

TITLE 730. DEPARTMENT OF TRANSPORTATION

CHAPTER 1. ADMINISTRATIVE OPERATIONS

[Authority: 51 O.S., § 24A.1 et seq.; 66 O.S., § 304; 69 O.S., §§ 302, 303, 304, 305, 306, 310, 311, 501, 704, 4002, 4006, and 4007; 74 O.S., §§ 85.58A through 85.58P, 500.6a, and 840-1-1 et seq.]

[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

730:1-1-1. Purpose

It is the purpose of this chapter to set forth the administrative procedures by which the Transportation Commission conducts its business. The processes and procedures set forth in this Title shall be utilized to systematically carry out the legal mandate of the Legislature for the Transportation Commission to provide an intermodal transportation system for the State of Oklahoma.

[Source: Amended at 12 Ok Reg 1833, eff 6-12-95; Amended at 16 Ok Reg 2024, eff 6-11-99]

730:1-1-2. Order of business [REVOKED]

[Source: Revoked at 12 Ok Reg 1833, eff 6-12-95]

SUBCHAPTER 3. TRANSPORTATION COMMISSION

730:1-3-1. Officers

At the first regular meeting after the 15th of March each odd numbered year, the Commission shall conduct an election of officers for the Commission. The Commission officers shall be the Chairman, Vice-Chairman, and Secretary. The Chairman shall be the presiding officer at all official meetings of the Commission and shall, except as otherwise provided in this Title, execute all documents requiring Commission approval. The Vice-Chairman shall, in the absence of the Chairman, act in the capacity of the Chairman and fulfill the duties and responsibilities of that office. The Secretary shall be responsible for the recording of all Commission meetings and shall cause to be prepared the official minutes of Commission meetings. The Secretary further acts in the capacity of Chairman in the absence of both the Chairman and Vice-Chairman. In the event each of the elected officers of the Commission is absent, the member of the Commission having the longest tenure of service on the Commission shall act as Chairman.

[Source: Amended at 12 Ok Reg 1833, eff 6-12-95]

730:1-3-2. Meetings

(a) The Transportation Commission shall meet on the first Monday of each month in the Commission Room of the Transportation Building in Oklahoma City, Oklahoma to transact all official business of the Commission. In the event that the first Monday of the month is an official holiday, the regularly scheduled meeting shall be held on the Tuesday following the holiday.

(b) The Commission, at the call of the Chairman or a majority of the members, may hold not more than two special meetings in any one month. A special meeting may be held at a location other than the Transportation Building in Oklahoma City; however, no official action may be taken during a special meeting held at such location.

(c) At any meeting of the Commission, a majority of the total membership of the Commission shall constitute a quorum. All official acts of the Commission shall be by majority vote of the total membership of the Commission.

(d) All meetings of the Commission shall be held and conducted in strict conformance with the Oklahoma Open Meeting Act.

[Source: Amended at 12 Ok Reg 1833, eff 6-12-95]

730:1-3-3. Rules

The Commission shall prescribe the rules by which the Department of Transportation operates. Rules for the operation of the Department shall be adopted in accordance with the requirements of Article I of the Oklahoma Administrative Procedures Act. The Commission shall maintain final authority on the application of its rules and may, by unanimous vote of the Commission, suspend the effect of any rule for a particular circumstance when to do so is in the public interest.

[Source: Amended at 12 Ok Reg 1833, eff 6-12-95; Amended at 16 Ok Reg 1257, eff 5-13-99]

730:1-3-4. Comprehensive long range transportation plan

(a) The Commission shall develop, maintain, and publish a comprehensive multi modal long range transportation plan for the State of Oklahoma, develop measurable goals and objectives designed to carry out such a plan, report progress toward achieving those goals and objectives as part of its statutorily required reports, where authorized by statute apply for, accept, receive, and administer federal funds available for transportation, and participate with local governments in the planning and development of local transportation activities which are consistent with the goals and objectives of the State long range plan for transportation.

(b) The comprehensive long range multi modal transportation plan must provide for the safe, efficient and effective movement of people and goods on surface, water and air transportation systems. The long range plan should support and enhance the State and local governments' initiatives for economic development, promote protection and enhancement of the environment, energy conservation and improvement of the quality of life.

(c) The long range multi modal plan should promote the preservation of existing transportation systems.

(d) The multi modal long range transportation plan should serve as the framework for the development of the Eight Year Construction Work Plan from which the Statewide Transportation Improvement Plan, which depicts all the federally funded transportation projects, is derived.

[Source: Amended at 12 Ok Reg 1833, eff 6-12-95; Amended at 16 Ok Reg 2024, eff 6-11-99; Amended at 29 Ok Reg 1487, eff 6-25-12]

730:1-3-5. Formulation of state highway program [REVOKED]

[Source: Revoked at 12 Ok Reg 1833, eff 6-12-95]

730:1-3-6. Election of Director [REVOKED]

[Source: Revoked at 37 Ok Reg 2267, eff 9-11-20]

730:1-3-7. Meeting agenda; Unanimous Consent Docket

(a) The Commission shall publish an agenda which shall set forth each item to be considered by the Commission at its regular meeting or during a special meeting. Each item on the agenda shall be fully supported by a written explanation of the

action requested and the reasons for taking the proposed action. Except as provided in this section, agenda items shall be presented separately in open meeting of the Commission. Items requiring an executive session of the Commission shall be placed on the agenda and presented in accordance with the Oklahoma Open Meeting Act.

(b) Matters of a routine nature requiring approval of the Commission may be placed on a "Unanimous Consent Docket" and will be considered by the Commission as one item. Matters placed on the "Unanimous Consent Docket" may include, but are not limited to, additions to the County Bridge Program not involving Federal or state funds; programming of At-Grade Railroad Signalization Projects; changes in traffic control; changes in speed limits; programming of County Road projects not involving Federal or state funds; settlement of claims; land sales and supplemental agreements and additional appropriations not exceeding a total of \$150,000.00. All matters to be included in the "Unanimous Consent Docket" shall be fully supported by a written explanation of the matter. Any member of the Commission may request that a matter be removed from the "Unanimous Consent Docket" and separately considered. If such a request is made the matter shall be removed from the docket and presented for separate consideration by the Commission.

(c) The Department shall conduct a monthly agenda meeting to prepare the agenda for the next Commission meeting and review the items to be presented. One unnumbered copy of each agenda item shall be submitted to the secretary for the Commission not later than twenty-four (24) hours prior to the agenda meeting. Each item to be presented to the Commission shall be reviewed in the agenda meeting and agenda item numbers will be assigned. Before close of business on the day following the agenda meeting, personnel presenting agenda items at the Commission meeting shall deliver one (1) properly numbered copy of the items to the secretary for the Commission. The secretary for the Commission shall prepare Commission meeting packets which will be mailed on the Friday following the agenda meeting to each member of the Commission. A copy of the Commission meeting packet shall also be forwarded to the Director, Secretary of Transportation, and the Media and Public Relations Division. In the event an item considered at the agenda meeting is not submitted to the secretary for the Commission in time to be included in the Commission meeting packet, the office originating the item shall be responsible for submitting four (4) copies of the item to the secretary for the Commission and the originating office shall mail the item with transmittal letter to each Commissioner. Items which are not considered at the agenda meeting shall not be added to the Commission agenda without the permission of the Chairman of the Commission or the Director.

(d) Transportation Commission regular meetings are for the purpose of transacting business. They are not public hearings. Presentations to the Commission by persons other than members of the Legislature, representatives of the Governor or employees of the Department shall not be placed on the Commission agenda without the express permission of the Chairman of the Commission or the Director.

[Source: Amended at 12 Ok Reg 1833, eff 6-12-95; Amended at 16 Ok Reg 2024, eff 6-11-99; Amended at 38 Ok Reg 2560, eff 9-11-21]

730:1-3-8. Disclosure of property; conflict of interest prohibited

(a) All members of the Transportation Commission and the Director shall file with the secretary for the Commission a list of all real property owned, directly or indirectly, within the State of Oklahoma excluding only their principal residences.

This list organized by county, will give the legal description of each tract, the number of acres, and the date acquired. Subsequent sales or purchases shall be reported immediately to the secretary for the Commission.

(b) The secretary for the Commission shall furnish copies of this information to the Governor and the Attorney General, and shall make this file available for public inspection.

(c) No real property shall be purchased by the Department from a member of the Commission, the Director or other employee of the Department, or from any corporation in which such person or a member of his immediate family is an officer or agent and/or owns five percent (5%) or more of the stocks or shares actually issued by such corporation, or from any person who within eighteen (18) months prior to such purchase held such position with the Commission or the Department, unless his interest in such property shall be openly disclosed upon the public records of the Commission, and such property is acquired either by condemnation proceedings or the price to be paid for such property is approved in writing by the Director and the Chairman of the Commission; and provided further that such person shall not have participated in such acquisition for and in behalf of the Department or the Commission.

(d) No member of the Commission or the Director shall appoint, employ, recommend for employment or approve the appointment or employment of any person related within the third degree by blood or marriage to any member of the Commission or the Director.

(e) In no event shall any member of the Commission participate in the consideration or approval of any item when to do so would create a conflict of interest.

(f) Upon appointment each member of the Commission and the Director shall, within the time provided by law, file required financial disclosure statements with the Oklahoma Ethics Commission.

[Source: Amended at 12 Ok Reg 1833, eff 6-12-95; Amended at 16 Ok Reg 2024, eff 6-11-99]

SUBCHAPTER 5. DEPARTMENT OF TRANSPORTATION

730:1-5-1. Powers and duties of Director

The Director is hereby granted all the powers and the authority necessary for the orderly operation of the Department of Transportation, (B) not in conflict herewith or prohibited by law, including, but not limited to the following:

(1) General duties.

(A) To approve and pay claims for all lawful expenses of the Department.

(B) To act as the claims and request officer for the Transportation Commission and the Department.

(C) To appoint Deputy Directors and Assistant Directors as he may deem necessary, and to delegate to them appropriate authority and responsibility.

(D) To effect changes in the Department's organizational structure and personnel, with any change at the division level and above being subject to approval by the Commission.

(E) To keep the Commission informed on the Department's operations and official actions.

(F) To appoint and employ, supervise, and discharge in accordance with the Oklahoma Personnel Act and the Merit Rules for

Employment all such professional, clerical, skilled and semi-skilled help, labor and other employees as may be deemed necessary for the proper and lawful discharge of the duties of the Department.

(G) To establish and maintain training and educational programs.

(H) To keep a journal and to record therein such matters as he may deem necessary or advisable, or which the Commission may direct.

(I) To be the keeper of the official seal of the Commission and the Department.

(J) To make Department budgetary transfers within statutory limitations and Commission authorization.

(K) To cooperate with governing bodies of cities and towns and the boards of county commissioners of the various counties on the basis prescribed by state and federal law, to the end that joint efforts will be coordinated to attain a maximum of transportation development and service.

(L) To execute releases on behalf of the Commission in compromise of claims pursuant to 69 O.S. Section 1002.

(M) To approve claims for returning to local units of government any surplus funds deposited by the local unit of government to match federal or state funds used for federal aid or state aid projects, after completion of the project and final payment has been made.

(N) To act on requests by boards of county commissioners for the transfer of old bridges or sections thereof removed from the state highway system by new construction projects, and to execute agreements setting out the terms of such transfers.

(O) To use consulting engineers' services in the preparation of functional and construction plans where such services are necessary due to special technical nature of contemplated construction or when the Director determines that such consulting services are necessary in the best interest of the Department in order to accommodate a construction programs approved by the Transportation Commission. Contracts with consulting engineers will contain a provision binding the consultants' employees and officers to the same rules and regulations as Department employees insofar as conflict of interest is concerned. The requirements for determining the need for such consulting engineers; services are set forth in OAC 730:30-5-1.

(P) To authorize Department personnel to initiate legal proceedings to take enforcement actions authorized by statute or regulation on behalf of the State and to recover for damages to state property under the care, custody, or control of the Department or to initiate criminal prosecution.

(Q) To, in person or by designee, appear and participate with full authority at settlement conferences as directed by federal or state courts.

(R) To issue more detailed instructions by appropriate orders, policies, or memoranda, not inconsistent with this Title for the general guidance and administration of the Department.

(2) Contracts and agreements.

(A) To execute or cause to be executed all contracts and agreements on behalf of the Commission and Department, unless otherwise provided by law.

(B) To issue work orders to commence work on construction contracts.

(C) To approve contract extensions or modifications made necessary by developments arising subsequent to award and execution of construction contracts, except where prior Commission approval is required by law.

(D) To approve and execute change orders and supplemental agreements in a total amount of not to exceed Five Hundred Thousand Dollars (\$500,000.00) on a contract. The Director may further delegate to field division engineers authority to approve and execute change orders and supplemental agreements in a total amount of not to exceed One Hundred Fifty Thousand Dollars (\$) 150,000.00 on a contract. In no event shall the total amount of such change orders exceed the limits set forth in 61 O.S. §121. Change orders approved by the Director or field division engineer shall be presented to the Commission at its next regular or special business meeting stating the reasons for the change order and supplemental agreement with such other information as the Commission may require.

(E) To execute and process contractual awards to the individual counties on county sponsored federal aid projects to be constructed by county forces with county and federal funds, subject to applicable regulations of the United States Department of Transportation.

(F) To execute and process contractual awards to railroad companies for railroad crossing protection projects to be constructed on a force account basis by the railroad company with railroad and/or federal funds, subject to the concurrence of the United States Department of Transportation.

(G) To approve or disapprove requests by utility companies and municipalities for permits to attach pipe lines, telephone cables, and other authorized utility lines to bridges on the state highway system, and to change permit fees in accordance with the schedule of fees provided in OAC 730:30-7-1.

(3) Federal aid.

(A) To act for and represent the Department in all official matters involving the United States Department of Transportation or any other agency of the United States government, for the purpose of executing federal aid programs.

(B) To make or withhold commitments, execute contracts and agreements, and to bind the Department by any other action which the Department may lawfully do relating to programmed items or projects previously approved by the Commission; provided, however, that whenever the United States Department of Transportation requires a commitment to program an item in the future, such requirement shall be submitted to the Commission for approval, before any action is taken.

(C) To execute the Federal Highway Administration's revision forms to provide for changes in termini, cost, length, and character of proposed work; provided that such changes in county programs shall be made only in accordance with plans, specifications and estimates officially submitted by the board of county commissioners of the county in which the programmed project is located or as requested by resolution of the board. On federal aid projects such changes shall be made only when the detailed information obtained after the approval of the programmed project shows a necessity to change from those features that were provided in the approved programming item. Significant changes such as cost or length will require prior approval of the Transportation Commission before execution by the Director.

(4) Emergency contracts.

(A) To declare the existence of an emergency situation, provided that:

(i) As used in this subparagraph, the term "emergency" shall be limited to conditions resulting from a sudden unexpected happening or unforeseen conditions and wherein the public health or safety is endangered; and

(ii) The Director notifies the Commission of such action within ten (10) days from the date thereof by written notification containing a statement of the reason therefore, which statement shall be recorded in the official minutes of the next regular meeting of the Commission.

(B) Upon the declaration of an emergency situation as above-defined, the Director shall be authorized to enter into any contract not exceeding Seven Hundred and Fifty Thousand Dollars (\$750,000.00) in amount, without complying with those provisions of the Public Competitive Bidding Act of 1974, as amended, for construction or repair of any highway, bridge or other structure or facility under the jurisdiction of the Department for the protection and preservation of the public health and safety and elimination of the danger thereto.

(C) To accept bids, award, and execute emergency contracts on projects where the Commission has, pursuant to 61 O.S. Section 130, declared that an emergency exists.

(5) Traffic control.

(A) To place and maintain traffic signs, markings, and other traffic control devices required under Oklahoma Law to make effective the provisions of said law, and to place and maintain such additional traffic control devices not in conformance with the "Manual on Uniform Traffic Control Devices for Streets and Highways" as prepared by the National Joint Committee on Uniform Traffic Control Devices. To maintain an official listing or record of:

(i) Through highways and stop or yield intersections.

(ii) Speed zones.

(iii) One-way roadways.

(iv) Turn restrictions.

(v) Additional parking restrictions or prohibitions.

(vi) Traffic control signals.

(B) To take actions necessary to effectuate the provisions of the traffic laws of the State of Oklahoma and to make temporary or experimental regulations to cover emergencies or special conditions. No experimental regulations shall remain in effect for more than 90 days. Emergency, temporary, and experimental regulations shall have the same force and effect as regulations adopted by the Commission and must be submitted to the Commission at its first regular meeting after the regulation is put into effect.

(6) Right-of-way.

(A) To make a determination that the establishment of a right-of-way line is a technical matter, and delegate to the Right-of-Way Division the authority to make such decisions; and further that the Chief, Right-of-Way Division be authorized and empowered to appear in court to justify the necessity of right-of-way takings.

(B) To execute all deeds, releases, and other instruments pertaining to the disposal of surplus real property and to delegate such authority to others.

[Source: Amended at 12 Ok Reg 1833, eff 6-12-95; Amended at 13 Ok Reg 1381, eff 5-13-96; Amended at 14 Ok Reg 3765, eff 11-1-97 (emergency); Amended at 15 Ok Reg 2044, eff 5-26-98; Amended at 16 Ok Reg 2024, eff 6-11-99; Amended at 30 Ok Reg 877, eff 6-13-13; Amended at 33 Ok Reg 1848, eff 9-11-16; Amended at 37 Ok Reg 2268, eff 9-11-20]

730:1-5-2. Personnel policies

(a) **Personnel.** Department personnel policies and procedures will conform to the Oklahoma Personnel Act and the Merit Rules for Employment.

(b) **Worker's compensation.** The Department will provide as required by state law, worker's compensation insurance through the State Insurance Fund for Department personnel.

(c) **Payroll.** The Department is authorized to take necessary action to provide for payroll withholdings relative to the purchase of United States Savings Bonds, State Group Health and Life Insurance program, other insurance programs, Credit Union, and other withholdings authorized by law.

(d) **Conflict of interest.** Department employees shall not engage in any outside employment or enterprise which would constitute a conflict of interest, as defined by law, which would violate the statutes concerning conflict of interest for Transportation Commissioners and Department employees, or the rules of the Oklahoma Ethics Commission.

(e) **Age.** No person will be employed in any capacity by the Department who is not eighteen years of age or older.

[Source: Amended at 12 Ok Reg 1833, eff 6-12-95; Amended at 16 Ok Reg 2024, eff 6-11-99]

730:1-5-3. Property and vehicle insurance

The Department shall participate in the Comprehensive Professional Risk Management insurance program operated by the Department of Central Services, Risk Management Division.

[Source: Amended at 12 Ok Reg 1833, eff 6-12-95]

730:1-5-4. Manuals, maps, printed matter, records

(a) **Publications.** Official Department publications and reproductions of printed matter will be furnished to other states, the federal government, cities, towns,

counties, and state officials without cost. The same matter will be offered to the general public in accordance with the Department reproduction fee schedule. The fee schedule shall be posted and filed with the County Clerk.

(b) **State road map.** The official Oklahoma Department of Transportation road map shall be distributed free in reasonable amounts upon request. In no event shall the official road map be used for commercial purposes nor shall the map be offered for sale or sold except as specifically provided for by law.

(c) **Research publications.** Research publications shall be exempt from charge.

(d) **Records.** The Department shall establish a policy for the receipt and processing of open record requests. The policy shall provide the persons designated to receive open record requests. Investigative files, confidential personnel records and such other documents that are specifically exempt from release under the Oklahoma Open Records Act or Federal law shall remain confidential. All other records of the Commission and the Department shall be made readily available to the public. Designated record officials shall be authorized to waive record fees when such waiver is in the public interest.

[Source: Amended at 12 Ok Reg 1833, eff 6-12-95; Amended at 38 Ok Reg 2561, eff 9-11-21]

730:1-5-5. Collection of damage claims

Claims for damage to Department facilities with an estimated cost of less than two thousand five hundred dollars (\$2,500.00) may be collected by the Department based upon a repair estimate prepared by the appropriate field division and approved by the division engineer. The estimate shall, as a minimum, contain an estimate of the materials required and cost for each item, an estimated number of man hours and the hourly rate by classification and equipment hourly costs. The Department shall develop a form for use by the field division in making damage cost estimates. The form shall contain a statement signed by the division engineer that the damage will be repaired as soon as practical.

[Source: Added at 21 Ok Reg 2878, eff 7-12-04]

SUBCHAPTER 7. UTILIZATION OF DEPARTMENT OWNED AIRCRAFT

730:1-7-1. Aircraft utilization

(a) Aircraft owned by the Department shall be used exclusively for the purposes of conducting the business of the Department or another agency of the State of Oklahoma.

(b) No person shall travel on any aircraft owned, leased, chartered, or operated by the Department except in strict conformance with the provisions of Title 74 § 500.6A.

(c) Aircraft as used in this subchapter shall include both fixed wing and rotary wing craft.

[Source: Added at 16 Ok Reg 2024, eff 6-11-99]

730:1-7-2. Travel Use Log

(a) In addition to any other flight record required to be prepared and maintained under federal regulations for the flight of an aircraft, a "Travel Use Log" shall be prepared and maintained for each flight of a Department owned, leased, chartered, or operated aircraft.

(b) The "Travel Use Log" shall be prepared on a form prescribed by the Office of State Finance.

(c) The pilot of an aircraft owned, operated or leased by the Department shall cause the "Travel Use Log" to be prepared and shall attest to its accuracy by signature. Additional crew shall also attest to the accuracy of the "Travel Use Log" by signature. Within seventy-two (72) hours of the completion of the flight, the pilot shall submit two (2) copies of the completed "Travel Use Log" to the Aeronautics Division. The Division Manager/Director of Aeronautics shall provide for the filing and safekeeping of the "Travel Use Logs".

(d) In the even that an aircraft is chartered by the Department with crew, the senior Department official making the flight or authorizing the charter shall be responsible for the preparation of the "Travel Use Log" and obtaining the attestation of the pilot and crew.

[Source: Added at 16 Ok Reg 2024, eff 6-11-99]

730:1-7-3. Use reporting

Beginning July 1, 1999, the Aeronautics Division Manager/Director of Aeronautics shall prepare and submit to the Governor, Office of State Finance, Speaker of the House of Representatives, and President Pro Tempore, a summary of the "Travel Use Logs" for the previous fiscal year.

[Source: Added at 16 Ok Reg 2024, eff 6-11-99]

730:1-7-4. Charges

(a) State agencies requesting the use of Department owned aircraft shall reimburse the Department for the actual cost of the flight but not less than three hundred fifteen dollars (\$315.00) per hour. If the requested flight is during instrument flight rule conditions, the requesting agency shall also be charged an additional two hundred dollars (\$200.00) per day or the actual cost if greater than two hundred dollars (\$200.00) per day for an instrument flight rule qualified co-pilot.

(b) The requesting agency shall provide, in writing, prior to the flight, a statement of the purpose of the flight, the names of all passengers, their state entity affiliation and such other information as may be require to complete the "Travel Use Log".

[Source: Added at 16 Ok Reg 2024, eff 6-11-99]

CHAPTER 10. DEPARTMENT PROGRAMS

[Authority: 23 U.S.C. 101 et seq.; 69 O.S., §§ 101, 301, 303, 304, 312, 317, 318, 401, 403 through 409, 411, 412, 501, 502, 507, 601, 636.1 through 636.7, 656, 657, 659 through 662, 665, 689, 701, 1502, 1507, 1511, and 4002; P.L. 104-59 § 350]

[Source: Codified 12-31-91]

SUBCHAPTER 1. CONSTRUCTION PROGRAM

730:10-1-1. Purpose

It is the purpose of this subchapter to outline the Construction Program for various transportation projects within the State. This includes the adoption by Commission, the establishment of budgetary projections, defining the roles and responsibilities during the balancing and management processes of the Eight Year Construction Work.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Amended at 29 Ok Reg 1488, eff 6-25-12]

730:10-1-2. Adoption of the Eight Year Construction Work Plan

The Commission shall annually adopt an Eight Year Construction Work Plan for the systematic development of transportation facilities within the State. The plan shall contain the general location, contemplated work type, scheduled federal fiscal year and an estimated program cost for each project identified in the subsequent eight years.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Amended at 29 Ok Reg 1488, eff 6-25-12]

730:10-1-3. Eight Year Construction Work Plan budgetary projections

(a) The budgetary projections utilized for the basis of the fiscally responsible and financially balanced Eight Year Construction Work Plan shall be established through a systematic evaluation of the department's anticipated state-aid and federal-aid revenues and expenditures. Projections shall be performed for the subsequent eight federal fiscal years with the federal fiscal year defined as beginning October 1st and ending on September 30th. The budgetary projections shall only address funding that has been historically and/or categorically committed to state, federal and interstate highway system improvements. The budgetary projections by Commission District shall be adjusted accordingly to the reflect debt service requirements associated with any federal-aid bond program.

(b) The following formula, that considers common demographic, physical and historical criteria and yields a divisional percentage that renders an equitable distribution of the available funds, shall be applied to the statewide projections to establish a baseline fiscal year projection for each Field Division but no Commission District shall receive less than six percent (6%) of the statewide projection: ($\% \text{ of Population} + \% \text{ of Mainline Highway System Miles} + \% \text{ of Previous 15 Year Const. Program}$) divided by 3.

(c) The baseline fiscal year projection for each Field Division shall be adjusted to ensure the funds are equitably distributed by the formula. The adjustment shall consider the actual project expenditures statewide as compared to the actual project expenditures per Field Division. To eliminate drastic fluctuations in any one baseline fiscal year projection, over or under expenditures will be distributed over a four year time frame.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Amended at 29 Ok Reg 1488, eff 6-25-12]

730:10-1-4. Eight Year Construction Work Plan balancing process

(a) Project priorities among the individual Commission Districts shall be established in the context of the relative priorities for the systematic improvement of the highway system on a statewide basis.

(b) The development of Eight Year Construction Work Plan shall begin with the Field Division Engineers and will be guided by their knowledge of the transportation needs and priorities in their respective divisions. The Field Division Engineers and their staff shall work to maintain an understanding of the condition of the roads and bridges in their areas of responsibility. The general transportation system data and characteristics are considered to be fundamental considerations:

- (1) roadway condition
- (2) bridge condition
- (3) geometrics (vertical and horizontal alignment)
- (4) average annual daily traffic (AADT)
- (5) percentage of truck traffic
- (6) accident history
- (7) local, regional and national traffic patterns
- (8) capacity.

(c) This information shall be coupled with the careful consideration of the Field Division's condition and capacity assessments of the highway network and the associated critical needs, as well as, the anticipated improvement budgets and further communication with the Division's Transportation Commissioner.

(d) The Department is responsible for coordinating the State's transportation planning efforts with those of Oklahoma's Metropolitan Planning Organizations, substate planning districts and consulting with the tribal governments and local officials with responsibilities for transportation. The development of the Long Range Plan and the Statewide Transportation Improvement Plan as derived from the first four years of the Eight Year Construction Work Plan, Corridor Studies, as well as early project development all include opportunities for public participation and review. The results of this public involvement, input from ongoing coordination and consultation, and the planning documents shall be provided to the Field Division Engineers for their consideration during the development of the Eight Year Construction Work Plan.

(e) **Project Schedules.** The Department shall work to set realistic project delivery schedules, taking into account many variables, to maintain the integrity of the Eight Year Work Plan.

(f) **Additional considerations.**

(1) The final divisional projections and projects identified in the Eight Year Construction Work Plan shall be adjusted within a given year to accommodate variances to the benchmark amount resulting from the annual State and Federal appropriations process and the inherent need to maintain a balance between available funds and the divisional funding commitments.

(2) The Department may request revisions to the Eight Year Construction Work Plan to establish, cancel or revise a project. The justification for the change shall be documented and approved.

(3) Balancing the Eight Year Construction Work Plan within these guidelines shall be determined an equitable representation to the satisfaction of the Department and the Transportation Commission.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Amended at 29 Ok Reg 1488, eff 6-25-12]

730:10-1-5. Department recommendations [REVOKED]

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Revoked at 29 Ok Reg 1488, eff 6-25-12]

730:10-1-6. Request for expenditures off the highway system [REVOKED]

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Revoked at 29 Ok Reg 1488, eff 6-25-12]

730:10-1-7. Cities and towns

(a) All city or county funds which, by agreement with the Department are to be used to pay or participate in construction contract cost items shall be deposited with the Department prior to advertising the project for bids. If the city or county by agreement with the Department is to perform a portion or all of the construction work as their share of the project costs, they will not be required to deposit funds with the Department prior to advertising for bids. Where it is impossible to determine final cost of the project until construction is completed, the deposit shall be based on the engineer's quantity estimates.

(b) On construction projects which require a detour within the limits of cities and towns, the Department shall secure an agreement from the governing body of the city or town involved approving the location of the detour and committing the city

or town to the maintenance of the detour during construction, and a hold-harmless clause for any resulting damage to its streets used as a detour.

(c) The Department will not participate in costs of construction for the improvement of streets in cities or towns which are not on the state highway system except as authorized by the Commission and as provided by special agreement between the city or town and the Department.

(d) Where it is necessary to remove existing driveways and sidewalks within the limits of cities and towns, they shall be replaced as a part of the construction project and in conformance with the requirements of the Americans with Disabilities Act.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Amended at 29 Ok Reg 1488, eff 6-25-12]

730:10-1-8. Estimate of monies; annual work program [REVOKED]

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Revoked at 29 Ok Reg 1488, eff 6-25-12]

730:10-1-9. Applicability of law and rules

Preparation of the Eight Year Construction Work Plan shall incorporate the requirements of the U.S. Government Agencies, the State Legislature, other State Agencies, and Commission Rules shall govern as applicable.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Amended at 29 Ok Reg 1488, eff 6-25-12]

730:10-1-10. Commingling of funds [REVOKED]

[Source: Revoked at 17 Ok Reg 1368, eff 5-11-00]

730:10-1-11. Letting lists

Monthly letting lists shall be prepared by the Department and submitted for Commission approval. Monthly letting lists shall include pertinent information including project description, type of improvement, estimated construction cost, local matching funds, or other information as the Department or the Commission may deem necessary.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Amended at 29 Ok Reg 1488, eff 6-25-12]

730:10-1-12. Communication among government branches/agencies

The purpose of this subchapter is to establish a systematic procedure whereby full communication may exist between the Executive Branch, the Legislative Branch, the Transportation Commission and the Transportation Department. Only through the existence of open lines of communication may the common objective of maximizing the public dollar, in terms of benefits to the state highway users, be accomplished.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-1-13. Selection of lake and recreation access projects

(a) The purpose of the lake and recreation access program is to provide direct access to public user facilities located within the immediate vicinity of lakes and other recreation areas operated by a public agency of the State of Oklahoma, one of its political subdivisions, or by the federal government.

(b) The definition of direct access is based on generally accepted functional criteria defining the limits of responsibility assigned to the various governmental jurisdictions. The state highway system can logically be expected to provide for the

intrastate movement of traffic between the various areas of the state, delivering the users of the State's recreational facilities to the general area of the lake or other recreational feature. The local road system may be expected to provide intracounty service, delivering the user to the local area of recreation interest.

(c) Beyond the normal limits of state and local responsibility, the Lake and Recreation Access Program comes into consideration. This assignment of functional responsibility forms the basis for the expenditure of state transportation funds off the designated state highway system. It is a special purpose program to provide for direct user access and circulation within public facility areas built and maintained by a public agency.

- (1) The project provides primary immediate access between the local or state road systems and existing public facilities operated as part of a lake, recreation area or historical site, and/or
- (2) Provides for circulation within and between the immediate public use areas associated with the facility.
- (3) Absence of other funding sources (federal programs, other state agency funds, etc.).
- (4) Size of the recreational facility to be served.
- (5) Existing access roads serving the same area.
- (6) Availability of local assistance in offsetting a portion of the cost of the improvements (clearing, grading, and roadbed preparation by local government or agency).
- (7) Right-of-way and utility relocations must be provided at no cost to the Department.
- (8) The program is not be used to enhance private development opportunities.
- (9) Binding agreement to be entered into by appropriate local government unit or public agency for maintenance of road after completing by state. (If road is not adequately maintained, no other lake project will be approved for county or area).
- (10) The road shall not be a part of designated state highway system.
- (11) Minimum cost single project to maximize geographic distribution.
- (12) Projects are to be programmed on a statewide basis.
- (13) Formal design standards shall be developed and approved by Commission setting forth minimum right-of-way widths and other relevant geometric features.
- (14) No project will be approved for any county or city that is in arrears in their payments to the Department for right-of-way or other underwriter responsibility unless satisfactory arrangements have been made for the discharge of the delinquency.
- (15) Previously approved lake access road projects can be removed from the construction program by the Transportation Commission for reasons including, but not limited to, the county or city having failed to execute an agreement to provide right-of-way and utility relocation, failure to maintain previous projects, or failure to provide agreed local assistance.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-1-14. Selection of industrial access projects

(a) The purpose of the Industrial Access Road Program is to encourage and assist local efforts toward industrial development by providing funds for the construction or improvement of direct access facilities to specific industrial operations or to

officially designated industrial areas wherein industrial operations are underway or have been committed on a specific time schedule.

(b) The definition of direct access is based on generally accepted functional classification criteria defining the limits of responsibility of the various governmental jurisdictions for the provision of road systems adequate to respond to their constituents' needs.

(c) The responsibility of the state highway system is to provide for the interstate and intrastate traffic movement between population centers and other major traffic generators throughout the state. The local road system has the responsibility for the movement of traffic between the state highway system and localized areas of attraction. This local responsibility includes providing adequate roads to serve workers living in the area where the industry is located.

(d) The "Industrial Access Road Program" is designed to provide assistance to local industrial development efforts by funding, within practical limitations, access facilities connecting a specific industry or industrial area directly to the state highway system or local road system. Existing general purpose roads serving areas where industry is located do not qualify as industrial access roads.

(e) In general, an industrial access road is one where the only justification for its construction or improvement is the existence of a viable industrial operation at either of its termini. Criteria to be considered are as follows:

(1) The project provides primary, immediate access between the local or state road systems and existing or committed industrial operations and/or areas.

(2) The project will provide circulation within an existing or committed industrial area or park, connecting several specific features or operations within the boundaries of the industrial area or industrial park.

(3) State participation requested in relation to other available funding sources (federal programs, other state agencies, local sources, etc.).

(4) Magnitude of the industrial operation, present and potential.

(5) Existing access serving the industrial area.

(6) Availability of local participation to match state highway funds (either money or services).

(7) The project must be exclusively on public right-of-way.

(8) Right-of-way and utility relocations to be furnished at no cost to Department (including necessary utility adjustments).

(9) The project will not be used to enhance speculative development opportunities.

(10) Project is to be sponsored by trust, foundation or other public or corporate entity having legal authority to enter into a satisfactory agreement with the Department on such items as cost sharing, design of the proposed project, and to accept responsibility for satisfactory maintenance of the facility upon completion.

(11) If facility is not adequately maintained, no future industrial projects will be approved for the county, city or authority.

(12) The project will not be designated as a part of the state highway system.

(13) Minimum cost single project to maximize geographic distribution.

(14) Projects to be programmed on a statewide basis.

(15) Formal minimum design standards to be approved by Commission setting forth minimum right-of-way widths and other relevant geometric features.

(16) No project will be approved for any county or city that is in arrears in their payments to the Department for right-of-way or other underwriter responsibility unless satisfactory arrangements have been made for the discharge of the delinquency.

