

TITLE 60. ARCHIVES AND RECORDS COMMISSION

CHAPTER 1. ADMINISTRATIVE OPERATIONS

[Authority: 67 O.S. § 212; 75 O.S., §§ 302, 305, and 307]
[Source: Codified 12-31-91]

60:1-1-1. Purpose

The purpose of these rules is to set forth the organization and functions of the Archives and Records Commission.

60:1-1-2. Archives and Records Commission

The Commission is a five member board created by state law enacted in 1947. It has the *sole, entire and exclusive authority for the disposition of all public records and archives of state officers, departments, boards, commissions, agencies, and institutions* [67 O.S., Section 305]. By law no record created or received in the transaction of official business can be destroyed by a state agency without prior approval from the Commission. Members include a Chairman appointed by the Governor, the State Librarian and State Archivist (Director of the Department of Libraries) as Vice-Chairman and Secretary, the Lieutenant Governor, the State Auditor and Inspector, and the State Treasurer. Any member may appoint a proxy for the purposes of carrying out the duties of the Commission.

[Source: Amended at 12 Ok Reg 1329, eff 6-1-95]

60:1-1-3. Meetings of the Commission

The Commission meets in the first month of every quarter to hear requests for records disposition from state agencies and to conduct other business. Meeting arrangements and conduct of business are carried out in compliance with the Oklahoma Open Meeting Law [25 O.S., Section 301 et seq.]. Special or emergency meetings of the Commission may be called by the Chairman at the request of any member.

[Source: Amended at 12 Ok Reg 1329, eff 6-1-95; Amended at 15 Ok Reg 1374, eff 4-27-98]

60:1-1-4. State Records Administrator

The State Librarian and State Archivist is designated State Records Administrator by state law enacted in 1961 [67 O.S., Section 204]. The Administrator shall make surveys of records operations, recommend improvements in records management practices, and establish standards for the preparation of records disposition schedules leading to the preservation of records of continuing value and the orderly disposition of those records not of sufficient administrative, legal, fiscal or research value to warrant their further keeping [67 O.S., Section 205].

[Source: Amended at 12 Ok Reg 1329, eff 6-1-95]

60:1-1-5. Promulgation of rules

The State Records Administrator shall promulgate such rules and regulations as are necessary to carry out the provisions of the Records Management Act, *except that rules and regulations relating to the disposal of records shall be issued jointly by the Administrator and the Archives and Records Commission* [67 O.S., Section 212].

[Source: Amended at 12 Ok Reg 1329, eff 6-1-95]

60:1-1-6. Organization, public information, submissions or requests

(a) The State Archives and Records Management programs are administered by the Archives and Records Management divisions of the Office of Government Information, Oklahoma Department of Libraries, acting upon the authority of the Archives and Records Commission and the State Records Administrator. The Director of the Department of Libraries, who is also State Librarian and State Archivist, [65 O.S., Section 3-103] appoints professional librarians and archivists to administer the office, and trained staff to carry out program activities.

(b) The State Archives is housed in the Allen Wright Memorial Library Building, 200 N.E. 18th Street, Oklahoma City. The State Records Center is located at 125 N.E. 21st Street, Oklahoma City. Requests for information about the work of the State Archives or Records Management Divisions may be made to the Office of Government Information, 200 N.E. 18th Street, Oklahoma City, OK 73105, in person, or by mail or telephone. The official records of Commission meetings are maintained at that address and are available for public inspection as are rules and regulations promulgated by the State Archivist acting as State Records Administrator. Also available for public inspection are records of state government agencies deposited with the State Archives or Records Management Divisions except those records required by law to be treated in a confidential manner, or those to which access is restricted in accordance with 60:10-3-6.

(c) Copies of records shall be provided in accordance with the Oklahoma Open Records Act [51 O.S., Section 24A.1 et seq.] and fee schedules adopted by the Department of Libraries Board and the Archives and Records Commission.

[Source: Amended at 12 Ok Reg 1329, eff 6-1-95; Amended at 15 Ok Reg 1375, eff 4-27-98]

60:1-1-7. Requests for promulgation, amendments, or repeal of a rule

(a) Requests for promulgation, amendment, or repeal of a rule shall be made in writing to the State Archivist and State Records Administrator. Requests shall give the text of a proposed new rule or amendment, and cite such rules as are requested to be repealed or amended, and shall explain the reasons for the request.

(b) Requests outlined in (a) of this Section shall be placed on the next agenda for the Commission's consideration and disposition, and the interested party shall be given reasonable notice of the date, time, and place of such meeting, and informed promptly in writing of the Commission's decision in the matter.

(c) Any resulting action to adopt a new rule or amendment or to repeal an existing rule shall be taken at an early date at an open hearing conducted in accordance with the notice and other requirements of the Administrative Procedures Act [75 O. S. Section 250 *et. seq.*].

[Source: Amended at 12 Ok Reg 1329, eff 6-1-95]

60:1-1-8. Petition for declaratory ruling

(a) Persons requesting the Commission to make a declaratory ruling as to the applicability or interpretation of any rule or order pursuant to this Chapter shall address their written request to the State Archivist and State Records Administrator.

(b) The request for declaratory ruling shall be placed upon the next agenda for consideration and action by the Commission and the interested party shall be given reasonable notice of the date, time, place of such meeting, and shall be informed promptly in writing of the Commission's ruling in the matter.

