (3) The total number of instructional days the eligible student was enrolled in the private school each semester;
- (4) The name, grade level, address, and date of birth of the eligible student; and
- (5) Any other information requested by the Tax Commission.

(i) **Recapture.** The Tax Commission shall recapture tax credits from the taxpayer if:

- (1) The taxpayer has claimed an eligible student who no longer attends the accredited private school that primarily serves financially disadvantaged students;
- (2) The private school no longer qualifies as a private school that primarily serves financially disadvantaged students; or
- (3) Taxpayer fails to comply with the applicable statutes and regulations.

(j) **Notification of non-use.** Taxpayers claiming the credit shall notify the Tax Commission electronically no later than thirty (30) days after the date on which the eligible student no longer attends the accredited private school that primarily serves financially disadvantaged students.

[OAR Docket #24-1093; filed 10-17-24]

TITLE 715. TEACHERS' RETIREMENT SYSTEM CHAPTER 10. GENERAL OPERATIONS

[OAR Docket #24-1092]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. Membership Provisions

715:10-1-6. Date of Membership [AMENDED]

Subchapter 3. Service Eligibility

715:10-3-1. Requirements for ~~creditable~~ membership service [AMENDED]

715:10-3-2. Requirements for fulltime service [AMENDED]

715:10-3-3. Requirements for half-time service [AMENDED]

715:10-3-4. Combining fractional years of service [AMENDED]

Subchapter 5. Establishing Other Service Credits

715:10-5-30. Ten-year averaging of sick leave [AMENDED]

Subchapter 7. Membership Vesting and Termination

715:10-7-1. Vesting of membership in TRS [AMENDED]

715:10-7-3. Termination of non-vested membership accounts because of absence [AMENDED]

715:10-7-4. Extension of TRS membership for non-vested members after absence [AMENDED]

Subchapter 9. Survivor Benefits

715:10-9-3. Monthly annuity in lieu of death benefit [AMENDED]

715:10-9-6. Probate waivers [AMENDED]

Subchapter 15. Service Retirement

715:10-15-10. Retirement plans [AMENDED]

715:10-15-11.1. Designation of Trustee of Oklahoma Discretionary and Special Needs Trust as joint annuitant or beneficiary [AMENDED]

Subchapter 17. Post-Retirement Employee

715:10-17-2. Break between employment and retirement [AMENDED]

715:10-17-5. Permissible employment [AMENDED]

715:10-17-13. Election to return to qualifying employment [AMENDED]

715:10-17-15. Salary limitations for certain returning classroom teachers [REVOKED]

Subchapter 23. State and Education Employees Group Health and Dental Insurance Program

715:10-23-6. Health Insurance Contribution [AMENDED]

AUTHORITY:

70 O.S. §17-101, et seq., especially Section 17-106(10); Teachers' Retirement Board of Trustees

COMMENT PERIOD:

N/A

PUBLIC HEARING:

N/A

ADOPTION:

August 28, 2024

EFFECTIVE:

Immediately upon Governor's approval

APPROVED BY GOVERNOR:

October 15, 2024

EXPIRATION:

Effective through September 14, 2025, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

SUPERSEDED RULES:

N/A

GUBERNATORIAL APPROVAL:

N/A

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INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:

N/A

INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

FINDING OF EMERGENCY:

These rules are proposed to comply with the statutory responsibility of the Board of Trustees in establishing rules and regulations for the administration of the System and the transaction of its business (70 O.S. § 17-101 et seq.). These emergency rules are necessary to comply with amendments and new enactments to Title 70 of the Oklahoma Statutes passed in the 2024 legislative session and, when amended, such rules will operate more consistently with the intent of the legislature.

GIST/ANALYSIS:

715:10-1-6 is being amended to reflect amendments to Title 70 of the Oklahoma Statutes enacted by House Bill 2528 in the 2024 legislative session. House Bill 2528 was reorganized with current statutory referencing system which changed the citations of current provisions. The amendment to this rule is to correct the statutory citation to the proper reference. 715:10-3-1 is being amended to conform to statutory definitions of membership and creditable service reflected in Title 70 of the Oklahoma Statutes, most recently confirmed by enactment in House Bill 2528 in the 2024 legislative session. TRS treats the service correctly but references to the service types in rules were incorrect. 715:10-3-2 is being amended to conform to statutory definitions of membership and creditable service reflected in Title 70 of the Oklahoma Statutes, most recently confirmed by enactment in House Bill 2528 in the 2024 legislative session. TRS treats the service correctly but references to the service types in rules were incorrect. 715:10-3-3 is being amended to conform to statutory definitions of membership and creditable service reflected in Title 70 of the Oklahoma Statutes, most recently confirmed by enactment in House Bill 2528 in the 2024 legislative session. TRS treats the service correctly but references to the service types in rules were incorrect. 715:10-3-4 is being amended to conform to statutory definitions of membership and creditable service reflected in Title 70 of the Oklahoma Statutes, most recently confirmed by enactment in House Bill 2528 in the 2024 legislative session. TRS treats the service correctly but references to the service types in rules were incorrect. 715:10-5-30 is being amended to conform to statutory definitions of membership and creditable service reflected in Title 70 of the Oklahoma Statutes, most recently confirmed by enactment in House Bill 2528 in the 2024 legislative session. 715:10-7-1 is being amended to reflect amendments to Title 70 of the Oklahoma Statutes enacted by House Bill 2528 in the 2024 legislative session related to vesting and to compile into one rule reference to all service types that can vest a membership account. 715:10-7-3 is being amended for simplification and to be consistent with amendments to Title 70 of the Oklahoma Statutes enacted by House Bill 2528 in the 2024 legislative session related to vesting. 715:10-7-4 is being amended to be consistent with amendments to Title 70 of the Oklahoma Statutes enacted by House Bill 2528 in the 2024 legislative session related to vesting. 715:10-9-3 is being amended to reflect amendments to Title 70 of the Oklahoma Statutes enacted by House Bill 2528 in the 2024 legislative session. House Bill 2528 was re-organized with current statutory referencing system which changed the citations of current provisions. The amendment to this rule is to correct the statutory citation to the proper reference. 715:10-9-6 is being amended to reflect amendments to Title 70 of the Oklahoma Statutes enacted by House Bill 2528 in the 2024 legislative session. Particularly, consistent with statutory amendments, this rule will now allow probate waivers for all persons, instead of just members, entitled to a benefit from the System, provided they meet certain other statutory qualifications. Additionally, because many beneficiaries use the funds from a probate waiver process to pay last expenses, TRS eliminated the proof of payment of last expenses and now accepts a notarized statement that last expenses are either paid or provided for. 715:10-15-10 is being amended to reflect amendments to Title 70 of the Oklahoma Statutes enacted by House Bill 2528 in the 2024 legislative session. This rule is being updated to correctly reference the amended title of Maximum Plan of Retirement. There is no change to how this benefit is administered. Additionally, House Bill 2528 was re-organized with current statutory referencing system which changed the citations of current provisions. Amendments to this rule also correct the statutory citation to the proper reference. 715:10-15-11.1 is being amended to reflect amendments to Title 70 of the Oklahoma Statutes enacted by House Bill 2528 in the 2024 legislative session. House Bill 2528 was re-organized with current statutory referencing system which changed the citations of current provisions. The amendment to this rule is to correct the statutory citation to the proper reference. 715:10-17-2 is being amended to reflect amendments to Title 70 of the Oklahoma Statutes enacted by House Bill 2528 in the 2024 legislative session. Particularly, this rule reflects an amendment to clarify the 60 day break between pre- and postretirement work begins on the last day physically on the job or effective retirement date, whichever is later. 715:10-17-5 is being amended to reflect amendments to Title 70 of the Oklahoma Statutes enacted by House Bill 2528 in the 2024 legislative session. House Bill 2528 was re-organized with current statutory referencing system which

changed the citations of current provisions. The amendment to this rule is to correct the statutory citation to the proper reference. 715:10-17-13 is being amended to reflect amendments to Title 70 of the Oklahoma Statutes enacted by House Bill 2528 in the 2024 legislative session. House Bill 2528 was re-organized with current statutory referencing system which changed the citations of current provisions. The amendment to this rule is to correct the statutory citation to the proper reference. 715:10-17-15 is being revoked as the statutory provision which authorized an exemption from earnings limits for active classroom teachers only authorized the exception through June 30, 2024. That period has now expired. 715:10-23-6 is being amended to reflect amendments to Title 70 of the Oklahoma Statutes enacted by House Bill 2528 in the 2024 legislative session. House Bill 2528 was re-organized with current statutory referencing system which changed the citations of current provisions. The amendment to this rule is to correct the statutory citation to the proper reference. Amendments were also made to simply references to the System as TRS rather than Oklahoma Teachers' Retirement System and add a missing word.

CONTACT PERSON:

Phyllis Bennett, 405-521-4745

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

SUBCHAPTER 1. MEMBERSHIP PROVISIONS

715:10-1-6. Date of Membership [AMENDED]

Date of membership is the date the initial contribution is made to TRS under the current membership account. Any former member of TRS who has previously withdrawn contributions and who redeposits said withdrawn contributions as permitted by law shall have his or her initial date of membership reinstated. Any person who transfers service from the Oklahoma Public Employees Retirement System in accordance with 70 O.S., ~~Section §17-116.2(EK)~~, shall be eligible to use his or her initial entry date into the Oklahoma Public Employees Retirement System as his or her date of membership in TRS for all purposes except the member shall not be considered an "eligible participant" under OAC 715:10-15-27 unless the member first joined TRS prior to July 1, 1996. If a current member purchases non-contributory service for those years of qualified employment prior to the current date of membership, the official date of membership will remain the date the member's current membership account was opened. If a member purchases adjunct service that was performed prior to current date of membership, such purchased service shall be considered contributing service for purposes of vesting and membership date.