(17) Previously approved projects can be removed from construction program by approval of the Transportation Commission for reasons including county, city or authority having failed to execute a formal agreement to provide right-of-way and utility relocations, failure to maintain previous projects, or failure to provide agreed local assistance.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-1-15. Selection of airport access projects [REVOKED]

[Source: Revoked at 17 Ok Reg 1368, eff 5-11-00]

SUBCHAPTER 3. SURFACE TRANSPORTATION PROGRAM

730:10-3-1. Purpose

The purpose of this subchapter is to delineate the manner in which the Department of Transportation interrelates with the seventy-seven (77) counties in Oklahoma and the federal government in the management of Surface Transportation Program projects. This includes, but is not limited to:

- (1) Long range plans
- (2) Right-of-way procurement
- (3) Design and engineering
- (4) Construction and maintenance

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-3-2. Apportionment for the Surface Transportation Program

Six million dollars (\$6,000,000.00) per year of the state's apportioned federal-aid Surface Transportation Program funds shall be set aside to be matched by counties for the construction of county major collector roads. The apportioned funds will be available to counties that can match the federal funds until such funds are depleted for any fiscal year.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-3-3. Secondary Road Plan; commitment of federal funds [REVOKED]

[Source: Revoked at 17 Ok Reg 1368, eff 5-11-00]

730:10-3-4. Incomplete projects

Any county Surface Transportation Program or bridge replacement project that has not progressed through the design stage and right-of-way acquisition and is not ready to let to contract within two years after the date of receipt of the programming resolution may be canceled by the Department and all federal funds intended for the project shall be available through the Department to other counties.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-3-5. Declaration of intention

Resolutions requesting the Department to add county highways to the major collector system shall contain a declaration of the intention of the Board of County

Commissioners to:

- (1) File requests from time to time for the construction of an all-weather facility on this route, and
- (2) Furnish county funds to match Surface Transportation Program funds to pay the construction cost of any project requested on the proposed route.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-3-6. Construction/design standards; inspections; maintenance; right-of-way

The following policies and procedures shall be followed on all county Surface Transportation Program projects:

- (1) Only registered professional engineers, qualified by the Department, shall be approved to design and perform construction engineering work on federal-aid Surface Transportation Program projects.
- (2) Federal-aid Surface Transportation Program projects shall be designed to the current State of Oklahoma County Roads Design Guidelines or better. Only a design adequate for the projected traffic volumes will be approved. Insufficient funds will not be a valid reason for a reduction of design standards.
- (3) The Department will be responsible for the necessary construction inspection on county federal-aid projects. The engineer making the construction inspection shall review the work on a regular basis and see that any unsatisfactory engineering or construction practice is corrected. The inspector shall prepare a construction report and furnish a copy of the report to the Chairman of the Board of County Commissioners of the county involved and retain a copy for the Department's files.
 - (A) The engineer in charge shall make regular reports of materials tests, inspections, and construction activities, in keeping with standard Department practices. The Department shall maintain a file of such reports.
 - (B) Before any county federal-aid Surface Transportation Program project is accepted by the Department, core tests, depth tests and density determinations as applicable to the type of surfacing, analysis of materials, material reports and any other requested information shall be available to the Department and shall be made a part of the Department's record file.
- (4) A maintenance agreement between the Department and the county shall obligate the county to provide competent personnel and adequate equipment to satisfactorily maintain the type of highway constructed and shall provide for special maintenance care of the project during the critical period immediately following construction.
- (5) The Department shall make a maintenance inspection of the project at least every six months during the first year after construction and then at least once yearly during the estimated service life of the project. Inspection reports will be forwarded to the Chairman of the Board of County Commissioners and any deficiencies in maintenance shall be corrected in order to place the project in satisfactory condition.
- (6) All rights-of-way shall be acquired in accordance with 69 O.S., Sections 1204 through 1206, as amended. On any project where federal funds are involved all federal rules and regulations shall be complied with in acquiring the rights-of-way.

730:10-3-7. Bridge weight posting; elimination of less than three (3) ton bridges; sanctions

(a) Load posting requirements and procedures.

(1) The Department shall furnish, on a quarterly basis, to consulting firms or other appropriate entities responsible for inspecting bridges, a list for review of bridges with missing or incorrect load limit signs. Subsequent to a review of this list it will be forwarded to the appropriate city or county official. Counties and cities shall survey those locations listed and correct the deficiencies.

(2) Counties and cities shall replace missing signs within ninety (90) days after notification and shall certify to the Department, by resolution from a county or properly authorized certification signed by the chief executive officer of a municipality, that missing signs identified by the survey have been replaced.

(3) Based on these resolutions, the database of the National Bridge Inventory will be revised by the Department to reflect updated sign posting data received from counties and cities before a computer tape is forwarded to Federal Highway Administration.

(4) The Department, as directed by the Federal Highway Administration, shall withhold fund allocations for federal-aid projects from those local government jurisdictions that are not in compliance with federal load posting requirements.

(b) Less than three (3) ton bridges.

(1) A less than three (3) ton bridge Action Plan which is adopted by official resolution of each local government must be submitted to the Oklahoma Department of Transportation within thirty (30) days from the date the affected county or city is notified to accomplish closure of all public bridges with a rated load capacity of less than three (3) tons. Programming a bridge for replacement and leaving it open to traffic awaiting funding is not a satisfactory plan. The less than three (3) ton bridge Action Plan shall state when each bridge will be closed or present other acceptable actions to correct the deficient load capacity.

(2) For the protection of the traveling public any bridge rated less than three (3) tons shall be closed within 30 days of notification. Such bridges must remain closed until strengthening, shoring, or repair can be engineered and completed to assure that the bridge can safely rate three (3) tons or greater. In situations where temporary measures are used to raise the capacity rating to three (3) tons or greater, more frequent inspections may be required on the bridge as part of the less than three (3) ton bridge Action Plan as determined by the inspecting engineer.

(3) Where repair work is done on a bridge to raise the capacity to three (3) or more tons, a new rating shall be made by a Professional Engineer after an inspection which is performed subsequent to completion of the repair work. The new inspection forms and rating data shall be furnished to the Department which shall include the new data in the National Bridge Inventory computer file and remove the bridge from the list of bridges that must be closed.

(4) A local government may remove a bridge with some length of adjoining roadway from the public road system where the road and bridge serve one

or two property owners. The local government, at its discretion, may abandon the bridge where ownership would revert back to adjacent property owners. The road must be removed from the county road system and closed as a public road in accordance with applicable statutes. A copy of this removal action shall be provided to the Department which shall remove the bridge from the bridge inventory and from the list of bridges that must be closed.

(5) The Department, as directed by the Federal Highway Administration, shall withhold federal fund allocations for projects within the jurisdiction of local governments which are not in compliance with federal bridge requirements. This withholding of federal fund allocations shall be effective immediately upon notification to the local government of their failure to submit an Action Plan which complies with all Federal Highway Administration mandates. The Department shall report any such sanction to the Transportation Commission at its next regular meeting.

[Source: Added at 11 Ok Reg 1895, eff 5-12-94; Amended at 17 Ok Reg 1368, eff 5-11-00]

SUBCHAPTER 5. SURFACE TRANSPORTATION PROGRAM FOR MUNICIPALITIES

730:10-5-1. Purpose; Intermodal Surface Transportation Efficiency Act

"The Intermodal Surface Transportation Efficiency Act of 1991" established a federal-aid program and appropriated federal matching funds for the construction of transportation facilities in urban areas. The rules of this Subchapter detail the guidelines and eligibility requirements for urban municipalities to participate in this federal funding.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-5-2. Eligibility for federal matching funds

Upon approval by the Department of a municipality's functional classification system, projects on such urban systems shall become eligible for federal matching funds.

(1) Federal funds for urban projects will be apportioned to the Oklahoma City and Tulsa urbanized areas in accordance with the "Distribution of Surface Transportation Program Funds" formula as set forth in the Intermodal Surface Transportation Efficiency Act. Federal funds for small urban areas with populations less than 50,000 but greater than 5,000 will be made available to the cities on a priority basis by the Commission. The intent of the program is to make federal urban system funds available to a maximum number of interested cities which can provide the local matching project funds.

(2) Any project to be programmed by the Commission shall be presented to the Department by a formal resolution accompanied by an engineering agreement. Those urban areas in excess of 50,000 population shall submit their programming resolutions through their local "Section 134" Metropolitan Planning Organization (MPO). The MPO shall then certify that the project programmed is in accordance with the area's long-range planning and consistent with priorities outlined in the short-range capital improvement program.

(3) No federal-aid project shall be advertised for contract letting until all federal and state requirements have been satisfied. Rights-of-way must be acquired and necessary right-of-way documents and utility relocation schedules must be approved by the Department. The city must deposit its share of the local matching funds with the Department prior to advertising for bids on the project.

(A) The project will be officially programmed by the Commission, subject to availability of federal funds, only when all of the conditions in this section have been met and the project is ready to be advertised for contract letting.

(B) Acceptance by the Department of the original city programming resolution does not constitute commitment of federal funds.

(4) Any federal-aid project that has not progressed through the design stage and right-of-way acquisition and is not ready to let to contract within two years after the date of receipt of the programming resolution may be canceled by the Department and all federal funds intended for the project shall be available through the Department to other cities.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-5-3. Declaration of intention to request improvement and furnish matching funds

Resolutions requesting the Department to reclassify local jurisdiction streets shall contain a declaration of the intention of the local municipal authority to:

(1) File requests from time to time for the construction improvement of the route; and

(2) Furnish local matching funds to pay the construction costs of any project requested on the proposed route.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-5-4. Initiative responsibility

The initiative for programming projects on the municipalities functional classification system shall be the responsibility of the local governmental agency having jurisdiction over the proposed improvement.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-5-5. Program agreements

Projects on state highways on the municipalities functional classification system shall be accompanied by an agreement between the local governmental agency and the Department stipulating the terms of preliminary engineering, environmental studies, construction and financing of such projects.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-5-6. Agency documentation; public hearings

The agency or local government entity which initiates the project shall be responsible for furnishing all reports, copies of reports, documents and other papers required by the State and Federal Highway Administration, including all environmental studies and clearances. Public hearings, when required, shall be held by the sponsoring agency.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-5-7. Agency responsibilities

Plans, surveys, engineering, right-of-way and utility relocation and the costs thereof shall be the responsibility of the sponsoring agency or agencies. Registered professional engineers shall prepare all plans, specifications, and estimates on projects.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-5-8. Design features

Design features of federal-aid system projects shall, as a minimum, be in accordance with the requirements established by appropriate design standards for the type of facility being constructed. All Federal-aid system projects shall conform to the current edition of the "State Transportation Department Standard Specifications for Highway Construction" and special provisions. Approval of the plans and specifications by the State Transportation Department shall constitute acceptance of the design features. All Federal-aid system projects shall be awarded to contract by the Oklahoma Transportation Commission.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-5-9. Construction supervision

Construction supervision will be the responsibility of the Department and the costs thereof will be included in the project construction costs on the normal participation percentage basis. State funds will not be used for this purpose unless the Department is participating in part of the local share of construction costs on a state highway.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-5-10. Core testing; depth testing; density determination

Before any federal-aid project is accepted by the Department, core tests, depth tests and density determinations, whichever are applicable to the type of surfacing, analysis of materials, material reports and any other requested information shall be furnished to the Department and shall be made a part of the Department's record file.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-5-11. Maintenance responsibility

Except as is otherwise specifically provided in 69 O.S. § 901, maintenance of the completed facilities shall be the responsibility of the city and the project agreement shall obligate the city to provide competent personnel and adequate equipment to satisfactorily maintain the type of highway constructed and shall provide for special maintenance care of the project during the critical period immediately following construction.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-5-12. Inspection reports

The Department shall make a maintenance inspection of the project at least once every six months for the first year after construction and then at least once yearly for the estimated life of the facility. Inspection reports will be forwarded to the city and any deficiencies in maintenance shall be corrected in order to place the

project in satisfactory condition.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

SUBCHAPTER 7. COUNTY BRIDGE AND ROAD IMPROVEMENT PROGRAM

730:10-7-1. Purpose [REVOKED]

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Revoked at 38 Ok Reg 2562, eff 9-11-21]

730:10-7-2. Funding source [REVOKED]

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Revoked at 38 Ok Reg 2562, eff 9-11-21]

730:10-7-3. Apportionment of County Bridge and Road Improvement Revolving Fund [REVOKED]

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Revoked at 38 Ok Reg 2562, eff 9-11-21]

730:10-7-4. Use of funds [REVOKED]

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Revoked at 38 Ok Reg 2562, eff 9-11-21]

730:10-7-5. Request for funds; advance funding [REVOKED]

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Revoked at 38 Ok Reg 2562, eff 9-11-21]

730:10-7-6. Limitations on use of funds [REVOKED]

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Revoked at 38 Ok Reg 2562, eff 9-11-21]

730:10-7-7. Programming of Projects [REVOKED]

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Revoked at 38 Ok Reg 2562, eff 9-11-21]

730:10-7-8. Project selection [REVOKED]

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Revoked at 38 Ok Reg 2562, eff 9-11-21]

730:10-7-9. Emergency transportation projects [REVOKED]

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Revoked at 38 Ok Reg 2562, eff 9-11-21]

730:10-7-10. Project approval [REVOKED]

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Revoked at 38 Ok Reg 2562, eff 9-11-21]

730:10-7-11. County force account projects [REVOKED]

[Source: Amended at 14 Ok Reg 2352, eff 6-12-97; Amended at 17 Ok Reg 1368, eff 5-11-00; Revoked at 38 Ok Reg 2562, eff 9-11-21]

730:10-7-12. Rights-of-way and relocation of utilities [REVOKED]

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Revoked at 38 Ok Reg 2562, eff 9-11-21]

730:10-7-13. Engineering [REVOKED]

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Revoked at 38 Ok Reg 2562, eff 9-11-21]

730:10-7-14. Design standards [REVOKED]

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Revoked at 38 Ok Reg 2562, eff 9-11-21]

730:10-7-15. Bridge construction [REVOKED]

[Source: Revoked at 17 Ok Reg 1368, eff 5-11-00]

730:10-7-16. Maintenance of completed projects [REVOKED]

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Revoked at 38 Ok Reg 2562, eff 9-11-21]

SUBCHAPTER 9. FEDERAL-AID HIGHWAY SAFETY IMPROVEMENT

730:10-9-1. Purpose; Safety Act and amendments

The 1966 Federal Highway Safety Act, as amended, established standards and programs for the purpose of reducing the numbers of persons killed and injured from motor vehicle collisions. This Subchapter defines the conduct and requirements for the statewide Federal Aid Highway Safety Improvement Program.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-9-2. Priorities

All projects included in this program shall be based on priorities established through the comprehensive engineering analysis of statewide motor vehicle collisions and shall be developed by the professional staff of the State Transportation Department. The priorities established shall be used as the sole basis for the allocation of federal highway safety funds, and shall be consistent with applicable federal-aid and state program requirements.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-9-3. Multigovernment effort; improvement categories

This program requires a joint effort at the local, state, and federal levels to improve highway traffic safety on all streets and highways in Oklahoma, and has been designed to provide the kind of improvements which will achieve the maximum potential for the reduction of collisions and associated deaths and injuries. Improvement costs shall be within the following categories:

- (1) Channelization of intersections.
- (2) Addition and upgrading of traffic control signs, pavement markings, signals, and other devices to increase the safety of vehicular, pedestrian, and railroad traffic.
- (3) Lighting systems.
- (4) Modification and addition of traffic lanes on approaches to intersections.
- (5) Elimination of roadside obstacles.
- (6) Curve corrections.
- (7) Positive guidance systems through narrow bridges.
- (8) Surface treatments for eliminating skid hazards.
- (9) Modifications associated with restricting curb parking.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-9-4. Initiative responsibility; program continuity

In order to maintain a statewide program continuity, the initiative for programming projects under this program shall be the responsibility of the Department. If the project is located on any street or county road, the Department will not seek Commission approval until the local public authority having jurisdiction over the proposed improvement formally and declares their intent to proceed with the project.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-9-5. Design procedure and standards

(a) Plans, surveys, certifications, engineering, right-of-way, utility relocation, public hearings and the costs thereof shall be the responsibility of the local units of government, and federal-aid funds shall not be made available by the Department for these purposes. In urbanized areas, federal monies dedicated specifically for use by the MPO may be utilized for any purpose authorized by federal law or regulation and deemed appropriate by the MPO. Only registered professional engineers shall prepare plans, specifications, and estimates on local projects.

(b) The Department shall provide the local public authority with a design procedure for the project along with a time schedule outlining target dates for timely project submission and contract letting. Any local project that is not placed under contract within one year from the date of Commission approval of the project shall be canceled unless a time extension is requested and granted. All funds for projects removed from the program shall be reapportioned to another priority project. No project in a local jurisdiction shall be advertised for contract letting until:

- (1) All necessary rights-of-way have been provided by the local public authority, free and clear of all encroachments.
- (2) The utilities have been relocated.
- (3) The local share required to match the federal aid funds has been deposited with the Department.
- (4) The formal maintenance agreements have been executed between the Department and local public authority.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-9-6. Construction supervision

Construction supervision shall be the responsibility of the Department, and the cost thereof shall be included as a part of the construction costs.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-9-7. Maintenance of completed projects

Except as specifically provided in 69 O.S. § 901, maintenance of the completed facilities shall be the responsibility of the local public authority, and a formal maintenance agreement shall obligate the local public authority to insure that competent personnel and adequate equipment are made available to satisfactorily maintain the type of facility constructed. Any reported deficiencies in maintenance shall be corrected immediately by the local public authority, and no additional projects will be approved for the local jurisdiction until the deficiencies have been corrected.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-9-8. Additions to highway system restricted

No additions whether temporary or permanent shall be made to the state highway system for the sole purpose of decreasing the city or county financial contribution for projects under this program. Additions to the state highway system, exclusive of turnpikes, which result in a cumulative increase of one or more miles to the total highway system mileage within a Commission District as that mileage existed on January 1, 2000 must be accompanied by a corresponding removal of mileage. It is the intent of this rule to maintain the highway system mileage within each Commission District at a level of no more than one mile greater than the mileage as it existed on January 1, 2000.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

SUBCHAPTER 11. COUNTY ROAD MACHINERY AND EQUIPMENT REVOLVING FUND

730:10-11-1. Purpose

This Subchapter establishes procedures for the proper and efficient administration of the "County Road Machinery and Equipment Revolving Fund" as provided for by 69 O.S. Section 636.1 et seq.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-11-2. Financing; authorized expenditures

(a) A revolving fund was created and designed as "County Road Machinery and Equipment Revolving Fund," consisting of all appropriations and deposits resulting from lease, lease purchase, sale or resale of equipment purchased out of monies in the revolving fund.

(b) All purchases of new, surplus or used road machinery and equipment, for use by the counties as provided by this program, shall be charged to this fund.

(c) Any cost to repair or recondition machinery and equipment performed by the Department may be charged to this fund.

(d) All cost to administer this program may be charged to this fund.

(e) The cost to acquire space for storing road machinery and equipment may be charged to this fund.

(f) Any costs or expenses necessarily incurred by the Department of Transportation in the administration of a county inventory system for materials, supplies, and equipment used for the construction and maintenance of roads and bridges as provided in Section 658 may be paid from this fund.

[Source: Amended at 16 Ok Reg 1258, eff 5-13-99; Amended at 17 Ok Reg 1368, eff 5-11-00]

730:10-11-3. Purchasing procedures

All purchases made under this program will be done in accordance 69 O.S. Section 636.1 through 636.7 and Policies and Procedures approved by the Oklahoma Department of Transportation County Advisory Board.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00]

SUBCHAPTER 13. COUNTY ENGINEERING SERVICES [REVOKED]

730:10-13-1. Purpose [REVOKED]

[Source: Revoked at 17 Ok Reg 1368, eff 5-11-00]

730:10-13-2. Financing [REVOKED]

[Source: Revoked at 17 Ok Reg 1368, eff 5-11-00]

730:10-13-3. Basic engineering agreements; design standards [REVOKED]

[Source: Revoked at 17 Ok Reg 1368, eff 5-11-00]

730:10-13-4. Assignment of Department responsibilities [REVOKED]

[Source: Revoked at 17 Ok Reg 1368, eff 5-11-00]

730:10-13-5. Implementation; promulgation of rules [REVOKED]

[Source: Revoked at 17 Ok Reg 1368, eff 5-11-00]

SUBCHAPTER 15. PROJECT DEVELOPMENT PROCEDURES

730:10-15-1. Purpose

It is the purpose of this subchapter to outline the project development process for projects identified in the Eight Year Construction Work Plan. This includes using project management methodologies throughout the project development process.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Amended at 29 Ok Reg 1488, eff 6-25-12]

730:10-15-2. Project development process

(a) The Department shall establish and maintain meaningful project schedules, establish accountability for project components, manage the construction program and measure performance. Since it is not possible to create a single project development process or schedule that will prove effective for every project every time, the Department shall establish a milestone based project schedule for each project identified in the Eight Year Construction Work Plan.

(b) As more detailed information becomes available during the course of project development, the Department shall facilitate necessary modifications to the scope, schedule and/or budgets of approved Eight Year Construction Work Plan projects through a formal revision process.

[Source: Amended at 17 Ok Reg 1368, eff 5-11-00; Amended at 29 Ok Reg 1488, eff 6-25-12]

SUBCHAPTER 17. TRANSPORTATION ENHANCEMENT PROGRAM

730:10-17-1. Purpose and scope

(a) The Oklahoma Department of Transportation will accept proposals for Transportation Enhancement Projects, to fund, in part, transportation enhancement activities having a direct relationship to the Intermodal Transportation System. The State of Oklahoma anticipates receiving apportionments of twelve million dollars annually in federal funds for the enhancement program. The enhancement funding is directed to non-traditional transportation activities not customarily within the scope of environmental mitigation. The Oklahoma Transportation Commission will utilize a portion of the transportation enhancement funds for enhancement projects deemed to represent the interest of the State of Oklahoma. Funds available under the enhancement program may be used for up to eighty percent (80%) of the eligible project costs. The remaining twenty percent (20%) of the project funds

must be provided as a cash contribution by the project sponsor. "In-Kind" services may not be utilized for all or any portion of the project sponsor's twenty percent (20%) contribution.

(b) Applications for funds may be for reimbursement participation in the project, or for a project to be awarded by the Transportation Commission.

[Source: Added at 10 Ok Reg 4681, eff 10-11-93; Amended at 16 Ok Reg 479, eff 12-10-98 (emergency); Amended at 16 Ok Reg 1258, eff 5-13-99]

730:10-17-2. Eligibility

(a) Project proposals will be accepted from Federal and State agencies, along with Tribal, County and local governments, for allocation of Transportation Enhancement funding.

(b) Categories of projects eligible for Transportation Enhancement Program funding are as follows:

- (1) Provision of facilities for pedestrians and bicycles
- (2) Provision of safety and educational activities for pedestrians and bicyclists
- (3) Acquisition of scenic easements and scenic or historic sites
- (4) Scenic or historic highway programs (including the provision of tourist and welcome center facilities)
- (5) Landscaping and other scenic beautification
- (6) Historic preservation
- (7) Rehabilitation and operation of historic transportation buildings, structures or facilities (including historic railroad facilities and canals)
- (8) Control and removal of outdoor advertising
- (9) Archaeological planning and research
- (10) Environmental mitigation to address water pollution due to highway runoff or to reduce vehicle-caused wildlife mortality while maintaining habitat connectivity
- (11) Establishment of transportation museums

(c) Proposed projects or work to be accomplished must have a direct relationship to the Intermodal Transportation System. The proposed work does not necessarily have to have a direct relationship to a currently planned highway project. The required relationship to the Intermodal Transportation System may be one of function, proximity, or impact. For example:

- (1) An independent bike path is a functional part of the intermodal transportation system.
- (2) Removal of outdoor advertising within sight of a highway is justified because of its proximity.
- (3) Retrofitting an existing highway by creating a wetland to filter runoff from the highway would qualify based on the impact on water pollution from the highway.

(d) When enhancement funds are utilized in connection with a project, enhancement funds for environmental mitigation shall only be used for mitigation actions which are beyond what is customarily provided as environmental mitigation.

[Source: Added at 10 Ok Reg 4681, eff 10-11-93; Amended at 16 Ok Reg 479, eff 12-10-98 (emergency); Amended at 16 Ok Reg 1258, eff 5-13-99]

730:10-17-3. Sponsor participation

(a) Successful applicants must agree to provide a minimum of twenty percent (20%) of the funds to pay the total project cost and demonstrate to the satisfaction of the Department the ability to provide this match. Costs eligible to receive matching funds include environmental analysis, preliminary engineering, right-of-way acquisition, construction and construction supervision. The Department will determine other associated costs eligible for Federal participation. When applicable, the Department's preliminary engineering and construction engineering expenses (for plan review and applicable project construction inspection) will be included in the overall project cost.

(b) The applicant will be responsible for plan preparation. The Department will review the developed plans for compliance with environmental Federal, and Departmental procedures and requirements.

[Source: Added at 10 Ok Reg 4681, eff 10-11-93; Amended at 16 Ok Reg 479, eff 12-10-98 (emergency); Amended at 16 Ok Reg 1258, eff 5-13-99]

730:10-17-4. Application review-criteria-approval

(a) Proposals will be presented to the Department as set forth in Rule 730:10-17-7.

(b) After proposals are received they will be reviewed in the Special Projects Branch for general acceptability, eligibility for funding, the ability of the project sponsor to complete the project and the ability of the project sponsor to fund its portion of the project. The Department shall develop a project and sponsor evaluation worksheet which shall be used in the evaluation process for each project and sponsor to determine acceptability of the proposal.

(c) If the proposed project and sponsor are found to be generally acceptable, the proposal shall be distributed to the committee consisting of State agencies and organizations with broad-based interest in areas encompassed by the enhancement program which is appointed to review, analyze and prioritize projects.

(d) The committee shall utilize the following criteria to prioritize enhancement project proposals.

(1) Projects that clearly enhance the quality or utility of existing or new transportation facilities or services.

(2) Projects which can be completed with the Transportation Enhancement Funds requested and the matching funds pledged by the applicant. The project must not be dependent on contingent funding or receipt of additional or continuing Transportation Enhancement Funding, and must represent a complete, identifiable, and useable facility or entity as opposed to a component of a larger project.

(3) Projects which benefit a relatively large percentage of community, region, or State population.

(4) Projects which enhance the State's travel and tourism efforts.

(5) Projects which contribute to a wide geographical dispersion of the Transportation Enhancement Funds within the State.

(6) Consistency with local and regional comprehensive land use and transportation plans. Priority shall be assigned to projects which actively advance the goals and policies contained in such plans.

(7) Projects which have the support of clearly recognized public or not-for-profit organizations of national, statewide, or regional scope with unqualified expertise in the subject matter of the application.

(8) The extent to which applicants indicate a commitment to provide extra effort or additional funding above the minimum matching requirement.

(e) Project proposals will be presented to the Transportation Commission in the form of a prioritized listing including the location of the project, a brief description of the project, the name of the project sponsor, Transportation Enhancement Funds required, and whether funds are available in this fiscal year. The Commission shall approve projects to be funded. Projects which can not be funded during the current fiscal year may be resubmitted for funding during the next application cycle.

[Source: Added at 10 Ok Reg 4681, eff 10-11-93; Amended at 16 Ok Reg 479, eff 12-10-98 (emergency); Amended at 16 Ok Reg 1258, eff 5-13-99]

730:10-17-5. Time for submission

The Department will formally announce the opening of a public application cycle in the Oklahoma Register. Proposals may be submitted to the Department's Special Projects Branch in accordance with the requirements of the formal announcement. The program of enhancement projects will be presented for approval by the Oklahoma Transportation Commission and the successful applicants will be notified. Approved projects will be awarded by the Transportation Commission, or the Director of the Department shall be authorized to enter into an appropriate reimbursement agreement. If the Commission is to award the contract for the project, the project sponsor's share of the project cost will be placed on deposit with the Department prior to final project processing.

[Source: Added at 10 Ok Reg 4681, eff 10-11-93; Amended at 16 Ok Reg 479, eff 12-10-98 (emergency); Amended at 16 Ok Reg 1258, eff 5-13-99]

730:10-17-6. Reimbursements

(a) Projects approved for reimbursement shall provide for adequate fiscal controls and project certification to insure the accuracy of eligible project quantities prior to reimbursement.

(b) No additional funds for projects constructed under a reimbursement agreement will be approved by the Commission.

[Source: Added at 10 Ok Reg 4681, eff 10-11-93]

730:10-17-7. Enhancement program coordinator-receipt of application

Detailed information concerning applications and application packets may be obtained from the Special Projects Branch of the Oklahoma Department of Transportation. Completed application packages shall be submitted to the Special Projects Branch.

[Source: Added at 10 Ok Reg 4681, eff 10-11-93; Amended at 16 Ok Reg 479, eff 12-10-98 (emergency); Amended at 16 Ok Reg 1258, eff 5-13-99]

SUBCHAPTER 19. CERTIFICATION ACCEPTANCE

730:10-19-1. Purpose

This subchapter provides for a Certification Acceptance (CA) program that permits local agencies to participate in a voluntary program which allows the local agency to take an active role in the development and oversight of locally sponsored federal-aid projects.

[Source: Added at 14 Ok Reg 2352, eff 6-12-97]

730:10-19-2. Adoption of a manual for the certification acceptance program

The Department of Transportation shall prepare a manual which provides for procedures to be used to implement a Certification Acceptance program. Certification Acceptance is a voluntary program which enables cities/counties to exert greater control over all aspects of locally sponsored federal-aid transportation projects processed by the Local Government Division of the Department of Transportation. The local agency will have the opportunity to be responsible for the oversight of the design of the project, production of the environmental clearance documents, right-of-way and utility clearances, project advertisement, letting and award, and construction supervision. A project agreement between the local agency and the Department of Transportation will set forth the duties and responsibilities of each party involved. By having greater control of the project phases, the local agency can better schedule projects and utilize limited resources.

[Source: Added at 14 Ok Reg 2352, eff 6-12-97]

SUBCHAPTER 21. OKLAHOMA STATE INFRASTRUCTURE BANK

730:10-21-1. Purpose

The purpose of the Oklahoma State Infrastructure Bank (OSIB) is to fund transportation solutions which will enhance the economic development of Oklahoma and provide safety to its citizens. This will be accomplished by providing leveraged financing for the construction, restoration, or replacement of public transportation facilities limited to highways, bridges, roads, streets, rail crossings, and right-of-way acquisition.

[Source: Added at 15 Ok Reg 2046, eff 5-26-98]

730:10-21-2. Authority

The policies of this chapter are promulgated in accordance with:

- (1) The provisions of the Oklahoma State Infrastructure Bank Act, Title 69, Oklahoma Statutes, § 403, et seq. (The Act) and any amendments thereto;
- (2) The provisions of the United States Public Law 104-59, § 350, et seq. (The Act) and any amendments thereto.

[Source: Added at 15 Ok Reg 2046, eff 5-26-98]

730:10-21-3. Administration

Responsibility for the administration of the State Infrastructure Bank is hereby vested in the Office of the Comptroller. Comptroller reviewed preliminary and final applications will be presented to the Transportation Commission for approval. The Commission acknowledges the necessity for support of the program by all central office and field divisions in the performance of the Department's duties and responsibilities under the Act and this chapter.

[Source: Added at 15 Ok Reg 2046, eff 5-26-98]

730:10-21-4. Use of funds

The Department is authorized to expend any unobligated funds accumulated in the State Infrastructure Bank Revolving Fund. The fund will be capitalized with both state and federal funding, and revenue will be derived from interest income on loan repayments and penalty payments. These funds will be used to provide leverage financing to eligible applicants.

[Source: Added at 15 Ok Reg 2046, eff 5-26-98]

730:10-21-5. Eligible applicants

Eligible borrowers include state agencies, counties, cities, special districts, municipal corporations, and Indian tribal governments with eligible projects. The applicant shall demonstrate to the Comptroller and the Transportation Commission an identifiable revenue stream to assure sufficient revenue to pay debt service.

[Source: Added at 15 Ok Reg 2046, eff 5-26-98]

730:10-21-6. Eligible projects

An eligible project will be the construction, restoration, or replacement of public transportation facilities, limited to highways, bridges, roads, streets, rail crossings, and right of way acquisition that would enhance the economic development of Oklahoma or provide safety to its citizens. Projects funded from the federal capitalization of the OSIB must comply with all applicable federal, state, and local laws, rules, and regulations. Projects funded from the repayment account are relieved from the federal laws, rules and regulations but must meet state and local requirements.

[Source: Added at 15 Ok Reg 2046, eff 5-26-98]

730:10-21-7. Time for submission

Loan applications may be submitted to the Department's Comptroller no later than June 30, 1998, and thereafter each January 31st during the life of the program. The qualified applications will be presented for approval by the Oklahoma Transportation Commission at the September, 1998 Commission meeting, and the April Commission meeting thereafter, and the successful applicants will be notified. The Director of the Department shall be authorized to enter into all Commission approved agreements.

[Source: Added at 15 Ok Reg 2046, eff 5-26-98]

SUBCHAPTER 23. COUNTY IMPROVEMENTS FOR ROADS AND BRIDGES PROGRAM

730:10-23-1. Purpose and Authority

The purpose of the County Improvements for Roads and Bridges Program (CIRB) is to construct or reconstruct county roads or bridges on the county transportation system that are of the highest priority as defined by the Transportation Commission as established by the provisions in Title 69 O.S. Section 507.

[Source: Added at 24 Ok Reg 224, eff 10-20-06 (emergency); Added at 24 Ok Reg 1697, eff 6-11-07]

730:10-23-2. Funding Source

The County Improvements for Roads and Bridges Fund is financed by a dedicated portion of vehicle licensing and registration fees, taxes and penalties. Funding for this program may be augmented, as provided by law, with federal funds and funds from other sources which may be available for county roads and bridges.

[Source: Added at 24 Ok Reg 224, eff 10-20-06 (emergency); Added at 24 Ok Reg 1697, eff 6-11-07]

730:10-23-3. Allocation of Funds

The funds apportioned to the County Improvements for Roads and Bridges Fund shall be distributed in equal amounts to the various Transportation Commission Districts.

[Source: Added at 24 Ok Reg 224, eff 10-20-06 (emergency); Added at 24 Ok Reg 1697, eff 6-11-07]

730:10-23-4. Use of Funds

Funds available to the County Improvements for Roads and Bridges Program may only be expended on high priority projects included in a fiscally constrained five-year construction work plan cooperatively developed, maintained and updated annually by the Circuit Engineering Districts and the Department of Transportation and to be used for the following purposes as approved by the Department:

- (1) Construction projects to replace or reconstruct structurally deficient, functionally obsolete, destroyed or unusable bridges on the county transportation system in accordance with Department established design and construction requirements.
- (2) Construction projects for the improvement of county roads in accordance with Department established design and construction requirements.
- (3) Matching other funds available for county road or bridge construction projects, provided it can be substantiated that the applicable funds will be available at the time of a qualifying and scheduled project expenditure.
- (4) Project engineering costs including those identified in paragraph (8) of this section.
- (5) The cost of right-of-way, the costs of relocation of utilities from the right-of-way so acquired, and the costs of employing or contracting with qualified individuals to assist a county or counties in properly acquiring and clearing the right-of-way.
- (6) The cost of reconstruction or replacement of roadway structures which may be less than twenty (20) feet in length.
- (7) The expense and related costs of employing or contracting with qualified individuals to assist a county or counties in carrying out the environmental clearance, design, contract administration and the inspection of construction, including the reimbursement of project related expenses incurred by the county's engineer or Circuit Engineering District.

[Source: Added at 24 Ok Reg 224, eff 10-20-06 (emergency); Added at 24 Ok Reg 1697, eff 6-11-07; Amended at 38 Ok Reg 2565, eff 9-11-21]

730:10-23-5. Project eligibility and approval

Projects shall be considered and approved for inclusion in the five year construction work plan annually by the Department of Transportation on the basis of specific project evaluation criteria. These criteria shall generally consider factors including the ability of the county to effect the improvements through the utilization of other resources and funding mechanisms, the priority of the project as established by the Circuit Engineering District, project feasibility and cost including the ability of the county to participate, existing phase of project development, anticipated safety and mobility benefits realized by the traveling public and commerce, and the extent the project will improve the overall level of service and longevity of the county transportation system in the area.

[Source: Added at 24 Ok Reg 224, eff 10-20-06 (emergency); Added at 24 Ok Reg 1697, eff 6-11-07]

730:10-23-6. Request for funds

Funds made available through the County Improvements for Roads and Bridges Program shall be allocated to requesting counties on the basis of the formal submission of a request for projects to the coordinating Circuit Engineering District for further consideration. Each project request shall be prepared in a uniform format cooperatively developed by the Circuit Engineering Districts and the Department of Transportation and shall be submitted in accordance with the notifications and deadlines established to meet the Department's annual programming schedule requirements.