60:1-1-9. Severability of rules

Any section of this Chapter declared invalid shall not affect the validity and application of other sections of this Chapter.

60:1-1-10. Statutory citations

Citations to statutes in the rules of this Chapter refer to the most recent codification of the statute.

CHAPTER 10. ARCHIVES AND RECORDS

[Authority: 67 O.S., §§ 212, 214, 301, and 316]

[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

60:10-1-1. Purpose

The purpose of this Chapter to set forth procedures of the Records Management Program.

SUBCHAPTER 3. RECORDS

60:10-3-1. Records management program

(a) The State Records Administrator *shall establish and administer a records management program which will apply efficient and economical management methods to the creation, utilization, maintenance, retention, preservation and disposal of state records* [67 O.S., Section 204]. The program will be administered by the State Archives and Records Management Divisions of the Office of Archives and Records of the Oklahoma Department of Libraries under the authority of the State Records Administrator and direction of the Office Administrator.

(b) *The head of each state agency shall establish and maintain an active, continuing program for the economical and efficient management of records, cooperate...in the conduct of surveys of the agency's records, and comply with...rules and regulations, standards and procedures issued by the State Records Administrator and the Archives and Records Commission* [67 O.S., Section 206].

(c) The Records Management Division shall assist state agencies in the management and disposition of their records through consultations and surveys of their records, equipment, and storage facilities, leading to the preparation of records disposition schedules and records disposition authorizations.

[Source: Amended at 12 Ok Reg 1331, eff 6-1-95]

60:10-3-2. Records scheduling

(a) **Records disposition schedules.** The Archives and Records Commission shall have final authority in the approval or disapproval of records disposition schedules submitted by a state board, agency, commission, or institution. An approved records disposition schedule shall be a board's, agency's, commission's, or institution's continuing legal authority to dispose of records listed in the records disposition schedule in the manner the schedule provides. Any deletions, additions, or changes in retention periods or method of disposition for records in the schedule must be approved by the Commission.

(b) **Notification of intent to destroy records.** Agencies wishing to destroy records in accordance with approved records disposition schedules must notify the State Records Administrator on a form provided by the Records Management Division of their intent to destroy thirty (30) days in advance of destruction. Such notification must include the schedule number, the names of records to be destroyed, inclusive dates and the volume of records in cubic feet, reels of microfilm, or other applicable quantity.

(c) **Continuing destruction authorization.** The State Records Administrator may authorize annually each July for the current fiscal year destruction of records scheduled, in accordance with approved records disposition schedules, for destruction quarterly, monthly, weekly, or daily without requiring an agency to notify him of the intent to destroy these records thirty (30) days in advance as provided by (b) of this Section. Agencies shall notify the State Records Administrator in June of each year on the volume of records destroyed under this authorization, and may request authorization for the next fiscal year.

(d) **Exemption.** Subsection (b) of this Section shall not apply to records that have an approved disposition of "Retain in office and destroy after primary use," "Retain in office until no longer required for administrative purposes, then destroy," "Retain in office and destroy upon verification," or "Retain in office until superseded, then destroy."

[Source: Amended at 12 Ok Reg 1331, eff 6-1-95]

60:10-3-3. Records disposition authorization

State agencies wishing to dispose of types of records no longer being created or received may request the Archives and Records Commission to authorize the disposition of such records by certifying that the records described in the request are not of sufficient administrative value to warrant maintenance in the agency. Such authorization shall be limited to and apply only to the one time disposition of specific records described in the request.

60:10-3-4. General Schedules and General Records Disposition Authorizations

The Archives and Records Commission may adopt General Records Disposition Schedules and General Records Disposition Authorizations authorizing disposition of records common to two or more state agencies, boards, commissions, or institutions. These General Records Disposition Schedules and General Records Disposition Authorizations have the same force and effect for the records dispositions authorized as do approved records disposition schedules for specific agencies, boards, commissions, or institutions except in such cases where state or federal law, state or federal regulation, litigation, court decisions, other legal considerations, or fiscal conditions require that specific agency records be retained longer than indicated on the General Records Disposition Schedule or General Records Disposition Authorization.

[Source: Amended at 12 Ok Reg 1331, eff 6-1-95]

60:10-3-5. Destruction of duplicate records, substantive records, ancillary records, nonrecords materials, or damaged records

(a) **Substantive records.** Substantive records are those that document the organization, functions, policies, procedures, operations and essential transactions of an agency, board, commission, or institution.

(b) **Ancillary records.** Ancillary records are routine in nature, having neither evidential nor informational value beyond the immediate use for which they were created or received, nor do they contain supporting documentation for financial or business transactions of an agency. Ancillary records must be approved for disposition by the Archives and Records Commission in the same manner as substantive program records. When difficulty arises in defining a specific record as ancillary, it shall be considered a substantive record.

(c) **Nonrecord material.** Nonrecord materials exhibit none of the attributes of records and may be destroyed by an agency when no longer of immediate value. When difficulty arises in defining material as nonrecord, it shall be considered a record [67 O.S., Section 211].

(d) **Damaged records.** State agencies with records that have been subject to extensive physical damage or destruction from natural or human-caused disasters prior to the expiration of established retention periods must, within 24 hours of discovery, inform and initiate a written request to the Archives and Records Commission through the State Records Administrator to authorize emergency disposition of said records. The Commission shall authorize destruction, or shall require that information from all or part of the damaged records be recreated or the physical records salvaged if said records contain information essential to the operations of state government or to the protection of the legal, financial or other rights or interests of the citizens or the state.