SUBCHAPTER 3. SERVICE ELIGIBILITY

715:10-3-1. Requirements for ~~creditable~~ membership service [AMENDED]

(a) All members of TRS must be employed a specified amount of time as related to their educational employment position, and earn a minimum salary, before ~~creditable~~ membership service will be awarded. A school employment year typically falls between July 1 and June 30 of any year. No ~~creditable~~ membership service performed as an unpaid volunteer shall be counted as service credit. For ~~creditable~~ membership service performed on or after July 1, 2013, ~~creditable~~ membership service will be awarded based upon the information provided by each employer certifying full-time equivalent for each position, subject to approval by TRS. No member shall receive one (1) year of ~~creditable~~ membership service credit for less than 960 hours of employment. (This does not mean that a member working 960 hours is automatically entitled to receive one (1) year of ~~creditable~~ membership service.) No more than one (1) year of ~~creditable~~ membership service shall be awarded for all service in any one (1) school year. For ~~creditable~~ membership service performed on or after July 1, 2013, fractional ~~creditable~~ membership service will be awarded for less than full-time employment performed during the contract year.

(b) For ~~creditable~~ membership service performed from July 1, 2016, through June 30, 2019, ~~creditable~~ membership service credit will be the result of the days the employee worked during the employment year divided by the number of days the full-time equivalent for that position would be required to work during the entire employment year. A member employed in a position where the full-time equivalent is required to work at least 6 hours per day, 30 hours per week, and 8 months per year shall be considered a full-time employee.

(c) For ~~creditable~~ membership service performed from July 1, 2016, through June 30, 2019, the fractional ~~creditable~~ membership service credit awarded for part-time employment will be based on the number of hours the employee works per week divided by the number of hours the full-time equivalent for that position would be required to work per week. A member employed less than 6 hours per day, 30 hours per week, or 8 months in a year shall be considered a part-time employee. If the employee

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works ~~less~~fewer days per week or employment year than the full-time equivalent, fractional membership service credit will also be awarded based on the number of days the employee works in the employment year divided by the number of days the full-time equivalent works during the employment year.

(d) For membership service performed on or after July 1, 2019, the formula used to calculate membership service credit will be applied in the same manner for both full-time and part-time employment. The minimum requirement for full-time employment is 6 hours per day, 30 hours per week, and 8 months per year. Membership Service~~service~~ credit will be reduced if the employee works less than the minimum requirement for full-time employment or less than the full-time equivalent for the position worked. Membership Service~~service~~ credit will be calculated by multiplying the full-time equivalent percentage by the employment year percentage as follows:

(1) Full-time equivalent percentage is calculated by dividing the number of hours per week the member was employed by the number of hours per week for the full-time equivalent position.

(2) Employment year percentage is calculated by dividing the number of days the member was employed by the number of days required for the full-time equivalent position for the full employment year.

(e) For membership service performed on or after July 1, 2016, membership service credit of less than 1.0 shall be rounded to the nearest tenths (~~4 hundredths~~0.04 and lower will round down, and ~~5 hundredths~~0.05 and higher will round up).

715:10-3-2. Requirements for fulltime service [AMENDED]

(a) For membership service performed prior to July 1, 2013, a member employed at least six (6) hours per day (30 hours per week) shall be considered a full-time employee.

(1) A full-time employee may receive one (1) year of creditable membership service after completing six (6) months or more of employment in a school year.

(2) No member shall receive one (1) year of membership service credit for less than 720 hours of employment. (This does not mean that a member working 720 hours is automatically entitled to one (1) year of creditable membership service.)

(b) For membership service performed on or after July 1, 2013, creditable membership service will be awarded as outlined in 715:10-3-1.

715:10-3-3. Requirements for half-time service [AMENDED]

(a) For membership service performed prior to July 1, 2013, a member employed at least four (4) but less than six (6) hours per day (at least 20 but less than 30 hours per week) shall be considered a half-time employee.

(1) A half-time employee may receive one-half (1/2) year of creditable membership service after completing six (6) months or more of employment in a school year.

(2) No member shall receive one-half (1/2) year of membership service credit for less than 480 hours of employment. (This does not mean that a member working 480 hours is automatically entitled to one-half (1/2) year of creditable membership service.)

(3) A member who is employed one-half (1/2) the standard workload of other persons employed in similar positions shall not receive more than one-half (1/2) year of membership service credit even if total hours worked exceed 720 hours.

(4) Members who joined TRS prior to July 1, 1991, may receive one-half (1/2) membership credit for a minimum of three (3) hours per day (540 hours per school year) as long as they remain employed in the same or similar position for the same employing school. Any break in employment shall end this special provision and the member will be required to qualify for full-time or half-time membership credit as provided for in Subchapters 1 and 3 of this chapter.

(b) For membership service performed on or after July 1, 2013, creditable membership service will be awarded as outlined in 715:10-3-1.