[Source: Added at 24 Ok Reg 224, eff 10-20-06 (emergency); Added at 24 Ok Reg 1697, eff 6-11-07]

730:10-23-7. Project selection

Upon determination of the conformance of a proposed project with the intent of the program and the project evaluation criteria, the coordinating Circuit Engineering District will compile a prioritized list of recommended projects occurring within the District to be transmitted for further consideration by the Department of Transportation. In the absence of an acceptable project recommendation from any CED, the Department reserves the authority to select and recommend projects to the Transportation Commission as determined appropriate.

[Source: Added at 24 Ok Reg 224, eff 10-20-06 (emergency); Added at 24 Ok Reg 1697, eff 6-11-07]

730:10-23-8. Programming of projects

Acceptance by the Department of the coordinating Circuit Engineering District's prioritized list of recommended projects does not constitute a commitment of funds for the requested projects. The Department shall have the responsibility for considering the recommended projects from each Circuit Engineering District, formulating a project recommendation to the Transportation Commission and for the subsequent development and maintenance of the County Improvement for Roads and Bridges Program 5 Year Construction Work Plan. Upon the annual Transportation Commission approval of the Construction Work Plan, the Department shall notify the Circuit Engineering District of the acceptance of projects. Projects which are excluded on the basis of non-availability of funds may be resubmitted by the Circuit Engineering District for future consideration.

[Source: Added at 24 Ok Reg 224, eff 10-20-06 (emergency); Added at 24 Ok Reg 1697, eff 6-11-07]

730:10-23-9. Implementation of projects

Projects will be placed under agreement, scheduled, developed, designed and let to contract in accordance with the Department's regular and normal project development processes and all applicable laws, rules and regulations. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

[Source: Added at 24 Ok Reg 224, eff 10-20-06 (emergency); Added at 24 Ok Reg 1697, eff 6-11-07]

APPENDIX A. IDEAL SCOPING PROCESS WITHIN CURRENT STRUCTURE [REVOKED]

[Source: Added at 17 Ok Reg 1383, eff 5-11-00; Revoked at 29 Ok Reg 1488, eff 6-25-12]

APPENDIX B. EIGHT YEAR CONSTRUCTION WORK PLAN MANAGEMENT PROCESS

[Figure 1](#)

CHAPTER 15. HIGHWAY PLANNING

[Authority: 23 CFR 470.109; 49 CFR 1.48(b)(2); 23 U.S.C. 103(b)(2), 103(e)(1) through (e)(3), 103(f), 134, 135, and 315]

[Source: Codified 12-31-91]

SUBCHAPTER 1. PROCESS

730:15-1-1. Purpose

(a) The purpose of this chapter is to describe lines of responsibility for designating the state highway system, provide methods of removal from the system, describe the functional classification of all roads, designate a numbering scheme, ensure that minimum standards are met, and require that sufficient right-of-way is furnished or conveyed free and clear of all encroachments. Additionally, provisions are established for publishing an annual state road map, naming roads and bridges, and conducting public hearings.

(b) This responsibility will ensure uniformity of procedures on a statewide basis.

[Source: Amended at 17 Ok Reg 2165, eff 6-12-00]

730:15-1-2. Designation of the state highway system

The Commission shall designate the state highway system to provide for safe and efficient highway transportation in the State of Oklahoma.

(1) The state highway system shall consist of those intercounty and interstate highways, including their extensions through incorporated local jurisdictions, as may be designated by the Commission, and such other public roads and highways which shall be added to the state highway system by the Commission. No road shall be considered as part of the highway system unless so designated.

(2) The Commission, at its discretion, may designate as a part of the state highway system any roads connecting State Parks, National Parks and State-owned institutions with the state highway system, county highway system or city street where the right-of-way for such connection has been obtained and title thereto is in the State of Oklahoma or any agency thereof.

[Source: Amended at 17 Ok Reg 2165, eff 6-12-00]

730:15-1-3. Transfer of highway from the system

The Commission shall not transfer any highway or significant portion thereof, from the state highway system until notice in writing has been given members of the Legislature and the districts affected and a removal public hearing is held. Highways or any portions thereof removed from the state highway system will be transferred to the appropriate local jurisdiction for further maintenance or abandonment. Written notification of transfer will be transmitted within thirty (30) days of Commission action.

[Source: Amended at 17 Ok Reg 2165, eff 6-12-00]

730:15-1-4. Highway functional classification

The state highway system shall be functionally classified under the guidelines and criteria set forth in Volume 20, Appendix 12, Highway Planning Program Manual, Highway Functional Classification, U.S. Department of Transportation, FHWA, revised March, 1989. The functional classification of the system is hereby adopted as established during the National Functional Classification of 1976 and 1993, and subsequent revisions. Classification of the system shall be Rural or Urban, based on whether the highway is inside or outside an approved Urban Area Boundary.

(1) The Rural Functional Classification shall consist of one of the following:

(A) Rural Principal Arterial. Rural Principal Arterials include the Interstate System and other major cross state routes. They provide an interconnecting network to major urban areas.

(B) Rural Minor Arterial. Rural Minor Arterials include intrastate routes generally serving traffic having trip lengths and destinations traversing several counties. They provide an interconnected network between most larger cities and towns.

(C) Rural Major Collector. Rural Major Collectors include important intracounty and some less important intercounty routes. They collect traffic from the local county road system and provide feeder service to the minor or principal arterial systems. They also provide access to most small towns and places not already interconnected with a higher class of highway.

(2) The Urban Functional Classification shall consist of one of the following:

(A) Urban Principal Arterial. Urban Principal Arterials include the Interstate System, Urban Freeway systems, and other major urban routes that move long distance type traffic within or through an urban area.

(B) Urban Minor Arterial. Urban Minor Arterials are generally section line routes that serve as important travel corridors within an urban area.

(C) Urban Collector. Urban Collectors are generally routes that disperse traffic from connecting arterials onto the local city street system within a residential or commercial development.

[Source: Amended at 17 Ok Reg 2165, eff 6-12-00]

730:15-1-5. Numbering of highways

(a) The highways within the State of Oklahoma shall be numbered in such a manner as to conform to the U.S. and Interstate numbering scheme to promote their safe, efficient use by the traveling public.

(b) The Department shall devise and present to the Commission for approval a route numbering scheme, and shall periodically submit any necessary revisions to the Commission in a timely manner.

[Source: Amended at 17 Ok Reg 2165, eff 6-12-00]

730:15-1-6. Minimum standards and funding requirements

The Commission shall designate no road as part of the state highway system that does not conform to minimum standards for roads in the category in which it should be classed, unless funds have been specifically programmed for the road's improvement to such standards.

[Source: Amended at 17 Ok Reg 2165, eff 6-12-00]

730:15-1-7. Right-of-way

The Commission shall require that prior to designating a road as part of the state highway system or performing any work on the road, the appropriate local jurisdiction must agree in writing to furnish to the State, and/or convey title if necessary, an appropriate width of right-of-way. The right-of-way shall be free and clear of all encroachments. Conveyance of right-of-way to the State shall include transfer of all structures located on the right-of-way.

[Source: Amended at 17 Ok Reg 2165, eff 6-12-00]

730:15-1-8. Annual map

The Commission shall publish annually a map of the State which shall show the state highway system. The maps shall be for free distribution to the public. Under no circumstances shall the map be used for advertising, commercial purposes or promotion or partisan political objectives or candidates.

[Source: Amended at 17 Ok Reg 2165, eff 6-12-00]

730:15-1-9. Dedications and commendations [REVOKED]

[Source: Amended at 17 Ok Reg 2165, eff 6-12-00; Revoked at 29 Ok Reg 1493, eff 6-25-12]

AGENCY NOTE: The text in this revoked section was moved to the following sections: 730:15-3-1 and 730:15-3-2.

730:15-1-10. Public hearings

The Department will schedule, conduct, and record public hearings as necessary to comply with federal requirements, Oklahoma statutes, and other such requirements as may be imposed. Public hearings are normally conducted at the end of the National Environmental Protection Act (NEPA) process for a proposed transportation improvement with the purpose of receiving public comments on the proposed improvement.

(1) Time and location; notice.

(A) Public hearings will be scheduled by the Department at locations and times convenient and appropriate to the subject matter of the hearing. Legislators and officials of local units of government who are immediately involved, affected members of the Transportation Commission, and other agencies as appropriate will be notified by letter of the time and place for such hearing and the purpose of the hearing. Notification will be placed in appropriate local newspapers as required by state and federal law or regulation.

(B) The Department will make press releases in addition to the required advertising on projects of high interest or where considered appropriate.

(2) Transcripts. Written transcripts of the proceedings will be prepared together with required certifications, and will be reproduced in sufficient number for distribution.

[Source: Amended at 17 Ok Reg 2165, eff 6-12-00]

SUBCHAPTER 3. HIGHWAY AND BRIDGE SIGNAGE

730:15-3-1. Commission dedications and commendations

(a) Highways, bridges, and other facilities which are part of the state highway system may be considered by the Transportation Commission for dedication in honor of individuals deserving of commendation for their active involvement in the project or for outstanding service to the nation, this state, or their community. Persons proposed to be so honored shall have been deceased not less than three years prior to consideration. Proposals for the dedication of state highway facilities should specifically state the accomplishments upon which the proposal is based.

(b) No facility or group of related facilities shall be considered for naming in honor of more than one individual or entity, once named. Except in the most unusual circumstances, the Commission shall not consider changing the name of the facility, nor shall the Commission consider changing or designating additional names to the current named facility or city street which is also part of the state highway system.

[Source: Added at 29 Ok Reg 1493, eff 6-25-12; Amended at 38 Ok Reg 2566, eff 9-11-21]

730:15-3-2. Transfer costs of memorial signs

(a) Elected governmental bodies may, by formally adopted resolution or legislative Act, propose the naming of highways and bridges on the state highway system to the Transportation Commission.

(b) In accordance with 69 O.S. § 1600, the costs associated with the signage related to the naming of highways and bridges on the state highway system shall be paid by the group or individual sponsoring or requesting the sign. Such costs shall not apply to the naming of highways and bridges on the state highway system designed to honor members of the United States Armed Forces who were killed in action, as determined by the United States Department of Defense.

(c) The procedure to assess and collect the cost of the erection of the sign, as well as the potential replacement or reconstruction of the sign, upon approval by the Transportation Commission is as follows:

- (1) Each memorial sign is produced using computer aided drafting personnel to determine the size of the memorial sign using standard lettering rules.
- (2) Pricing of the sign, itself, is based on the square footage of the size of the produced sign.
- (3) Additional costs associated with the erection of the memorial sign include the price of sign posts, materials needed to secure the sign in the ground at its location, and labor - as determined by the respective Division where the sign is to be erected.

[Source: Added at 29 Ok Reg 1493, eff 6-25-12]

CHAPTER 20. ACQUISITION AND DISPOSAL OF PROPERTIES

[Authority: 61 O.S., § 103.5; 63 O.S., §§ 1092.1 through 1099; 69 O.S., §§ 1202 through 1213, 1001, and 1401 through 1403]

[Source: Codified 12-31-91]

SUBCHAPTER 1. RIGHTS-OF-WAY

730:20-1-1. Purpose

The purpose of this chapter is to cover the various aspects to be considered and adhered to in the acquisition, clearance or disposal of land and improvements. Also to help ensure that all such transactions are handled in a consistent manner in

full accordance with all applicable Federal and State law(s), as well as the Oklahoma Department of Transportation and Federal Highway Administration general and operating policies, procedures, rules and regulations.

[Source: Amended at 16 Ok Reg 2030, eff 6-11-99]

730:20-1-2. Acquisition and clearance of right-of-way

All rights-of-way shall be acquired in accordance with applicable statutes. On any project where federal funds are involved in any part thereof, to the extent allowed by state law, all federal laws, rules and regulations shall be fully complied with in acquiring, clearing, and disposing of right-of-way.

(1) In all instances where rights-of-way have been acquired for projects on the State Highway System by other subdivisions of the state or entities, said acquiring agency shall, prior to the advertising of the construction contract, either:

(A) Convey by deed or easement such right-of-way to the Department; or

(B) Subject to Department's prior approval, place in trust such deed or easements to be transferred to the Department at a later time.

Under this subparagraph, the acquiring agency shall transmit copies of the easements or deeds, together with legal entry authorization to the Department prior to such contract advertising.

(2) All sales of surplus real property required by law to be sold by public auction shall be sold by sealed bid, unless required otherwise by law. The publication notice of all such sales shall provide that the Department reserves the right to reject any and all bids. Further, at the discretion of the Department, such sales may be made subject to a minimum bid, bid appraisal and advertising fee, and must be sold for cash to the highest and best bidder, as determined by the Department.

(3) All sales of improvements, purchased in connection with right-of-way acquisition, shall be made subject to the approval of the Department, and the publication notice of such sales shall contain the phrase, "the Department of Transportation reserves the right to reject any and all bids."

(4) All projects lying within the corporate limits of a city or town will necessitate the Department and the municipality entering into an agreement providing for the use of existing rights-of-way, traffic control, encroachment removal and utility relocations or removal. The municipality will be responsible for the prompt payment of their share of all utility costs upon receipt of the Department's statement as the amounts become known. In the event the municipality is unwilling or financially unable to execute said agreement, the Department may proceed without same while still relying upon the existing statutes to determine financial responsibilities.

(5) In instances where a county or city owes monies to the Department for unpaid right-of-way or utility relocation obligations, the award of new transportation projects in that city or county may not be made until satisfactory arrangements have been made for payment of the due obligation.

[Source: Amended at 16 Ok Reg 2030, eff 6-11-99; Amended at 38 Ok Reg 2567, eff 9-11-21]

730:20-1-3. Access control

It is the policy of the Commission to provide a degree of control of access to the state highway system, as defined in 730:15-1-1 and 730:15-1-2.

(1) Definitions.

(A) Full Control of Access - Right-of-way is purchased in such a manner as to give preference to through traffic by providing access connections with selected frontage or local roads only and also by prohibiting crossings at grade and direct private or commercial driveway mainline connections.

(B) No Control of Access - Right-of-way is purchased in such a manner as to allow at-grade access to the transportation facility with the location of private and commercial driveways subject only to the geometrics necessary to provide for safe access, as determined by the Department via the standard driveway agreement process.

(C) Partial Control of Access-Right-of-way is purchased in such a manner as to give preference to through traffic by providing access to selected major crossroads, with at-grade crossings at selected section lines, intersecting highways and major streets subject to geometrics necessary to provide for safe access, as determined by the Department via the standard driveway agreement process. There may be some private and commercial at-grade driveway connections.

(2) Policy.

(A) Full control of access shall be exercised on all functional classified rural or urban interstate facilities, all urban freeways, and all multi-lane, divided rural principal arterials to be constructed on new alignment, i.e. the existing facility will not be utilized as one set of lanes. Full control of access may be exercised on rural principal arterials improved on existing alignment where it is required for safety, or where determined to be economically feasible. It may also be exercised on any city bypass, where needed to protect the facility from future urbanization.

(B) On multi-lane rural principal arterials where full control of access is not economically feasible and on functionally classified urban expressways, partial control of access may be utilized.

(C) Where feasible, when interchanges are to be constructed, rights of access to the connecting roadways shall be purchased for a minimum of 150 feet beyond ramp terminals to insure the future integrity of the interchange.

(D) No control of Access, as defined, shall apply to all other highways. The proper, safe locations of all private and commercial access points on all existing Partial Control of Access and No Control of Access facilities shall be subject to approval of the applicable ODOT Field Division Engineer. The location of access points on design plans for new facilities shall be the responsibility of the Department's Design Engineer.

[Source: Amended at 16 Ok Reg 2030, eff 6-11-99]

730:20-1-4. Control of rights-of-way

(a) Utilities facilities occupancy of Department rights-of-way, including highway lighting, shall conform to all applicable Federal and State laws, policies, procedures, rules and regulations. Any installation, relocation or crossing shall be accomplished under pre-approved Department utility permit. The terms of this permit, at the discretion of the Department, may require a bond or other

indemnification and payment of an inspection fee.

(b) Department of Transportation right-of-way lying within the corporate limits of cities and towns may be landscaped by civic organizations in accordance with the Department's pre-approved plans, specifications and limitations.

[Source: Amended at 16 Ok Reg 2030, eff 6-11-99]

730:20-1-5. Control of encroachments

The policy for the control of encroachments shall be as follows:

- (1) No encroachment of any nature will be permitted on the Interstate System.
- (2) No encroachments of any nature will be permitted on state highways in rural areas.
- (3) On state or federal highways passing through the corporate limits of cities and towns, awnings, on-premise signs, fire escapes, window air conditioning units, etc., will be permitted to overhang the public right-of-way, provided that determination is made that such use is in the public interest and will not interfere with the free flow of traffic and that such object does not constitute a hazard to pedestrians or to the traveling public. All overhang must be a minimum of two (2) feet back of the curb and supported from outside the right-of-way limits. The provisions of this subsection shall not apply to highways which are part of the National System of Interstate and Defense Highways, nor shall this subsection be interpreted in any manner which causes a conflict with the requirements of the United States Department of Transportation.
- (4) On all new construction being planned inside the corporate limits of cities and towns, it shall be the responsibility of the city or town involved to clear the rights-of-way in accordance with the Department policy. No project may be let for construction until the project is considered by the Department to be clear of all encroachments.
- (5) Where a maintenance or construction project has been completed on the state highway system within the corporate limits of a city or town, and where the city or town has failed to properly enforce the policy of the Department after completion of the project, no further construction or maintenance projects will be let in said city or town until all encroachments are removed or caused to be removed by the city or town.

[Source: Amended at 16 Ok Reg 2030, eff 6-11-99]

730:20-1-6. Use of federal funds for right-of-way within city limits

Federal funds may, at the discretion of the Department, be used for participation in the purchase of right-of-way, and/or the cost of providing relocation assistance, and/or the cost of adjustment of utilities within the city limits of towns.

[Source: Amended at 16 Ok Reg 2030, eff 6-11-99]

730:20-1-7. Advance right-of-way acquisition [REVOKED]

[Source: Revoked at 16 Ok Reg 2030, eff 6-11-99]

730:20-1-8. Relocation assistance

The policies and procedures for the payment of monies for relocation benefits and provisions of advisory assistance shall be uniform on all state transportation projects in accordance with federal and state laws and regulations,

and without respect to federal participation.

[Source: Amended at 16 Ok Reg 2030, eff 6-11-99]

SUBCHAPTER 3. IMPROVEMENT REMOVAL AND CONTRACT

730:20-3-1. Processes for right-of-way improvement removal contracts below \$50,000.00

(a) In accordance with 61 O.S. § 103.5, contracts not exceeding Fifty Thousand Dollars (\$50,000.00) entered into solely for right-of-way clearance projects by the Transportation Commission shall not be considered as public construction contracts and are not required to be competitively bid. Right-of-way clearance contracts not required to be competitively bid pertain exclusively to:

- (1) demolition and removal of buildings
- (2) foundations
- (3) slab floors
- (4) stem walls
- (5) steps
- (6) brush
- (7) shrubs
- (8) brickbats or stone and all rubbish
- (9) scrap Iron
- (10) fencing
- (11) debris
- (12) installation of new right-of-way fencing.

(b) Contracts not exceeding Fifty Thousand Dollars (\$50,000.00) entered into solely for right-of-way clearance, as described in this section, shall be used only upon the written approval of the Department's Chief of Right-of-Way & Utilities Division prior to initiation. The needs to utilize non-competitive bids are as follows:

- (1) **Specific Needs.** When specialized expertise is required and is only available from a highly qualified single source, a fair and reasonable fee will be negotiated with a specific contractor who is specially equipped to meet a specific need for a project.
- (2) **Emergency Needs.** When public need will not permit the delay resulting from competitive solicitation, a fair and reasonable fee will be negotiated with a contractor in the issuance of an emergency project, such as emergency demolition, fencing, hardship acquisition, and/or public safety.

[Source: Added at 29 Ok Reg 568, eff 5-11-12]

730:20-3-2. Selection process for right-of way improvement removal contracts below \$50,000.00

(a) Unless otherwise noted, upon approval of the request to contract for services for contracts not exceeding Fifty Thousand Dollars (\$50,000.00) , the contractor selection process shall proceed according to one of the following selection methods:

- (1) A Competitive Proposal (Quote Solicitation and Bid Tabulation) determines pre-qualified service providers capable of performing right-of-way contracts. Upon tabulation of responsive bid proposals for a contracted project, the lowest responsible bid will be selected. Responsible bids are

determined to be those that are received in a timely manner, have all elements of the Request For Proposal (RFP) completed, and provide a full list of pre-qualified personnel intended to be used to perform the work described in the scope of services. RFP's that do not identify personnel or that identify personnel that have not been pre-qualified to perform work for the Department of Transportation will be deemed as unresponsive.

(2) Qualifications Based Selection (QBS). This selection process is intended to be utilized on large, complex projects when there is sufficient time available in the project development schedule.

(b) Notice to Proceed should contain a reference to the portion of the contract relevant to liability insurance. If proof of liability insurance is not provided as stipulated, the Oklahoma Department of Transportation may terminate the agreement.

(c) Contracts shall be reviewed by the Chief of Legal Division as to form and legality.

[Source: Added at 29 Ok Reg 568, eff 5-11-12]

CHAPTER 25. HIGHWAY CONTRACTORS

[Authority: 25 O.S., § 1313; 61 O.S., §§ 1, and §§ 101 et seq.; 69 O.S., §§ 101, 301, 303, 304, 312, 622, 1101, and 4006; 75 O.S., §§ 302, and 309 et seq.]

[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

730:25-1-1. Purpose

The purpose of this chapter is to issue guidance and procedures for the uniform and equitable treatment of individuals, partnerships, and corporations that are either desiring to, or are doing business with the Department through construction or maintenance contracts.

[Source: Amended at 12 Ok Reg 1269, eff 5-11-95]

SUBCHAPTER 3. CONTRACTOR PREQUALIFICATION AND PROPOSALS

730:25-3-1. Prequalification

(a) The purpose of contractor qualification is to make an initial determination if a contractor has adequate financial resources, integrity, experience, and proven performance to maintain progress on Oklahoma Department of Transportation projects and to make timely payments to sub-contractors and material suppliers. Prequalification is the method of qualification which has been adopted by the Oklahoma Transportation Commission and the Department pursuant to the Public Competitive Bidding Act at Title 61 OS § 118. Prequalification provides a method by which the Department may review a contractor's financial resources and technical expertise before a contractor is allowed to bid on projects which have not been exempted from the prequalification requirement. Prequalification is not a license, but is rather a procedure used by the Department to evaluate prospective bidders' ability to perform. Prospective bidders must ensure that their prequalification application is accurate and complete in all aspects, and fully discloses all information requested in the application form. Prospective bidders will be allowed to submit one application in a twelve month period. The Department

may request additional information for clarification of a prospective bidder's application. The owners and officers who comprise a company will be the determinative factor as to the existence of prior prequalification applications not an alteration or change of an organization name. The prequalification application and all financial information submitted to the Department by a contractor for the purpose of prequalification shall be held in confidence by the Department and shall not be an open record pursuant to the Oklahoma Open Records Act at Title 51 OS §24A.3(1)(d).

(b) Except as provided in this subchapter, only prequalified contractors will be permitted to bid on construction and maintenance contracts to be awarded by the Commission on the recommendation of the Department. When projects do not encompass highway construction maintenance, the Department may waive prequalification when it is in the best interest of the State and to increase competition on individual projects of a special nature including, but not limited to:

- (1) Right-of-Way Clearance
- (2) Landscaping
- (3) Wetland creation
- (4) Repair or maintenance of railroad facilities
- (5) Environmental cleanup or mitigation
- (6) Transportation enhancement projects

(c) A prospective bidder may obtain a "sample" copy of the bidding documents for use in preparing bid computations after official advertisement of a project, but must submit an application for prequalification not less than twenty-one days prior to the announced bid opening date to the Office Engineer Division and obtain a Certificate of Qualification in order to submit a bid proposal to the Department. The submitted application for prequalification will be considered by a prequalification committee composed of the Office Engineer, along with representatives from the Comptroller Division, the Construction Division, Director of Operations, and the General Counsel's Office. Contractors prequalified by the committee may be approved for the classes of work specified by the applicant on the prequalification application, dependent on personnel, equipment, capital and experience in highway construction.

(d) A prospective bidder must submit as part of their Prequalification Application, an Audited Financial Statement in which a Certified Public Accountant has expressed an opinion. The prospective bidder's fiscal year end Audited Financial Statement shall not be dated more than 180 days prior to the date of receipt by the Department of the Prequalification Application. Based upon these statements and other materials submitted or subsequently requested by the Department, the Department may, at its discretion, grant the prospective bidder a conditional prequalification. The Department shall impose such additional requirements on a conditionally prequalified contractor as the Department deems necessary and in the best interests of the public. If a conditional prequalification is granted, it is valid only for the remainder of the prospective bidder's fiscal year in which the conditional prequalification is granted, plus an additional period not to exceed 180 days.

(e) No prospective bidder will be qualified unless the prospective bidder's Prequalification Application and the Department's review of that Application determines that the prospective bidder possesses working capital, equipment, experience and personnel sufficient in the judgment of the Department, to indicate that the prospective bidder can satisfactorily perform its contract and meet all obligations incurred therein. The Audited Financial Statement must show all

liabilities (current, deferred and contingent). The prospective bidder will not be qualified for more than two and one-half times its current working capital as computed by the Department, based on an evaluation of the contractor's Audited Financial Statement. When a conditionally prequalified contractor receives a notice of project completion on a project, that notice may be submitted to the Department for removal of that project from its bidding limit.

(f) If the prospective bidder submits cash value of life insurance as an asset, the applicant will support the submission with a letter from the insurance company, showing that the prospective bidder absolutely controls the cash value and that there are no legal encumbrances, preexisting loans or any other impediment which would prevent or interfere with the access of the prospective bidder to that cash value.

(g) When a partnership is being considered, an Audited Financial Statement of the partnership, which will include all the assets and liabilities of each member, will be required.

(h) Prospective bidders will furnish an itemized list of all Secondary Cash Resource items such as marketable securities, stocks and bonds.

(i) Prospective bidders will sign, under oath, all forms submitted to the Department.

(j) The Department will make such investigation of the information submitted as it deems necessary.

(k) The Department will qualify, or refuse to qualify, any prospective bidder for paving, grade and drain, bridge or other Department construction work in accordance with such prospective bidder's experience and financial condition.

(l) Prospective bidders who are conditionally prequalified will not be permitted to bid on individual projects that, in aggregate, exceed maximum bidding limits. Proposals may be "taken out" without limitation as to aggregate total. Should a conditionally prequalified contractor be low bidder on contracts totaling, in aggregate, more than the amount for which the contractor is conditionally prequalified, the Commission reserves the right to:

(1) Reject any or all of the contractor's bids and re-advertise for new bids as required in the best interests of the state; or,

(2) Award contract(s) on which the conditionally prequalified contractor would otherwise be the low bidder to the second lowest bidder; or

(3) Waive the maximum bidding limit and award all or any of such contracts to the conditionally prequalified contractor if the Department, in the exercise of sound discretion, shall determine that the contractor has the apparent ability to successfully perform the contract(s) and it is in the best interest of the Department for the award to be made.

(m) Any prospective bidder not satisfied with a rejection of its application for prequalification may appeal to the Department's Executive Director or the Executive Director's designated representative by giving notice of the applicant's objection by certified mail addressed to the Executive Director. The applicant's objection must be mailed within fourteen (14) calendar days after the date such prospective bidder received written notice of the Department's action. The Executive Director shall review the prequalification file and make an independent determination concerning the applicant's prequalification.

(n) Upon being conditionally prequalified a minimum of one (1) year from the date of the initial prequalification, and satisfactory final completion of either:

(1) A minimum of three (3) projects and not less than Five Million Dollars (\$5,000,000) of Department projects requiring prequalification as a prime contractor, OR,

(2) A single project in excess of Ten Million Dollars (\$10,000,000.00) as a prime contractor, the contractor will be considered by the prequalification committee. If found fully qualified, the Contractor's Certificate of Qualification will be reissued to allow the contractor to bid on and be awarded projects to the extent of their bonding capacity as a fully prequalified contractor. A conditionally prequalified contractor that completes a project as a joint venture with a fully prequalified contractor shall receive credit for its proportional share of the project and contract amount, limited to its bidding capacity.

(o) Prequalification shall expire after a two year term at the completion of the contractor's fiscal years following issue of the contractor's Certificate of Qualification. After the expiration date of the contractor's Certificate of Qualification, the contractor shall have a period of 180 days to submit audited financial statements, or a financial review of the contractor's business operations. During this 180 day period the contractor shall remain prequalified under its current Certificate of Qualification. If the contractor does not submit audited financial statements or a financial review of its operations within the 180 day period following the expiration date of the contractor's Certificate of Qualification, the contractor's prequalification status will cease and the contractor will not be eligible to submit bid proposals to the Department at that date. The contractor's audited financial statement or financial review of its operations must demonstrate that the contractor has a positive amount of working capital that is sufficient to satisfactorily perform its contract in the judgment of the Department. The Department will renew the contractor's Certificate of Qualification if the contractor's working capital is sufficient in the opinion of the Department. If the Department's review determines that the contractor has insufficient working capital, the contractor's Certificate of Qualification will not be renewed and will expire at that time.

[Source: Amended at 11 Ok Reg 587, eff 12-13-93; Amended at 11 Ok Reg 1015, eff 1-3-94 (emergency); Amended at 11 Ok Reg 3579, eff 6-27-94; Amended at 12 Ok Reg 1269, eff 5-11-95; Amended at 18 Ok Reg 1357, eff 5-11-01; Amended at 25 Ok Reg 1710, eff 6-12-08; Amended at 36 Ok Reg 1066, eff 7-25-19]

730:25-3-2. Prior bonding; Letter of Credit in lieu of bond [REVOKED]

[Source: Revoked at 12 Ok Reg 1269, eff 5-11-95]

730:25-3-3. Non-resident contractors

(a) Every non-resident contractor, including any corporation not incorporated in this state, shall, before it is permitted to transact business with the Department, appoint and maintain a service agent upon whom service of process may be made in any action to which the contractor may be a party. Appointment of an agent for service, properly executed and acknowledged, will be filed with the Secretary of State, and will state the residence address or place of business of the agent and any other information required by law or the Secretary of State. A certified copy of this filing will be furnished to the Department. The service agent shall not be an official, either elective or appointive, of the United States or any political subdivision thereof, a bondsman, surety, subcontractor, or materials supplier.

(b) Every applicant foreign corporation, firm, association, or legal entity will file a certified copy of its Articles of Incorporation, partnership agreement, or joint venture agreement, with the Department.

(c) Every foreign corporation, firm, association, or other legal entity will file with the Department evidence that it has become domesticated in the State of Oklahoma

and has been authorized to transact business in the State of Oklahoma.

[Source: Amended at 12 Ok Reg 1269, eff 5-11-95]

730:25-3-4. Obtaining Bid Documents (Proposals)

- (a) All bid proposals will be obtained from the Department's Office Engineer in Oklahoma City, Oklahoma.
- (b) Bid proposal blanks will be stamped by the Department with the name of the contractor and the date of issue and NO other proposal blanks will be accepted. The fee for each proposal shall be fifty dollars (\$50.00), which fee is non-refundable.
- (c) No proposal for construction or maintenance projects advertised for bids by the Department will be issued to any contractor within 24 hours prior to the bid opening for that contract.
- (d) The Department reserves the right to refuse issue of bid documents to a contractor who has a current Department project(s) being assessed liquidated damages due to a failure to complete contract work within the prescribed contract time.
- (e) No proposal will be issued to a contractor who has defaulted on a previous Department contract within the preceding five (5) years.
- (f) No proposal will be issued to a contractor who fails to cooperate fully with Department, State or Federal auditors in the review of contractor's records.

[Source: Amended at 12 Ok Reg 1269, eff 5-11-95; Amended at 18 Ok Reg 1357, eff 5-11-01; Amended at 25 Ok Reg 1710, eff 6-12-08]

730:25-3-4.1. Right to suspend or debar from bidding

The Commission and Department reserve the right to:

- (1) Suspend or debar, under the provisions of this subchapter, any contractor, subcontractor, material supplier, or officer, agent, employee of such entity, from bidding or participating in contracts awarded by the Commission upon conviction of a crime involving fraud, moral turpitude or offenses against the public contracting laws of the United States or any State of the United States, unsatisfactory performance of project work, or other act or omission as set forth in this subchapter. For purposes of this subsection, a plea of guilty or nolo contendere shall be considered a conviction.
- (2) Suspend or debar under provisions of this subchapter any contractor, subcontractor, or material supplier for failure to register and participate in the "Status Verification System" used to verify or ascertain the citizenship or immigration status as well as the work eligibility status of new employees.
- (3) Suspend or debar contractors for other good cause shown or as may be subsequently listed in the code.
- (4) Refuse to award or approve subcontractors or material suppliers.

[Source: Added at 25 Ok Reg 1710, eff 6-12-08]

730:25-3-5. Debarments and suspensions

- (a) **Debarment.** A contractor, any of its directors, officers, agents, or employees, any affiliate of a contractor, any subcontractor, or any material supplier shall be subject to debarment proceeding for the reasons set forth in this section. For purposes of this section, a plea of guilty or nolo contendere shall be considered a conviction.

- (1) Debarment may occur for any of the following reasons:
 - (A) Conviction of a bidding crime which shall be defined as any act prohibited by any State or Federal law committed, by any court in any jurisdiction, when such act involves fraud, conspiracy, collusion, perjury or material misrepresentation with respect to any contract, public or private; or
 - (B) Conviction of a crime involving fraud, moral turpitude, or offenses against the public contracting laws of the United States or any State of the United States; or
 - (C) Conviction of any offense indicating a lack of moral and ethical integrity by any court in any jurisdiction, which may reasonably be perceived as relating to or reflecting upon the business practices of the company, its officers, or directors; or
 - (D) Any other cause of a serious and compelling nature affecting the responsibility of the contractor; or
 - (E) Disqualification or debarment by another state or an agency of this State, or an agency of the Federal Government; or
 - (F) Failure or refusal to comply with the terms of the contract or State law; or
 - (G) Failure to fulfill obligations imposed by or as a result of the contract with the state or by state law.
- (2) No conviction, whether from bench or jury trial, nor any plea of guilty or nolo contendere which is more than five (5) years old at the time of discovery by the Department shall be used as the sole basis for a debarment.
- (3) Upon preliminary determination by the Department that a contractor is subject to debarment under this subchapter, the Director shall cause the contractor or other entity or individual to be notified by certified mail that its prequalification has been suspended or its opportunity to participate in Department contracts is suspended pending determination of whether a debarment should be imposed, and that the contractor has the right to request a hearing.
- (4) If the contractor desires a hearing, a Petition for Administrative Appeal shall be filed by certified mail with the Hearing Liaison Officer postmarked within ten (10) days after receipt of the notice of suspension pending debarment (weekends and holidays excluded). Filing may also be made in person by the contractor.
- (5) The hearing shall be held no more than 180 calendar days from the date the request for hearing is received by the Hearing Liaison Officer unless the hearing date is continued by the Presiding Officer at the request of the contractor or by agreement of the parties.
- (6) Debarment by the Department for the reasons stated in (a)(1)(A-D) or (a)(1)(F-G) of this section shall be for a period of three (3) years. However, if circumstances warrant, the Department may impose a longer period.
- (7) Debarment for the reason stated in (a)(1)(E) of this section shall be for the period of time assessed by the originating agency.
- (8) The Director may lift or suspend a debarment at any time if it is in the public interest. The following mitigating circumstances may influence this decision:
 - (A) Degree of culpability.
 - (B) Restitution of damages to the State.

- (C) Cooperation in the investigation of other bidding crimes.
- (D) Disassociation with those involved in bidding crimes or other improper action.
- (E) Whether lengthy disqualification and debarment is required for protection of the State.

(9) Debarment shall prohibit the debarred contractor, its owner(s) and all immediate family members who acquire the assets of the company, as well as, all directors, officers, agents, employees and affiliates from acting as a subcontractor, materials supplier, equipment supplier or lessor, labor or services contractor, fee appraiser, contract broker, inspector, real estate agent or broker, consultant, architect, engineer, or attorney on any Department project, as well as denying the privilege of bidding as a prime contractor. Family members who shall have been independently prequalified, prior to the debarment, or those who may acquire the assets and equipment of the debarred contractor, at market value, by public auction or other demonstratable arms length transaction, subsequent to the debarment, shall not be considered subject to the debarment action.