[Source: Amended at 12 Ok Reg 1331, eff 6-1-95; Amended at 15 Ok Reg 1375, eff 4-27-98]

60:10-3-6. Access to records transferred to the State Archives

To encourage the deposit of certain records and papers of permanent value in the State Archives, the Archives and Records Commission has authority to restrict access to the records for a specified amount of time. The State Archivist and State Records Administrator shall secure the transfer of valuable records to the State Archives, including the nonofficial papers and correspondence of state officials and heads of boards, departments, agencies, commissions, and institutions.

[Source: Amended at 12 Ok Reg 1331, eff 6-1-95]

60:10-3-7. Review of records on deposit

The State Archivist and State Records Administrator, in conjunction with the Archives and Records Commission, shall automatically review records when they have been in the custody of the State Archives for ten years, in order to reevaluate the period of retention. Prior to any change in retention or disposition of any records so reviewed, the depositing agency will be notified as to such disposition or retention whereupon the depositing agency may consent to such a change or, if so desired, appear before the Commission to present any objection or pertinent comment.

[Source: Amended at 12 Ok Reg 1331, eff 6-1-95]

SUBCHAPTER 5. RENTING OF SPACE [REVOKED]

60:10-5-1. Renting of space for the storage of records [REVOKED]

[Source: Amended at 12 Ok Reg 1331, eff 6-1-95; Amended at 15 Ok Reg 1375, eff 4-27-98]

SUBCHAPTER 7. MICROFILM [REVOKED]

60:10-7-1. Authenticity and photographic quality [REVOKED]

[Source: Amended at 12 Ok Reg 1331, eff 6-1-95; Revoked at 38 Ok Reg 911, eff 8-26-21]

60:10-7-2. Quality control standards [REVOKED]

[Source: Amended at 12 Ok Reg 1331, eff 6-1-95; Revoked at 38 Ok Reg 911, eff 8-26-21]

60:10-7-3. Computer output microfilm (COM) [REVOKED]

[Source: Revoked at 38 Ok Reg 911, eff 8-26-21]

60:10-7-4. Micrographics laboratory certification [REVOKED]

[Source: Amended at 12 Ok Reg 1331, eff 6-1-95; Amended at 15 Ok Reg 1375, eff 4-27-98; Revoked at 38 Ok Reg 911, eff 8-26-21]

SUBCHAPTER 8. OPTICAL IMAGING

60:10-8-1. Purpose

The purpose of this subchapter is to establish rules for state government records which have an approved retention period of ten (10) years or longer which will be maintained on optical imaging systems.

[Source: Amended at 12 Ok Reg 1331, eff 6-1-95]

60:10-8-2. Scope

This subchapter establishes rules for the maintenance, use, retention, and disposition of state government records which have an approved retention period of ten (10) years or longer which will be maintained on optical imaging systems. These rules do not apply to state government records which have an approved retention period of less than ten (10) years which will be maintained on optical imaging systems. State Government records which have an approved retention period of less than ten (10) years which will be maintained on optical imaging systems are subject to the disposition authority of the Commission and shall be scheduled in the same manner as any other record.

[Source: Amended at 12 Ok Reg 1331, eff 6-1-95]

60:10-8-3. Definitions

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

"**AIIM**" means the Association for Information and Image Management.

"**ANSI**" means the American National Standards Institute.

"**CCITT**" means the Consultative Committee on International Telegraph and Telephone.

"**CD-ROM**" means Compact Disk Read Only Memory. A type of optical disk which, like WORM optical disks, cannot be erased or altered.

"**Compression**" means the method by which redundant digital image data streams are reduced to much smaller sizes, resulting in lower digital storage and data transmission requirements.

"**Optical Imaging System**" means a system that consists of hardware and software for computers which records complete images by:

(A) scanning the images with a source of light such as a laser;

- (B) converting the images to a digital electronic format; and
- (C) storing the converted images on an optical media which allows for the rapid retrieval of the stored images through indexing and the reproduction of the entire original image.

"Rewritable Disk" means an optical platter that, unlike WORM disks, can be erased, written over, or otherwise reused or altered. These are sometimes referred to as Erasable Optical Disks (EOD).

"WORM" optical Write Once Read Many means a type of optical disk, which cannot be erased or altered.

[Source: Amended at 12 Ok Reg 1331, eff 6-1-95]

60:10-8-4. Documentation standards

The following are the minimum documentation standards for maintaining state government records on optical imaging systems. All agencies using optical imaging systems for maintaining state government records shall maintain complete, up to date technical, operational, and security documentation that includes at least:

- (1) The brand names; version numbers; serial numbers; and dates of installation, upgrades, replacements, and conversions for all hardware and software.
- (2) A narrative description of the system.
- (3) The physical and technical characteristics of the records, including a record layout that describes each field including its name, size, starting or relative position, and a description of the form of the data (such as alphabetic, decimal, or numeric), or a data dictionary, or the equivalent information associated with a data base management system including a description of the relationship between data elements and data bases.
- (4) Operating procedures, including methods for scanning, editing, revising, updating, indexing, or expunging records, and for backing up disks;
- (5) All hardware and software operating manuals;
- (6) Any other technical information needed to read or process the records.