715:10-3-4. Combining fractional years of service [AMENDED]

(a) For membership service performed prior to July 1, 2013, fractions of school terms performed as an active contributing member of TRS of at least one (1) school month, in different school years, may be combined to make a total of six (6) months for one (1) year of creditable service. It is not permissible to divide membership service rendered in one (1) year into fractional parts and combine these fractions with membership service rendered in two (2) or more years in order to gain additional years of membership service. All fractional membership service must be combined ~~together~~ before days of unused sick leave are applied to fractional membership service to obtain service credit. No more than one (1) year of membership service credit will be given for all employment in any one (1) school year. However, if the member has one

hundred twenty (120) or more days of unused sick leave and has ninety (90) or more days of combined work experience at the end of the school year when the member retires, TRS will grant one (1) year of creditable service credit for the 120 days of unused sick leave and round the 90 days of work experience to count as one (1) year of creditable service.
(b) For membership service performed on or after July 1, 2013, fractional membership service credit will be added together and the resulting sum ~~value~~ shall be included in the retirement formula calculations.

SUBCHAPTER 5. ESTABLISHING OTHER SERVICE CREDITS

715:10-5-30. Ten-year averaging of sick leave [AMENDED]

When a member cannot obtain documentation of accumulated sick leave because records at the employing school(s) are not available, TRS will calculate an average using the last ten (10) years of employment. The number of days absent each year during the last ten (10) years shall be averaged to determine the average number of sick leave days used each year. The average sick leave used will be subtracted from a standard ten (10) days per school year and the difference multiplied by the total years of ~~creditable~~ Oklahoma membership service.

SUBCHAPTER 7. MEMBERSHIP VESTING AND TERMINATION

715:10-7-1. Vesting of membership in TRS [AMENDED]

(a) ~~Members~~ Individuals who became members of TRS after July 1, 1967 through October 31, 2017 and who have accumulated five (5) or more years of creditable membership service pursuant to OAC 715:10-3-1 et seq. in the public schools of Oklahoma; on which retirement contributions have been remitted; and whose account had not closed prior to July 1, 2003, in accordance with 70 O.S. § 17-103(6E) or OAC 715:10-7-3; shall be granted an indefinite extension of membership in TRS.

(b) Individuals who become members of TRS on or after November 1, 2017, and who have accumulated seven (7) or more years of membership service pursuant to OAC 715:10-3-1 et seq. in the public schools of Oklahoma on which retirement contributions have been remitted and whose account has not closed in accordance with 70 O.S. § 17-103(E) or OAC 715:10-7-3 shall be granted an indefinite extension of membership in TRS.

(c) ~~Such membership is vested and shall remain open until the member retires or the contributions are voluntarily~~ withdrawn.

(d) ~~Military and out-of-state service shall not be included in the five (5) years required for vesting.~~

(e) ~~Any year of service obtained by the use of accumulated unused sick leave cannot be included in the five (5) years required for vesting. Any member who joins TRS after July 1, 1991, shall be required to have five (5) full years of service credit awarded pursuant to OAC 715:10-3-1 et seq. as a contributing member of the System. Any member who joins TRS after November 1, 2017, shall be required to have seven (7) full years of service credit awarded pursuant to OAC 715:10-3-1 et seq. as a contributing member of the System.~~

(f) ~~For members who join after July 1, 1991, Oklahoma service purchased after membership will not be counted for "vesting" purposes.~~

(g) Adjunct service in Higher Education performed prior to the date of the current membership account which is purchased under OAC 715:10-5-34 shall be considered membership service for purposes of vesting.

(h) Credit for service transferred under OAC 715:10-5-7.1 shall be considered membership service for purposes of vesting.

715:10-7-3. Termination of non-vested membership accounts because of absence [AMENDED]

~~Membership in the Teachers' Retirement System shall terminate if the member ceases to be an active contributing member for a period of five (5) consecutive school years unless the member has five (5) or more years of creditable service in the public schools of Oklahoma and does not voluntarily withdraw his account:~~

~~(1) Membership rights shall be protected during an absence of not more than five (5) years, in any period of six (6) consecutive years, TRS for non-vested members; (i.e., for members who have less than five (5) years of contributory employment in the public schools of Oklahoma); shall terminate when the non-vested member ceases to be an active contributing member for any period of five (5) consecutive school years in a six (6) consecutive school year period.~~

~~(2) If employment terminates with the close of the school term, the five (5) year period of absence shall begin with the next fiscal year. If employment ends during the school term, the period of absence shall begin the first day of the month that follows termination.~~

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(32) After a non-vested member is absent from employment in the public schools of Oklahoma for five (5) years during any period of six (6) consecutive years, the member's Teachers' Retirement System account shall be closed with no rights to monthly retirement benefits. The member's contributions should be withdrawn as no interest accrues on accounts closed because of absence from employment.

(43) A member whose absence exceeds five (5) years due to military service shall be granted an eighteen (18) month extension, from date of discharge, to re-enter Oklahoma public education employment in order to retain membership in Teachers' Retirement System.

715:10-7-4. Extension of TRS membership for non-vested members after absence [AMENDED]

A non-vested member with less than five (5) years of creditable Oklahoma membership service, who has been absent from such service for less than five (5) years during any period of six (6) consecutive years, may extend TRS membership by returning to fulltime employment for one (1) school year.

(1) If a five (5) year period of absence ends with the close of a school year, membership shall terminate June 30 of the corresponding fiscal year. Except that, membership shall not terminate if the member returns to fulltime Oklahoma public schools employment no later than September 30 the same calendar year.