(10) Illegal or improper conduct of any individual may be fully imputed to the business firm with which the individual is or was associated, or by whom the individual was employed, where that conduct was engaged in within the course of the individual's employment, or with knowledge or approval of the business firm, or thereafter ratified by it.

(11) Debarment in no way affects the obligations of a contractor to the Department to complete services already under contract, however the Commission reserves the right to terminate the contracts of a debarred entity if termination is in the best interest of the State.

(12) The Director may, in the public's best interest, suspend or otherwise delay inquiry, review, or any debarment in the event such action may impede, hinder or delay Federal or State investigations.

(13) Any contractor qualified to bid upon contracts to be awarded by the Commission shall have a duty to notify the Department if it is convicted of any bidding crime within thirty (30) days of such conviction. Failure to furnish this notification is a serious and compelling offense sufficient to result in debarment in and of itself.

(b) **Performance suspension.** A contractor, any of its directors, officers, agents, or employees, any affiliate of a contractor, any subcontractor, or material supplier may be suspended from doing work for the Department or participation in a project funded by the Department.

(1) Performance suspension may occur for any of the following reasons:

(A) If the contractor, person, or entity, including subcontractors, proposed for suspension fails or refuses to prosecute all of the work or any separable part thereof, with such diligence as will ensure its completion within the time specified in the contract, including any extension, or fails to complete the work under any one of the contractor's contracts within the time specified; or

(B) A completed investigation or civil judgment evidences a serious lack of business integrity; the contractor exhibits willful disregard for lawful requirements; there is repeated noncompliance with rules, regulations, contract specifications or the terms of other agreements including failure to honor valid debts incurred in the performance of the project; or

(C) Indictment for crimes involving fraud, moral turpitude, or offenses against the public contracting law of the United States or any State of the United States; or

(D) Indictment for a bidding crime which shall be defined as any act prohibited by any State or Federal law, committed in any jurisdiction, when said act involves fraud, conspiracy, collusion, perjury or any material misrepresentation with regards to any contract, public or private; or

(E) An indictment for crimes or a civil judgment which indicates a reckless disregard for safety of the traveling public or structural integrity of a highway, bridge or fixtures, so that continued involvement of the suspected offender creates a risk to public safety or a potential for structural failures; or

(F) Disqualification or suspension by another State or an agency of this State or an agency of the Federal government; or

(G) A demonstrated lack of proficiency in performing work on Department projects evidenced by performance evaluations of "unsatisfactory" on three (3) ratings in one (1) year, or

(H) Three (3) reports of safety violations in which there were significant risk to the health or life of a person or significant damage to property or one (1) report of a safety violation in which gross neglect or reckless disregard for the health or life of a person occurred.

(2) The Director or his designee may impose performance suspension upon a contractor for a period of not less than twelve (12) months or more than sixty (60) months as may be specified in the final agency order upon:

(A) Failure by the contractor to timely file a Petition for Administrative Appeal after proper notification of proposed performance suspension by the Hearing Liaison Officer.

(B) Conclusion of an administrative review hearing in accordance with 730:25-3-6(e)(3).

(3) Upon preliminary determination by the Department that a contractor is subject to performance suspension under this subchapter, the Hearing Liaison Officer shall notify the contractor by certified mail that his prequalification has been temporarily suspended pending determination of whether a performance suspension should be imposed, and that the contractor has the right to request a hearing as set forth in this section.

(4) If the contractor desires a hearing, a Petition for Administrative Appeal shall be filed by certified mail with the Hearing Liaison Officer postmarked within ten (10) days after receipt of notice of temporary suspension (weekends and holidays excluded). Filing may also be made in person by the contractor.

(5) The hearing shall be held no more than (180) calendar days from the date the request for hearing is received by the Hearing Liaison Officer unless continued by the Presiding Officer at the request of the contractor or by mutual agreement of the parties. Except as otherwise ordered by the Presiding Officer or the Director, the proposed suspension shall be held in abeyance during the time the hearing is pending.

(6) Performance suspension shall prohibit the contractor, all immediate family members who acquire that company assets, as well as, all directors, officers, employees of the contractor and affiliates from acting as a

subcontractor, materials supplier, equipment supplier or lessor, labor or services contractor, fee appraiser, contract broker, inspector, real estate agent or broker, consultant, architect, engineer, or attorney of any Department project as well as denying the privilege of bidding as a prime contractor. Family members who shall have been independently prequalified, prior to the suspension, or those who may acquire the assets and equipment of the suspended contractor, at market value, by public auction or other demonstratable arms length transaction, subsequent to the suspension, shall not be considered subject to the suspension action.

(7) Illegal or improper conduct of any individual may be fully imputed to the business firm with which the individual is or was associated, or by whom the individual was employed, where that conduct was engaged in within the course of the individual's employment, or with knowledge or approval of the business firm, or was thereafter ratified by it.

(8) Performance suspension in no way affects the obligations of a contractor to the Department to complete services already under contract, however the Commission reserves the right to terminate the contracts of a suspended entity if termination is in the best interests of the State.

(c) **Burden of proof.** A proper filing of a Petition for Administrative Appeal by a contractor who has been notified of debarment or performance suspension shall give effect to the notice of hearing and appeals procedures contained in 730:25-3-6. At such hearing on the merits it shall be the burden of the Department to establish by clear and convincing evidence that the contractor did or failed to do those acts or omissions which resulted in the notification of the contractor of debarment or performance suspension.

[Source: Amended at 12 Ok Reg 1269, eff 5-11-95; Amended at 18 Ok Reg 1357, eff 5-11-01; Amended at 22 Ok Reg 1367, eff 5-26-05; Amended at 25 Ok Reg 1710, eff 6-12-08]

730:25-3-6. Notice, hearings, and appeals for debarments or suspensions

(a) **Definitions.** The following terms and procedures shall apply to the conduct of hearings for debarments and suspensions as set forth in this section and such other hearings as the Department may determine. The following words and terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise.

(1) **"Administrative appeal"** means the complete procedure that takes place, including the filing of a petition, to conduct an administrative review of a decision of the Department of Transportation when such decision is reviewable under this chapter or as otherwise provided.

(2) **"Administrative head"** means the Director of the Oklahoma Department of Transportation or a person officially designated by the Director to issue final agency orders in administrative appeals under this section.

(3) **"Affidavit"** mean a written statement of facts, made voluntarily, confirmed by the oath or affirmation of the party making such written statement and which is taken before a person with statutory authority to administer such oath or affirmation.

(4) **"Allegation"** means the claim of a party which that party expects to prove in the administrative hearing.

(5) **"Allege"** means to state, assert or charge; to make an allegation.

(6) **"Appellant"** means the party who files a petition for hearing.

(7) "**Burden of proof**" means the obligation of a party to establish alleged fact(s) by clear and convincing evidence.

(8) "**Continuance**" means a postponement of a status conference, prehearing or hearing to a future date. Continuances shall be granted at the discretion of the Presiding Officer for good cause shown.

(9) "**Cross-examination**" means the questioning of a witness by a party other than the party calling the witness. Cross-examination may only involve the issues covered in direct examination.

(10) "**Deposition**" means a form of discovery in which the testimony of a party or witness is taken and recorded prior to an administrative hearing. Depositions shall be taken before a court reporter in response to a subpoena unless otherwise taken by agreement of the parties.

(11) "**Direct examination**" means the questioning of a witness by a party calling the witness.

(12) "**Discovery**" means the process of determining relevant information for use at an administrative hearing. Discovery is conducted prior to an administrative hearing and upon order of the Presiding Officer unless otherwise agreed to by the parties.

(13) "**Dismiss**" means to close an administrative hearing without further consideration.

(14) "**Evidence**" means relevant documents or testimony that tends to prove or disprove the existence or non-existence of a fact.

(15) "**Ex parte communications**" means improper communication of a material nature between the Presiding Officer and only one party or a witness, concerning the factual or legal issues of an administrative hearing which could affect the outcome of the hearing.

(16) "**Director**" means the Chief Operating Official of the Oklahoma Department of Transportation.

(17) "**Exhibit**" means document(s) or other physical thing(s) formally introduced as evidence at an administrative hearing.

(18) "**Filing**" means the formal delivery of documents to the office of the Hearing Liaison Officer of the Oklahoma Department of Transportation.

(19) "**Final agency order**" means a written determination made by the Director or his designee to decide an individual proceeding.

(20) "**Hearing**" means an open, formal meeting conducted by a Presiding Officer to decide an appeal. The meeting is to provide each party with an opportunity to present evidence in support of the party's side of the case.

(21) "**Hearing examiner**" means a person appointed by the Director to hold hearings and as required render proposed orders.

(22) "**Hearing liaison officer**" means the person appointed by the Director to act as the official repository of the records of all hearings conducted under this subchapter and to perform such other duties as may be set forth herein.

(23) "**Interrogatories**" means a form of discovery consisting of a set of written questions about the subject matter of the appeal which are submitted to the other party or a witness. Answers to interrogatories shall be made in writing under oath upon order of the Presiding Officer unless otherwise agreed to by the parties.

(24) "**Intervenor**" means a person or agency permitted to voluntarily enter an administrative appeal as a party.

- (25) **"Issue"** means a disputed point or question on which the parties to an administrative appeal seek a resolution.
- (26) **"Motion"** means a request from a party for a ruling or order to be made by the Presiding Officer.
- (27) **"Notice"** means a written announcement of an action or proposed action.
- (28) **"Order"** means a command or directive given by the Presiding Officer in an administrative appeal.
- (29) **"Party"** means a person or agency by whom or against whom an administrative appeal is filed and includes a person or agency permitted to intervene in an administrative appeal.
- (30) **"Petition for appeal"** means the formal document filed by a person with the Hearing Liaison Officer whereby the person requests a hearing and seeks a remedy.
- (31) **"Petition for reconsideration or rehearing"** means a formal application filed after the final agency order has been made by the Presiding Officer requesting a rehearing or reconsideration of the case. A petition for reconsideration or rehearing shall state specifically each fact upon which the party relies to request reconsideration or rehearing and shall further state each legal theory citing specific authority which the party contends mandates rehearing or reconsideration.
- (32) **"Prehearing conference"** means a meeting conducted by the Presiding Officer with the parties or their representatives to identify the issues for hearing, present final list of documents, final witness lists and to entertain motions not previously ruled upon. The Presiding Officer will issue a prehearing order which will guide the Presiding Officer and the parties in the conduct of the administrative hearing.
- (33) **"Preponderance of evidence"** means information or evidence which is more convincing or believable than the information or evidence offered in opposition.
- (34) **"Presiding officer"** means the Director, his designee to issue final agency orders, or Hearing Examiner who will actually conduct the administrative hearing.
- (35) **"Proposed order"** means the order prepared by the Hearing Examiner at the conclusion of the hearing which is submitted to the parties for their consideration.
- (36) **"Relevant"** means directly related to the issue or issues of the administrative appeal.
- (37) **"Remedy"** means corrective action sought by the appellant, offered by the respondent, or ordered as a result of the hearing.
- (38) **"Representative"** means an agent acting on behalf of a party.
- (39) **"Respondent"** means the party to an administrative hearing against whom the petition for administrative hearing is filed.
- (40) **"Status conference"** means a meeting conducted by the Presiding Officer with the parties to establish discovery schedules, motion and briefing schedules, resolve procedural issues and to expedite the hearing process.
- (41) **"Stipulation"** means a voluntary agreement between the parties which establishes a fact.
- (42) **"Subpoena and subpoena duces tecum"** means an order to appear at a certain time and place to give testimony. A Subpoena Duces Tecum

additionally requires the person who is ordered to appear to produce books, papers and other documents or tangible things. A subpoena or subpoena duces tecum shall only issue, or be of any force and effect, when approved in writing by the Presiding Officer.

(43) "**Sustain**" means to grant a request or to grant the remedy requested in an administrative appeal.

(44) "**Testimony**" means statements given by a witness under oath or affirmation.

(b) General provisions.

(1) **Initiation of appeal.** The administrative hearing process conducted under this procedure begins with the filing of a petition for the administrative review of an action or proposed action by the Department under this subchapter. The petition shall be filed with the Department's designated Hearing Liaison Officer. The petition must be filed with the Hearing Liaison Officer within the time period provided in the section relating to the action or proposed action. Filing of a petition within the period provided is a jurisdictional prerequisite. Upon receipt of a petition for an administrative hearing, the Hearing Liaison Officer shall immediately notify the Director and the Office of the General Counsel and provide them with a copy of the petition. The Director shall file with the Hearing Liaison Officer a written designation of the Presiding Official for the administrative appeal. The Hearing Liaison Officer shall provide a copy of this designation to the Appellant and the Office of the General Counsel. The Office of the General Counsel shall file with the Hearing Liaison Officer a copy of the notice of the action or proposed action which is the subject of the appeal.

(2) **Form of petition.** The petition for an administrative appeal shall be in general conformance with the example provided as Appendix A to this chapter. The petition shall be notarized. The Hearing Liaison Officer shall not accept for filing an unnotarized petition.

(3) **Answer.** The Department shall, within twenty (20) days of the receipt of the petition by the Hearing Liaison Officer, file with the Hearing Liaison Officer an answer to the Appellants petition which states the basis upon which the Department proposes the appealed action. A copy of the Answer shall be mailed to the Appellant or its designated representative by the Hearing Liaison Officer.

(4) **Representation of parties.** Parties shall have the right to counsel at all stages in an administrative appeal so long as the person is willing and available to serve. Counsel must be duly licensed to practice law in the State of Oklahoma by the Oklahoma Supreme Court. The parties shall designate their representatives, if any, in the petition for appeal or response except as otherwise provided in this section. A change in representation must be submitted to the Hearing Liaison Officer in writing.

(5) **Ex parte communications.** Ex parte communications with the Presiding Officer are prohibited from the time the parties involved know that the administrative appeal will be scheduled for hearing until a final decision has been issued. This prohibition applies only to communications which involve the merits of the case or those which violate requirements for written communications. This provision does not apply to communications authorized or required by the law nor matters not related to the administrative appeal.

(6) **Intervenors.** Any person, having a valid demonstrable interest in the outcome of an administrative appeal proceeding may request permission to intervene in an administrative appeal. A motion to intervene and proposed order must be made in writing at the earliest possible time and must include a showing that the outcome of the administrative appeal would directly affect the person requesting leave to intervene. The motion with brief shall be filed with the Hearing Liaison Officer and copies shall be served on all parties to the administrative appeal. Intervenors will be considered full parties and will have the same rights and duties as an original party, except that intervenors do not have an independent right to an administrative hearing and may only participate on the issues affecting them as stated in the order granting intervention.

(7) **Dismissal and penalties.**

(A) The Presiding Officer may dismiss an appeal if;

- (i) the appeal is clearly moot or is without merit; or
- (ii) the Petitioner fails or refuses to appear for a scheduled hearing, a pre-hearing conference, or other conferences ordered by the Presiding Officer, or to accept a settlement offer which affords the relief the Petitioner could reasonably expect if he or she prevailed in the administrative hearing.
- (iii) the Presiding Officer may dismiss an administrative appeal because it was not properly filed or is not within the scope of the Department's authority or jurisdiction.

(B) If the appeal has been scheduled for administrative hearing, the Presiding Officer will issue a notice of proposed dismissal including the basis for such decision to all parties. Responses from the parties must be received by the Hearing Liaison Officer within fifteen (15) calendar days. If the Presiding Officer is the Director or designee to issue final agency orders, and no responses are received, the proposed order becomes final on the date the proposed order of dismissal is issued. If the Presiding Officer is a Hearing Officer not designated to issue final agency orders, the record shall be forwarded to the Director with the response, if any, and the Director may issue the dismissal as a final agency order.

(C) The Director may issue orders, including dismissal of appeal or denial of relief, as may be warranted for failure or refusal to comply with an order.

(8) **Duties of the Hearing Examiner.** Hearing Examiners shall conduct fair and impartial hearings and take all necessary actions consistent with fairness to the parties to avoid delay in the disposition of the administrative appeal. The Hearing Examiner shall have all powers necessary to that end except as otherwise limited by law. A Hearing Examiner must withdraw from any case in which he or she cannot accord a fair and impartial administrative hearing. The Hearing Examiner shall state on the record the reasons for withdrawing and shall immediately notify the Director who shall appoint a new Hearing Examiner.

(9) **Conduct of hearings and burden of proof.** All administrative hearings shall be conducted by a Presiding Officer in accordance with the provisions of this section. Administrative appeals filed under this section will unless otherwise specified, be decided based on a preponderance of the evidence. No administrative hearing shall be held in closed or executive session;

provided however, on motion of a party, the Presiding Officer may close parts of a hearing wherein evidence of a confidential nature, as determined under the Oklahoma Open Records Act, is to be introduced. In debarment and performance suspension proceedings the Department shall have the burden of proof and shall present its case first. In other matters the Petitioner shall have the burden of proof and must present his or her case first. The Respondent may respond. The burden of proof as to each material fact in an administrative hearing shall rest upon the Petitioner.

(c) Status conferences and prehearing conferences.

(1) **Status conferences.** The Presiding Officer may schedule one or more status conferences after the filing of a petition. At a status conference the Presiding Officer may establish a schedule for discovery and a discovery cut-off date, a schedule for briefing and motions and enter such additional orders as necessary to resolve procedural issues and expedite the administrative hearing process.

(2) **Prehearing conferences.** The Presiding Officer shall schedule a prehearing conference on any administrative appeal which has been set for hearing. The conference will serve to clarify, isolate and dispose of further procedural issues as well as factual and legal issues upon which the parties agree. The parties shall provide to the Presiding Officer and to each other a final list of witnesses which shall include a synopsis of the witnesses' testimony; a final list of proposed exhibits, and documents to be offered into evidence; a statement of stipulations agreed and proposed; and a statement of the factual and legal issues to be determined in the hearing. The prehearing conference will be conducted by the Presiding Officer, who shall take an active part in the conference. On his own initiative, or the request of a party, the Presiding Officer may disqualify any representative for conflict of interest or other good cause shown. A request for disqualification must be submitted in writing to the Hearing Liaison Officer as soon as the party becomes aware of a reason that justifies the request.

(3) Consolidation and joinder.

(A) The Presiding Officer may order:

- (i) the consolidation of administrative appeals and joinder of parties if to do so would expedite the processing of the administrative appeal and not adversely affect the interests of the parties;
- (ii) an additional party joined as a party of record and to appear in a hearing; and
- (iii) an administrative appeal dismissed as to one or more parties of record where such dismissal is supported by the relevant law and facts.

(B) On request of any party, the Presiding Officer may order the actions cited in (A) of this paragraph. Such orders will be served on the parties by certified mail or personal service.

(4) **Motions and applications for orders.** Motions and applications for orders must be in writing and must state the specific reasons for the request and the authority upon which the request is based. Unless otherwise provided in a status conference order all motions shall be filed prior to the prehearing conference. All motions shall be accompanied by a brief except for motions for extension of time, continuances, to amend or file supplemental pleadings to compel discovery, or to issue subpoenas. Each

motion or application shall be accompanied by a proposed order. Motions and applications must be filed with the Hearing Liaison Officer with copies provided to the Presiding Officer and all other parties. Oral motions may be made during the hearing.

(5) **Witnesses.** Each party to an administrative appeal may call witnesses to testify and offer evidence in support of that parties' contentions.

(A) **Witness lists.** All parties shall submit a list of witnesses expected to be called during the hearing. The list must include a brief statement describing the testimony to be offered. This list shall be provided to the Presiding Officer and all parties at the prehearing conference or at least seven (7) working days prior to the hearing if no prehearing conference is held. A copy shall also be filed with the Hearing Liaison Officer.

(B) **Witnesses.** Employees of the Department appearing as witnesses pursuant to a subpoena shall be released from duty without loss of pay or time and without effect on their service ratings. The Presiding Officer or any party may request the attendance of employees or other persons as witnesses when their testimony will aid in establishing the facts in the proceeding. The cost of securing the attendance of witnesses who are not Department employees or employees of the Petitioner or any other party, shall be computed as provided for in civil cases in Oklahoma District Courts and shall be paid directly to the witness by the party producing the witness at the administrative hearing.

(6) **Subpoenas.** Any party may request the Presiding Officer to issue an order and subpoenas for the production of documents or attendance of witnesses. A Subpoena Duces Tecum may additionally require a witness to produce books, records, accounts, papers and other instruments and tangible objects, which shall be reasonably described.

(A) **Request for subpoena.** A motion for an order and subpoena must be submitted at the prehearing conference or, if no conference is held, no less than seven (7) working days before the administrative hearing. The motion must be supported by a showing of general relevance and reasonable scope and a statement of the facts expected to be proven. The motion shall be accompanied by a proposed order and proposed subpoenas to be issued.

(B) **Service of subpoena.** The service of a subpoena is the responsibility of the party who requests the subpoena. The subpoena may be served by any person who is eighteen (18) years of age or older. The person serving the subpoena shall provide a notarized, written statement showing the person served and the time and manner of service. (This may be satisfied by filling out an affidavit of service on the subpoena form.) Service may be made by personal service to the individual subpoenaed or by certified mail. In either case, a subpoena must be served at least (72) hours before the administrative hearing. The attendance of a witness shall not be required unless the original subpoena, with affidavit of service or notarized written statement of service, is on file with the Hearing Liaison Officer at the time of the administrative hearing.

(C) **Quashing or limiting subpoenas.** The Presiding Officer may quash or limit a subpoena on the motion of any party, or at the

request of the witness, if:

- (i) it appears the subpoena was used primarily as a means of harassment;
- (ii) the testimony or documents sought are cumulative;
- (iii) the testimony or documents sought are not relevant or material;
- (iv) to respond to the subpoena would be unduly burdensome; or
- (v) for other good cause shown, basic fairness dictates that the subpoena be quashed or limited.

(7) **Continuances.** Every continuance of an administrative hearing or a prehearing conference shall be to a day certain. Any continuances granted shall not exceed sixty (60) calendar days except for good cause shown. The Presiding Officer may continue or adjourn an administrative hearing for good cause at any time. The cause must be stated in the record and will become part of the official record of the administrative hearing.

(d) **Discovery.** Discovery is the process, apart from the administrative hearing itself, whereby a party may obtain relevant information from another person or an agency. This information is obtained for the purpose of assisting the parties in developing, preparing and presenting their cases. Discovery may be undertaken when it is agreed to by the parties; required by law; or ordered by the Presiding Officer upon proper application of a party as set forth in this section.

(1) **Depositions.** The manner of taking depositions and the attendance of witnesses shall be governed by the laws relating to taking of depositions for use in the Oklahoma District Courts, except that, the attendance of a witness not a party or employee of a party for deposition shall be required only in the county of his or her residence. The order of the Presiding Officer authorizing the taking of a deposition and issuance of a subpoena shall state the time and place the deposition will be taken. The party requesting the deposition shall serve a copy of the order by regular mail on each party and on the witness to be deposed at least five (5) calendar days before the scheduled taking of the deposition. A deposition may be offered in evidence at the administrative hearing by any party.

(2) **Production of documents.** An order of the Presiding Officer may require a party or any person to produce documents or tangible objects for inspection by parties or to be offered into evidence. The order shall direct production at the hearing and/or prehearing conference, unless some other place is stated in the order.

(A) The party applying for the order shall serve a copy of the order on each party and any other person or agency ordered to produce documents at least ten (10) calendar days prior to the date upon which production is required.

(B) An order may require production of any document not privileged which constitutes or contains evidence relevant to the subject matter of the administrative appeal, or which may reasonably lead to such evidence. Business records are not privileged as such; however confidential business records and information will be protected from disclosure except where directly relevant to the issues in the appeal.

(C) The order shall identify the documents or objects to be produced individually or by categories, and shall include enough

detail to permit easy identification by the party or person ordered to make production. Burdensome requests for records may be denied in full by the Presiding Official. An exact photographic copy of a document may be substituted for the original, if permitted by the Presiding Official.

(3) **Interrogatories (written questions).** An order of the Presiding Officer may require a party or other person to answer written questions attached to the order. The party or a person authorized to make the answer must answer the questions in writing under oath. Unless otherwise ordered, the answers shall be submitted at the prehearing conference. The party applying for the order shall serve a copy of the order, with interrogatories attached, on each party. The party applying for the order must deliver the order by mail or personal service at least ten (10) calendar days before the date on which answer is required. The party propounding the Interrogatories shall file a copy of the answers with the Hearing Liaison Officer.

(4) **Protective orders.** Protective orders relating to discovery may be issued by the Presiding Officer as necessary or appropriate for the protection of the parties and others, and to prevent hardship to and excessive burden on a party or other person. The orders may:

- (A) limit the scope of questions;
- (B) prohibit questions or subjects of inquiry;
- (C) limit or excuse, in whole or in part, production of documents or answers to questions; and
- (D) shorten or extend the time within which any act may be performed.

(5) **Admission of facts and genuineness of documents.** The Presiding Officer may order a party or any other person to respond to requests for admissions of the genuineness of any relevant documents or the truth of any matters of fact or application of law to the facts. Within ten (10) calendar days or in the time period ordered by the Presiding Officer, the party must submit a response to a request for Admissions to each party and file a copy with the Hearing Liaison Officer. The statement must specifically deny, admit or express a lack of knowledge about the matters on which an admission is requested; otherwise, the statement must include an objection to the request for admission in whole or in part because the admission requested is privileged, irrelevant or otherwise improper. Any admission or part of an admission not denied or properly objected to shall be deemed admitted for the purposes of the administrative hearing.

(6) **Stipulations.** The parties may stipulate or agree on any matter of fact. Such an agreement will satisfy a party's burden to prove the fact alleged. Stipulations shall be presented to the Presiding Officer at the prehearing conference and shall be filed with the Hearing Liaison Officer.

(7) **Enforcement of discovery.** Orders issued by the Presiding Officer shall be done in conformance with the provision of 75 O.S., Section 315 and may be enforced in accordance with that section. The Presiding Officer may additionally impose such sanctions including dismissal of the appeal as necessary to promote justice.

(e) **Appeal hearing.** The administrative hearing to appeal an action or proposed action of the Department shall be conducted in general conformance with the rules of evidence used in the Oklahoma district courts, and trial proceedings shall be conducted in general conformance with the rules and procedures governing non-

jury civil trials.

(1) **Record.** The hearing record shall as a minimum include:

- (A) Petitioner's petition for an administrative appeal; respondents response, and all pleadings, motions, and intermediate rulings;
- (B) evidence received or considered at the individual proceeding;
- (C) a statement of matters officially noticed;
- (D) questions and offers of proof, objections, and rulings thereon;
- (E) proposed findings and exceptions only if requested by the Presiding Officer; no proposed findings are required under this section;
- (F) any decision, opinion, or report by the Presiding Officer conducting the hearing;
- (G) all other evidence or data submitted to the Presiding Officer in connection with the consideration of the case provided all parties have access to such evidence.

(2) **Transcripts of hearings.** The Presiding Officer will make a record of all administrative hearings by audio tape recording or by use of a court reporter. If the administrative hearing record is taken by audio tape recording, no written transcript of the tape recording will be prepared except on written application to the Presiding Officer. The cost of transcribing the recording shall be charged to the party requesting the transcription. The Presiding Officer shall advise the parties at the prehearing conference if held or ten (10) days prior to the hearing if no prehearing conference is held whether the Department will provide a court reporter. Any party requesting that the administrative hearing be recorded by a court reporter in lieu of a tape recording must make the necessary arrangements for the service. The party requesting the recording services shall bear the expense and costs. The Presiding Official may designate the court reporter's transcript to be the official record of the hearing.

(3) **Issuance of decisions.** The record shall be closed when all parties have had an opportunity to be heard and to present evidence and argument.

(A) If the Presiding Officer at the hearing is the Director, or designee to issue final agency orders, the Presiding Officer will file the final decision with the Hearing Liaison Officer.

(B) The final decision shall include findings of fact and conclusions of law, separately stated. The Hearing Liaison Officer shall send the decision to the Petitioner, the Respondent, and all other parties, by certified mail or deliver the decision by personal service within five (5) calendar days after it is filed.

(C) The decision of the Director or designee to issue final orders, shall be the Final Agency Order and conclusive except as provided for in the Administrative Procedure Act and this chapter, concerning petitions to rehear or reconsider cases.

(D) If the Presiding Officer is a designated Hearing Examiner and the Director is to issue the Final Agency Order after reading the record of the individual proceeding, the Hearing Examiner shall make this known to the parties on the record at the beginning of the hearing. At the conclusion of the hearing the Hearing Examiner shall direct preparation of the transcript of the hearing, which when complete, shall be forwarded to the Director with the complete record of the individual proceeding. The Director shall issue the

decision as set forth in this section.

(E) If the Presiding Officer is a designated Hearing Examiner and the Director has not heard the case nor will the Director read the record of the proceeding, the Hearing Examiner shall prepare a proposed order which shall be served upon the parties. The proposed order shall contain a statement of the reasons therefore and of each issue of fact or law necessary to the proposed order. The Hearing Examiner shall allow not less than fifteen (15) days for the parties to provide briefs concerning the proposed order. At the request of any party, the Hearing Examiner shall allow for oral argument concerning the proposed order.

(F) The Hearing Examiner shall, through the Hearing Liaison Officer, after full consideration of the law and facts and the arguments of the parties, issue to the parties and the Director the final proposed order of the Hearing Examiner. The final proposed order shall be served on the parties at least fifteen (15) days prior to the hearing at which the Director shall consider the proposed order. At the hearing the parties may present briefs and oral arguments. The Director may issue the final proposed order as the Final Agency Order or may take the matter under advisement and issue the Final Agency Order after further consideration.

(f) Petitions to rehear or reconsider cases.

(1) **Submission of petition.** A party adversely affected by Final Agency Order of the Department may petition for rehearing or reconsideration of the Final Agency Order. The party must file the petition with the Hearing Liaison Officer within ten (10) calendar days after the issue date of the Final Agency Order and shall serve copies of the petition on all other parties.

(A) The petition must be filed in accordance with the provisions of Section 317 of Title 75 of the Oklahoma Statutes (Oklahoma Administrative Procedures Act). It must identify the specific law or evidence which should be considered. The request must include any new evidence and verification that such evidence is true.

(B) Any party to the case may file a response in support of, or in opposition to, the petition. Written responses must be filed with the Hearing Liaison Officer within ten (10) calendar days after the petition is filed. Copies of the response must be served by the responding party on all other parties.

(C) Petitions will be scheduled for consideration by the Presiding Officer on the earliest possible date. All parties will be notified of the date, time and location of the hearing on the petition to rehear or reconsider.

(2) Consideration of petition.

(A) The petitioning party must be present when a petition for rehearing or reconsideration is considered. All other parties are encouraged to attend.

(B) The Director or designee to issue final orders will consider the petition and any response(s) to it. The Director or designee to issue final orders may permit oral arguments from the parties and may request information from any agency or person.

(C) When a petition is granted or denied, the Director or designee to issue final orders will state the grounds upon which rehearing or reconsideration of the matter is granted or denied. If a rehearing or reconsideration is granted, the rehearing or reconsideration will be confined to those grounds upon which the petition was granted. An order granting rehearing or reconsideration is not a Final Agency Order.

(D) The filing of a petition pursuant to this section or a petition for judicial review does not automatically stay the original decision.

(3) **Final agency order.** If a petition for reconsideration or rehearing is denied, the Final Decision of the Director or designee to issue final orders and the decision to deny rehearing or reconsideration shall constitute the Final Agency Order.

(g) **Procedures generally applicable.** The procedures set forth herein shall be applicable to all hearings conducted in matters of debarment or performance suspension and may be applied in such other administrative hearings as may be conducted by the Department when such hearings require a full due process hearing.

[Source: Amended at 12 Ok Reg 1269, eff 5-11-95; Amended at 18 Ok Reg 1357, eff 5-11-01; Amended at 22 Ok Reg 1367, eff 5-26-05]

SUBCHAPTER 5. CONSTRUCTION CONTRACTS

730:25-5-1. Public Competitive Bidding Act

Construction and maintenance contracts to be awarded by the Commission shall be advertised and awarded in accordance with the Public Competitive Bidding Act of 1974, as amended.

[Source: Amended at 12 Ok Reg 1269, eff 5-11-95]

730:25-5-2. Opening of bids

Unless otherwise ordered, bids shall be opened and read at least seven (7) days prior to the regular Commission meeting date. The Director shall cause the bids on each project to be reviewed and analyzed and shall have prepared a recommendation for awards.

[Source: Amended at 12 Ok Reg 1269, eff 5-11-95]

730:25-5-3. Award preparation

After the bids are received, the Director shall cause to be prepared a statement for the Commission which shall show the contractors who are apparent low bidders on more than one contract and the amount of work involved in each contract. The Director shall determine whether any contractor is low bidder on an amount of work which exceeds his prequalification or bonding limitation and shall recommend to the Commission which contracts, if any, should be awarded to this contractor, based on his qualifications and experience record.

[Source: Amended at 12 Ok Reg 1269, eff 5-11-95]

730:25-5-4. Pre-advertisement prohibited

No contract shall be advertised for bids or awarded by the State Transportation Commission until the Director has determined that the plans have been completed, required approvals from the United States Department of

Transportation have been obtained in the case of federal aid projects, and no notice to proceed shall be issued to a contractor until all rights-of-way have been secured, and utility removals have been completed or arranged.

[Source: Amended at 12 Ok Reg 1269, eff 5-11-95; Amended at 18 Ok Reg 1357, eff 5-11-01]

730:25-5-5. Surety company and insurance company

(a) No surety company shall act as surety on an Oklahoma Department of Transportation contract in an amount which exceeds the bonding limitation as published in the Federal Register, Treasury Circular 570 or ten percent (10%) of capital and surplus as found in the Annual Report and Directory of Insurance Companies published by the Oklahoma Insurance Commission.

(b) In the event that any surety company shall fail or refuse to honor the terms and conditions of a bond provided to the Department, the Department shall so notify the Department of Central Services and the State Insurance Commission and may further refuse to accept bonds from the surety company until the bond obligation has been fulfilled.

[Source: Amended at 12 Ok Reg 1269, eff 5-11-95; Amended at 18 Ok Reg 1357, eff 5-11-01]

730:25-5-6. Release of engineers estimate; prohibition [REVOKED]

[Source: Added at 12 Ok Reg 1269, eff 5-11-95; Revoked at 18 Ok Reg 1357, eff 5-11-01]

SUBCHAPTER 7. SETTLEMENT OF DISPUTES

730:25-7-1. Settlement of disputes over questions in fact [REVOKED]

[Source: Revoked at 12 Ok Reg 1269, eff 5-11-95]

730:25-7-2. Settlement of disputes arising during performance of construction or maintenance contracts; mediation and binding arbitration

The Department shall develop and implement a binding procedure for the settlement of Contractor claims which may arise in the course of the performance of construction or maintenance contracts.

(1) **Procedure development.** The procedure developed by the Department shall generally provide the following:

(A) The Contractor shall provide a written notice of the claim to the Resident Engineer/Division Engineer prior to the beginning of work upon which the claim will be based.

(B) Submission by the Contractor to the Resident Engineer/Division Engineer of detailed information concerning the work performed and each element of additional compensation requested.

(C) A time limit, from the receipt of all the Contractor's supporting information, in which the Department shall make a written response to the Contractor's claim.

(D) Appeal by the Contractor from the decision of the Resident Engineer/Division Engineer to the Director or Assistant Director of Operations of the Department.

(E) Provisions for the mediation of the Contractor's claim if the Contractor is dissatisfied with the final decision of the Director or Assistant Director of Operations. The mediation shall be performed under the auspices of the American Arbitration Association or other independent dispute resolution organization.

(F) Upon mutual consent of the Department and the contractor and upon order of the District Court in Oklahoma County, disputes arising from construction or maintenance contracts and relating to work performed or conditions under which work was performed under the contract may be referred to binding arbitration which shall be performed under the auspices of the American Arbitration Association or other independent dispute resolution organization.

(2) **Implementation.** The Department will present its proposed procedure for settlement of contractor claims to the Commission for approval. The approved procedure shall thereafter be incorporated in each proposal for construction or maintenance contracts advertised by the Department.

(3) **Procedure review.** The Department shall periodically review the procedure set forth in this section with highway construction industry and propose recommended changes to the Commission to insure the fair and efficient handling of Contractor claims.