[Source: Amended at 12 Ok Reg 1331, eff 6-1-95]

60:10-8-5. Standards for the creation, use, and storage of records maintained on optical imaging systems

(a) Optical imaging systems that maintain the state office of record copy of any state government record shall meet the following minimum requirements:

- (1) All records stored in optical imaging systems shall be identified in such a manner as to enable authorized personnel to retrieve, protect, and implement approved dispositions for all records in the system.
- (2) Provide a standard interchange format when necessary to permit the exchange of records and information stored in optical imaging systems in the agency that utilize different software and/or hardware.
- (3) Provide for an approved disposition of the records, including, when appropriate, transfer to the State Archives for permanent preservation.

(b) Agencies shall insure that no information is lost prior to the expiration of stipulated retention periods because of changing technology or deterioration of the storage media by converting storage media and taking other action as required to provide compatibility with the agency's existing hardware and software. The migration strategy used for upgrading equipment as technology changes shall be documented and include provisions for:

(1) Periodically recopying to the same electronic media as required and/or transferring all records to new media. Data maintained on optical disks shall be recopied a minimum of once every ten (10) years onto tested and verified new media. The State Records Administrator may waive this requirement to recopy once every ten (10) years onto tested and verified new media if the following two conditions are satisfied:

(A) The agency demonstrates that such recopying will pose an undue cost burden.

(B) The agency and the State Records Administrator both certify in writing that all original images copied to the optical disk can still be retrieved and reproduced in their original form.

(2) When systems are upgraded or replaced, the new system shall be backward compatible with the existing system and all records and applicable indexes in the existing system shall be transferred to the new system or converted to permanent microfilm that meets all standards for authenticity, photographic quality, and bibliographic integrity required by Commission Rule 60:10-7-2.

(c) WORM, CD-ROM, and Rewritable optical disks may be utilized for maintaining state government records in optical imaging format. If rewritable optical disks are utilized, agencies shall maintain and regularly audit a list of all users of the system and their authorized access privileges and maintain a written record of all rewrites and deletions.

(d) Optical disks used for the storage of state government records shall have a guaranteed minimum pre-write shelf life of at least five (5) years and a guaranteed post-write shelf life of at least twenty (20) years.

(e) Agencies shall maintain back up/security copies of all optical disks. All back up/security copies shall be maintained in an off site storage facility that meets the manufacturer's recommendations for temperature and humidity controls. If no recommendations are provided by the manufacturer, back up/security disks shall be stored in an area whose temperature is between 65° and 75° Fahrenheit and whose relative humidity is between 30% and 50%. As an alternative back up/security procedure, agencies may use permanent microfilm that meets all standards for authenticity, photographic quality, and bibliographic integrity required by Commission Rule 60:10-7-2.

(f) Optical disks shall be inspected at least annually. Inspections shall include a visual examination of the medium and its housing and a reading of a statistical sample of all data to identify any loss of information and to discover and correct the cause of any data loss.

(g) Scanning densities shall be evaluated on standard procedures enumerated in ANSI/AIIM MS 44-1988, "Recommended Practice for Quality Control of Image Scanners." The following scanning densities shall be used for state government records:

(1) A minimum of 200 dots per inch (dpi) for records with no type fonts smaller than six point.

(2) A minimum of 300 dots per inch (dpi) for engineering drawings, maps, and other records with background detail.

(h) Visual quality control shall be performed for each scanned image and related index data.

(i) Scanners and optical drives shall receive periodic maintenance as specified by manufacturers and optical drives shall be recalibrated at least annually.

(j) Optical imaging systems shall either use CCITT Group 3 or Group 4 compression techniques without proprietary alterations to the algorithm or provide a gateway to either Group 3 or Group 4 compression techniques when proprietary compression techniques are utilized.

(k) Nonproprietary file header labels shall be used or the system developer shall either provide a bridge to nonproprietary file header labels or provide a detailed definition of image file header label structures.

[Source: Amended at 12 Ok Reg 1331, eff 6-1-95]

60:10-8-6. Annual compliance report [REVOKED]

[Source: Added at 13 Ok Reg 3873, eff 8-8-96 (emergency); Added at 14 Ok Reg 1250, eff 6-1-97; Revoked at 38 Ok Reg 911, eff 8-26-21]

SUBCHAPTER 9. EQUIPMENT PURCHASES [REVOKED]

60:10-9-1. Equipment purchases for microfilming, optical imaging, and similar technologies [REVOKED]

[Source: Amended at 12 Ok Reg 1331, eff 6-1-95; Amended at 15 Ok Reg 1375, eff 4-27-98]

SUBCHAPTER 10. VIDEO TAPES AND AUDIO RECORDINGS

60:10-10-1. Purpose

The purpose of this subchapter is to establish rules for state government records which will be maintained on video tapes and audio tapes.

[Source: Added at 15 Ok Reg 1375, eff 4-27-98]

60:10-10-2. Scope

This subchapter establishes rules for the maintenance, use, retention, and disposition of state government records maintained on video tapes and audio tapes. State government records maintained on video tapes and audio tapes are subject to the disposition authority of the Commission and shall be scheduled in the same manner as any other record.

[Source: Added at 15 Ok Reg 1375, eff 4-27-98]

60:10-10-3. Standards for the storage of records maintained on video tapes and audio tapes

(a) Agencies shall store all video tapes and audio tapes in areas where the temperature does not exceed 70° Fahrenheit and whose relative humidity is between 30% and 40%.

(b) Video tapes and audio tapes shall be stored in containers or enclosures made of noncorroding materials.