(2) If the five (5) year period of absence terminates at any other time during the school year, membership shall terminate the last day of the last month of employment. Membership shall not terminate if the member returns to employment in the Oklahoma public schools no later than the last day of the succeeding calendar month.

(3) Unless otherwise specified, a ten (10) month school term shall be considered a school year. In adding fractions to equal a year of employment, membership shall extend five (5) years from the close of the school year during which the member worked the first fractional part.

(4) A member whose account has closed, but has not withdrawn contributions, may apply for re-instatement after returning to employment in the public schools of Oklahoma and completing one (1) full year (twelve calendar months) as a contributing member of TRS. Upon completion of one (1) full year the member's account will be restored to full status with all rights provided to other members.

SUBCHAPTER 9. SURVIVOR BENEFITS

715:10-9-3. Monthly annuity in lieu of death benefit [AMENDED]

The designated beneficiary of an in-service member who qualified for service retirement and had ten (10) years or more of creditable service may elect to receive, in lieu of the return of contributions and the \$18,000 death benefit, the retirement benefit to which the deceased member would have been entitled at the time of death under the Option 2 retirement plan. To qualify for this option, the designated beneficiary must have been named as the sole beneficiary at the time of the member's death (see OAC 715:10-15-1 and 10-15-2 and 70 O.S. §17-105(~~HP~~)). This option is only available when the beneficiary is the member's spouse, another person, or the beneficiary of a Discretionary and Special Needs Trust, provided if the designated beneficiary is not the member's spouse, IRS Regulations require that the adjusted member/beneficiary age difference cannot be more than ten (10) years. [See OAC 715:10-15-10, to determine the adjusted member/beneficiary age difference]. [See also OAC 715:10-9-7, if the member and beneficiary were divorced before death].

715:10-9-6. Probate waivers [AMENDED]

(a) In the event a member dies, leaving no living beneficiary or having designated his the member's estate as beneficiary, or upon the death of any individual who may be entitled to a benefit from the System, the System shall require the judicial appointment of an administrator or executor for the member's decedent's estate prior to payment of any benefits or unpaid contributions. However, this requirement may be waived by the System for any benefits or unpaid contributions in the amount of \$25,000.00 or less, upon receipt of the decedent's death certificate and presentation of:

(1) the member's decedent's valid Last Will and Testament;

(2) an Affidavit of Heirship naming all heirs to the member's decedent's estate which must state:

(A) that the value of the deceased member's decedent's entire estate is subject to probate, and that the entire estate wherever located, less liens and encumbrances, does not exceed the amount permitted by law, including the payment of benefits or unpaid contributions from the System;

(B) a description of the personal property claimed (including the death benefit or unpaid contributions or both), together with a statement that such personal property is subject to probate; ~~and~~

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(C) a claim by each individual claiming heir identifying the amount of personal property that the heir is claiming from the System, and that the heir has been notified of, is aware of and consents to the identified claims of all the other claiming heirs of the ~~deceased member~~decedent pending with the System; and

(D) that all debts of the decedent, including payment of last sickness, hospital, medical, death, funeral, and burial expenses have been paid or provided for.

(3) a Hold Harmless Agreement signed by all heirs; and

(4) a Corroborating Affidavit from someone other than an heir who is familiar with the ~~deceased member~~decedent; and

(5) proof of payment of expenses of last sickness, death and burial, including all medical, hospital and funeral expenses.

(b) The Executive Director of TRS shall retain complete discretion in determining which requests for probate waiver may be granted or denied, for any reason. If there is any question as to the validity of any document herein required, the judicial appointment requirement shall not be waived.

(c) After paying any death benefits or unpaid contributions to any claiming heirs as provided by this section, TRS is discharged and released from any and all liability, obligation and costs to the same extent as if the System had dealt with a personal representative of the ~~deceased member~~decedent. The System is not required to inquire into the truth of any matter specified in this section or into the payment of any estate tax liability.

SUBCHAPTER 15. SERVICE RETIREMENT

715:10-15-10. Retirement plans [AMENDED]

A member may elect to receive a monthly life annuity under one of the following plans:

(1) The Maximum ~~Retirement Plan of Retirement~~ (hereafter referred to as the maximum plan) provides the greatest monthly lifetime benefit that each individual member's years of creditable service and average salary permit. The maximum ~~retirement plan~~ is the monthly entitlement calculated using the standard retirement formula set by statutes. In the event the total retirement payments made prior to the death of a retired member are less than the member's accumulated contributions (with any interest credited to the account prior to July 1, 1968), the difference shall be paid to the member's designated beneficiary or to the member's estate if no designated beneficiary survives the member.

(2) Retirement Option 1 provides a slightly reduced lifetime benefit. The monthly entitlement is the difference between the annuity portion of the maximum ~~retirement plan~~ and the annuity portion of an Option 1 retirement plan subtracted from the ~~Maximum maximum retirement plan~~. If the retired member dies before receiving in the annuity portion of the monthly payments an amount equal to the member's deposits (with any interest credited to the account prior to July 1, 1968), the remaining balance shall be paid in a lump sum to the member's designated beneficiary or to the member's estate if no beneficiary survives the member. (The member's deposits are "protected" for the member's beneficiary for a longer period of time than under the maximum ~~retirement plan~~, hence, the monthly benefit is less than the ~~Maximum maximum~~ benefit.)