[Source: Amended at 12 Ok Reg 1269, eff 5-11-95; Amended at 18 Ok Reg 1357, eff 5-11-01]

APPENDIX A. EXAMPLE FORM OF PETITION

[Figure 1](#)

[Figure 2](#)

[Source: Added at 12 Ok Reg 1269, eff 5-11-95]

CHAPTER 30. HIGHWAY DESIGN

[Authority: 61 O.S., §§ 60 et seq.; 69 O.S., §§ 101, 301, 303, 304, 689, 701, 708.2, 1210, 1401 et seq., 4002, and 4006; 47 O.S., §§ 14-118, 14-101 et seq., and 1129; 23 U.S.C. 101, 127 and 315; 49 U.S.C. 101 through 113; 23 CFR 658]

[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

730:30-1-1. Purpose

The purpose of this chapter is to delineate the areas involved in the design, specification, and permit process that the Commission must approve to ensure safe, efficient and economical roads for all of the citizens of Oklahoma and its visitors.

[Source: Amended at 18 Ok Reg 1369, eff 5-11-01]

SUBCHAPTER 3. DESIGN POLICIES AND SPECIFICATIONS

730:30-3-1. Geometric design policy

The Commission shall approve a geometric design policy for roadways and bridges on the State and Federal-aid Highway Systems. The policy shall be developed, maintained and kept current by the Department and be in general conformance with the policies adopted by the American Association of State Highway and Transportation Officials entitled "A Policy on Geometric Design of Highways and Streets", as well as the requirements of the United States Department of Transportation. The current policy which shall remain in effect until amended, is entitled, "Oklahoma Department of Transportation Roadway Design Manual".

[Source: Amended at 18 Ok Reg 1369, eff 5-11-01]

730:30-3-2. Standard specifications

(a) The Commission shall approve the standard specifications for construction on the State and Federal-aid Highway Systems. These standards shall be developed and kept current by the Department and be in general conformance with the standards adopted by the American Association of State Highway and Transportation Officials and the requirements of the United States Department of Transportation. The current standards, subject to future amendment, are entitled, "1999 Standard Specifications for Highway Construction".

(b) The Department is hereby authorized to issue special provisions, when necessary, to supplement the standard specifications.

[Source: Amended at 18 Ok Reg 1369, eff 5-11-01]

730:30-3-3. Permit system for driveway entrances and exits

The Commission shall approve a policy on a permit system providing for the control of driveway entrances to and exits from all State and Federal-aid Highways. The policy shall be developed, maintained and kept current by the Department and be in general conformance with standards adopted by the American Association of State Highway and Transportation Officials. The policy which is currently in effect subject to periodic amendments is the latest edition of, "Policy on Driveway Regulations for Oklahoma Highways".

[Source: Amended at 18 Ok Reg 1369, eff 5-11-01]

730:30-3-4. Climbing lanes [REVOKED]

[Source: Revoked at 18 Ok Reg 1369, eff 5-11-01]

730:30-3-5. Basis for determination of designs

Roadway and bridge designs will be determined on the basis of engineering knowledge, judgment and economics for all materials involved.

730:30-3-6. Salvaged and used material

The use of salvaged or used material shall be permitted in the construction or reconstruction of the Oklahoma State Highway System only when determined to be adequate for the type and class of facility under construction.

SUBCHAPTER 5. CONSULTING ENGINEERING SERVICES

730:30-5-1. Department consultant contracts

(a) The Oklahoma Department of Transportation may utilize consultant contracts to assist in the delivery of the Department's eight year construction work plan and other transportation improvements. All requests for consultant services must be approved by the Chief Engineer or an appointed designee. The Department will contract for professional services when one or both of the following conditions exist:

- (1) The inability to complete the required work within the desired time frame with available resources.
- (2) The work requires specialized experience or expertise that is not available within the agency.

(b) The Department will utilize two (2) basic forms of professional service contracts:

- (1) Project Specific Contracts. Contracts that provide for a general project location and specific definition of the anticipated services that will be

required.

(2) Demand Service Contracts. Contracts that require a consultant to provide work and services on an as-needed or on-call basis. Demand service contracts that encompass all the preconstruction services necessary to provide a complete Plan, Specification and Estimate (PS&E) submission shall not exceed a total of five hundred thousand dollars (\$500,000) per consultant, per state fiscal year.

(c) The Department will solicit for project specific contracts on an as-needed basis and for demand service contracts on a periodic basis. The Department will maintain a list of all consulting firms that submit a consultant information form. The Department will solicit for professional services from the list and will utilize the technological means available to notify interested consultants in a manner that will maximize their opportunity to respond. For unusual or specialized services, the Department may deviate from the list of consulting firms and solicit in a manner that will provide notice to the greatest number of consulting firms determined to be qualified and capable of providing the services required.

(d) A consultant selection committee composed of representatives with knowledge and expertise in critical aspects of the projects and services will be utilized for the consultant selection for professional service contracts.

(e) The Oklahoma Transportation Commission must approve each obligation of funds for engineering and planning work prior to contract execution.

[Source: Amended at 18 Ok Reg 1369, eff 5-11-01; Amended at 26 Ok Reg 19, eff 8-22-08 (emergency); Amended at 26 Ok Reg 1099, eff 7-1-09]

730:30-5-2. City and county consultant contracts

Where the Local Public Agency (LPA) proposes the use of federal funds for professional services on a non-highway project (local city street or county road) and where there are local matching funds but no state funds involved in the project, the local unit of government having jurisdiction over the project, shall have the right to select and employ the professional service provider subject to compliance with State statutes, federal regulations, Department procedures and Department approval.

[Source: Amended at 18 Ok Reg 1369, eff 5-11-01; Amended at 29 Ok Reg 1495, eff 6-25-12]

SUBCHAPTER 7. BRIDGE UTILITY ATTACHMENTS

730:30-7-1. License agreement; annual license fee

The Department may execute a license agreement with a utility company or governmental political subdivision, permitting them to attach their public service or public convenience utility line to a bridge, subject to the following conditions:

(1) The proposed method of attachment submitted by the utility company or governmental political subdivision shall not encroach on the waterway or roadway, walkway or railing of the bridge and shall not overstress the structure so as to impair its structural adequacy, and shall not pose any detrimental effect to the bridge. The submission shall include detailed plans showing the proposed method of attachment. The Bridge Division may reject or require alterations to the proposed method of attachment to protect the bridge. Approved plans shall be stamped by the Bridge Division and considered part of the agreement. The Bridge Division shall prepare the agreement document.

(2) The utility company or governmental political subdivision shall execute the Department's standard license agreement. The utility company, upon completion of the attachment installation, shall pay the annual license fee listed in the license agreement. The utility company shall pay the fee annually until the termination of the agreement. The fee amount shall be based on the Schedule of Annual License Fees provided as Appendix C to this chapter.

[Source: Amended at 18 Ok Reg 1369, eff 5-11-01]

730:30-7-2. Waiver of license fee

The license fee shall be waived on attachments of the U.S. government, state agencies, county governments, city governments, townships and any public non-profit "District" or not-for-profit "Corporation" as defined in Title 82, Section 1324.41 of the Oklahoma State Statutes. Requests for other waivers of the license fees will be referred to the Transportation Commission for their action.

[Source: Amended at 18 Ok Reg 1369, eff 5-11-01]

730:30-7-3. Liability insurance

The license agreement shall provide that the utility company shall furnish and maintain a liability insurance policy in the amount of \$200,000.00 payable to the OKLAHOMA DEPARTMENT OF TRANSPORTATION for all lines carrying electrical power, petroleum gas and fluid products, and water. This liability insurance policy requirement shall not be retroactive to existing agreements. Liability insurance policy requirements shall be waived for the same entities for which license fees are waived in 730:30-7-2.

[Source: Amended at 18 Ok Reg 1369, eff 5-11-01]

730:30-7-4. Termination of license agreement

- (a) License agreements shall terminate when either the attachment or the bridge is removed. A new agreement, following the provisions of this subchapter, shall be required for any subsequent attachment.
- (b) Any change to the attachment which would change the license fee shall void the existing agreement, and the provisions of this Subchapter for obtaining a new agreement shall be followed.
- (c) License agreements shall be terminated if the attachment has not been completed within the time period specified in the agreement, usually one (1) year from the agreement execution date for existing bridges or one (1) year from the completion date of the bridge for new bridges.

[Source: Amended at 18 Ok Reg 1369, eff 5-11-01]

SUBCHAPTER 9. PERMITTING OF OVERSIZED, OVERWEIGHT AND SPECIAL COMBINATION VEHICLES

730:30-9-1. System of issuance [REVOKED]

[Source: Revoked at 10 Ok Reg 4685, eff 10-11-93]

730:30-9-2. Purpose

The purpose of this Subchapter is to provide rules which will serve as a basis for the development of a system by the Commissioner of Public Safety for the

issuance of permits for the controlled movement of reasonably oversize and/or overweight vehicles upon appropriate transportation facilities which are adequately designed to accommodate such vehicle sizes and with minimal disruption to the normal flow of traffic, creating damage to public facilities or impairing the public safety. It is the intent of the Oklahoma Transportation Commission to ensure, to the greatest extent possible, that the traveling public is protected from potential traffic hazards and the public interest and investment in state owned transportation facilities are protected through meaningful control of vehicle sizes and weights exceeding statutory limitations while providing adequate eligibility to permit, where in the public interest, the non-routine movements of oversize and/or overweight vehicles.

[Source: Added at 10 Ok Reg 4685, eff 10-11-93; Amended at 30 Ok Reg 713, eff 5-27-13]

730:30-9-3. Applicability

The provisions of this Subchapter pertain to all routes of the State Highway System including, without limitation, the Dwight D. Eisenhower National System of Interstate and Defense Highways and all toll facilities (turnpikes) carrying an Interstate Highway, US Highway or State Highway designation, and such other roads, streets, or public ways as the Commissioner of Public Safety shall deem appropriate.

[Source: Added at 10 Ok Reg 4685, eff 10-11-93; Amended at 11 Ok Reg 3581, eff 6-27-94]

730:30-9-4. Permit defined

A permit, when issued by the Commissioner of Public Safety in accordance with the laws of the State of Oklahoma and provisions of this Subchapter shall, subject to the conditions and restrictions of the law and these rules, constitute the limited written permission of the State of Oklahoma for the movement of a specific vehicle and/or load which exceeds any size or weight limitations of Title 47 O.S. 1991, Chapter 14 and any lawful amendments thereto, or, with regard to the Dwight D. Eisenhower National System of Interstate and Defense Highways, exceeds any of the provisions of Title 23 U.S.C., Section 127 or associated federal regulations.

[Source: Added at 10 Ok Reg 4685, eff 10-11-93]

730:30-9-5. Assumption of liability and responsibility for damages to public facilities by permittee

(a) The driver, owner, operator, and any person, firm, or corporation causing or responsible for any vehicle being on any public road, street, or highway of this state operating under the limited authority of an oversize, overweight or other special permit shall, by operation of the vehicle under such permit, assume full and absolute responsibility for any damage to any road, street, highway, bridge, overpass, pavement, or other transportation facility.

(b) The issuance of an oversize or overweight permit shall, under no circumstances, be considered or construed to be a warranty, either express or implied, or a representation in any form by the State of Oklahoma or any agency or political subdivision of the State that any road, street, highway, or bridge provides adequate support or clearance for the permitted load or vehicle. No permit shall be valid except in strict conformance with the conditions precedent of this provision and all provisions contained in the permit. The Commissioner of Public Safety shall provide, on the face of each permit as determined by the Commissioner, notice of these conditions precedent for the use of the permit.

730:30-9-6. General conditions and restrictions on permits

Unless otherwise specifically required by law, the following provisions shall apply to the eligibility for permits issued by the Commissioner of Public Safety for the operation of oversize and/or overweight vehicles:

(1) Vehicles bearing an out-of-state license are ineligible for a permit of any type for a movement between an origin and destination, both of which are located within Oklahoma (intrastate movement), unless said vehicle is covered under an agreement between the licensing state and the State of Oklahoma which prorates the licensing and/or registration fees for such vehicles, or unless such vehicle has been temporarily licensed for operation in this state. Evidence of compliance with the provisions of this subparagraph must be provided with the application for any such permit.

(2) Only single trip permits may be requested by the vehicle owner or operator for non-divisible overweight vehicles and/or loads.

(A) A non-divisible load means any load or vehicle exceeding applicable length or weight limits which, if separated into smaller loads or vehicles, would:

- (i) Compromise the intended use of the vehicle, i.e., make it unable to perform the function for which it was intended;
- (ii) Destroy the value of the load or vehicle, i.e., make it unusable for its intended purpose; or
- (iii) Require more than eight (8) work hours to dismantle using appropriate equipment. The applicant for a non-divisible load permit has the burden of proof as to the number of work hours required to dismantle the load.

(B) Emergency response vehicles and casks designed and used for the transport of spent nuclear materials, and military vehicles transporting marked military equipment and material shall be considered for permits as non-divisible vehicles or loads.

(C) Non-divisible loads not operating on the interstate Highway System mean loads which, in the opinion of the Commissioner of Public Safety, cannot be reasonably and efficiently dismantled and which may safely operate on the permitted route.

(D) Permits may be issued only after proper consideration of:

- (i) allowable weights on, and dimensions of, bridges;
- (ii) potential damage to roadways;
- (iii) highways under construction;
- (iv) construction or other detours;
- (v) traffic volumes;
- (vi) interference with the normal flow of traffic; and
- (vii) existing or reasonably anticipated weather conditions such as excessive winds, rain, fog, snow or ice, or any other condition which, in the opinion of the issuing agency, or any law enforcement officer, may adversely affect the safe operation of permitted vehicles or the public safety.

(3) Single trip permits for non-divisible overweight vehicles and/or loads may be requested only for vehicles which have been lawfully registered to carry the requested weight and only for the time reasonably necessary to accommodate the movement of said vehicle and/or load from its point of

origin to its point of destination via the shortest practicable routing. Any return trip of said identical vehicle and/or load shall require an additional permit.

(4) All permit applications and issued permits must clearly and specifically identify the name and address of the vehicle owner, the vehicle involved including make, model, license number and state of issuance, the number of trailers, their license numbers and state of issuance, a brief description of the load to be transported and, if overweight, the gross permitted vehicle weight, the number of axles, axle configurations, spacings and weights and, if oversize, all oversize dimensions, the lengths of any front or rear load overhang and, for the movement of unlicensed equipment or mobile homes, a serial or other identification number unique to said load.

(5) No enforcement tolerances shall apply to any permitted vehicle and/or load.

(6) Permitted vehicles shall neither access nor move upon any part of the National System of Interstates and Defense Highways or four-lane divided Federal Aid Primary System Highways, state highway or bridge unless the properly signed original permit or true and correct facsimile or copy thereof, specifically authorizing such movement, is in the driver's possession.

(7) All vehicles and/or loads moving under provisions of a permit shall travel to the right of the center of the roadway and shall yield the right of way to other traffic. An exception occurs on bridges when the permit specifies traveling on the centerline of the roadway.

(8) Permitted vehicles and/or loads, the movement of which requires an escort, shall not travel in convoy.

(9) Failure of the vehicle owner or driver to comply with any applicable law, rule, regulation, ordinance, posted speed limit or any permit term, condition, limitation or requirement including, but not limited to routes of travel shall, in addition to all other legal remedies, immediately invalidate the permit.

(10) Vehicles carrying loads of other vehicles or equipment whose reasonably removable appendages require an oversize permit shall have such appendages removed prior to movement, thereby eliminating the need for an oversize permit.

(11) Vehicles and/or loads which are both overweight and oversize shall require the issuance of a permit covering both the overweight and oversize movement; however, the permit fees shall apply as though both permits had been issued separately.

[Source: Added at 10 Ok Reg 4685, eff 10-11-93; Amended at 12 Ok Reg 1283, eff 5-11-95; Amended at 13 Ok Reg 2263, eff 6-13-96; Amended at 16 Ok Reg 1261, eff 5-13-99; Amended at 19 Ok Reg 1222, eff 5-13-02; Amended at 30 Ok Reg 713, eff 5-27-13]

730:30-9-7. Overweight permits - specific conditions and restrictions

(a) Unless otherwise specifically required by law, in addition to the applicable General Conditions and Restrictions on Permits as contained in 730:30-9-6, no overweight vehicle and/or load and no combination of vehicles and/or loads shall be eligible for a permit unless all the following conditions are met:

(1) the permit application is for a single trip only; and

(2) the vehicle and/or load to which the application applies cannot be divided; and

(3) the applicant has justifiably certified that the movement proposed in the application is necessary due to the existence of a specific public emergency requiring the use of the State Highway System and the Commissioner of Public Safety has concurred in the existence of such emergency; and

(4) the route requested constitutes the shortest practicable routing available; and

(5) the overweight vehicle and/or load to which the application applies does not require a fixed single axle loading in excess of 20,000 pounds or 600 pounds per inch and fractional part thereof of nominal tire tread width, whichever is the lesser.

(b) Except as otherwise provided in this subchapter overweight permits shall be required for the movement of vehicles and/or loads exceeding 80,000 pounds or any of the provisions of federal Formula "B" or Table "B" when proposed for movement on the Dwight D. Eisenhower National System of Interstate and Defense Highways and for the movement of vehicles and/or loads exceeding 90,000 pounds or any of the provisions of the Oklahoma Weight and Axle Spacing Table shown in 47 O.S. 1991, Section 14-109(a)2, when proposed for movement on any other portion of the State Highway System.

(c) In accordance with the Federal Highway Administration interpretation of 23 U.S.C. § 127 longer combination vehicles, (LCV's) which are defined in § 127(d)

(4) as any combination of a truck tractor and two or more trailers or semitrailers which operates on the Interstate System at a gross vehicle weight greater than 80,000 pounds in accordance with Federal Weight Formula "B" shall be allowed to operate on the Interstate System in Oklahoma at a gross vehicle weight of not to exceed 90,000 pounds, if the LCV configuration was in regular or periodic operation as permitted by the Commissioner of Public Safety on or before June 1, 1991. LCV's shall be subject to all other requirements provided for by federal law, state law and this subchapter. The Federal Highway Administration requires that any LCV operating on the Interstate Highway in the State of Oklahoma at a gross vehicle weight in excess of 80,000 pounds, but not exceeding 90,000 pounds, first obtain from the Commissioner of Public Safety a special annual divisible load permit for such operation on the Interstate Highways.

(d) The gross permissible axle weight on any axle which is capable of being lowered for use in supporting a load or retracted from such use by controls located in or accessible from the vehicle cab, shall not exceed the lesser of 8,000 pounds or the axle manufacturer's gross axle weight rating and no tire on any such axle shall be permitted to carry weights in excess of 240 pounds per inch and fractional part thereof of tread width. All tires on any such axle shall be compatible in size, width and air pressure with the tires on fixed load axles.

(e) No operator shall move any load without a permit which is over the weight limits provided by law.

(f) Maps for Load Posted Bridges on Oklahoma Highway System are available on the Department of Transportation web site and updated within two weeks of when changes occur. The map indicates, at the time of its updating, the locations of all load restricted bridges and highways on the state highway system. The map does not, in any event, constitute a warranty, either express or implied.

(g) All applications shall be entered into the Department of Public Safety automated overload permitting system and shall indicate all proposed axles, axle spacings and weights, the inner bridge dimensions, gross vehicle weight, vehicle width, height and length, origin, destination and the proposed routing, and shall be referred in writing to the Department of Transportation for a specific load route

review. Based upon the findings of that review, the Department of Transportation shall notify the Commissioner of Public Safety whether such a permit may be issued or whether such movement will pose an unacceptable risk of damage to the highways and/or bridges of this state or create a hazard to the public safety. Permits for proposed movements which pose an unacceptable risk in the opinion of the Department of Transportation shall be denied.

(h) Overweight load route reviews shall be made by the Department's Bridge and Maintenance Divisions. Bridge reviews shall be performed in strict compliance with provisions of the current AASHTO Manual For Bridge Evaluation. The computed stresses for a bridge due to an overweight load proposed for permitting shall not, under any circumstances whatsoever, exceed those specified in said manual; provided, the Department of Transportation may reduce the AASHTO recommended allowable computed stress values where necessary to account for deterioration in any of the structural members of any bridge.

(i) Based upon previously completed load route reviews, the Department has compiled and maintains an Overweight Truck Permit Map which is intended for use in permitting the movement of standard configurations of overweight trucks which have been previously studied and are shown on Standard Drawing OL-1. Said drawing indicates the maximum gross vehicle weight and axle group loading, minimum number of axles and inner bridge dimensions for all truck combinations shown. The Overweight Truck Permit Map and the Standard Drawing OL-1 are herein incorporated by reference and constitute an integral part of this Subchapter and will be updated by the Department not less than once every two years and furnished to the Commissioner of Public Safety in such quantities as he may reasonably require for the purpose of approving or rejecting applications for overweight permits for the movement of indicated vehicles and/or loads without requesting a load route review by the Department for the previously studied routes shown on the map. The Department reserves the right to add, delete or modify at any time, any routes or portions thereof shown on the map due to any change in the condition of highways relating to their ability to carry such loads, by oral or written notification to the Commissioner of Public Safety or his designated representative. Neither the Overweight Truck Permit Map or the Standard Drawing OL-1 constitutes a warranty, express or implied.

(j) All requests for overweight permits must go through the Department of Public Safety automated overload permitting system. Requests must be received a minimum of five working days prior to the date requested for actual movement of the load. Additional time may be required where several bridges are involved. Routes shown in red on said map are incapable of supporting permitted overweight vehicles shown on the Standard Drawing OL-1. Permits may be issued for vehicles shown on Standard Drawing OL-1 on routes shown in green on said map.

(k) Reducing bridge impact loading by restricting the speed of more conventional permit loads shall not be considered by the Department of Transportation where long hauls are to be made by permitted overweight vehicles. Restricted speed will be considered only for extremely short hauls where it can be shown that an alternate means of transportation is not readily available.

(l) The Department of Transportation will review specific routes and bridges for various combinations of oversize and overweight trucks including superloads to determine the probability of specific structures and pavements to support such loads; however, due to unknown factors, such as recent changes in conditions or any other unknown factor, neither the Commissioner of Public Safety nor the Department of Transportation shall warrant, guarantee or certify that a particular

overweight load or superload can be safely moved over any route without incurring a substantial risk of structural failure to the paving surface or bridge structure due to the higher level of stress permitted for these oversize or overweight loads and no such warranty, guarantee or certification is hereby expressed or implied. The Department of Transportation reserves the right to require an evaluation of potential damage to the pavement on a specific route. A superload is defined as any overweight permit load that exceeds the Standard Drawing OL-1 trucks described in paragraphs (i) and (j) of this subsection. If the route has not been studied previously for the proposed superload, a detailed structural analysis will be required to check each bridge to be crossed by the proposed superload to determine if adequate safety factors exist in the bridge to assure that damage will not occur unless it can be shown by a comparative analysis that it will not exceed stresses developed by OL-1. Bridge stress and safety factors shall be in strict conformance with paragraph (h) of this subsection.

(m) Superloads with dual lanes axles may be considered as separate side-by-side axles for analysis and permit purposes as shown by the Oklahoma Department of Transportation Standard Drawing OL-1. Superloads with dual lanes meeting the following requirements will be reviewed by the Oklahoma Department of Transportation for specific routes:

- (1) Each axle shall include a minimum of four (4) tires and not exceed 20,000 lbs. or 600 lbs. per inch and fractional part thereof of nominal tire tread width, whichever is the lesser. No more than one axle per lane will be allowed for dual lane configurations.
- (2) The lateral distance, "W", between consecutive dual wheels on each axle must be a minimum of 4'-0" regardless of the type of equipment being used.
- (3) The Gage, "G", or split inside distance separating axles between centers of inside dual wheels must be a minimum of 6'-0" measured between centers of inside dual wheels regardless of the type of equipment being used.
- (4) The permit application is for a single trip only.
- (5) The vehicle and/or load cannot be reasonably modified or dismantled for operation in compliance with all legally defined maximum dimensions.
- (6) The load does not exceed 16 feet in width when proposed for operation on the Dwight D. Eisenhower National System of Interstate and Defense Highways during any portion of the trip or 20'-0" on the state highway system.
- (7) The height of the vehicle and/or load will clear, by a minimum of two (2) inches, the minimum posted height limitation for any overhead structure. A Vertical Clearance of Bridge Structures Map is produced by and available from the Oklahoma Department of Transportation, but the map does not, in any event, constitute a warranty, either expressed or implied.
- (8) The track of the vehicle and/or load does not require the use of highway shoulders and the turning radius of the vehicle and/or load does not require leaving the surface of roadway travel lanes, the travel lanes of interchange loops or ramps, to negotiate turns.
- (9) The towing vehicle has sufficient power to move the oversize load safely at reasonable highway speeds.
- (10) All applications received by the Commissioner of Public Safety for overweight permits shall indicate all proposed axle spacings including gage and wheel spacings, axle spacings and weights, the inner bridge

dimensions, gross vehicle weight, vehicle width, height and length, origin, destination and proposed routing, and shall be referred to the Department of Transportation for a specific load route review. **As a general rule, increasing the Gage, "G", and the wheel spacing, "W", will, in most cases, improve the load distribution and allow larger gross vehicle weights to pass over the bridges.**

(11) As a general rule, the allowance of dual lane axels are intended for shorter hauls or, for instances when no other means is available, to move the load and the movement originates or terminates in the State of Oklahoma. In order to minimize disruption to traffic, preference should be given to the use of single lane equipment.

[Source: Added at 10 Ok Reg 4685, eff 10-11-93; Amended at 12 Ok Reg 1283, eff 5-11-95; Amended at 18 Ok Reg 1369, eff 5-11-01; Amended at 30 Ok Reg 713, eff 5-27-13]

730:30-9-8. Special crossing permits

(a) Special Crossing Permits for Industrial Use (Crossing Permits) may be applied for regarding the use of specific locations where private roads cross non-access controlled state highways and the load exceeds 20,000 lbs /axle when the following conditions and requirements are met.

(1) An initial Crossing Permit application for each such crossing shall be submitted through the Department of Public Safety to the Department of Transportation indicating, as a minimum, highway route number, station location, county, township and range, the proposed vehicle size, the number of axles and axle spacings, the maximum gross weight, maximum axle loadings and such additional information as the Commissioner of Public Safety may require.

(2) The Crossing Permit application shall be accompanied by appropriate plans, specifications and details necessary for said crossing, and shall have been prepared by a Registered Professional Engineer. The plans must show structural adequacy for the proposed reinforced surface of the highway crossing, including a soils study as well as appropriate traffic warning and control devices necessary to insure the safety of the traveling public.

(3) The Department of Transportation engineering staff shall make a comprehensive study of the proposal, make recommendations for any necessary revisions or modifications, and submit the request to the Transportation Commission for approval or rejection. If rejected, the Department will so notify the Commissioner of Public Safety.

(4) If the request is approved by the Transportation Commission, the requesting party shall enter into an agreement with the Director of the Department of Transportation to pay all costs of or associated with the construction and maintenance of the crossing, including the perpetual daily maintenance of the heavy load crossing and any safety warning and traffic control devices. The requesting party shall file with the Department evidence of sufficient liability insurance in amounts equal to the maximum amounts of liability for state agencies provided in the Governmental Tort Claims Act, naming the State of Oklahoma, ex rel. Department of Transportation as an additional insured and shall further agree to hold harmless the State of Oklahoma, its agents and employees from any and all claims of damages whatsoever which arise from the industry's use of, or as a result of the existence of, the highway crossing, associated warning or traffic control devices or any impairment of public safety at the crossing

location.

(5) When construction of the crossing is completed and accepted, the Department of Transportation shall notify the Commissioner of Public Safety that an inspection has been made and the crossing satisfies the requirements of the plans and agreement and that the initial Crossing Permit may be issued.

(6) Subsequent Crossing Permits issued by the Commissioner of Public Safety shall authorize a specific vehicle to cross the state highway at an identified and approved crossing location. Said permits shall further specify a maximum gross weight and the maximum axle loadings and minimum inner bridge dimensions, as well as the length and width of each vehicle and may specify times of day, weather conditions or other factors limiting the use of such crossings.

(b) Failure on the part of the vehicle owner to comply with any of the Crossing Permit requirements or operation of the vehicle on or across a state highway at any non-permitted location shall constitute grounds for closing the crossing and the revocation of all special permits at that location. Any revocation of such permits shall be for a period of not less than 1 year.

[Source: Added at 10 Ok Reg 4685, eff 10-11-93]

730:30-9-9. Oversize permits - specific conditions and restrictions

(a) Unless otherwise specifically required by law, in addition to the applicable General Conditions and Restrictions on Permits as contained in 730:30-9-6, no oversize vehicle shall be eligible for a permit unless all of the following conditions are met:

- (1) the permit application is for a single trip only; however, in cases where an industry located near the Oklahoma State line routinely ships oversize loads directly across the nearby state line, or in other unusual instances, the Commissioner of Public Safety may issue multi-trip oversize permits for specific movements as set forth in 730:30-9-9(j); and
- (2) the vehicle and/or load is nondivisible as defined in 730:30-9-6(2); and
- (3) the load does not exceed 16 feet in width when proposed for operation on the Dwight D. Eisenhower National System of Interstate and Defense Highways during any portion of the trip; and
- (4) the height of the vehicle and/or load will clear, by a minimum of 2 inches, the maximum height limitation for any overhead structure shown on the Vertical Clearance of Bridge Structures Map produced by and available from the Oklahoma Department of Transportation, which map does not, in any event, constitute a warranty, either express or implied; and
- (5) the track of the vehicle and/or load does not require the use of highway shoulders and the turning radius of the vehicle and/or load does not require leaving the surface of roadway travel lanes or the travel lanes of interchange loops or ramps, to negotiate turns; and
- (6) the towing vehicle has sufficient power to move the oversize load safely at reasonable highway speeds.

(b) Unless otherwise provided for in this subchapter the following trailer and semitrailer lengths may be permitted by the Commissioner of the Department of Public Safety:

- (1) Semitrailers exceeding 53 feet in length, but not exceeding 59 feet 6 inches in length, operating in a truck tractor-semitrailer combination may operate without a permit on the National Network of highways as

designated by the United States Secretary of Transportation, plus the reasonable access provided for in this section as such combination is authorized by 49 U.S.C. App. § 2311 and 23 CFR Part 658.

(2) Semitrailers and trailers operating in a truck tractor-semi-trailer and trailer combination shall not exceed 53 feet in length. No permit may be issued for any such combination in which a semi-trailer or trailer exceeds 53 feet in length. In no event shall the total length of the cargo carrying units exceed 110 feet. Such combination vehicles may only operate on the Interstate and four lane divided federal-aid primary systems.

(3) Semitrailers and trailers operating in a truck tractor-semi-trailer-trailer and trailer combination shall not exceed 29 feet in length for any semi-trailer or trailer which is a part of the vehicle combination, and no permit may be issued for such combination if any semi-trailer or trailer exceeds 29 feet in length or the overall cargo carrying capacity exceeds 95 feet in length. Such combination vehicles may operate only on the Interstate System and four lane divided highways plus reasonable access.

(4) In no case shall any trailer or semi-trailer be placed ahead of another trailer or semi-trailer which carries a 5,000 pound or more heavier load. The heaviest trailer or semi-trailer shall be placed in front and the lightest at the rear. An empty trailer or semi-trailer must not precede a loaded trailer or semi-trailer.

(5) Semi-trailer or trailer lengths shall be measured from the front of the trailer to the rear of the trailer or any extension of the load beyond the rear of the trailer. Any appendages to the rear of the trailer shall be included in the trailer length measurement.

(c) An automobile transporter, defined as a truck and semi-trailer or truck tractor and semi-trailer which has the fifth wheel assemblage located on a drop from behind and below the rear most axle of the power unit and which exceeds 70 feet in length but does not exceed 75 feet in length, inclusive of both the front and rear bumpers, may, under the authority of 23 CFR Section 658.13(d), operate on the National Network as designated by the United States Secretary of Transportation, plus reasonable access, without a permit. Automobile transporters may carry an extension of the load, not to exceed 3 feet beyond the front nor more than 4 feet beyond the rear of such transporter.

(d) Truck or truck tractor and semi-trailer or trailer combinations which exceed 102 inches but not exceeding 120 inches in width may operate under authority of a special annual overwidth permit. Such permit shall be valid for the movement of single trip overwidth loads exceeding 8½ feet on roads and highways having a surface width of 20 feet or more and for travel to and subsequent travel from the initial permitted movement. Such vehicles may be utilized to transport legal dimensioned loads only when a single trip overwidth permitted movement precedes or follows the legal load movement. Proof of the overwidth permitted movement shall be made available upon demand. Such permits shall be specific to the truck tractor.

(e) Semi-trailers exceeding 53 feet but not exceeding 59 feet 6 inches and which are transporting a legal load or no load may operate on roads and highways which are not part of the National Network of Highways under the authority of a special round trip overlength permit issued for the vehicle to proceed to and/or return from a single trip overlength (more than 53 foot long load or where the use of the longer trailer to move a non-divisible load would cause axle weights which would exceed the legal weight to conform to the legal limits) movement performed under permit.

The permit shall state the specific route of the trip. Special round trip permits shall be trailer specific.

(f) Permits for vehicles or loads thereon which exceed 13½ feet in height shall operate in accordance with Section 730:30-9-6 and 730:30-9-9 of this subchapter and no special annual permits shall be authorized for movement of any vehicle or load thereon exceeding such height on the state highway system.

(g) Manufactured homes used in the course of construction, oil field, or seasonal farming activities may operate under authority of an annual special manufactured home permit, however, such manufactured home must comply with the provision of Oklahoma Statutes Title 47 Chapter 14 Section 103F.

(h) Reasonable access as used in this section shall mean a distance of 5 miles measured by the most direct route of travel and not by a radius from the terminal or point of service.

(i) Reasonable access as used in 730:30-9-9(b) may, in the discretion of the Commissioner and consistent with safety, include two lane segments of the National Network in instances where four lane divided federal-aid primary highways which are part of the National Network are separated by a two lane segment of such highway which is not greater than 15 miles in length as designated by the Department to the Commissioner of Public Safety. Use of such two lane segment shall only be for direct travel between the four lane divided segments of the National Network.

(j) Applications for special oversize nondivisible load multi-trip permits for loads to be transported on a vehicle of legal dimensions shall be filed with the Commissioner of Department of Public Safety and shall specify the size of the vehicle with load; its weight; its configuration; the route or routes proposed or area of proposed operation; and such other information as the Commissioner may require. No special multi-trip permit shall be issued for a vehicle with load which is more than 10 feet 6 inches wide, more than 14 feet in height or more than 80 feet in length. The Commissioner shall document with the application the circumstances requiring the issuance of the special multi-trip permit. For industries located near the state line as set forth in 730:30-9-9(a)(1), and regulated public utilities, an annual permit may be issued. All other multi-trip permits shall be for a period of not longer than thirty (30) days and for operation only within the area or routes designated in the application. In no event shall such special oversize multi-trip permit include an authorization for overweight operations, operations on a roadway where the width of the load exceeds the lane width, or operation not in conformance with the provisions of 730:30-9-9(a)(4) and (5). The face of the permit shall state these restrictions.

[Source: Added at 10 Ok Reg 4685, eff 10-11-93; Amended at 11 Ok Reg 1017, eff 1-7-94 (emergency); Amended at 11 Ok Reg 3581, eff 6-27-94; Amended at 12 Ok Reg 1283, eff 5-11-95; Amended at 13 Ok Reg 2265, eff 6-13-96; Amended at 14 Ok Reg 3767, eff 9-10-97 (emergency); Amended at 15 Ok Reg 2048, eff 5-26-98; Amended at 30 Ok Reg 713, eff 5-27-13]

730:30-9-10. Unitized equipment

Unless otherwise specifically required by law:

- (1) unitized equipment, for purposes of this Subchapter, is defined as a single unit vehicle and inseparable load; and
- (2) unitized equipment exceeding 8 feet 6 inches in width, excluding both tire bulge and approved safety devices when traveling on highways of twenty feet or more in width or exceeding 8 feet 6 inches in width, excluding both tire bulge and approved safety devices, when traveling on highways of less than twenty feet in width, constitutes an overwidth vehicle

- and is eligible for a permit; and
- (3) unitized equipment exceeding 13 feet 6 inches in height constitutes an overheight vehicle and is eligible for a permit; and
 - (4) unitized equipment having a vehicle length of more than 45 feet, exclusive of any protrusion of its unitized equipment, constitutes an overlength vehicle and is eligible for a permit; and
 - (5) unitized equipment with longitudinal protrusions extending beyond the vehicle a distance in excess of two-thirds (2/3) of the vehicle's wheelbase shall only operate on the state highway system under the authority of an annual oversize permit. Protrusion length shall be measured by adding the front and rear overhang distances. Protrusions shall be properly counterbalanced with such additional weight or by a transfer of weight as may be required for equal weight distribution; and
 - (6) unitized equipment, when traveling by permit, shall tow no trailer or semitrailer.