[Source: Added at 15 Ok Reg 1375, eff 4-27-98]

SUBCHAPTER 11. SERVICE FEES

60:10-11-1. Authority to set fees

The Archives and Records Commission and the State Records Administrator may set fees for records disposition and other services furnished to state boards, agencies, commissions, or institutions [67 O.S., Sections 212, 214].

[Source: Amended at 12 Ok Reg 1331, eff 6-1-95]

60:10-11-2. Archival microfilming service fees [REVOKED]

[Source: Amended at 12 Ok Reg 1331, eff 6-1-95; Amended at 16 Ok Reg 1005, eff 5-14-99; Revoked at 38 Ok Reg 911, eff 8-26-21]

60:10-11-3. Charges for special equipment and supplies [REVOKED]

[Source: Revoked at 38 Ok Reg 911, eff 8-26-21]

60:10-11-4. Storage fees

State boards, agencies, commissions, and institutions housing records in the State Records Center under approved records disposition schedules shall be assessed a fee of thirty cents (\$0.30) per cubic foot of records per month for records storage and servicing. No records shall be transferred to the State Records Center unless authorized by approved records disposition schedules or records disposition authorizations.

[Source: Amended at 17 Ok Reg 1042, eff 7-1-00; Amended at 27 Ok Reg 1120, eff 5-27-10]

CHAPTER 15. ADMINISTRATION OF UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

[Authority: 16 O.S., §86.5]

[Source: Codified 6-11-10]

SUBCHAPTER 1. GENERAL PROVISIONS

60:15-1-1. Purpose

The rules of this Chapter implement the Uniform Real Property Electronic Recording Act, as adopted in Oklahoma set out in Sections 86.1 through 86.7 of Title 16 of the Oklahoma Statutes, directing the Oklahoma Archives and Records Commission to establish standards for implementation of the Act.

[Source: Added at 27 Ok Reg 1369, eff 6-11-10]

60:15-1-2. Definitions

In addition to the definitions in the Uniform Electronic Transactions Act, as adopted in Oklahoma set out in Sections 15-101 through 15-121 of Title 12A of the Oklahoma statutes, and the Uniform Real Property Electronic Recording Act, the following words and terms shall be applied when implementing the Act.

"**Act**" means the Uniform Real Property Electronic Recording Act, as adopted in Oklahoma.

"**Commission**" means the Oklahoma Archives and Records Commission.

"**E-Recording**" means electronic recording.

"**PRIA**" means the Property Records Industry Association.

[Source: Added at 27 Ok Reg 1369, eff 6-11-10]

60:15-1-3. Glossary of Terms

The following words, terms, phrases, acronyms, and abbreviations are defined in other Oklahoma Statutes and are included here for use in connection with the Act or these rules, or are words, terms, phrases, acronyms, or abbreviations that may require further explanation to assist in the understanding of the Act and

these rules.

- (1) **ACH:** Automated Clearing House
- (2) **Agreement:** means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.
- (3) **ANSI:** American National Standards Institute
- (4) **Asymmetric encryption:** A method of encryption that uses two keys, a public key and a private key. Together, the keys constitute a key pair. Although the keys are mathematically related, it is not possible to deduce one from the other. The public key is published in a public repository and can be freely distributed. The private key remains secret, known only to the key holder.
- (5) **Authentication:** The act of tying an action or result to the person claiming to have performed the action. Authentication generally requires a password or encryption key to perform, and the process will fail if the password or key is incorrect.
- (6) **Automated transaction:** means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.
- (7) **Computer program:** means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.
- (8) **Digitized signature or digital signature:** A representation of a handwritten signature, existing as a computerized image file. Digitized signatures are one of several types of electronic signatures, and have no relation to digital signatures.
- (9) **DTD: Document Type Definition:** A document created using the Standard Generalized Markup Language (SGML) that defines a unique markup language such as XHTML or XML. A DTD includes a list of tags, attributes, and rules of usage.
- (10) **Electronic commerce:** Also known as e-Commerce, refers to trade that occurs electronically, usually over the Internet. Electronic commerce often involves sharing information, buying or selling products, or extending both new and traditional services to customers via electronic means. Electronic commerce allows business to take advantage of e-mail, the Web, and other online innovations to improve the business process and offer consumers more ways to access products, faster information transfer and decreasing costs.
- (11) **Electronic record:** A record created, generated, sent, communicated, received or stored by electronic means.
- (12) **Electronic notary:** A notary public who provides electronic notarial acts pursuant to the provisions of section 86.3 of Title 16 of the Oklahoma Statutes.
- (13) **Encrypt:** To apply an encryption key to a message in order to make it unreadable without a description key in an effort to prevent unintended use of the information.
- (14) **E-SIGN:** Electronic Signatures in Global & National Commerce (15 U.S.C. Sections 7001 - 7006).