(3) Retirement Option 2 provides a reduced monthly benefit payable to the member for life. At the death of the retired member, the same monthly benefit payable to the member shall continue to the member's joint annuitant, if living. This option is known as a "100% joint survivor annuity." The reduction in the monthly benefit is based on actuarial tables developed for this purpose and approved by the Board of Trustees. The ages of the member and joint annuitant are an important factor in computing this benefit. The joint annuitant for the Option 2 retirement plan may be the member's spouse, another person, or the beneficiary of a Discretionary and Special Needs Trust as provided in 70 O.S. § 17-105(~~gM~~)(3). If the designated joint annuitant is not the member's spouse, IRS Regulations require that the adjusted member/joint annuitant age difference cannot be more than ten (10) years. The adjusted member/joint annuitant age difference is determined by first calculating the excess of the age of the member over the age of the joint annuitant based on their ages on the date of retirement. If the member is younger than age 70, the age difference determined in the previous sentence is reduced by the number of years that the member is younger than age 70 based on the member's age on the date of retirement. If the adjusted member/joint annuitant age difference is greater than ten (10) years, the Option 2 retirement plan is not available. In the event the member's joint annuitant dies at any time after the member's retirement date but before the death of the member, the member shall return to the retirement benefit, including any post-retirement benefit increases the member would have received, had the member not selected the Option 2 retirement plan. The joint annuitant designation cannot be changed under any circumstance after the date of retirement except as provided

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in OAC 715:10-15-11. The reduction in the monthly payment is much greater than under all other retirement options because two people are protected for the life of both individuals.

(4) Retirement Option 3 provides a reduced monthly benefit payable to the member for life. At the death of the retired member, one-half (or 50%) of the monthly benefit payable to the member, shall continue to the member's joint annuitant, if living. This option is known as a "50% joint survivor annuity." The reduction in the monthly benefit is based on actuarial tables developed for this purpose and approved by the Board of Trustees. The age of the joint annuitant is an important factor in computing this benefit. The joint annuitant for the Option 3 retirement plan may be any person or the beneficiary of a Discretionary and Special Needs Trust as provided in 70 O.S. § 17-105(gM)(3). In the event the member's joint annuitant dies at any time after the member's retirement date but before the death of the member, the member shall return to the retirement benefit, including any post-retirement benefit increases, the member would have received had the member not selected the Option 3 retirement plan. The joint annuitant cannot be changed under any circumstance after the date of retirement except as provided in OAC 715:10-15-11. The reduction in the monthly payment, while not as great as in the Option 2 plan, still requires a substantial reduction because two people are protected for the life of both individuals.

(5) Retirement Option 4 provides a reduced monthly benefit payable to the member for life. In the event the retired member dies within one hundred twenty (120) continuous months from the date of retirement, the balance of the payments is continued to the designated beneficiary until a total of one hundred twenty (120) months have been completed. The actual reduction is based on actuarial tables developed for this purpose and approved by the Board of Trustees. The beneficiary must be designated at the time of retirement. The Option 4 retirement plan is not available for a member whose retirement date is on or after the member reaches age 93. However, if the designated beneficiary is the member's spouse, the Option 4 retirement plan may be selected if the 120-month period does not extend beyond the joint life and last survivor expectancy of the member and the member's spouse. If the beneficiary dies before the total number of "guaranteed" months have been completed, the remaining payments shall be computed at the rate of interest used in determining the original guarantee. The funds remaining shall be paid to the administrators, executors or assigns of the last surviving payee.

715:10-15-11.1. Designation of Trustee of Oklahoma Discretionary and Special Needs Trust as joint annuitant or beneficiary [AMENDED]

(a) 70 O.S. § 17-105(gM)(3) provides that any person who is eligible to be named as a beneficiary or joint annuitant, and who is also a beneficiary of a trust created under the Oklahoma Discretionary and Special Needs Trust Act, or comparable Trust Act under another state, may be a beneficiary or joint annuitant of a retired member by having the trustee of the trust established for the benefit of that individual named as the legal beneficiary or joint annuitant. Benefit payments shall be paid to the Trustee for the benefit of the beneficiary.

(b) If a beneficiary or joint annuitant, at the time of or subsequent to being named a beneficiary or joint annuitant of a TRS member, is or becomes the beneficiary of a Special Needs Trust, TRS will acknowledge the trust as the beneficiary or joint annuitant and make payments to the Trustee once the following has been submitted to and approved by TRS:

(1) Trust creation documents which include the following:

(A) Provision that the trust is non-revocable;

(B) Provision for only one beneficiary of the trust which cannot be changed and provision no other beneficiaries may be added; and,

(C) Provision that the beneficiary must hold all interests in the trust except for the remainder interest to be paid in the event of the beneficiary's death;

(2) Signed and notarized acknowledgment from Trustee that he or she will notify TRS within 15 (fifteen) days of the death of the beneficiary, or in the event a new Trustee is appointed, or any other change to the Trust documents that would affect the eligibility of the beneficiary or Trustee from being eligible to be named a beneficiary under subsection (b) such as addition of a beneficiary, etc.; and, the tax identification number of the Trust, as well as the Social Security number of the Trust beneficiary.