[Source: Added at 10 Ok Reg 4685, eff 10-11-93; Amended at 11 Ok Reg 3581, eff 6-27-94]

730:30-9-11. Special mobilized machinery, rubber tired truck cranes and rubber tired construction vehicles

Unless otherwise specifically required by law:

- (1) all equipment of this class shall move upon the highways of Oklahoma only by an Annual Operating Permit in accordance with the provisions of 47 O.S. 1991, Section 1129 and any lawful amendments thereto; and
- (2) any such equipment which is to be moved on the Dwight D. Eisenhower National System of Interstate and Defense Highways and which is oversize and/or overweight by any of the provisions of 23 U.S.C., Section 127 or 47 O.S. 1991, Chapter 14, shall in addition to the Annual Operating Permit, operate under authority of an oversize and/or overweight permit, applied for and issued in accordance with the provisions of this Subchapter, or under authority of a Special Annual Oversize and/or Overweight Permit issued by the Department of Public Safety. Unless otherwise provided by law, the Commission shall determine the fee for such permit; and
- (3) the weight of any special mobilized machinery, rubber tired road construction equipment, or rubber tired truck crane manufactured before January 1, 1994 operating under authority of a special overweight permit which vehicle is overweight as to the overall gross weight only, shall not exceed 650 pounds multiplied by the nominal width of the tire multiplied by the number of tires. Such equipment manufactured after January 1, 1994 operating under the authority of a special overweight permit for overweight by axle, group of axles, or overall gross weight shall not exceed 650 pounds multiplied by the nominal width of the tire multiplied by the number of tires. These provisions shall be effective on the National System of Interstate and Defense Highways. These provisions shall also apply to such equipment operating off the National System of Interstate and Defense Highways previously, however such vehicles shall not be required to obtain a special overweight permit for operation on non Interstate and Defense Highways.

[Source: Added at 10 Ok Reg 4685, eff 10-11-93]

730:30-9-12. Special combination vehicles - permits

(a) Unless otherwise specifically required by law, no special combination vehicle, as defined in 47 O.S. 1991, Section 14-121 and any lawful amendments thereto, shall be eligible for operation in this state except by authority of an Annual Operating Permit.

(b) The Commissioner of Public Safety is required by law to promulgate rules for the issuance of such permits and no person, firm or corporation shall operate or authorize the operation of any such vehicle unless a valid Annual Operating Permit has been issued to the owner of such vehicle by the Permits Section of the Department of Public Safety, properly signed by the Commissioner of Public Safety or his authorized designee, and the original or certified copy thereof is available for inspection at all times in the vehicle cab. No other trailer configuration or multiple trailer combination shall be authorized or operated under said permit. Any violation of a permit provision shall constitute grounds for immediate permit suspension or revocation of said permit.

(c) The content, requirements and limitations of Annual Operating Permits for special combination vehicles are subject to the provisions of this Subchapter and all such permits issued shall require the operation of such vehicles in accordance with the following provisions:

(1) vehicles bearing an out-of-state license are ineligible for a permit of any type for a movement between an origin and destination, both of which are located within Oklahoma (intrastate movement), unless said vehicle is covered under an agreement between the licensing state and the State of Oklahoma which prorates the licensing and/or registration fees for such vehicles, or unless such vehicle has been temporarily licensed for operation in this state; and

(2) no such vehicle combination shall operate under conditions of decreased visibility or when lateral winds in excess of 45 miles per hour are present or during periods when pavement surfaces are slick, icing, icy or snow packed; and

(3) such vehicle combinations shall operate only upon the Dwight D. Eisenhower National System of Interstate and Defense Highways or other four-lane divided highways which are part of a lawfully identified federal-aid system and may operate on other routes only for purposes of reasonable access, as hereinafter prescribed, between points of origin and destination; and

(4) reasonable access to and from terminals and for fuel, food, repairs and rest shall not exceed 5 statute miles from the vehicle's point of access to, or exit from, those highways authorized for use in paragraph (3) of this subsection and as set forth in 730:30-9-9(h); and

(5) the maximum weight on any single axle of such vehicle shall not exceed 20,000 pounds or 600 pounds per inch and fractional part thereof of nominal tire tread width, whichever is the lesser; and

(6) except as otherwise provided in these rules the maximum gross vehicle weight for any such vehicle and/or load shall not exceed 80,000 pounds or any of the provisions of federal Formula "B" or Table "B" when operating upon any highway of the Dwight D. Eisenhower National System of Interstate and Defense Highways or 90,000 pounds or any of the provisions of the Oklahoma Weight and Axle Spacing Table shown in 47 O.S. 1991, Section 14-109(a)2, when operating on other state highways as are authorized in paragraph (3) of this section for use by such vehicles; and

(7) in no case shall any trailer or semitrailer be placed ahead of another trailer or semitrailer which carries a 5,000 pound or more heavier load. The heaviest trailer or semitrailer shall be placed in front and the lightest at the rear. An empty trailer or semitrailer must not precede a loaded trailer or semitrailer; and

(8) no vehicle, trailer or semitrailer used in such combination vehicle shall exceed 8 feet 6 inches in width, exclusive of both tire bulge and approved safety devices, or 13 feet 6 inches in height, or 29 feet in length; and

(9) vehicles or combinations thereof with cargo carrying capacity exceeding 95 feet shall not be eligible for such special combination vehicle permit.

(d) All special Annual Operating Permit holders and drivers must comply with the latest Federal Motor Carrier Safety Regulations [49 CFR Parts 390-397] of the U. S. Department of Transportation.

(e) The driver must at all times during operation of said vehicle be under the control and supervision of the holder of the special Annual Operating Permit.

(f) Failure to comply with any of the provisions of this Section shall constitute grounds for the immediate suspension or revocation of the Annual Operating Permit in a manner prescribed by the Commissioner of Public Safety. Any suspension of said permit shall remain in effect for a period of not less than 6 months. Any revocation of said permit shall be for a period of not less than 1 year.

(g) Special combination vehicle permits shall be truck tractor specific.

[Source: Added at 10 Ok Reg 4685, eff 10-11-93; Amended at 11 Ok Reg 3581, eff 6-27-94; Amended at 13 Ok Reg 2265, eff 6-13-96]

730:30-9-13. Permits on toll facilities (turnpikes)

(a) The Oklahoma Transportation Commission has no lawful authority to establish rules for the issuance of oversize or overweight permits for movement of vehicles upon toll facilities not a part of the State Highway System; however, the Commissioner of Public Safety may apply the provisions of this Subchapter to such facilities, subject to approval by the Oklahoma Turnpike Authority.

(b) All highway approaches to, or exits from, toll facilities which are not a part of the State Highway System but which have been constructed with public funds by the Oklahoma Department of Transportation, shall be subject to the provisions of this Subchapter.

[Source: Added at 10 Ok Reg 4685, eff 10-11-93]

730:30-9-14. Movements of military oversize and/or overweight vehicles

(a) The routine peacetime non-emergency movement of oversize and/or overweight military vehicles or equipment shall comply with the provisions of this Subchapter. Marked military vehicles and equipment shall be considered as nondivisible for the purposes of permitting. Marked military equipment which may be transported as a nondivisible load is equipment or material directly related to a combat or defense mission. It does not include general purpose items such as household furniture or office equipment even though marked and owned by the military. Marked military vehicle includes only vehicles actually owned and operated by the military and does not include vehicles operating under lease or contract to the military.

(b) The Commissioner of Public Safety may establish rules in general consonance with the rules contained herein for life threatening emergencies, covering the issuance of military oversize and/or overweight vehicle movements under wartime conditions or in the event the President of the United States and/or the Governor of Oklahoma declares an emergency to exist which requires that such movements be

allowed.

[Source: Added at 10 Ok Reg 4685, eff 10-11-93; Amended at 19 Ok Reg 1222, eff 5-13-02]

730:30-9-15. Movements of oversize and/or overweight vehicles during a life threatening emergency

(a) For purpose of this subchapter, "Disaster" includes flood, tornado, fire, or any other large scale emergency situation that causes or threatens to cause the loss of life or destruction or damage to property of such magnitude as to seriously endanger the public health, safety, or welfare, or causes or threatens destruction of or major damage to any transportation system.

(b) During major emergencies, authorization may be obtained from the Department of Public Safety Permit Office for the emergency movement of necessary vehicles and/or loads which exceed the maximum legal dimensions and weight limitations, to or within the emergency area without a standard oversize or overweight permit; however, normal permit requirements shall be observed unless otherwise authorized. During regular office hours, the Department of Public Safety Permit Office shall be contacted for assistance in routing. When the Permit Office is closed, the Communications Center of the Department of Public Safety (405/425-2424) will contact Permit officials for permit authorization. All movements made on emergency authorization are required to obtain the applicable permit or permits on the next Department of Public Safety working day.

(c) Following the emergency, unless otherwise authorized, the vehicles and/or loads shall be moved from the disaster area under normal permit, conditions and authority. The Commissioner may issue an emergency authorization or permit for movement to an emergency and return on the same route to the point of origin. The permit or authorization for vehicles going to the emergency may also allow night, weekend, or holiday travel. The permit or authorization to return to the point of origin may also allow daytime weekend or holiday travel.

(d) In the event an area has been declared a disaster area by the President or Governor, manufactured homes may be authorized to move into the area without a standard permit; provided, the 16 feet maximum width limitation shall apply when traveling on routes of the Dwight D. Eisenhower National System of Interstate and Defense Highways. The manufactured homes must be owned by the victims of the disaster or otherwise brought into the area for public relief purposes. If the units are furnished by the Federal Department of Housing and Urban Development (HUD), the Permit Office of the Department of Public Safety will generally authorize movement in conformance with the American Association of State Highway and Transportation Officials' National Policy; the Permit Office may include such additional restrictions in its authorization as are considered necessary. Movements under this emergency authorization are required to obtain the appropriate permit or permits on the next business day.

(e) The emergency movement of vehicles and/or loads to railroad derailments may be authorized on state highways during periods when normal permits are restricted, provided:

(1) a loss of life is threatened, or hazardous materials are involved, or a mainline railroad or other major rail line or transportation facility is blocked; and

(2) during normal working hours, the emergency service company shall obtain standard permits by contacting a Department of Public Safety Permit Office. If the emergency occurs when the Permit Office is closed, the emergency service company may, if authorized, self issue a provisional

permit under established rules. If not authorized, a representative shall contact the Department of Public Safety Communications Center (405/425-2424) to request emergency movement authorization. The information required before authorization will be granted includes the location of the incident, time of occurrence, description of equipment needed and the origin and requested routing of the movement. If loss of life is threatened or any major transportation facility is blocked, Permit Officials may waive the requirement for certain items of such information.

[Source: Added at 10 Ok Reg 4685, eff 10-11-93; Amended at 22 Ok Reg 1583, eff 6-11-05]

730:30-9-16. Annual Envelope Vehicle Permit

(a) The Commissioner of the Department of Public Safety may issue an Annual Envelope Vehicle Permit in accordance with 47 O.S. § 14-103G, to a specific vehicle, for the movement of non-divisible oversize or overweight vehicles or loads as defined in 47 O.S. § 14-107(3). Unless otherwise noted, permits issued under this rule are subject to the conditions described.

(1) Vehicle Permit Dimensions

(A) A vehicle transporting an oversize or overweight non-divisible load operating under an Annual Envelope Vehicle Permit may not exceed any of the following:

- (i) 12 feet in width;
- (ii) 14 feet in height;
- (iii) 110 feet in length;
- (iv) 120,000 pounds gross weight.

(B) Except as provided in section (c) of this rule, the Annual Envelope Vehicle Permit will be issued for these dimensions and weights.

(2) A vehicle transporting an oversize or overweight non-divisible load operating under an Annual Envelope Vehicle Permit may not transport a load that has more than 25 feet of front overhang, or more than 30 feet of rear overhang.

(3) The fee for an Annual Envelope Vehicle Permit is \$4,000, and is non-refundable.

(4) The Annual Envelope Vehicle Permit shall be valid for a period of one year beginning on the date of issue stated on the permit.

(5) An Annual Envelope Vehicle Permit authorizes operation of the permitted vehicle only on the state highway system.

(6) The permitted vehicle is not permitted travel on any part of the Interstate Highway System. Further, the permitted vehicle may only be operated on routes shown as "green" routes on the current Annual Envelope Vehicle Permit Map. The Commissioner shall provide a copy of this rule and a copy of the Annual Envelope Vehicle Permit Map to the permittee when the permit is issued. The permittee assumes the responsibility for assuring that the Annual Envelope Vehicle Permit Map in its possession is current. The most current edition of the Annual Envelope Vehicle Permit Map may be found on the Oklahoma Department of Transportation's website. The permittee also assumes responsibility for obtaining the Vertical Clearance of Bridge Structures Map from the Department of Transportation and assuring the map is correct. The most current edition of the map may be found on the Oklahoma Department of Transportation website. The permittee is also responsible for determining the location of

any construction restriction. Construction restrictions may be found on the Department of Public Safety Size and Weight Permit website.

(7) The vehicle or vehicle combination operating under the authority of an Annual Envelope Vehicle Permit must be registered in accordance with 47 O.S. § 1151A(4), for not less than the maximum weight allowed by the Annual Envelope Vehicle Permit.

(8) A permit issued under section 14-103G or this rule is non-transferable.

(9) A permit issued under section 14-103G or this rule may be transferred from one vehicle to another vehicle in the permittee's fleet provided:

(A) the permitted vehicle is destroyed or otherwise becomes permanently inoperable, to an extent that it will no longer be utilized, and the permittee presents proof that the negotiable certificate of title or other qualifying documentation has been surrendered; or

(B) the certificate of title to the permitted vehicle is transferred to someone other than the permittee, and the permittee presents proof that the negotiable certificate of title or other qualifying documentation has been transferred from the permittee.

(b) The Commissioner may issue an Annual Envelope Vehicle Permit to a specific motor carrier, for the movement of a vehicle transporting an oversize or overweight non-divisible load as defined in 47 O.S. § 14-107(3). Unless otherwise noted, permits issued under this section are subject to the conditions described in section

(a) (1-8) of this rule. A permit issued under section 14-103G or this rule may be transferred from one vehicle to another vehicle in the permittee's fleet provided:

(1) that no more than one vehicle per permit is operated at a time; and

(2) the original certified permit is carried in the vehicle that is being operated under the terms of the permit.

(c) The Commissioner may issue an Annual Envelope Vehicle Permit for vehicles transporting turbine blades used for the purpose of wind power generation. Unless otherwise noted, permits issued under this section are subject to the conditions described in section (a) (1-8). A vehicle operating under this permit may not exceed a cargo length of one hundred sixty (160) feet when transporting the turbine blades. The permit shall be valid only when the vehicle is transporting the blades.

(d) An Annual Envelope Vehicle Permit issued under section (a), (b) or (c) of this rule will be sent to the permittee via registered mail, or at the permittee's request and expense, by overnight delivery service. This permit will be replaced only if:

(1) the permittee did not receive the original permit within seven business days after its date of issuance;

(2) a request for replacement is submitted to the department within 10 business days after the original permit's date of issuance; and

(3) the request for replacement is accompanied by a notarized statement signed by a principle or officer of the permittee acknowledging that the permittee understands the permit may not be duplicated or altered, and that if the original permit is located, the permittee must return either the original or replacement permit to the Department of Public Safety Size and Weights Permit Office.

(e) A request for replacement of a permit issued under section (a), (b) or (c) of this rule will be denied if the Commissioner can verify that the permittee received the original.

(f) Lost, misplaced, damaged, destroyed, or otherwise unusable permits will not be replaced. A new permit will be required.

(g) No duplication or alteration of the Annual Envelope Vehicle Permit is authorized. The permit shall be issued on title quality or better paper and shall have a raised gold or similar seal. Any duplication or alteration of the permit by any means voids the permit.

(h) Operation of a vehicle under the authority of an Annual Envelope Vehicle Permit authorized by 47 O.S. § 14-103G or this rule on an Interstate Highway or a route not listed as a "green" route on the current Annual Envelope Vehicle Permit Map, except as provided in section (n) of this rule, voids the permit.

(i) Operation of a vehicle under the authority of an Annual Envelope Vehicle Permit during the hours of darkness in violation of 47 O.S. § 14-101(D) voids the permit.

(j) Operation of a vehicle under the authority of an Annual Envelope Vehicle Permit in excess of any limit set forth in section (a) (1) or (2) of this rule voids the permit, except as provided herein. If the violation of section (a) (1) does not exceed one thousand (1,000) pounds on any axle, or group of axles or the gross weight of the vehicle, the Annual Envelope Vehicle Permit shall not be valid for that move only and the permit remains valid for additional moves. The one thousand (1,000) pound allowance is cumulative among the axles and groups of axles so that the total allowance in no event shall exceed one thousand (1,000) pounds.

(k) Axle Weight Limitations

(1) No axle on a vehicle operating under the authority of an Annual Envelope Vehicle Permit shall exceed any of the following:

(A) Steer axle 600 lbs. x the nominal inch per tire tread width x number of tires, not to exceed a maximum of 15,000 lbs.

(B) Single axle 20,000 lbs. per axle.

(C) Tandem (2) axle groups 40,000 lbs. / 20,000 per axle, not less than 4 tires per axle.

(D) Triple (3) axle groups 60,000 lbs. / 20,000 per axle, not less than 4 tires per axle.

(2) Except as provided for in subsection (j), operation of a vehicle under the authority of an Annual Envelope Vehicle Permit in excess of the weights set forth in this section and Appendix E voids the permit.

(l) Annual Envelope Vehicle Permits are valid only on the State highway system. Operation of the equipment on city streets or county roads may require additional authorization from local officials.

(m) Operators of vehicles operating under an Annual Envelope Vehicle Permit shall comply with the holiday restrictions of 47 O.S. § 14-101E.

(n) Operators of vehicle operating under the Annual Envelope Vehicle Permit shall comply with the curfew restrictions in Oklahoma, Tulsa and Cleveland Counties which are set forth in Department of Public Safety rule OAC 595:30-3-4(1). Violation of these curfew restrictions voids the permit.

(o) Operators of vehicles operating under Annual Envelope Vehicle Permit shall comply with the weather restrictions set forth in OAC 595:30-3-4(5).

(p) The Annual Envelope Vehicle Permit is not valid for the operation of unitized equipment or special mobilized machinery. Use of the permit for the movement of unitized equipment or special mobilized machines voids the permit.

(q) Operators of vehicles operating under an Annual Envelope Vehicle Permit shall comply with the escort requirements set forth in Department of Public Safety rule OAC 595:30-3-18(b).

(r) The operator of any vehicle shall, upon request, surrender a void permit to any commissioned law enforcement officer. Upon receipt of a surrendered permit, the officer shall return the permit to the Department of Public Safety Size and Weights

Permit Office.

[Source: Amended at 27 Ok Reg 1973, eff 7-1-10; Amended at 30 Ok Reg 713, eff 5-27-13]

APPENDIX A. GROSS WEIGHT LOAD TABLE FOR OVERWEIGHT PERMITS BASED ON BRIDGE INVENTORY [REVOKED]

[Source: Revoked and reenacted at 10 Ok Reg 4685, eff 10-11-93; Revoked at 30 Ok Reg 713, eff 5-27-13]

APPENDIX B. MINIMUM AXLES, AXLE SPACING AND INNER BRIDGE DIMENSIONS [REVOKED]

[Source: Added at 10 Ok Reg 4685, eff 10-11-93; Revoked at 27 Ok Reg 1973, eff 7-1-10]

APPENDIX C. SCHEDULE OF ANNUAL LICENSE FEES

[Figure 1](#)

[Source: Added at 18 Ok Reg 1369, eff 5-11-01]

APPENDIX D. DUAL LANE AXLES

[Figure 1](#)

[Source: Added at 18 Ok Reg 1369, eff 5-11-01; Revoked and reenacted at 30 Ok Reg 713, eff 5-27-13]

APPENDIX E. OKLAHOMA DEPARTMENT OF TRANSPORTATION WEIGHT SUPPLEMENT SHEET FOR ANNUAL ENVELOPE PERMIT NOT TO EXCEED 120,000

[Figure 1](#)

[Source: Added at 27 Ok Reg 1973, eff 7-1-10; Revoked and reenacted at 30 Ok Reg 713, eff 5-27-13]

CHAPTER 35. MAINTENANCE AND CONTROL OF STATE HIGHWAY SYSTEM

[Authority: 47 O.S., §§ 11-202, 11-203, 11-204, 11-204.1, 11-205, 11-307, 11-308, 11-313, 11-701, 11-702, 11-703, 11-802, 11-1301, 11-1302, 15-104, 15-105, and 15-108; 69 O.S., §§ 212, 218, 226, 232, 304, 501, 502, 504, 701, 901, 1208, 1209, 1210, 1213, 1251 et seq., 1271 et seq., 1502, 1510, 1403, 1903, 4002, and 4021 et seq.; 74 O.S., § 3117; 23 U.S.C. 131, 135, and 136; 23 CFR 750 and 751]

[Source: Codified 12-31-91]

SUBCHAPTER 1. MAINTENANCE

730:35-1-1. Purpose

The purpose of this subchapter is to define the Oklahoma Department of Transportation's responsibilities for maintenance of the State Highway System and its components. This subchapter describes the various types of highway maintenance, and establishes certain limitations, on a statewide basis, which ensure equity and a reasonable assurance that the system will be properly maintained.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-1-2. Definitions

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

"Frontage road" means a road constructed on Department owned right-of-way, adjacent and parallel to but separated from the highway and which has connections to the highway, at least on both ends, for service to abutting property and for control of access. See Appendices A and B of this Chapter.

"Highway maintenance" means the preservation and upkeep of a highway, including all of its elements, in as nearly as practicable its original as-

constructed condition or its subsequently improved condition.

(A) **"Routine maintenance"** means all work performed by the normal maintenance forces with regularly assigned equipment and materials as needed.

(B) **"Special or heavy maintenance"** means work of considerable magnitude, usually beyond the capability of routine maintenance forces, requiring special appropriations and special organizations of men, equipment and materials.

"Interchange-collector-distributor road" on Department owned right-of-way means a road constructed parallel to the mainline that collects and distributes traffic between ramps and the mainline and which is not connected to any crossroads. See Appendices A and B of this Chapter.

"Local road" on Department owned right-of-way, means a road constructed to provide access to property abutting or adjacent to the highway and which has only one connection to the highway. See Appendix B of this Chapter.

"Public road" on Department-owned right-of-way means a road constructed to connect other public roads or streets, but not necessarily connected to the highway, nor allowing access to the highway. See Appendix C of this Chapter.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-1-3. Maintenance programs

Maintenance improvement programs shall be planned to make the fullest use of equipment, materials and finances, to ensure that all state highways are kept in the best possible condition.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-1-4. Maintenance responsibilities

(a) The Department shall pay the cost or perform the act of constructing, improving, or maintaining roads, including frontage roads, public roads, local roads, and interchange ramps or any sections thereof, which have been designated by the Transportation Commission as part of the state highway system.

(b) The Department shall pay the cost of maintaining all official traffic signs and pavement markings except for parking space markings, crosswalks, and stop lines, from right-of-way line to right-of-way line.

(c) Within a municipality, the Department shall maintain the roadway pavement and pavement structure only. The department may pay the cost of construction or reconstruction of drainage systems, curbs, sidewalks, and driveways when necessary to construct or reconstruct an existing highway within a municipality. The Department shall not perform maintenance on or pay the cost of accident or spill clean up, sweeping, mowing the right-of-way, drainage systems, and facilities including inlets, curbs, sidewalks, driveways, electronic traffic control devices or highway system lights.

(d) The Department may participate in the cost of construction or replacement of highway lighting systems and electronic traffic control devices on highways within municipal limits.

(e) At places where city streets or county roads intersect with the state highway system, the city or county shall be responsible for maintaining all advance warning signs and for roadside maintenance activities outside the highway right-of-way line including sight distance clearance on the city street or county road leading to the stop intersection.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-1-5. Limited access highways

On limited access highways where county roads or streets extend over or under the highway or public roads are constructed on state rights-of-way but there is no immediate ingress and egress from the highway, responsibility shall be as follows:

- (1) The public roads as defined in 730:35-1-2 shall be maintained by the city or county and shall be included in their roadway mileage inventory.
- (2) Where county roads or streets extend over the highway, the roadway, approaches and bridge surfaces, including the deck, shall be maintained by the city or county. The approach guardrail, bridge structure, and highest clearance posting on the structure shall be maintained by the Department.
- (3) Where county roads or city streets extend under the highway, the roadway approaches and advance signing shall be maintained by the city or county. The Department shall maintain the approach guardrail, bridge structure and surface, and the height clearance posting on the structure.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-1-6. Public access connections

The Department may, at the direction of the Commission, maintain as a part of the state highway system any public roads connecting public use areas, public lakes, State Parks, National Parks or State-owned institutions with the state highway, county highway or city street system. The right-of-way for such connection must have been obtained and title thereto held by the State of Oklahoma or an agency thereof.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-1-7. Roads within park and memorial boundaries

The Department, at the direction of the Commission may improve or maintain roads and highways within the boundaries of State Parks and Memorials, subject to the availability of funds.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-1-8. State Capitol Park roads and parking lots

The Department shall maintain as part of the state highway system all streets, roads and parking lot surfaces between the gutter lines (excluding islands), located on the State Capitol grounds and the streets designated by Statute as part of State Capitol Park #1.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-1-9. Special maintenance programs

- (a) When feasible, and in the best interests of the State, special maintenance projects may be performed by the contract method.
- (b) Special maintenance programs shall be submitted to the Commission for programming and financing. A minimum of fifty (50) percent of the special maintenance program will be done by the contract method.
- (c) Characteristics of maintenance projects which should be considered for contracting are:

- (1) Projects which lend themselves to a firm contract arrangement.

- (2) Projects on which accurate units of work can be determined.
 - (3) Projects which are of such magnitude as to obtain the interest of two or more contractors.
- (d) Special maintenance by contract is most applicable to the following types of projects:
- (1) Widening and resurfacing projects on pavements where prequalified contractors can supply materials at favorable prices.
 - (2) Projects where the surface type is to be changed and standard specification material is to be used in the transition.
 - (3) Major bridge repairs requiring skills and techniques beyond the capability of the department.
 - (4) Major bridge painting.
 - (5) Placement of raised plastic stripe and pavement markings.
 - (6) Extreme emergency projects.
- (e) Special maintenance by State Forces is most applicable to the following types of projects:
- (1) Resurfacing projects where the length and overall cost of the project is such that it would not be economical to contract the work.
 - (2) Armor coat projects.
 - (3) Base repair, spot leveling and patching.
 - (4) Shoulder repair and shoulder widening.
 - (5) Pavement widening projects where stage construction is contemplated.
 - (6) Improvement of drainage, reshaping shoulders, slopes, ditches and roadway sections.
 - (7) Minor repair of erosion damage.
 - (8) Patching concrete pavement.
 - (9) Minor bridge repair.
 - (10) Minor bridge painting.
 - (11) Other miscellaneous projects which do not readily lend themselves to the contract maintenance method of improvement.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-1-10. Side drains

The installation of side drains after the completion of a construction project is not considered a maintenance function. Maintenance of side drains consists of removing, cleaning, replacing or modifying a side drain to insure proper drainage of the highway. Driveways constructed on highway rights-of-way will be maintained by the applicant as directed by the Department of Transportation.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-1-11. Department maintenance within municipalities

(a) **Discretionary funding.** The Commission shall, except as provided by law, exercise sole discretion in the expenditure of State Transportation funds for work involving Department personnel, equipment or material on roads, streets or other locations in municipalities. Such cases may include but are not strictly limited to the following:

- (1) Maintenance, construction or other improvement of designated portions of the state highway system.
- (2) Right-of-way or other properties owned or under jurisdiction of the Department.

(3) Maintenance, construction or other improvement of the principal access roads or streets providing connections from the designated state highway system to state institutions, as provided in 730:35-1-6.

(4) Construction or improvement of industrial access, airport access, lake access, or state park roads, when such facilities are part of an approved industrial access, lake access, or state park road program.

(b) **Routine maintenance.** The following shall govern routine maintenance on the state highway system including frontage roads, local roads, public roads and interchange-collector-distributor roads thereto, within the corporate limits of cities and towns.

(1) The Department shall maintain, or pay the cost of maintaining, any municipal streets where such streets are a continuation of the State or Federal highway system as follows:

(A) The Department shall maintain the area of the roadway pavement and pavement structure between the gutter lines excluding curbs and sidewalks, and, if no curb exists, only that portion of the roadway pavement and pavement structure between the outer edge of the shoulder lines, excluding any underground utilities and appurtenances. The Department shall not perform maintenance on or pay the cost of accident or spill clean up, sweeping, mowing the right-of-way, drainage systems, and facilities including inlets, curbs, sidewalks, driveways, electronic traffic control devices or highway system lights. In areas where cities or towns have annexed additional rural lands into the corporate limits, the Department may choose to continue turf management prior to the development of such lands.

(B) The Department shall maintain or pay for the cost of installation, repair and maintenance of signs and lane markings.

(C) The Department may participate in or pay the cost of lighting and electronic traffic control devices. The maintenance of such equipment shall be the responsibility of the cities and towns.

(D) The Department may maintain, or participate in the cost of constructing or improving any safety appurtenances.

(E) The cities and towns shall maintain that portion of the rights-of-way beyond the gutter or shoulder lines, including storm sewers and inlets as well as all other underground facilities.

(F) The cities and towns shall maintain any public roads as defined in 730:35-1-2 within their corporate limits.

(2) Maintenance of the designated Interstate Routes which are a part of the National Highway System, urban freeways with fully controlled access, together with all frontage roads, local roads, public roads and interchange-collector-distributor roads thereto, within the limits of the cities and towns which are a part of the state highway system shall be as follows:

(A) The Department shall maintain the highway, interchange ramps, interchange-collector-distributor roads, and that portion of the frontage roads or local roads between the nearest edge of the first crossroad or street and the ramp from the mainline connecting to the frontage road or local road. This maintenance shall include all signs, pavement markings, and other traffic control devices, except for traffic signals and lighting.

(B) Cities and towns shall maintain only that area of the right-of-way occupied by a frontage road or local road between the control of access line and the right-of-way line, and that portion of frontage roads or local roads that is not considered a part of an interchange ramp.

(C) The Department shall maintain all interchange and cross-over bridge structures, exclusive of the surface and/or deck as provided in 730:35-1-5.

(D) The cities and towns shall maintain all streets connecting to the highway or Department maintained frontage road, including all signs, pavement markings and traffic control devices along the cross streets, except as noted in 730:35-1-11(b)(2)(A).

(E) Cities and towns shall maintain any Public Roads as defined in 730:35-1-2 within their corporate limits.

(c) **Maintenance agreements.** In all cases, the Department will obtain written maintenance agreements from the governing bodies of such cities and towns. These maintenance agreements shall incorporate the foregoing provisions and such other provisions to which the parties agree delineating maintenance responsibilities. Where written agreements concerning maintenance responsibilities within cities and towns have heretofore been obtained, they are hereby approved if reasonably conforming to the provisions of this section. The provisions of this subchapter are supplemental to such maintenance agreements and shall be used to carry into effect the overall policy of the Commission. Where maintenance agreements cannot be obtained, the provisions of this subchapter and State law shall govern in determining maintenance responsibilities.

(1) The Department will not participate in the improvement or maintenance of campus streets or parking areas at the various state college and university campuses.

(2) Any other uses of funds, personnel or equipment under the jurisdiction of the Commission in municipalities, except in instances of legislative mandate, shall be considered contrary to established policies of the Commission.

(3) The Department shall control, by means of a permit system, driveway entrances and exits on the state highway system, but may delegate this responsibility to a city or town. Before permanent authority is delegated, the city or town involved must enact an ordinance adopting the policy of the Commission on driveway regulations for Oklahoma highways.

(4) The Department shall control, by means of a permit system, the installation of landscaping within the rights-of-way on the state highway system. Modification of right-of-way on controlled access facilities is considered to be a landscape improvement and will be considered for approval in accordance with the Commission policy on fencing for controlled access highways.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

SUBCHAPTER 3. JUNKYARD CONTROL

730:35-3-1. Purpose

It is the purpose of this subchapter to establish regulations which enable the Department to implement and enforce effective control of the establishment and maintenance of junkyard and metal processing facilities if they are located adjacent

to Interstate and Federal aid Primary highways in this State.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-3-2. Application

The provisions of this subchapter are applicable to areas within 1,000 feet of the nearest edge of the right-of-way if they are visible from the main traveled way. Highways which are controlled for the purposes of this subchapter are the Federal-aid Primary System and Interstate Systems regardless of whether Federal funds were utilized in their construction. Turnpikes which are incorporated in the Federal-aid Primary or Interstate Systems are controlled highways.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-3-3. Definitions

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

"Automobile graveyard" means any establishment or place of business which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts. Ten or more such vehicles will constitute an automobile graveyard.

"Illegal junkyard" means a junkyard which was established or is maintained in violation of State law.

"Industrial activities" means those activities permitted only in industrial zones, or in less restrictive zones by the nearest zoning authority within the State. It may also refer to activities prohibited by said zoning authority but generally recognized as industrial by other zoning authorities within the State. None of the following shall be considered industrial activities:

- (A) Outdoor advertising signs, displays or devices;
- (B) Agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, wayside fresh produce stands;
- (C) Activities normally and regularly in operation less than three (3) months of the year;
- (D) Transient or temporary activities;
- (E) Activities not visible from the traffic lanes of the main-traveled way;
- (F) Activities more than three hundred (300) feet from the nearest edge of the main-traveled way;
- (G) Activities conducted in a building principally used as a residence;
- (H) Railroad tracks, minor sidings, and passenger depots;
- (I) Strip or other open mining activities; and
- (J) Junkyards, automobile graveyards or scrap metal processing facilities.

"Interstate system" means that portion of the National System of Interstate and Defense Highways located within this State, as officially designated, or as may hereafter be so designated by the Transportation Commission, and approved by the Secretary of Transportation, pursuant to the provisions of Title 23, United States Code.

"Junk" means old or scrap copper, brass, rope, rags, batteries, paper, used or dismantled household appliances, trash, rubber debris, waste, or junked, dismantled or wrecked automobiles, or parts thereof, iron, steel and other old or

scrap ferrous or non-ferrous material.

"Junkyard" means an establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

"Nonconforming junkyard" means one which was lawfully established, but which now does not comply with the provisions of State law.

"Primary system" means that portion of the highway system as officially designated, or as may hereafter be so designated, by the Transportation Commission, and approved by the Secretary of Transportation, pursuant to the provisions of Title 23, United States Code.

"Scrap metal processing facility" means an establishment having facilities used primarily for processing iron, steel or non-ferrous metals and whose principal product is such iron, steel or scrap for sale, for remelting purposes only, the processor being considered a manufacturer.

"Unzoned industrial areas" means any areas not zoned by state or local law, regulation or ordinance, which are occupied by one or more industrial activities. They include all lands along the highway for a distance of one thousand (1,000) feet in each direction as measured from the outer edges of the regularly used buildings, parking lots, storage, or processing areas of the activity, and which lie parallel to the edge of the pavement and which are located on the same side of the highway as the principal industrial activity. Measurements shall not begin at the property lines but rather shall begin at the outer edges of the area containing the regularly used buildings, parking lots, storage or processing areas related to the industrial activities.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-3-4. Nonconforming junkyards

(a) A junkyard shall be deemed nonconforming, when the following terms and conditions exist:

(1) The junkyard must have been actually in existence on or before April 1, 1968.