- (15) **FTP:** File Transfer Protocol
- (16) **Hash function:** A mathematical algorithm that takes an electronic document and creates a document fingerprint. The document fingerprint is much smaller than the original document, and does not allow the reconstitution of the original document from the fingerprint. A slightly different document, processed through the same hash function, would produce a very different document fingerprint. A hash function helps to secure data by providing a way to ensure that data is not tampered with.
- (17) **HTML:** HyperText Markup Language
- (18) **HTTP:** HyperText Transfer Protocol
- (19) **HTTPS:** HyperTextTransfer Protocol Secure
- (20) **Information:** means data, text, images, sounds, codes, computer programs, software, databases, or the like.
- (21) **ISO:** International Standards Organization
- (22) **Key pair:** A set of keys, including a private key and a public key, used in asymmetric encryption. Sometimes a key pair will be reserved for specific uses, such as creating digital signatures.
- (23) **Metadata:** Commonly described as "data about data." Metadata is used to locate and manage information resources by classifying those resources and by capturing information not inherent in the resource.
- (24) **Nonrepudiation:** Effectively implementing a process in such a way that the creator of a digital signature cannot deny having created it. Nonrepudiation involves supplying enough evidence about the identity of the signer and the integrity of a message so that the origin, submission, delivery, and integrity of the message cannot be denied. Protecting the private key of a user is also a critical factor in ensuring nonrepudiation. The entire Public Key Infrastructure (PKI) industry exists to create and ensure the trust necessary for nonrepudiation.
- (25) **Notary public:** "Notary public" and "notary" mean any individual appointed and commissioned by the Oklahoma Secretary of State pursuant to the provisions of section 1 of Title 49 of the Oklahoma Statutes who performs notarial acts pursuant to the provisions of the Uniform Law on Notarial Acts, as adopted in Oklahoma set out in Sections 111 through 121 of Title 49 of the Oklahoma Statutes.
- (26) **OAIS:** Open Archival Information Systems
- (27) **PDF: Portable Document Format.** A file format created by Adobe Systems, Inc. that uses the PostScript printer description language to create documents. PDF files capture the appearance of the original document, can store both text and images, are difficult to modify, and can be rendered with free cross-platform viewer software.
- (28) **Portal:** A Web site considered an entry point to other Web sites, often by being or providing access to a search engine, useful content, or by functioning as a gateway to other Web locations or both. Portals are usually provided free of charge, in the hope that users will use the site.
- (29) **Private Key:** A large, randomly generated prime number used in asymmetric encryption. The private key is used to encrypt a document fingerprint which is the result of processing an electronic document through a hash function in order to create a digital signature. A private key is generated by its holder at the same time a related public key is created. While the public half of a key pair is made available to anyone, the private key is only known by its owner, who must keep it confidential to maintain

its integrity.

(30) **Proprietary:** Indicates that software or other employed technology is owned or controlled exclusively by the vendor. These software solutions are not generally transferable to other systems without payment of license fees.

(31) **Public Key:** A large, randomly generated prime number used to decrypt an electronic document that has been encrypted with a private key. A public key is generated by its holder at the same time a related private key is created. Within the Public Key Infrastructure (PKI), public keys are used to verify digital signatures. Public keys are contained in digital certificates, published and otherwise distributed by the issuing certificate authority (CA).

(32) **PKI: Public Key Infrastructure.** The framework of different entities working together to create trust in electronic transactions. The PKI industry facilitates signed transactions by using asymmetric encryption to ensure security and verifiable authenticity. The PKI includes all parties, policies, agreements, and technologies applicable to a transaction. This infrastructure allows all concerned parties to trust electronic transactions created within the standards set by the PKI industry.

(33) **Schema:** A method for specifying the structure and content of specific types of electronic documents which use XML.

(34) **Security procedure:** means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term "security procedure" includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(35) **SSL: Secure Socket Layer.** A security technology that uses both asymmetric and symmetric cryptography to protect data transmitted over the Internet.

(36) **Signature Authentication:** The process by which a digital signature is used to confirm the identity of a signer and the validity of the document.

(37) **Signed Digital Document:** An electronic document that includes an embedded digital signature. The digital signature contains an encrypted document fingerprint, which allows anyone receiving the document to verify its validity using the process of signature authentication.

(38) **Submitting Party:** The entity that originates an electronic document. This is usually a bank, title company, attorney, or anyone that either inputs data into a specific template or associates an image or both, and wishes to send the documentation for electronic recordation to the county clerk.

(39) **TIFF: Tagged Information File Format.** An image file format commonly used for photographs, scanned documents, or other graphics. TIFF images are graphics that are made up of individual dots or pixels. Files in the TIFF format are distinguished by a ".tif" filename extension. Group 4 TIFF (Tagged Image File Format) images are commonly used, because this format preserves the image in the most accurate and legible form.

(40) **TBP:** Trusted Business Partner.

(41) **Third party vendor:** Entity that may act as an intermediary in an electronic transaction. The vendor will usually add value to the transaction, such as verifying accuracy and completeness of index entries, authentication of the submitting party, or any other specific requirement of

the county clerk.

(42) **Transaction:** means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

(43) **UETA: Uniform Electronic Transactions Act.** The uniform act on which the Uniform Electronic Transactions Act as adopted in Oklahoma set out at Sections 15-101 through 15-121 of Title 12A of the Oklahoma Statutes was based authorizing electronic documents and digital signatures to stand as equals with their paper counterparts.

(44) **URPERA: Uniform Real Property Electronic Recording Act.** The uniform act on which the Uniform Real Property Electronic Recording Act as adopted in Oklahoma set out in Sections 86.1 through 86.7 of Title 16 of the Oklahoma Statutes, was based authorizing county clerks to accept electronic documents for recording in accordance with established standards.

(45) **VPN:** Virtual Private Network

(46) **Wet signature:** An original handwritten signature applied to a document.

(47) **XHTML:** Extensible HyperText Markup Language

(48) **XML Extensible Markup Language (XML):** A computer language used to create markup languages. XML allows developers to specify a document type definition (DTD) or schema in order to devise new markup languages for general or specific uses.