SUBCHAPTER 17. POST-RETIREMENT EMPLOYEE

715:10-17-2. Break between employment and retirement [AMENDED]

A retired member is not eligible to be employed by the public schools of Oklahoma, in any capacity, for sixty (60) calendar days between the retiree's last day of preretirement public-education employment and any postretirement public-education employment. For purposes of this section, the term "last day of preretirement employment" shall mean the last day the employee is required to be physically present on the job to complete the terms of the employment contract or

agreement or the member's effective retirement date, whichever is later. An employee on paid leave is still considered to be employed for purposes of this section. Employment under any conditions during this time including volunteer services shall cause the forfeiture of all retirement benefits received during the period. A retiree is ineligible to return to work post-retirement until after their retirement date.

715:10-17-5. Permissible employment [AMENDED]

Post-retirement employment in the public schools, institutions, and agencies covered by TRS is allowed after the break in employment outlined in OAC 715:10-17-2 has been met. Employment subject to this section shall include any services performed by a retired member, as defined in this subchapter, except for payments received as an employee of the State Department of Education pursuant to 70 O.S. § 17-103(7F) or as an independent contractor or consultant, pursuant to a lawful contract that complies with the requirements of 70 O.S. § 6-101.2(B) and which is approved by TRS within sixty (60) days of the contract's effective date. TRS will follow guidelines in 70 O.S. §6-101.2(B) and federal guidelines from the Department of Labor and the Internal Revenue Service in determining when a retired person qualifies as an independent contractor or consultant.

715:10-17-13. Election to return to qualifying employment [AMENDED]

Any retired member who returns to employment in the public schools of Oklahoma and is employed half-time or more as defined in OAC 715:10-3-2 and OAC 715:10-3-3 may return to post-retirement employment or active contributing status under the following conditions:

- (1) Active Contributing Status. The retired member must file an irrevocable election to discontinue retirement benefits for the period of such employment. The return to membership contributing status must coincide with the beginning of a school year or the member must refund all benefit payments received from the beginning of the school year in which employment begins and make employee contributions on any compensation earned from the beginning of the school year to the date of the election to return to contributing status.
- (2) The election must be completed by the employing school and signed by the retired member and an official who has authority to employ or pay regular employees of the school.
- (3) The election must include the nature of the position held and the beginning date of employment. Retirement payments shall not be resumed during the summer months between consecutive years of this type of employment.
- (4) The retired member and the employing public school shall remit employee and employer contributions in the same manner as active contributing employees.
- (5) The retired member shall accumulate service credit in the same manner as active contributing employees of the system.
- (6) Upon termination of employment, the retired member's monthly retirement benefits will resume with an adjustment to reflect credit for the additional employment as follows:
 - (A) The initial benefit calculated at the time of retirement will not be affected by the additional employment.
 - (B) Service credits will be accumulated and credited to the member's record in accordance with Subchapter 3 of this Chapter.
 - (C) A supplemental benefit for the year(s) of additional service will be calculated using the standard retirement benefit formula and the retirement plan and other options selected by the retiree when the member first retired (See OAC 715:10-15-7 and 715:10-15-7.1).
 - (D) The average salary used in calculating the supplement benefit will be the average of the salaries earned during this period of employment. In the event the member is employed for less than the number of years required to determine the appropriate average salary, the average will be determined by the number of years employed. Annual salaries will be based on contributions made and determined on a school year basis.
- (7) If the retired member is employed for a period of time which does not qualify for additional service credit, the employee contributions remitted by the retired member or by the employer on the retired member's behalf will be refunded to the retired member without interest. Employer contributions as provided by OAC 715:10-13-3 will not be refunded.
- (8) The employer shall provide written notice to TRS when the retired member's employment is terminated. The retired member cannot resume benefit payments under this rule and remain employed. The retired member must comply with the sixty (60)-day non-employment rule that applies to a member who elects normal retirement. Retirement payments will be resumed effective the first of the following month, provided the necessary retirement paperwork is received within the prescribed timelines, otherwise benefits will be resumed the first of

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the next succeeding month. Any supplemental benefit determined pursuant to this section shall commence at the same time.

(9) If the retired member dies while engaging in half-time or more employment as provided in this section, the retired member's beneficiaries will receive any survivor benefits specified in the terms of the retirement contract elected by the member, the \$18,000 death benefit provided by OAC 715:10-9-2, if applicable, and a return of employee contributions, plus interest accumulated during the current employment, as defined in OAC 715:10-9-1. The beneficiaries of the deceased retired member will not be entitled to both the \$18,000 death benefit and the \$5,000 death benefit described in 70 O.S. §17-105(+P) and (+Q).