(2) There must be existing property rights in the junkyard or junk affected by State law. (Abandoned junk and junkyards, trash dumps and land fills are not considered nonconforming junkyards.) In the case of abandoned junk or junkyards, the State will participate in the cost of removal only if said junk or junkyard was in place prior to April 1, 1968.

(3) If the location of a nonconforming junkyard is changed as a result of a right-of-way taking or for any other reason, it shall cease to be a nonconforming junkyard and shall be considered as a new junkyard at a new location.

(4) If the size of a nonconforming junkyard increases to include land not utilized as a junkyard on or before April 1, 1968, the junkyard shall cease to be a nonconforming junkyard and be considered as a new junkyard over its entire area.

(5) The nonconforming junkyard must have been lawful on the effective date of the State law, April 1, 1968, and must continue to be lawfully maintained.

(b) The nonconforming junkyard may continue as long as it is not extended, enlarged, or changed in use. Once a junkyard has been made conforming, the placement of junk so that it may be seen above or beyond a screen or otherwise

become visible, shall be treated the same as the establishment of a new junkyard.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-3-5. Control measures

- (a) Junkyards located outside of zoned and unzoned industrial areas must be screened or located so as not to be visible from the controlled highway.
- (b) Recycling of junk and scrap shall be used to the greatest extent practical in the implementation of the junkyard control program. To facilitate recycling, junk or scrap should be moved to an automobile wrecker, or a scrap processor, or put to some other useful purpose.
- (c) Every effort shall be made to screen off the area if the junkyard is to continue as an ongoing business. Screening may be accomplished by the use of natural objects, earth mounds, landscape planting, fences, and other appropriate means, including relocating inventory on site to utilize an existing natural screen or a screenable portion of the site.
- (d) Where screening is used, it must, upon completion of the screening project, effectively screen the junkyard from the controlled highway on a year-round basis, and be compatible with the surroundings. The Department will evaluate the visual and aesthetic equality as well as determine the effectiveness of all proposed screen designs.
- (e) When screening is to be provided by the operator of a nonconforming junkyard, the cost will be controlled by requiring the operator to submit his plan to the Department for approval prior to actual construction. Through this approval process only the minimum expenses actual and necessary to constructing an effective screen will be reimbursed to the operator.
- (f) A junkyard shall be relocated only when other control measures are not feasible. Junkyards shall be relocated to a site not visible or beyond 1,000 feet from a controlled highway, or to an industrial area. They shall not be relocated to residential, commercial, or other areas where foreseeable environmental problems may develop.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-3-6. Maintenance of screen

Once a screen is planted or constructed, it shall be the responsibility of the person, firm, or corporation operating the junkyard and/or scrap metal processing facility to maintain it. The screen must be maintained in such a manner as to present a pleasing appearance and to continue effectively screening the junkyard and/or scrap metal processing facility from sight.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-3-7. Compensation for mandated removal, relocation or disposal

- (a) If a junkyard which was lawfully established under State law is required to be removed, relocated, or disposed of pursuant to Title 69, Oklahoma Statutes, Section 1251 et seq., just compensation shall be paid to the owner.
- (b) No right to compensation shall accrue until a taking, removal, relocation, or screening has occurred. The conditions which established a right to maintain and continue a nonconforming junkyard as provided in 730:35-3-4 must still exist at the time of the taking or removal in order to establish a right to just compensation.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

SUBCHAPTER 5. HIGHWAY ADVERTISING CONTROL

730:35-5-1. Purpose

It is the purpose of this subchapter to promulgate regulations which enable the Department to effectively administer a program to control the erection and maintenance of controlled outdoor advertising signs, displays, and devices located adjacent to the Interstate and National Highway System in this State.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-5-2. Application

The provisions of this subchapter apply to the erection and maintenance of outdoor advertising signs, displays, and devices located in adjacent areas within six hundred sixty (660) feet from the nearest edge of the right-of-way and which are visible from the controlled highway. They also apply to those signs, displays and devices which are located in controlled areas beyond six hundred sixty (660) feet from the nearest edge of the right-of-way, if the sign display or device is visible from the controlled highway and has the purpose of being read from the highway.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-5-3. Definitions

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

"Abandoned sign" means a registered sign in need of substantial repair, or which is overgrown by trees or other vegetation not on the highway right-of-way or is otherwise no longer being utilized as an outdoor advertising device, for a period of one (1) year, shall be considered "abandoned" and any nonconforming or grandfather status granted by the Highway Advertising Control Act shall be terminated. Leasing information shall not be considered advertising content for purposes of this definition.

"Adjacent area" or "control area" within urban areas means the area which is adjacent to and within six hundred sixty (660) feet of the nearest edge of the right-of-way on any Interstate or the National Highway System. The six hundred sixty foot (660) distance shall be measured horizontally along a line perpendicular to, or ninety degrees (90°) to the centerline of the highway. Outside of urban areas, adjacent area or control area means the area which is visible from the main traveled way on any interstate or the National Highway System and has the purpose of being read. All spacing considerations are determined by whether or not they exist within the adjacent or control area. Signs located outside the "control area" will not be registered.

"Adjacent Property Owners" means any person, firm or corporation owning property which is located adjacent to a "Clearance Area," as defined in this subsection. Applicant shall submit written consent from any such property owner when making application for a clearance permit.

"Advertisement" means any writing, printing, picture, painting, display, emblem, drawing, sign or similar device which is posted or displayed outdoors on real property and is intended to invite or to draw the attention or to solicit the patronage or support of the public to any goods, merchandise, real or personal property, business, services, entertainment or amusement manufactured, produced, bought, sold, conducted, furnished, or dealt in by any person; the term shall also

include any part of an advertisement recognizable as such, whether a permanent or portable installation, but shall not include surface markers showing the location or route of underground utility facilities or pipelines or public telephone coin stations installed for emergency use; nor shall same include temporary election candidate campaign signs or voters' referendum signs, if erected not more than forty-five (45) days prior to an election and removed within seven (7) days following the election or within seven (7) days following the final election if more than one is required to settle the advertised candidate election or non-election, or referendum issue.

"Agreement" means the agreement between the Director of the Oklahoma Department of Transportation and the Secretary of the Transportation of the United States, regarding the enforcement of the Highway Beautification Act of 1965.

"Business area" means any part of an adjacent (control) area which is zoned for business, commercial or industrial activities under the authority of any law of this state, or not zoned, but which constitutes an unzoned commercial or industrial area as herein defined.

"Centerline of the highway" means a line equidistant from the edges of the median separating the main-traveled ways of a divided highway, or the centerline of the main-traveled way of a non-divided highway.

"Commercial or industrial area" means any part of a control area which is within six hundred sixty (660) feet of the nearest edge of the right of way and is:

(A) Zoned for industrial or commercial activities under the authority of any state zoning law, or city or county zoning ordinance of this State. Any commercial or industrial area created or established by any zoning authority must actually be capable of supporting commercial or industrial activities. A zoning action which is not a part of a comprehensive zoning plan and is created primarily to allow outdoor advertising structures does not constitute valid zoning for outdoor advertising control purposes.

(B) Not zoned, but which constitutes an unzoned commercial or industrial area as herein defined.

"Clearance Area" means the area of state right-of-way adjacent to property upon which a legal outdoor advertising sign is located, of which said sign owner wishes to remove vegetation. This area shall not exceed 800 feet in length, from any face of the sign, along the highway. This distance shall be determined by measuring horizontally along the highway from a line perpendicular from the support pole, nearest the highway, of the sign to the centerline of the highway.

"Commercial and industrial activities" means those activities, clearly visible and recognized as a commercial or industrial activity from the main traveled way, generally recognized as commercial or industrial by zoning authorities in the state.

"Comprehensive zoning" means a complete approach to land use within the jurisdiction of a zoning authority. For example, the mere placing of the label "zoned commercial or industrial" on land does not constitute comprehensive zoning, but rather, the establishment of a complete set of regulations to govern the land use within the entire jurisdiction of the zoning authority.

"Control of access" means the Department shall not issue a permit for any sign which cannot be erected or maintained from private property without violating control of access boundaries.

"Customary maintenance" means maintenance that shall only include, change of message, replacing electrical wiring and bulbs, painting of the face and structure, clearing vegetation (not on right-of-way), reinforcing the structure with

banding or nails, and repairing the apron or catwalks. Additional maintenance activities may be approved upon written request to the Department. An increase in dimension, any change in location, increase in height, change in location in lighting, or the addition of lighting does not constitute customary maintenance. An increase, change, addition or any maintenance which is not listed above, shall terminate any nonconforming or grandfather status granted by the Act and the sign shall be considered illegal, thus a public nuisance subject to summary abatement and removal without compensation.

"Damage" means injury or harm as a result of wear and tear, storms, or other natural causes including, but not limited to, insect damage. If such damage occurs, the owner of the damaged sign shall notify the Department by letter within thirty (30) days of the occurrence, giving the sign's registration number, date damage occurred, whether or not the sign will be repaired, an itemized list of repairs, and a picture of the damaged structure. Failure to comply with any part of the above requirements before repairing a damaged sign shall result in forfeiture of any nonconforming or grandfather status granted by the 1972 Highway Advertising Control Act. After receiving authorization and repairs have been completed, the owner shall send a picture of the repaired structure to the Department.

"Department" means the Oklahoma Department of Transportation.

"Destroyed" means that a sign shall be considered destroyed when damaged, from any cause except a criminal or tortious act, exceeds fifty percent (50%) of the sign structure.

"Directional signs" means signs giving directional information about goods and services of interest to the traveling public. Such signs shall be limited to those pertaining to rest stops, camping grounds, food services, fuel and automotive services, and lodging.

"Director" means the Director of the Department of Transportation or his designee.

"Discontinued or blank sign" means a registered sign not displaying products or service advertising contents for a period of one (1) year shall be considered discontinued and removed at the expense of the sign owner. Leasing information shall be considered advertising content for purposes of this definition.

"Divided highway" means that part of a primary highway which has been constructed as divided, dual lane fully controlled access to the throughways except for the established interchanges.

"Federal-aid primary highway" means any highway at any time officially designated as part of the Federal-aid Primary System by the Department and approved by the appropriate authority of the federal government.

"Grandfathered sign" means a sign which was lawfully erected but does not comply with all the provisions of the State law or State regulations passed at a later date or later fails to comply with State law or State regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs. (Same as Non-conforming (grandfathered) sign.)

"Illegal sign" means signs that are situated in control areas adjacent to Interstate and Federal-aid Primary Systems which are outside zoned and unzoned commercial or industrial areas, are not listed on the 1972 inventory and do not qualify either as on-premise, directional or official signs and notices required or authorized by law. Signs erected within zoned and unzoned commercial and industrial areas without the benefit of a permit or which are erected or maintained not in accordance with permit requirements are also illegal.

"Informational signs" mean signs containing directions or information about public persons or public places which are owned or operated by federal, state, or local governments or their agencies. It also refers to public or privately owned natural phenomenon, historic, cultural, educational, or religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, when deemed to be of interest to the traveling public. Informational signs do not include political campaign signs or posters.

"Interstate highway" means any highway at any time officially designated a part of the National System of Interstate and Defense Highways by the Department and approved by the United States Department of Transportation.

"Lease" means an agreement, in writing, by which possession or use of land or interests therein is given by the owner to another person for a specified period of time.

"License" means the privilege granted by the Department to do business as an outdoor advertising company in the State of Oklahoma.

"Main traveled way" means the traveled portion of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

"Maintain" means to hold or keep in a state of continuing existence.

"Non-conforming (grandfathered) sign" means a sign which was lawfully erected but does not comply with all the provisions of the State law or State regulations passed at a later date or later fails to comply with State law or State regulations due to changed conditions. Illegally erected or maintained signs are not non-conforming signs.

"Non-conforming (grandfathered) sign maintenance" means the sign must remain substantially the same as it existed on the effective date of State law. (Also see "Customary Maintenance" and "Destroyed" above.)

"Official signs and notices" mean signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal or state law for the purpose of carrying out an official duty or responsibility. These signs must not exceed thirty-two (32) total square feet in area.

"On-premise sign" mean signs consisting solely of the name of the establishment, or which identify the establishment's principal or accessory products, or the services which are offered on the business premises. Signs advertising the sale or lease of the property on which they are located, are considered on-premise signs. Signs located on narrow strips of land contiguous to the advertised activity when the purpose clearly is to circumvent the Oklahoma Highway Advertising Control Act shall not qualify as on-premise signs. (See 730:35-5-14)

"Outdoor advertising business" means any person, firm or corporation which builds, leases, sells, or rents advertising space upon an outdoor advertising sign, display or device to others for profit.

"Permittee" means a person, firm or corporation who has applied for and received a permit from the Department for the express purpose of removing brush and/or trees from the state highway rights-of-way.

"Primary highway" means any highway at any time officially designated a part of the Federal-aid Primary System by the Department and approved by the United States Department of Transportation.

"Public utility signs" mean warning signs, informational signs, notices or markers which are customarily erected and maintained by publicly or privately owned utilities, as essential to their operations.

"Rest area" means an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control for the convenience of the traveling public.

"Scenic turnout" means an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control which provides a shelter off the main-traveled way for stopped vehicles for the purpose of viewing an area of scenic significance.

"Service club and religious notices" mean signs and notices relating to the existence or meetings of non-profit service clubs, including but not limited to, garden clubs, charitable associations or religious services. Service club or religious notice signs shall not exceed eight (8) square feet in area.

"Sign, outdoor advertising or outdoor advertising device" means any outdoor sign, display, device, notice, figure, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended or used to advertise or inform, any part of the advertising or information contents of which is visible from any place on the main-traveled way of the Interstate or National Highway System. It includes permanent or portable installations, but shall not include surface markers showing the location or route of underground utility facilities or pipelines or public telephone coin stations installed for emergency use. It also shall not include temporary election candidate campaign signs or voters' referendum signs, if erected not more than 45 days prior to an election and removed within 7 days following the election or within 7 days following the final election if more than one election is required to fill the office or settle the referendum issue.

"Sign facing" means the total advertising surface of an outdoor advertising sign, display or device which is visible from the main-traveled way of the highway. For purposes of this definition, a single sign facing may consist of one or more sign panels facing in one direction.

"Sign panel" means a separate advertising area contained upon a sign facing, including any border or trim, but excluding ornamental base or apron supports; provided however, that such ornamental base or apron supports shall not contain an advertising message or messages.

"Sign standards by sign type" means Class "A" signs, Class "B" signs, Class "C" signs, Class D signs, "on premise" signs, exempt signs, prohibited signs and all their zoning, spacing, lighting and size requirements. (See 730:35-5-12, 730:35-5-13, 730:35-5-14, 730:35-5-15, and 730:35-5-16.)

"Sign structure support" includes all structures, poles, bracings, lateral supports and other material of every kind and nature used to support a face or surface on which outdoor advertising is placed, whether located on or attached to the surface of the earth or man-made structure.

"The Act" means the Highway Advertising Control Act contained in Title 69 O.S., Section 1271 et seq., and any amendments thereto.

"Truck weighing station" means an area or site established and maintained within or adjacent to the highway right-of-way and upon which are located permanent truck weighing facilities operated by the Department, the Department of Public Safety, and/or the Oklahoma State Tax Commission.

"Unzoned commercial or industrial areas" means those areas which are not zoned by state or local law, regulation or ordinance, and on which there is located one or more permanent structures devoted to a commercial or industrial

activity or on which a commercial or industrial activity is actually conducted, whether or not a permanent structure is located thereon. No area upon which a commercial or industrial activity is conducted shall be considered as an unzoned commercial or industrial area if the commercial or industrial activity is conducted as a method, scheme or ruse designed for the purpose of conducting the business of outdoor advertising.

"Urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one state, that part of the urbanized area in each state, or an urban place as designated by the Bureau of the Census having a population of five thousand (5,000) or more and not within any urbanized area, within boundaries to be fixed by responsible state and local officials in cooperation with each other, subject to approval by the Secretary of Transportation. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census.

"Visible" means capable of being seen without visual aid by a person of normal visual acuity.

"Zoned commercial or industrial areas" means those area zoned for commercial or industrial activities under the authority of any state law, or city or county zoning ordinance of this state. Any commercial or industrial area created or established by any zoning authority must actually be capable of supporting commercial or industrial activities. Any state or local zoning action which is not a part of a comprehensive zoning plan, such as strip zoning, spot zoning, or variances created primarily to allow outdoor advertising structures, will not be recognized by the Department as zoning for outdoor advertising purposes.

[Source: Amended at 10 Ok Reg 4695, eff 10-11-93; Amended at 11 Ok Reg 4697, eff 8-16-94 (emergency); Amended at 12 Ok Reg 1287, eff 5-11-95; Amended at 17 Ok Reg 1384, eff 5-11-00; Amended at 26 Ok Reg 1703, eff 7-1-09; Amended at 29 Ok Reg 1495, eff 6-25-12]

730:35-5-4. Licensing outdoor advertising businesses

(a) No person, firm or corporation shall engage in, or continue in, the outdoor advertising business by the erection and/or maintenance of outdoor advertising signs, displays, or devices in the adjacent area or control area on any Interstate or Primary highway in this State without first obtaining a license from the Department authorizing such person, firm, or corporation to conduct such business as an outdoor advertising company. The license fee shall be payable in advance, by certified check or money order only, in the amount of four hundred dollars (\$400.00). Each license shall expire on June 30 of each year and the license fee shall not be prorated for a part of a year. Applications for licenses shall be made upon forms provided by the Department and shall state the name and address of the applicant and such additional information as may be required by the Department for the purpose of administering the Act. The information contained in the application shall be verified under oath by the applicant, a partner of the firm or an authorized officer of the corporation.

(b) Applications for renewals of licenses shall be made to the Department, upon forms provided by the Department, on or prior to June 1st preceding the expiration date. Applications shall be accompanied by the annual renewal fee of two hundred dollars (\$200.00), payable by certified check or money order only. Renewal applications shall contain such information as may be required by the Department for the purpose of administering the Act and the information thus submitted shall be verified under oath of the applicant, a partner of the firm or an authorized officer of the corporation.

(c) Any person, firm, or corporation erecting only outdoor advertising signs, displays, and devices which advertise his own business, products, or profession, and which signs are located upon the property where such business is conducted, products sold, or profession practiced, shall not be considered as being in the outdoor advertising business and shall not be required to obtain a license or sign permit from the Department.

(d) A late fee consisting of fifty dollars (\$50.00) per month or any part thereof shall be charged by the Department for any late filing for a license or license renewal. (Date of receipt will be determined by postmark.) All such fees are to be payable in advance by certified check or money order only.

(e) Failure to obtain a license as required by this rule or failure to renew a license when required shall immediately cause all outdoor advertising signs owned by the party to be in violation of these regulations and therefore a public nuisance subject to removal as provided by law.

(f) Providing false information on the application or renewal shall be sufficient grounds to deny the license or license renewal.

[Source: Amended at 10 Ok Reg 4695, eff 10-11-93; Amended at 17 Ok Reg 1384, eff 5-11-00; Amended at 26 Ok Reg 1703, eff 7-1-09]

730:35-5-5. Registration of outdoor signs, displays and devices

(a) All signs, except for signs considered exempt, (see 730:35-5-15) that are adjacent to or located within six hundred sixty (660) feet of the right-of-way, and visible from the main traveled way of any Interstate or Federal-aid Primary highway in the state, are required to be registered and permitted by the Department.

(b) Application forms to register and permit sign locations are provided by the Department, prior to the construction or relocation of any sign. The application form is to be filled out in its entirety, notarized and submitted to the Department, along with the application fee (\$100.00), two (2) photos of the proposed site location and a copy of the current lease agreement with landowner of the site location. Upon receipt of all required data, the Department will then process the application as expeditiously as possible. The applicant shall be notified of the Department's decision on the application and the reasons therefore, if denied, within sixty (60) days of receipt of the completed application. Upon approval, the sign location is assigned a registration number and is issued a registration certification (title), permit and tag.

(c) For each properly registered outdoor advertising sign, display, or device, the Department shall issue a registration certificate which contains a unique registration number, the name and address of the owner and such additional information as the Department considers necessary to properly identify the particular outdoor advertising sign, display, or device.

(d) The registration tag is to be affixed to the applicable outdoor advertising sign, display or device so as to be conspicuous and visible from the main traveled way within a period not to exceed sixty (60) days of its issuance. On or after July 1, 1973, any outdoor advertising sign, display or device located within the controlled areas, and which does not display its applicable registration tag may be considered by the Department to be unregistered, thus illegal, and subject to removal by the Department in accordance with provisions of law; provided further, that the Department may institute and pursue to a conclusion such other proceedings, criminal and civil in enforcement of the provisions of the Act and this rule as are provided by the law and this rule, which may include revocation of the company's license to do business.

(e) The registration of an outdoor advertising sign, display, or device shall be permanent for the registered sign as long as the sign remains in conformance with requirements of law and these rules; provided, however, that lost, stolen or destroyed registration tags or certificates may be replaced by the Department, such replacement tags or certificates to bear the same registration numbers as the originals. The replacement cost will be a fee of twenty-five dollars (\$25.00) for the registration tag, and a fee of twenty-five dollars (\$25.00) for the registration certificate.

(f) Upon change of ownership of any registered outdoor advertising sign, display, or device, the new owner shall, within ninety (90) days, notify the Department by presenting to the Department the current applicable registration certificate executed as provided for thereon, and request a transfer of registration. Provide a copy of a current lease, assignment of an assignable lease, or proof of current payment between the land owner(s) and the new owner of the sign. A new registration certificate issued by the Department shall provide for an assignment of registration, such assignment to be executed by the assignor and acknowledged by a Notary Public. A fee of twenty-five dollars (\$25.00) will be charged by the Department for a transfer of registration. Failure to request transfer within ninety (90) days shall be grounds for the Department to determine that the sign is illegal and subject to removal.

[Source: Amended at 10 Ok Reg 4695, eff 10-11-93; Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-5-6. Permits for outdoor advertising signs, displays, and devices

(a) All signs, except for signs considered exempt, (see 730:35-5-14) that are adjacent to or located within six hundred sixty (660) feet of the right-of-way, and visible from the mail traveled way of an Interstate or Federal-aid Primary highway in the state, are required to be registered and permitted by the Department.

(b) Application forms to register and permit sign locations are provided by the Department, prior to the construction or relocation of any sign. The application form is to be filled out in its entirety, notarized and submitted to the Department, along with the application fee (\$100.00), two (2) photographs of the proposed site location and a copy of the current lease agreement with landowner of the site location. Upon receipt of all required data, the Department will then process the application as expeditiously as possible. The applicant shall be notified of the Department's decision on the application and the reasons therefore, if denied, within sixty (60) days of receipt of the completed application. If approved, the sign location is assigned a registration number and issued a registration certificate (title), permit, and tag.

(c) Permits for new signs shall be renewed every two (2) years from the date of issuance thereof, and permit renewal invoice shall be accompanied by a twenty dollar (\$20.00) fee. The Department may require additional documentation to accompany any renewal(s) if deemed necessary.

(d) Failure to renew a permit when required shall cause the non-permitted outdoor advertising device to be in violation of these regulations and subject to removal according to law.

(e) The holder of a permit shall, during the term thereof, have the right to change the advertising copy, ornamentation, or trim on the outdoor advertising structure or device for which it was issued without payment of any additional fee.

(f) Educational, veterans, religious, charitable, governmental or civic organizations, not operated for profit, shall obtain a permit in accordance with the provisions of this Subchapter for each outdoor advertising sign, display, or device having more

than eight (8) square feet in area maintained or erected; provided, however, that no permit renewal fee shall be charged.

(g) Submission of false information in an application or in support of an application shall be sufficient grounds to deny or cancel the permit, renewal, or transfer.

(h) Upon failure of the permit holder to make lease payments or other agreed upon compensation to the land owner, or when the lease for the use of the land is canceled for any other lawful reason, the Department shall, upon submission of a sworn affidavit and such other proper documentation as may be necessary, revoke the outdoor advertising permit. In the event that the lessee presents a sworn affidavit or other proper documentation that the lease remains valid, the Department shall accept no new applications, issue further permits or renew existing permits on the property until the lease expires or its validity is determined in a court of competent jurisdiction. Priority shall be to the existing permit holder.

(i) In the event that the Outdoor Advertising Control Branch determines that the permit should not be issued, renewed, or transferred, the applicant shall be so notified in writing. The letter shall state specifically the grounds upon which the requested action is to be denied.

(j) If a sign structure has not been completed within one hundred eighty (180) days of the issuance of the permit, a permanent marker shall be erected to allow for placement of the registration tag.

[Source: Amended at 10 Ok Reg 4695, eff 10-11-93; Amended at 11 Ok Reg 4697, eff 8-16-94 (emergency); Amended at 12 Ok Reg 1287, eff 5-11-95; Amended at 17 Ok Reg 1384, eff 5-11-00; Amended at 26 Ok Reg 1703, eff 7-1-09]

730:35-5-7. Failure to provide complete information

Failure of the applicant to provide full and complete information on any licensing, registration, or permit form required by this subchapter may result in the non-issuance of such license, registration or permit. This would cause the person, firm or corporation to remain unlicensed, or the outdoor advertising device to remain unregistered and would subject them to the penalties prescribed by law.

[Source: Amended at 10 Ok Reg 4695, eff 10-11-93; Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-5-8. Data required for licensing, registration, and permit application and renewal application forms

(a) The Department shall require the following information and data from the applicant for the registration and permit for an outdoor advertising sign, display, or device. This information shall be written upon the application form supplied by the Department, or attached as collateral appendages thereto:

(1) One or more prints of a photograph of the staked or marked location, outdoor advertising sign, display, or device, taken contemporaneously with the date of the application, the print size to be as specified by the Department.

(2) Name and address of the applicant.

(3) Sign location data, including highway identification, county, municipality if pertinent, identification of nearest intersecting numbered state highway and, if specifically requested to resolve a location dispute, a plotted land survey giving the distance from that highway intersection, and the legal description of the real property tract upon which the sign is located.

(4) Name and address of the owner or owners of real property on which the sign is located.

- (5) Whether or not the sign was erected and is being maintained under a lease or other authorizing agreement with the owner or owners of the real property on which the sign is located.
- (6) Physical description of the sign as to size, sign panels, and sign facings arrangements, illumination, and contemporary sign advertising message.
- (7) Whether or not the area in which the sign is located is zoned and, if zoned, the zoning classification.
- (8) If the sign is not in a zoned area, whether or not it is within 600 feet of an identified business.

(b) In connection with the application for renewal of a permit for a sign, the Department may require a photograph of the subject outdoor advertising sign, display or device, taken contemporaneously with the date of the application for renewal, if a material change in the outdoor advertising sign, display, or device, other than in the advertising content, occurred or was brought about during the permit period preceding the renewal date.

(c) The Department shall require the applicant for registration, permit, or transfer of an outdoor advertising sign, display, or device, to furnish a copy of the current lease with the owner or owners of the real property on which the sign is located, authorizing the presence of the subject sign on the property.

(d) Any applicant for a license or for registration and permit for an outdoor advertising sign, display, or device, who is not a resident of this State must appoint and maintain an agent upon whom service or process may be had in any action to which the applicant may be a party. The agent shall reside in the State of Oklahoma and shall file with the Department a formal declaration as to his place of residence in the State of Oklahoma.

(e) The requirements to furnish information, data, proofs, and agent designations set forth in the foregoing 730:35-5-8, (a) through (d) shall not be deemed to restrict the information and data the Department may require, and the Department may require such other information, data, and proofs as it may reasonably deem necessary for the administration of its authority to implement and enforce the provisions of the Act. The Department may require the applicant to furnish written authority or permission from the owner of the real property upon which the pertinent sign is located, authorizing the Department, its agents, contractors, servants, or employees, to enter upon the property for such purpose or purposes as are reasonably necessary to promote the effective control of outdoor advertising and to carry out the Department's duties and responsibilities under this subchapter.

[Source: Amended at 10 Ok Reg 4695, eff 10-11-93; Amended at 17 Ok Reg 1384, eff 5-11-00; Amended at 26 Ok Reg 1703, eff 7-1-09]

730:35-5-9. Sign owner requirements

Sign owners along highways which were added to the Interstate and Primary systems after March 28, 1972, shall be required to apply for registration and permit within ninety (90) days after receiving written notification from the Department.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-5-10. Exemption for directional signs lawfully erected prior to May 5, 1976

(a) For signs, displays, and devices to be eligible for exemption under this section the following conditions must exist or apply:

- (1) They must have been lawfully erected prior to May 5, 1976.

- (2) They must continue to provide directional information to goods and services in the interest of the traveling public and meet the requirements for directional content that were provided on May 5, 1976 as defined in 730:35-5-3 of this subchapter for "Directional Signs."
 - (3) They must be located within a defined area with clearly established geographical boundaries which functions as an economic unit or entity.
 - (4) Removal of the signs, displays, or devices would work a substantial economic hardship throughout the area.
- (b) To obtain the exemption as permitted by this Section, any person, firm, or corporation engaged in the business of outdoor advertising must apply in writing to the Department before December 31, 1979 furnishing an acceptable economic impact study containing the following information:
- (1) An analysis which identifies the key economic activities of the area.
 - (2) The limits of the defined area requested for exemption.
 - (3) A listing of signs to be exempted, their location and the name of the enterprise advertised.
 - (4) The number and location of nonconforming signs providing similar information for which no exemption is requested.
 - (5) The number of conforming sign sites and locations where such signs exist or could be lawfully erected.
 - (6) The number and location of on-premise signs clearly visible from the main-traveled way.
- (c) Those signs identified in 730:35-5-10(b)(3) must be demonstrated to have a direct relationship with the economic well-being of those enterprises advertising goods and services to the traveling public and must contribute to the defined areas' economy, independent of those signs listed in 730:35-5-10(b)(4), (5), and (6) to such a degree that their removal would work a substantial economic hardship throughout the area. Furthermore, such signs, in and of themselves, must generate substantial business and income for and within the defined area.
- (d) Upon approval by the Department and acceptance by the Federal Highway Administration (FHWA) all exempted nonconforming signs, displays, and devices must continue to be lawfully maintained and the message content must remain substantially the same as provided on May 5, 1976.
- (e) The defined area and economic study will be reviewed and evaluated by the Department at least every three (3) years to determine if an exemption is still warranted.
- (f) In the event the Department contacts a sign owner concerning the acquisition and removal of signs under a compulsory beautification project prior to December 31, 1979, the sign owner, at his option, will have ten (10) days to inform the Department, in writing, that he is applying for an exemption as provided in this Section. It will then be necessary to submit the economic impact study as required by 730:35-5-10(b) to the Department within sixty (60) days.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-5-11. Enforcement

The director of the Oklahoma Department of Transportation or his designee is hereby authorized to initiate such legal action as, in the Director's opinion, is necessary to ensure the enforcement of the Highway Advertising Control Act, and the rules and regulations promulgated thereunder by this Commission.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-5-12. Class "A" signs

(a) **Site requirements.** Class "A" permitted signs must be located in a commercial or industrial area as defined in 730:35-5-3.

(1) **Zoning Qualifications.**

(A) Property upon which signs are to be erected within the control area must be zoned comprehensively for business, commercial or industrial activities under the authority of any state zoning law, or city or county zoning ordinance of this state, but shall not include areas which reflect strip or spot zoning granted strictly for the purpose of outdoor advertising.

(B) To determine whether a zoning action, past or present, is an attempt to circumvent outdoor advertising law or regulations, the following factors shall be taken into consideration:

- (i) expressed reason for zoning
- (ii) zoning for the surrounding area
- (iii) actual land use
- (iv) existence of plans for commercial or industrial development
- (v) proper access to property
- (vi) availability of utilities (water, electricity, sewage) in the newly zoned area, and
- (vii) whether or not the property is being assessed in accordance with zoning.

(C) Failure to meet zoning qualifications based on the factors set forth in this subsection is grounds for permit denial. It is the responsibility of the applicant to provide support documentation if zoning is determined to be questionable. Questionable zoning would include areas which have no visible indications of development, are separated from the primary urban area under which authority they are zoned and areas which are being primarily used for agricultural, ranching or residential purposes.

(2) **Commercial or Industrial Activity Requirements.** Property upon which signs are to be erected must be unzoned but the sign is to be located within six hundred (600) feet of a qualifying commercial or industrial activity. The considerations are as follows:

(A) Such an activity shall be equipped with all customary utilities, facilities and open to the public regularly or regularly used by the employees of the business as their principal work station or which due to the nature of the business is equipped, staffed, and accessible to the public as is customary. The activity must be clearly identified and recognized as a business from the main-traveled way. The majority of the business activity must be conducted on the premises during normal business hours. Permit applicant may be required to provide sufficient documentation to demonstrate the status of the activity as a qualifying commercial or industrial business.

(B) It includes the area along the highway extending outward six hundred (600) feet from and beyond the edge of the regularly used area of said activity in each direction and a corresponding zone directly across a primary highway which is not also a limited or controlled access highway. All measurements shall be made from

the edge of the regularly used building, parking lots, storage or processing areas of the commercial or industrial activity, not from the property lines of the activity and shall be along or parallel to the edge of the pavement of the highway. Provided however, the unzoned area shall not include land on the opposite side of an interstate or dual-laned limited access primary highway from the commercial or industrial activity establishing the unzoned commercial or industrial area.

(C) None of the following, but not limited to the following, shall be considered commercial or industrial activities for the purpose of outdoor advertising:

- (i) outdoor advertising structures
- (ii) agricultural, forestry, ranching, grazing, farming, and related activities, including but not limited to wayside fresh produce stands
- (iii) transient or temporary businesses and activities
- (iv) activities more than six hundred sixty (660) feet from the nearest edge of the right-of-way
- (v) activities conducted in a building principally used as a residence
- (vi) local, county, state or federal governmental offices or entities
- (vii) recreational activities which are designed to present park-like or pastoral aesthetic features to the travelling public. (Including but not limited to golf course greens and fairways, hunting club acreages, or other such type activities.)

(b) Spacing.

(1) Interstates and Controlled Access Primary Highways.

(A) No two (2) registered sign structures which are visible from the highway at any one time shall be spaced less than one thousand (1,000) feet apart on the same side of the highway.

(B) Outside incorporated municipalities, no structure shall be located within five hundred (500) feet of an interchange/ramp, intersection, intersection at grade, or rest area (measured along the interstate or freeway from the sign to the nearest point of the beginning or ending of the pavement widening at the exit or entrance to the main-traveled way).

(2) Primary Highway System (non-controlled access).

(A) Inside the limits of an incorporated municipality, no two (2) registered sign structures shall be spaced less than one hundred (100) feet apart on the opposite side of the highway and three hundred (300) feet on the same side of the highway.

(B) Outside the limits of an incorporated municipality, no two (2) registered sign structures shall be spaced less than three hundred (300) feet apart.

(C) Such spacing applies unless the signs are separated by a building or other obstruction in such a manner that only one display is visible from the highway at any one time from either lane of traffic.

(3) Explanatory notes.

(A) Directional, official, and exempt signs as herein defined, shall not be counted nor shall measurements be made from them for the purpose of determining compliance with spacing requirements.

(B) The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway. Distances shall be measured utilizing the points of signs or staked locations nearest the highway.

(4) Disqualifiers.

(A) Signs shall not be located within five hundred (500) feet of any of the following which are adjacent to any interstate (on the same side of the highway) or federal-aid primary highway:

- (i) public park
- (ii) public forest
- (iii) playground
- (iv) cemetery

(B) Signs in unzoned commercial or industrial areas shall not be located within five hundred (500) feet of the following which are adjacent to any interstate (on the same side of the highway) or federal-aid primary highway:

- (i) church
- (ii) school
- (iii) historical battlefield
- (iv) rest area

(C) Signs in unzoned commercial or industrial areas shall not be located within three hundred (300) feet of any residence without a written consent.

(5) For the purpose of providing a method and opportunity to minimize the cost of acquiring legally erected outdoor advertising signs to be taken when the state purchases land under eminent domain, the Director of the Department shall have the option to approve the issuance of permits for outdoor advertising signs visible from interstate and freeway primary facilities which are to be erected less than one thousand (1,000) feet from another such sign. Permits issued pursuant to this option shall be only for the purpose of providing a relocation site for a sign being taken by the state, and in no case shall such permits allow an outdoor advertising sign to be erected less than the distance provided for in this title from another such sign. Provided, when the Department issues a permit pursuant to this subsection to accommodate the relocation of a structure:

(A) If the structure to be removed is visible from an interstate highway inside an incorporated area, the relocation site shall be inside the same incorporated area and shall be visible from an interstate highway.