[Source: Added at 27 Ok Reg 1369, eff 6-11-10]

60:15-1-4. Authority, interpretation, and severability of rules

These rules are adopted pursuant to the provisions of the Uniform Real Property Electronic Recording Act, Sections 86.1 through 86.7 of Title 16 of the Oklahoma Statutes and the Administrative Procedures Act. Should a court of competent jurisdiction or the Attorney General of Oklahoma find any part of these rules to be inconsistent with the provisions of law as they presently exist or are hereafter amended, they shall be interpreted to comply with the statutes as they presently exist or are hereafter amended. The partial or total invalidity of any section of the Chapter shall not affect the valid sections.

[Source: Added at 27 Ok Reg 1369, eff 6-11-10]

SUBCHAPTER 3. ELECTRONIC RECORDING STANDARDS

60:15-3-1. Data and document standards

(a) The data and document standards and guidelines promulgated by PRIA Version 2 as follows and found at www.pria.us (date of search November 10, 2009) are hereby adopted by the Commission pursuant to the authority of Section 86.5 (a) and (b)(2) of Title 16 of the Oklahoma Statutes:

- (1) E-Recording Business Requirements dated March 12, 2008,
- (2) Document Version 2.4.1 dated October 2007,
- (3) Notary Version 2.4.1 dated October 2007,
- (4) PRIA Request Version 2.4.2 dated August 2007,
- (5) PRIA Response Version 2.4.2 dated August 2007, and
- (6) Updated e Recording iGuide dated May 2007,

(b) Upon any change in the data and document standards and guidelines or the models of submission the Commission will amend this section to reflect the amendment.

[Source: Added at 27 Ok Reg 1369, eff 6-11-10]

60:15-3-2. Web portals standards

(a) The World Wide Web is the most common delivery medium used for electronic documents, and use of web portals enables these transactions.

(1) Web portals can take on a variety of forms, from simple single entry sites used by an individual county clerk to support their own efforts, or by a collection of county clerks where the site provides both content and document routing.

(2) Web portals can be created by anyone, so long as the site supports all three PRIA models and complies with security requirements.

(3) The Commission shall not create or promote a mandatory Web portal.

(4) Each county clerk shall decide the portal used in their county.

(b) A document delivered over the Web shall provide a minimum amount of information in the electronic documents delivered which is sufficient to identify and authenticate the sender to the county clerk and an itemization of the contents of the package.

(c) Payment processing capabilities shall be determined by the county clerk with advice of a portal provider.

(1) Web portals may provide payment processing functionality.

(2) Payment processing, if supplied at the portal, shall comply with industry standards and any rules that may be promulgated by the Commission.

(3) Each county clerk is authorized to decide on approved methods of payment which could include but not be limited to debit or credit cards, ACH, and prepaid fee accounts.

[Source: Added at 27 Ok Reg 1369, eff 6-11-10]

60:15-3-3. Business rules

(a) Electronic Recording participants shall abide by the Business Rules of the county clerk.

(b) County clerks shall establish and publish Business Rules that govern the procedure for electronic recording.

(c) County clerks may modify their Business Rules as they deem necessary.

(d) The Business Rules may be in electronic or hard copy format and may appear on a portal or the website of the county clerk. Electronic acknowledgment of acceptance of the terms of the Business Rules is acceptable.

(e) The Business Rules shall include but not be limited to the following items:

(1) Defined technical specifications;

(2) Document and indexing specifications;

(3) Hours of operations and processing schedules;

(4) Payment options;

(5) Termination terms;

(6) Document Rejection rights;

(7) Process for publishing amendment to Business Rules; and

(8) Identification of the venue of any litigation arising between the parties.

[Source: Added at 27 Ok Reg 1369, eff 6-11-10]

60:15-3-4. Security

Participants of electronic recording shall develop security standards and policies based on industry-accepted security practices and protocols as approved by the Commission.

(1) **Transactional security.** All electronic documents shall be secured in such a way that both the transmitting and receiving parties are reasonably assured of the identity of each party and that no unauthorized party can view or alter the electronic document during transmission, processing, and delivery.

(2) **Organizational security.** Each county clerk, who elects to accept electronic documents for recording, shall implement reasonable measures to assure that each electronic document accepted for recording is protected from alteration and unauthorized access.

[Source: Added at 27 Ok Reg 1369, eff 6-11-10]

60:15-3-5. Electronic signatures

County clerks are only required to accept electronic signatures that they have the technology to support. County clerks shall have no responsibility to authenticate electronic signatures embedded within the body of the document.

[Source: Added at 27 Ok Reg 1369, eff 6-11-10]

60:15-3-6. Notary acknowledgment

County clerks shall have no responsibility for verifying or authenticating notary signatures and acknowledgments. Notarization and acknowledgment shall be subject to the provisions of section 86.3(c) of Title 16 of the Oklahoma Statutes, and Title 49 of the Oklahoma Statutes.

[Source: Added at 27 Ok Reg 1369, eff 6-11-10]

60:15-3-7. File formats for electronic recording

(a) Electronic recordings may be converted by the county clerk to and preserved as a Tagged Image File Format (TIFF) or Portable Document Format (PDF) files along with their associated metadata.

(b) Model 3 submissions shall be converted to TIFF or PDF until the viability of preserving these electronic recordings in their native format, such as Extensible Markup Language (XML) or Extensible HyperText Markup Language (XHTML) has been demonstrated.