(10) If a retired member does not file an election to discontinue monthly benefits while employed by the public schools of Oklahoma, he or she waives the accrual of service credit and the right to any supplemental benefit from service in the position. The retired member will, however, be subject to the earnings limits outlined in 70 O.S. §17-116.10.

(11) Retired members returning to half-time or more employment under this subchapter and section shall not be considered "active members" for purposes of purchasing or transferring any form of prior service credit of whatever nature.

(12) A retiree having received a partial lump-sum payment, who is re-employed and returns to membership contributing status pursuant to OAC 715:10-17-13, shall have his or her subsequent retirement benefit calculated taking into consideration that a partial lump-sum payment has been received.

715:10-17-15. Salary limitations for certain returning classroom teachers [REVOKED]

~~—Legislation enacted during the 2021 legislative session allows members who retired on or before July 1, 2020, to return to employment as an active classroom teacher for a public school or career technology district with no earnings limitations in certain circumstances. Members seeking to return to employment as an active classroom teacher under this provision must meet all the following requirements:~~

~~(1) The member must have been retired as of July 1, 2020;~~

~~(2) The member must have been retired and drawing a TRS retirement benefit and not be employed by any public school or career technology district in any capacity for a period of twelve (12) consecutive months immediately following the last day of employment prior to their retirement date;~~

~~(3) The member can only be employed as an active classroom teacher as defined in 70 O.S. § 17-101(27) when they return to employment; and~~

~~(4) Within sixty (60) days of the member's return to employment, the member's employer must provide to TRS, in a manner prescribed by TRS, documentation establishing the member's eligibility under this provision.~~

~~(A) The Executive Director of TRS may waive the sixty (60) day requirement for good cause shown.~~

~~(B) To petition for waiver, either the TRS member, the employer, or both if appropriate under the circumstances, must provide written documentation of good cause to TRS along with documentation establishing eligibility under this provision.~~

SUBCHAPTER 23. STATE AND EDUCATION EMPLOYEES GROUP HEALTH AND DENTAL INSURANCE PROGRAM

715:10-23-6. Health Insurance Contribution [AMENDED]

(a) ~~The Oklahoma Teachers' Retirement System~~ TRS shall contribute the amount required by law towards the cost of health insurance coverage under the State and Education Employees Group Insurance Plan or other eligible group insurance plans only for retired members who actually receive a monthly retirement benefit for that month. This contribution shall not be made for beneficiaries, survivors or directly to the retired member.

(b) For eligible group health insurance plans other than the State and Education Employees Group Insurance Plan, ~~the System~~ TRS will contribute the amount required by law after the group insurance plan has made application to ~~the System~~ TRS and completed any necessary and required forms and/or agreements. The group insurance plan must be in compliance with Oklahoma law and offer insurance to all of the covered participating employer's employees, former employees who are vested and former employees who retired from that covered employer. The insurance plan shall provide a certification monthly detailing each covered retired member in the form and manner required by ~~the System~~ TRS. The subsidy shall be paid in arrears for each eligible retired member.

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(c) As provided under 70 O.S. ~~Section~~ §17-108(~~13C~~)(12), and pursuant to the ~~federal~~ Internal Revenue Code Section 401(h) and Treasury Regulation §1.401-14, the Retirement Medical Benefit Fund shall be maintained as a sub-account of the Retirement Benefit Fund. From the Retirement Medical Benefit Fund, ~~the System~~ TRS shall remit the amount specified in 74 O.S. ~~Section~~ §1316.3 for health insurance premiums.

(d) All contributions to the Retirement Medical Benefit Fund shall be reasonable and ascertainable.

(e) Contributions to the Retirement Medical Benefit Fund must be subordinate to the contributions to the Retirement Benefit Fund for retirement benefits. At no time shall the aggregate actual contributions to the Retirement Medical Benefit Fund (when added to actual contributions for life insurance protection under the plan, if any) be in excess of twenty-five percent (25%) of the total aggregate actual contributions made to the Retirement Benefit Fund (not including contributions to fund past service credits). The Board shall annually determine whether the twenty-five percent (25%) test has been met. If at any time the Retirement Medical Benefit Fund contributions (plus any life insurance contributions) would exceed the twenty-five percent (25%) test, the excess amount of contributions shall be transferred to the Retirement Benefit Fund for retirement benefits.

(f) Forfeitures in the Retirement Medical Benefit Fund shall not be allocated to individual accounts under the fund, but shall be used for account expenses.

(g) At no time prior to the satisfaction of all liabilities under the Retirement Medical Benefit Fund or termination of the fund shall any assets in the fund be used for, or diverted to, any purpose other than the providing of payment of ~~the System's~~ TRS's portion of the monthly retiree health insurance premium benefit described by Title 74 O.S. ~~Section~~ §1316.3 and the payment of administrative expenses. Assets in the Retirement Medical Benefit Fund may not be used for retirement or disability benefits or any other purposes for which other assets held in the Retirement Benefit Fund are used.

(h) The provisions of section 401(h)(5) of the Internal Revenue Code of 1986, as amended from time to time, shall apply upon the satisfaction of all liabilities under law and the Retirement Benefit Fund.

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