[Source: Added at 27 Ok Reg 1369, eff 6-11-10]

60:15-3-8. Processing electronic recordings

County clerks shall process electronic recordings in accordance with the provisions of Section 298.1 of Title 19 of the Oklahoma Statutes, the Uniform Electronic Transaction Act as adopted in Oklahoma and the Act regarding accepting electronic documents for filing.

[Source: Added at 27 Ok Reg 1369, eff 6-11-10]

60:15-3-9. Records retention and preservation

(a) County clerks shall retain all records in their custody in accordance with sections 284 and 286 of Title 19, sections 15-112 and 15-117 of Title 12A, and

sections 301 and 302 of Title 67 of the Oklahoma Statutes.

(b) The registrar of deeds records in the custody of the county clerk shall be permanently preserved. Producing security microfilm that is created within the guidelines of the American National Standards Institute (ANSI) and properly stored and handled is recommended. The Commission rules for microfilm can be found at: <http://www.odl.state.ok.us/oar/docs/oar-rules.pdf>, the Oklahoma Department of Libraries website.

[Source: Added at 27 Ok Reg 1369, eff 6-11-10]

60:15-3-10. Payment of recording fees

(a) Electronic payment of recording fees shall be collected by the county clerk as prescribed in accordance with Section 32.3 of Title 28 of the Oklahoma Statutes and accepted reasonable industry standards.

(b) Payments are a prerequisite to all methods of recording as required by section 292 of Title 19 of the Oklahoma Statutes.

(c) Each county clerk may collect electronic recording fees in a manner compatible with their internal software and financial practices.

[Source: Added at 27 Ok Reg 1369, eff 6-11-10]

60:15-3-11. E-Recording Models

(a) Electronic recordings, whether as pilot projects or live production initiatives, have occurred in many states. From these efforts, three distinct models have emerged. The models are referred to as Models 1, 2, and 3. Each has distinctive characteristics. Each also brings certain benefits to the submitters.

(b) Over time the improvements in delivery methods and document formats have improved the processes as well. From scanned paper documents, to electronically signed images of the documents wrapped with XML data and securely signed, to completely electronic, XML-integrated documents using electronic and digital signatures, these models bring continuing benefits to participating county clerks and document submitters. Ongoing progress with increasing value from added benefits are expected as mortgage, legal, and recording industry standards are implemented.

(1) **Model 1 Description.** This model is an extension of the paper-based closing or payoff processes. Documents are prepared and printed. The parties sign and notarize the paper documents with ink signatures. When complete, the signed and notarized paper documents are scanned and electronically sent to the county clerk. Transmission is done by the submitting parties logging on to the computer system of the county clerk over a secure network after first identifying, or authenticating, themselves to the computer of the county clerk. The county clerk makes the same determination of recordability as with paper documents, visually inspecting them for such things as signatures and acknowledgments as well as determining the recording fees. Once the county clerk accepts the documents for recording, the scanned image is permanently affixed with the recording information, including recording date and time as well as the unique recording reference number, such as book and page number or instrument number. Indexing is performed by the indexing staff of the office of the county clerk, as with paper documents. A copy of the recorded images is returned to the submitter, together with the recording endorsement data and receipt.

(2) **Model 2 Description.** Model 2 recordings may be paper or electronic based. A document image whether from a scanned paper document signed and notarized by 'wet ink' signatures or from an electronic document electronically signed and notarized, is wrapped in an XML wrapper containing the data necessary for processing, indexing, and returning the document. In the case of a scanned paper document, Model 2 further extends Model 1 by adding data that improves the process, specifically the indexing process in the office of the county clerk. In the case of an electronic document, the process begins to improve for the settlement agent, lender, or loan servicer submitting the document. The model may support one or more of a number of graphics formats. The recordable electronic documents are generally delivered to the office of the county clerk by whatever means agreed to by the parties as specified in the Business Rules. Once imported into the system of the county clerk, the legacy system handles the recording functions. In this case the system imports the data from an XML wrapper, including index data. The recording process is partially automated, but the image may be visually inspected to determine that it meets recording requirements as well as possibly to validate against the data in the XML wrapper. The indexing data in the embedded image is not linked to the index data in the XML, so the county clerk has no automated means to verify that it is the same. If a document meets the requirements of the county clerk, it is recorded.

(3) **Model 3 Description.** Under Model 3, documents are generated on a Trusted Business Partner's document preparation system according to the PRIA standards. The document preparation person logs on to the system and enters the information necessary to complete the generation of the document. Once the document has been generated, it is signed by an individual with the authority to sign. Secure access is required for all parties that must sign the document because signing is done by electronic signature. Once the documents are electronically prepared, they are released for recording. The document preparation system compares each document against recording rules to ensure its recordability, and then calculates recording fees. Documents are submitted to the office of the county clerk pursuant to the terms of the Business Rules of the county clerk. Documents received at the office of the county clerk are re-checked against the rules to determine whether or not they may be recorded. If not, they are returned to the submitter. Otherwise they are accepted for recording and the data for recording is extracted from the documents and passed to the legacy recording system. The endorsement data is received from the legacy system and entered onto the respective documents in XML format. If required, the XHTML is transformed to images for the archives of the county clerk and the documents with the recording endorsements are returned to the submitter.

[Source: Added at 27 Ok Reg 1369, eff 6-11-10]