(B) If the structure to be removed is visible from a freeway primary highway inside an incorporated area, the relocation site shall be inside the same incorporated area and shall be visible from a freeway primary highway or an interstate highway.

(C) If there are not suitable relocation sites meeting the provisions of subparagraph A of this paragraph and the structure to be removed is visible from an interstate highway inside an incorporated area, notwithstanding the provisions of subparagraph A of this paragraph,

the Department may issue a permit for a relocation site outside of the incorporated area which shall be visible from an interstate highway, and

(D) If there are no suitable relocation sites meeting the provisions of subparagraph B of this paragraph and the structure to be removed is visible from a freeway primary highway inside an incorporated area, notwithstanding the provisions of subparagraph B of this paragraph, the Department may issue a permit for a relocation site outside of the incorporated area which shall be visible from a freeway primary highway or an interstate highway.

(E) Provided further, the square footage of display face on the relocated sign shall not exceed the square footage of display face of the taken sign. The Transportation Commission shall have the authority to promulgate rules necessary to implement the use of the permit option provided for in this subsection and to request the cooperation of municipalities where local permits are required.

(6) Notwithstanding any other provision of law, the Department shall, after determining the need to acquire property upon which outdoor advertising structures are located, have the authority to negotiate directly with the owner of the outdoor advertising structure the terms for maintaining such structures in their current position or for the relocation of such structures. Such negotiations may begin prior to the Department's initiation of formal condemnation proceedings and shall be completed within six (6) months or at the time of the court-appointed appraiser's report, whichever occurs first. The owner of the outdoor advertising structure shall initiate such negotiations by written request to the Department, provided such request shall include proof of sole ownership of the structure. Nothing in this section shall be construed to prevent the owner of the land from pursuing a claim of interest in any lease existing between the landowner and the outdoor advertising structure owner, or to prevent the outdoor advertising structure owner from pursuing a claim for fair market value of the owner's interest if negotiations with the Department for a lease or structure relocation arrangement are not successful.

(c) **Lighting.** Signs may be illuminated, subject to the following restrictions:

(1) Signs which contain, include, have attached or are illuminated by any flashing, intermittent or moving light, or lights which involve moving parts are prohibited, except on-premise signs and those giving public service information, such as, but not limited to, time, date, temperature, weather, news, or similar information.

(2) Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled way of any interstate or primary highway and are of such intensity or brilliance as to cause glare or impair vision of the driver of any motor vehicle, or which otherwise interferes with any driver's operation of a motor vehicle, are prohibited.

(3) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures any official traffic sign, device or signal, or imitates or may be confused with any such official traffic sign, device or signal.

(4) A non-conforming (grandfathered) sign cannot have lighting added after it has become non-conforming.

(5) Signs which include the steady illumination of sign faces, panels or stats that rotate to different messages in a fixed position, commonly known as

tri-vision faces or multiple message signs are allowed; provided, the rotation of one (1) sign face to another is no more frequent than every eight (8) seconds and the actual rotation process is accomplished in four (4) seconds or less. Some LED type displays may be used under these guidelines, however moving or flashing lights are strictly prohibited. Change from one panel to another must be accomplished with static displays only. Scrolling or fading from one display to the next is not allowed.

(6) Approval to upgrade an existing Class A registered sign to allow Tri-Vision or LED technology to a registered sign not already designated with such use must be obtained from the Outdoor Advertising Control Branch prior to actual changes being made. Request for approval must be submitted in writing, listing the Registration Number, type of technology intended and a document confirming current land use consent.

(d) Size.

(1) The maximum area for any one sign shall be one thousand two hundred (1,200) square feet including border and trim, but not including the base or apron, supports and other structural members. If an advertising message appears on the base or apron, it must be included as part of maximum allowable area. The sign may not be more than twenty-five (25) feet in height or sixty (60) feet in length.

(2) The area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof which will encompass the entire sign, including any cutouts or extensions.

(3) The maximum size limitations shall apply to each side (facing) of a sign structure. Two (2) signs not exceeding six hundred (600) square feet each may be erected in a facing, "side by side" or "double decked" (stacked.) "Back to back" and "V-type" signs will be permitted and shall be treated as one structure with one thousand two hundred (1,200) square feet permitted for each facing. "V-type" signs shall not exceed thirty (30) feet between faces at the widest point. "Tri-face" signs are prohibited.

[Source: Added at 17 Ok Reg 1384, eff 5-11-00; Amended at 26 Ok Reg 1703, eff 7-1-09]

730:35-5-13. Informational or class "C" signs

(a) An "informational" or Class "C" sign, is one that is owned by a public person, place or organization, which contains directions or information about public places, owned or operated by federal, state or local governments or their agencies, publicly or privately owned natural phenomena, historic, cultural, educational and religious sites (not including churches), and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public. Commercial advertisement is prohibited on informational signs. There are no zoning requirements.

(b) **Size requirements.** Maximum area shall not exceed one hundred fifty (150) square feet. Sign height or width shall not exceed twenty (20) feet.

(c) Spacing requirements.

(1) Interstate and Limited Access Federal-aid Primary Highways (Divided) (Applies to same side of highway only) - An informational sign can not be erected within one thousand (1,000) feet from another registered sign.

(2) Non-Interstate Federal Aid Primary Highway (Non-Divided)

(A) An informational sign can not be erected less than three hundred (300) feet from another registered sign outside the limits of

any incorporated municipality.

(B) An informational sign cannot be erected less than one hundred (100) feet from another registered sign on the opposite side of the highway and three hundred (300) feet on the same side of the highway within the limits of an incorporated municipality.

(3) On all Interstates and Federal-aid Primary highways (applies only to same side of highway when adjacent to Interstates or Limited Access Federal-aid Primary highways), no informational sign shall be erected within five hundred (500) feet of the following:

(A) park

(B) playground

(C) cemetery

(D) forest preserve

(d) Lighting requirements.

(1) Signs shall not be erected which contain, include or are illuminated by any flashing, intermittent, revolving or moving light, except on-premise signs and those giving public service information such as but not limited to, time, date, temperature, weather or news. Steadily burning lights in configuration of letters or pictures are not prohibited.

(2) Signs shall not be erected or maintained which are not effectively shielded to prevent beams or rays of light from being directed at any portion of the traveled way of any interstate or federal-aid primary highway and are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle.

(3) Signs shall not be erected or maintained which shall be so illuminated that they obscure any official traffic sign, device, or signal or may be confused with any such official traffic sign, device or signal.

(4) Signs which include the steady illumination of sign faces, panels or slats that rotate to different messages in a fixed position, commonly known as tri-vision faces or multiple message signs are allowed; provided the rotation of one (1) sign face to another is no more frequent than every eight (8) seconds and the actual rotation process is accomplished in four (4) seconds or less. Some LED type displays may be used under these guidelines, however moving or flashing lights are strictly prohibited. Change from one panel to another must be accomplished with static displays only. Scrolling or fading from one display to the next is not allowed.

[Source: Added at 17 Ok Reg 1384, eff 5-11-00; Amended at 26 Ok Reg 1703, eff 7-1-09]

730:35-5-14. On-premise signs

An "on-premise" sign advertises the activities conducted upon the property upon which they are located and signs advertising the sale or lease of the property on which they are located.

(1) **Characteristics of an on-premise sign.** A sign will be considered to be "on-premise" if it meets the following requirements:

(A) **Premise.** The sign must be located on the same premises as the activity or property advertised.

(B) **Purpose.** The sign must have as its purpose:

(i) the identification of the activity, or its products or services or

(ii) the sale or lease of the property on which the sign is located, rather than the purpose of the general advertising.

(2) **Premises Test.** The following criteria shall be used in determining whether a device is located the same premises as the activity or property advertised.

(A) The premises on which an activity is conducted is determined by physical facts rather than property lines. Generally, it is defined as the land occupied by the buildings or other physical uses essential to the activity including such areas as are arranged and designed to be used in connection with such building or uses.

(B) The following will not be considered to be a part of the premises on which the activity is conducted and any signs located on such land will be considered "off-premise" advertising.

(i) Any land which is not used as an integral part of the principal activity. This would include but is not limited to, land which is separated from the activity by a roadway, highway or other obstructions and not used by the activity and extensive undeveloped highway frontage contiguous to the land actually used by a commercial facility even though it might be under the same ownership.

(ii) Any land which is used for, or devoted to a separate purpose unrelated to the advertised activity. For example, land adjacent to or adjoining a service station, but devoted to raising crops, residence, or farmstead uses other than commercial or industrial uses having no relationship to the service station activity would not be part of the premises of the service station, even though under the same ownership.

(iii) Any land which is:

(I) at some distance from the principle activity, and

(II) in closer proximity to the highway than the principle activity, and

(III) developed or used only in the area of sign site or between the sign site and the principle activity, and

(IV) occupied solely by structures or uses which are only incidental to the principle activity, and which serve no reasonable or integrated purpose related to the activity other than to attempt to qualify the land for signing purposes. Generally, these will be facilities such as picnic, playground, or camping areas, dog kennels, golf driving ranges, skeet ranges, common or private roadways or easements, walking paths, fences, and sign maintenance sheds.

(C) **Narrow Strips.** Where the sign site is located at or near the end of a narrow strip contiguous to the advertised activity, the sign site shall not be considered part of the premises on which the activity being advertised is conducted. A narrow strip shall include any configurations of land which is such that it cannot be put to any reasonable use related to the activity other than for signing purposes. In no event shall a sign site be considered part of the premises on which the advertised activity is conducted if it is located upon a narrow strip of land.

(3) **Purpose Test.** The following criteria shall be used for determining whether a sign has as its purpose (1) the identification of the activity located on the premises or its products or services, or (2) the sale or lease of the property on which the sign is located, rather than the business of outdoor advertising.

(A) **General.**

- (i) Any sign which consists solely of the name of the establishment is an on-premise sign.
- (ii) A sign which identifies the establishment's principle or accessory product or services offered on the premises is an on-premise sign.
- (iii) An example of an accessory product would be a brand of tires offered for sale at a service station.

(B) **Business of Outdoor Advertising.**

- (i) When an outdoor advertising device (1) brings rental income to the property owner, or (2) consists principally of brand name or trade name advertising, or (3) the product or service advertised is only incidental to the principle activity, it shall be considered the business of outdoor advertising and not an on-premise sign. An example would be a typical billboard located on the top of a service station building that advertised a brand of cigarettes or chewing gum which is incidentally sold in a vending machine on the property.
- (ii) An outdoor advertising device which advertises activities conducted on the premises, but which also advertises, in a prominent manner, activities not conducted on the premises, is not an on-premise sign. An example would be a sign advertising a motel or restaurant not located on the premises with a notation or attachment stating "Skeet Range Here", or "Dog Kennels Here". The on-premise activity would only be the skeet range or dog kennel.

(C) **Sale or Lease Signs.** A sale or lease sign which also advertises any product or service not located upon and related to the business of selling or leasing the land on which the sign is located is not an on-premise sign. An example of this would be a typical: "This Property for Sale"; "Smith's Motel; 500 Rooms, Air Conditioned, Turn Right 3 blocks at Main Street".

[Source: Added at 17 Ok Reg 1384, eff 5-11-00]

730:35-5-15. Exempt signs

The following signs and advertisements, if securely attached to real property or advertising structures are exempt from regulations as stated herein, and may be erected in controlled areas:

- (1) Signs erected or maintained, or caused to be erected or maintained, on any farm by the owner or lessee of such farm and relating solely to farm produce merchandise, services or entertainment sold, produced, manufactured or furnished on such farm.
- (2) Signs eight (8) square feet or less, which denote only the name of a civic or service club or church, location and directions for reaching the same, and the time of meeting of such organization and public utility signs.

[Source: Added at 17 Ok Reg 1384, eff 5-11-00]

730:35-5-16. Prohibited signs

(a) Signs shall not be erected or maintained which:

- (1) Imitate or resemble any official traffic sign, signal or device.
- (2) Are erected or maintained upon trees or painted or drawn upon rocks or other natural features.
- (3) Are not permanently affixed to real property or a sign structure (mobile signs).
- (4) Are "Tri-face" signs.

(b) Scenic Byway Prohibition. Off-premise advertisement is prohibited adjacent to routes of highway that are officially designated as state or federal scenic byways under the National Scenic Byways Act. This applies only to portions of scenic byways which coincide with the regulated routes.

[Source: Added at 17 Ok Reg 1384, eff 5-11-00; Amended at 26 Ok Reg 1703, eff 7-1-09]

730:35-5-17. Signs - directions to recreation areas

In counties that do not have county planning or zoning, signs located outside of incorporated municipalities which advertise or give directions to local outdoor recreation areas may be allowed adjacent to interstate highways if such signs are otherwise in compliance with this section, approval may be given by the Director of the Department.

[Source: Added at 26 Ok Reg 1703, eff 7-1-09]

730:35-5-18. Vegetation management

(a) In accordance with 69 O.S. § 1275(e), the Department of Transportation is authorized to enter into written agreements ("Vegetation Clearing Agreement") with outdoor advertising sign owners/permit holders for the purpose of conducting vegetation management activities within a specific area on state highway rights-of-way.

(b) Unless otherwise noted, the following establishes the procedures, processes and criteria for an outdoor advertising sign owner/permit holder to make visible or ensure future visibility of the facing of a legal outdoor advertising sign:

(1) No person, firm or corporation shall trim or remove brush or trees from any portion of the state highway rights-of-way without first obtaining a written permit from the Department. The process for obtaining a vegetation clearance permit is as follows:

(A) Application for a clearance permit shall be submitted to the appropriate Field Division Engineer using forms provided by the Department.

(B) Upon issuance, a permit shall be valid for a duration of up to six (6) months.

(C) The fee shall be two hundred dollars (\$200) per clearance area.

(2) A copy of the approved clearance permit shall be available on the worksite for inspection at all times.

(3) No clearance permit shall be issued for a sign which has been deemed illegal by the Outdoor Advertising Control Branch as a result of, but not limited to, violations of the Highway Advertising Control Act of 1968 (69 O.S. § 1275).

(4) The Permittee will not occupy or operate any equipment within designated wildflower plots from initial growth until after the flowers have

gone to seed. Additionally, any necessary equipment will not be left unattended on the rights-of-way within thirty (30) feet of the roadway shoulder.

(5) The Permittee shall be solely responsible to ensure that proper agreements for vegetation clearance is granted from all adjacent property owners of the clearing area including the owner of the property upon which the outdoor advertising sign is located. The permit holder shall also be held solely responsible for any damages to fences, traffic signs, guardrails, or other highway features resulting from vegetation clearance operations.

(6) All vegetation management activities shall be done in a workman-like manner and the cleared area shall be left in a neat condition upon completion of the work. Brush and tree clearing and debris removal will be contiguous within the designated area and selective clearing is not permitted. The burning of brush piles is not permitted, therefore, all brush and tree debris must be removed from the highway right-of-way within ten (10) days after clearing.

(7) All efforts will be made by the permittee to prevent erosion from occurring as a result of vegetation management activities.

(8) A Permittee shall be required to comply with any indemnification and assumption of risk clause(s) as part of the "Vegetation Clearing Agreement". A Permittee shall also be required to keep in force liability insurance throughout the permit period, as stated in the "Vegetation Clearing Agreement".

(9) All operations on state highway rights-of-way must be performed in accordance with the stipulations put forth in the "Vegetation Clearing Agreement". The Department reserves the right to cancel any and/or all clearance permits.

(c) The aforementioned procedures, processes and criteria are applicable to any person, firm or corporation that intends to perform brush or tree trimming or removal on state highway rights-of-way.

(d) All vegetation management activities are subject to Oklahoma Law as stated at 69 O.S. § 1213.

[Source: Added at 29 Ok Reg 1495, eff 6-25-12]

SUBCHAPTER 7. TRAFFIC CONTROL DEVICES

730:35-7-1. Purpose

It is the purpose of this subchapter to establish policies that will enable the Department to implement the provisions of state and federal law regarding the proper funding, construction, usage, maintenance, and ultimate disposition of traffic control devices on both the State and Federal-aid highway systems.

[Source: Amended at 11 Ok Reg 1897, eff 5-12-94; Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-7-2. Traffic control administration

(a) **Federal control.** All traffic control devices erected on the State and Federal-aid Highway Systems shall conform to the Standards set forth in the current edition of the "Manual on Uniform Traffic Control Devices for Streets and Highways", as approved and published by the Federal Highway Administration. Such devices, including those within the corporate limits of cities and towns, shall conform to warrants established by the Department and shall, under no circumstances, be

erected without formal approval of the Director.

(1) Traffic control devices shall include traffic signals or other intersection control, signs, speed zones, parking prohibitions, channelization, attenuators, railroad signal devices, work zone devices, pavement markings including crosswalks and traffic lanes, turning prohibitions, and other devices used to regulate, warn, or guide traffic.

(2) All rights-of-way shall be acquired in accordance with Title 69, Oklahoma Statutes, Sections 1201 through 1206, as amended. On any project where federal funds are involved in any part thereof, all federal rules and regulations shall be complied with in acquiring the rights-of-way.

(b) **State control.** In accordance with Title 47, Oklahoma Statutes, which relates to motor vehicles, the Commission shall designate and cause a record to be maintained of all speed zones on the State or Federal-aid Highway Systems.

[Source: Amended at 11 Ok Reg 1897, eff 5-12-94; Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-7-3. Traffic control responsibilities

(a) On the state highway system within cities and towns, the Department shall pay for the erection and maintenance of all traffic control signs, pavement markings, and traffic control devices, except as noted in 730:35-1-11.

(b) Following written approval by the Director, time parking restriction signs, parking space limit markings, crosswalks, and stop lines shall be purchased, installed, and maintained in a satisfactory condition by the individual governing body or school district involved. All such devices shall be in conformance with 730:35-7-2(a). This section shall not be construed to prohibit the Department from installing these or other special or supplemental signs or pavement markings where deemed necessary for proper operation and safety.

(c) The construction and maintenance of all traffic signs and markings on the interstate highway system shall be the responsibility of the Oklahoma Department of Transportation or the Oklahoma Transportation Authority.

(d) When Federal Funds are not available, the Oklahoma Transportation Commission shall participate in the cost of construction of warranted traffic control signals in cities, towns, or communities, without regard to population, on a 50-50 ratio of total cost where such traffic control signals are installed or erected on the state highway system. The city's or town's share of the Engineer's Estimate, or low bid, shall be on deposit with the Department's Comptroller prior to actual award of the contract.

(e) When Federal Funds are utilized, the local government shall participate in the cost based on the funding ratio designated by the Federal-aid program requirements. When it can be shown that the traffic control signal installation can be done more economically and quickly by the city concerned, the Director may enter into an agreement with the city to provide the project engineering in accordance with Transportation Department Policies and Standards.

(f) Prior to the installation of traffic control signals, the city or town where the signal is to be installed shall execute an agreement whereby the city or town shall furnish all maintenance and pay all power and electricity costs.

(g) Traffic control devices erected on the state highway system shall become the permanent property of the Oklahoma Department of Transportation, except, where by formal agreement, they become joint property of the city-county, and state, or the sole property of the city-county.

[Source: Amended at 11 Ok Reg 1897, eff 5-12-94; Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-7-4. Speed and vehicle restrictions on fully controlled access highways

No non-motorized vehicular traffic will be allowed to operate on fully controlled access highways. This restriction includes, but is not limited to all bicycles, animals, wagons, or combinations of such vehicular types. The Department may, where no acceptable alternative route exists, designate and sign portions of the Interstate System as a bicycle route. On such designated routes bicycles shall not be ridden on the travel lanes of the highway..

[Source: Amended at 11 Ok Reg 1897, eff 5-12-94; Amended at 17 Ok Reg 1384, eff 5-11-00; Amended at 38 Ok Reg 2567, eff 9-11-21]

SUBCHAPTER 9. HIGHWAY LIGHTING

730:35-9-1. Purpose

It is the purpose of this subchapter to outline the specific requirements that must, as a minimum, be met in order for the Department to participate in or approve the installation of any highway lighting projects. These requirements establish a standardized procedure to cover the installation of both federal/state/local government funded lighting systems and those wholly funded by the local governmental agency.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-9-2. Minimum requirements for funding lighting projects [REVOKED]

[Source: Revoked at 17 Ok Reg 1384, eff 5-11-00]

730:35-9-3. Warranting conditions for lighting

Subject to Commission approval, the Department may program and fund highway lighting projects provided the following conditions are satisfied:

(1) **Projects with federal and/or state participation.** Any request for either federal and/or state participation in the funding of a proposed highway lighting project will be evaluated by an engineering study to determine if it meets the warranting conditions of this Section.

(A) **General warrants.**

- (i) The proposed project area must indicate a need for highway lighting after being analyzed in accordance with the warranting conditions of the "Transportation Research Board, NCHRP Report No. 152".
- (ii) The local governmental entity must be willing to execute an agreement in which they agree to provide all operating and maintenance costs for the proposed highway lighting project and to participate in a substantial portion of the construction costs as specified in Section 730:35-9-4.
- (iii) The proposed project area must:
 - (I) be within the city limits or jurisdiction of the local governmental entity,
 - (II) be on a designated state highway system or urban system,
 - (III) all traffic control devices must comply with Commission policies and the "Manual on Uniform Traffic Control Devices for Streets and Highways",

(IV) the existing posted speed limit on the highway must be approved by the Transportation Commission, and

(V) the local government must agree to permanently ban all angle parking in the area if the existing roadway width is inadequate to meet current safety criteria.

(VI) any intersection which warrants traffic signals may also be lighted using combination traffic signal/highway lighting poles.

(B) Warrants for freeways. Warrants for highway lighting on freeways, expressways and interstates shall comply with the General Warrants above and the warranting conditions established by the latest edition of AASHTO's "An Informational Guide for Roadway Lighting" Section on FREEWAYS and the Department's established policies and procedures.

(C) Warrants for all other highways. Warrants for highway lighting on all other types of highways and streets shall comply with all the General Warrants above and at least two (2) of the following conditions designated i, ii, or iii.

(i)

(I) A two-lane highway section must have in excess of 6,000 ADT; a four-lane highway section must have in excess of 12,000 ADT, or

(II) An urban highway intersection must have in excess of 10,000 ADT total for all approaches; a rural highway intersection must have in excess of 4,000 ADT on the main highways.

(ii)

(I) The highway section or intersection must exhibit high nighttime accident experience. That is the night-to-day accident ratio is at least 1.5:1 or greater. This ratio is to be verified by analysis of the crash studies for the highway section and compared to similar locations statewide, or

(II) Have accident potential conditions such as; numerous driveways, channelized islands, significant commercial or residential development or with a high percentage of truck traffic.

(iii) The area adjacent to the roadway should be substantially developed and with considerable existing lighting visible from the roadway.

(2) Projects with no federal or state participation. When the local government finds sufficient benefit in the areas of convenience, safety, security, or other social or economic benefit, they may warrant the installation of a highway lighting project and may elect to wholly finance the costs of construction and maintenance. This type of project may not meet the warranting requirements of the Department; therefore, an installation of this type does not obligate the Department to a replacement-in-kind of the highway lighting system in the future, even if there is a roadway construction project thru the area that causes the removal or

relocation of the lighting system.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-9-4. Financing of lighting projects

Subject to Commission approval, provided funds for participation in highway lighting projects are available, projects for warranted highway lighting on the state highway system may be programmed by the Department. However, any location that meets the above mentioned warranting conditions does not obligate the Department to provide funding for the requested highway lighting project.

(1) When federal and/or state funds are used, the Oklahoma Transportation Commission may participate in the construction costs of warranted highway lighting projects erected on the state highway system in cities, towns or communities based on the funding ratio designated by the Federal-aid or State-aid program requirements. When federal funds are not available, the local government and the Department may share the costs, on a negotiated basis; but, the local government's share should not be less than 50%.

(2) The local government's share of the estimated project costs shall be on deposit with the Department's Comptroller prior to actual award of the contract or be in accordance with 730:10-1-7.

(3) Highway lighting projects involving the expenditure of federal and/or state funds will become the property of the Oklahoma Department of Transportation. In the event the section of highway on which the lighting project is constructed is transferred to another jurisdiction outside the area of the Department's responsibility, the ownership of the lighting system will be transferred to the jurisdiction assuming responsibility for the highway section.

(4) When the local government finds sufficient benefit in the areas of convenience, safety, security, or other social or economic benefit they may elect to wholly finance the costs of construction and maintenance, as specified in 730:35-9-5 and 730:35-9-6.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-9-5. Design and construction standards

The design and construction of highway lighting systems installed on highways and streets under the jurisdiction of the Department shall be in accordance with one of the following conditions:

(1) Highway lighting projects funded with federal and/or state participation, in accordance with 730:35-9-4 of this policy, shall meet the latest minimum design, construction standards and specifications of the Department, including the latest editions of AASHTO's "An Informational Guide for Roadway Lighting" Roadway Lighting Design Guide and "Standard Specifications for Structural Supports for Highway Signs, Luminaries and Traffic Signals," the FHWA's "Roadway Lighting Handbook" and ODOT's "Roadway Design Manual" Chapter 14 and any other applicable design and safety criteria established by the Department.

(2) Highway lighting installations funded wholly by the local governmental entity shall be designed and installed in accordance with 730:35-9-5(1) and 730:35-9-6, the latest editions of FHWA's "Roadway Lighting Handbook," ODOT's "Roadway Design Manual" Chapter 14 and any other applicable design and safety criteria established by the Department.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00; Amended at 38 Ok Reg 2568, eff 9-11-21]

730:35-9-6. Permit regulating system

All highway lighting projects not requiring an expenditure of funds by the Department shall be controlled by means of a permit, in accordance with 730:20-1-4, which regulates the installation of highway lighting facilities on all state and federal highways and those county roads on which federal funds are involved. On any road not on the state highway system, the responsibility and authority may be delegated to the local government provided the local entity has a utilities accommodation policy which has been approved by the Department. The responsibility and authority for controlling the use and occupancy of right-of-way on the state highway system will be retained by the Department. All highway lighting utility permits shall be in accordance with the latest editions of the Department's "Roadway Design Manual" and "Utilities Manual" and any other applicable design and safety criteria established by the Department.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

SUBCHAPTER 11. SERVICES SIGNING [REVOKED]

730:35-11-1. Purpose [REVOKED]

[Source: Revoked at 17 Ok Reg 1384, eff 5-11-00]

730:35-11-2. Uniform system of services [REVOKED]

[Source: Revoked at 17 Ok Reg 1384, eff 5-11-00]

730:35-11-3. Interchanges [REVOKED]

[Source: Revoked at 17 Ok Reg 1384, eff 5-11-00]

SUBCHAPTER 13. FREEWAY SIGNING SUPPLEMENT GUIDE SIGNS

730:35-13-1. Purpose

The purpose of this subchapter is to establish criteria for determining when a destination qualifies as a traffic generator for which supplemental guide signs may be erected on freeways and expressways. Tourist oriented directional signs may be erected on freeways, expressways or conventional roadways.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-13-2. Criteria and limitations for traffic generator signs

(a) Before a sign for a traffic generator is installed, sufficient space should exist to accommodate the placement of the sign without interfering or conflicting with required signing. Supplemental guide signs for traffic generators should not be installed at freeway-to-freeway interchanges.

(1) Not more than one supplemental guide sign should be provided in each direction along any freeway. Signs for a traffic generator shall be located in advance of the intersecting road that provides the shortest and most direct route to the facility.

(2) Under exceptional circumstances, when the prime criteria shown in Appendix D of this Chapter is exceeded by at least 50 percent, consideration may be given to displaying the information at a second

freeway exit. This must be documented and justified by a traffic engineering study.

(3) Supplemental guide signs shall not be erected for a traffic generator that would require a motorist to travel on the intersecting road beyond a second freeway.

(4) Signing for a seasonal generator or an event may be displayed when warranted. When located within five (5) miles of the interchange, and when the Transportation Department determines it is justified to sign for seasonal events or specific events at auditoriums, convention halls, arenas, stadiums, and fairgrounds, supplemental guide signs may be erected. Such signing shall be removed at the end of the season or event.

(5) Only two traffic generators may be displayed on a single, permanent or seasonal supplemental guide sign. When more than two traffic generators meet the signing criteria, generators having the greatest demand for signing should be shown.

(6) Signing for a traffic generator should not be displayed on a supplemental guide sign until signing has been installed at the ramp terminals and trailblazing signing installed along the intersecting road leading to the generator. Trailblazer signs off the state highway system shall be erected and maintained by local governments and shall conform to the "Manual on Uniform Traffic Control Devices." Trailblazer signing that is not properly installed or maintained shall be justification for removal of the advance guide signs on the freeway system.

(b) Signs for a traffic generator may be erected on a freeway or expressway when all of the criteria specified in Appendix D of this Chapter are met for the particular generator.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-13-3. Traffic generators that do not normally warrant signing

Except under unusual circumstances, supplemental signing should not be considered for the generators shown in Appendix E of this Chapter. Signs for these generators shall only be considered after a traffic engineering study and shall not be erected without written concurrence from the Chief Traffic Engineer.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-13-4. Tourist oriented directional signs (TODS)

(a) The Oklahoma Tourism Signage Advisory Task Force as created by 74 O.S. § 1891 performs screening and issues recommendations to the Department concerning directional signs for tourism and travel-related attractions and enterprises in this state.

(b) Tourist Oriented Directional Signs provide directional information for attractions and points of interest to motorists as historic, cultural, parks, lakes, or as a site of natural scenic beauty or suited for outdoor recreation.

(c) In order to help motorists identify a qualified Tourist Attraction, an approved international logo is incorporated into the design of the sign. See Appendix F of this Chapter.

(d) The specific criteria for Tourist Oriented Directional Signs are included in The Oklahoma Tourist Oriented Directional Signs Policy. All signage must be in compliance with the MUTCD, "Manual on Uniform Traffic Control Devices", for consistency and uniformity. This program is handled through an application process administered by the Traffic Engineering Division. Requesting facilities are required

to pay for approved signs.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

SUBCHAPTER 15. INTERSTATE LOOP AND SPUR SIGNING

730:35-15-1. Purpose

The purpose of this subchapter is to define the requirements for placing business loop and spur signing which directs traffic into communities on the interstate highway system. These business loops and spurs are for the purpose of routing interstate traffic into the communities for services and then back onto the interstate highway. A final purpose of this subchapter is to ultimately replace the current practice of multiple-highway route designations through communities wherever possible.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-15-2. Interstate loop and spur signing

(a) To qualify for an interstate loop or spur, a city or town must be within five miles of the farthest interstate interchange involved and be on the old highway replaced by the interstate route.

(b) Interstate loops and spurs shall not be permitted to points other than incorporated cities and towns. No park, lodge, historic point, public facility, marina, etc., shall be signed with an interstate loop or spur.

(c) Loops and spurs shall be placed only upon the state numbered highway system with the exception that short stretches of a local road may be used to complete a loop. When it is necessary to use a local roadway, such use shall be with the full concurrence of the local governing body having jurisdiction on such road, and shall be for guidance purposes only. The local road shall not become part of the highway system. The Department of Transportation shall not be responsible in any way for maintenance or operation of traffic on such roads.

(d) Loops and spurs shall direct the interstate traveler to the business area of the city or town and shall not deviate from a direct path (subject to other provisions above) which directly serves a particular private or public facility, point of interest, etc.

(e) Loops and spurs shall not be placed unless the route is a major highway and is wholly adequate to serve the business area considering both geometric design and traffic control measures.

(f) Cities and towns otherwise qualifying for an interstate loop or spur shall have the following services available to the interstate traveler:

(1) Lodging - Minimum of 25 rooms; national accreditation; open all year.

(2) Food - Minimum of 75 seats; health certification; open normal meal hours 7 days per week; open all year, including holidays.

(3) Gas - Fuel and oil available 24 hours per day; mechanic during normal working hours; rest rooms.

(g) Loop and/or spur signing will not be used in the State's designated metropolitan areas.

(h) Loop and/or spur signing will not be used on turnpike routes carrying Interstate designations.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

SUBCHAPTER 17. MOWING AGREEMENTS

730:35-17-1. Purpose

It is the purpose of this subchapter to establish regulations which enable the Department to enter into written agreements with private citizens to allow such citizens to mow state highway rights-of-way and to keep the clippings from such mowing as the sole compensation.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-17-2. Application

The regulations of this subchapter are applicable to any person, firm, or corporation who intends to mow state highway rights-of-way and keep the clippings from such mowing as sole compensation therefore.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-17-3. Definitions

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

"Department" means the Oklahoma Department of Transportation.

"Mowing Guide" means the Oklahoma Department of Transportation Mowing Guide, dated July 1, 1993.

"Permittee" means a person, firm, or corporation who has applied for and received a permit from the Department for the express purpose of mowing the state highway rights-of-way.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-17-4. Mowing permits

(a) No person, firm, or corporation shall mow any portion of the state highway rights-of-way and keep the clippings from such mowing without first obtaining a written permit from the Department.

(b) Application for a permit shall be submitted to the appropriate Field Division Engineer using forms provided by the Department.

(c) Permits shall be for a duration of one year or for a specific mowing season.

(d) Consideration for permit applications to mow a given area of right-of-way will be granted first to the adjacent land owner. All others will be considered on a first come/first served basis.

(e) There shall be no fee for the permit.

(f) A copy of the approved permit shall be available on the worksite for inspection at all times.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-17-5. Responsibility for damage claims

(a) The permittee shall indemnify, save, and hold harmless the Department, its officers, and employees thereof against all suits, actions, or claims of any character arising from any injuries or damage received or sustained by any person, persons, or property which may arise as a result of the mowing and baling operations of the said permittee; or on account of, or in consequence of any negligence on the part of the applicant in safeguarding his operations.

(b) The permittee shall carry and keep in force liability insurance during the permit period in the following minimum amounts:

(1) Bodily Injury, \$300,000 each occurrence; and

- (2) Property Damage, \$100,000 each occurrence; and
- (3) Total Liability, \$400,000
- (c) The permittee shall be held responsible for any damage to fences, signs, guardrail, landscape plantings, or other highway features resulting from his operations.
- (d) The Department is not liable for the quality of the hay or for clippings obtained through this agreement and the applicant assumes all risk of injury or damage to himself, his property, or to others, or to the property of others which may result from debris, foreign objects or chemical contamination of such hay or clippings.
- (e) Mowing of state highway rights-of-way by the applicant will be done with the full knowledge that the vegetation may contain chemical residue of automotive emissions and chemical herbicides used for vegetative control.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-17-6. Mowing operations

All operations upon the highway rights-of-way must be in accordance with the guidelines established in the Department's current Mowing Guide, and meet the approval of the Division Engineer. Failure to comply with the Mowing Guide or the provision of this subchapter shall be cause for immediate cancellation of the permit.

(1) Special attention is directed to the General Policy statements contained in the Mowing Guide.

(A) Permittee is required to erect and maintain standard warning signs in advance of his operations. All mowing and baling equipment shall have the standard "Slow Moving" vehicle emblems.

(B) Normal mowing limits will be outlined in the Mowing Guide.

(i) No mowing will be allowed on newly constructed or planted rights-of-way for a period of two (2) years.

(ii) The permittee will confine his operation to daylight hours and no work will be performed on Saturday, Sunday, or on State observed holidays.

(iii) When soil conditions are such that damage to the slopes is caused by mowing and baling equipment, operations will be discontinued.

(C) The Department is cooperating with the Wildlife Conservation Department, garden clubs, and other civic organizations in the propagation and maintenance of native wildflowers, wildlife and the establishments of wildlife habitats. Mowing will be deferred in those areas where there is a predominance of the wildflowers and no mowing will be permitted in areas designated as "Wildflower Plots" or "Acres for Wildlife."

(D) The minimum mowing height shall be five (5) inches.

(2) All mowing shall be done in a workman-like manner and the mowed area shall be left in a neat condition upon completion of the work. Mowing will be continuous within the designated area and selective mowing of vegetation will not be permitted; however, the permittee will be allowed to bale only those areas of vegetation he chooses.

(3) Equipment necessary for this operation will not be left unattended on the rights-of-way within thirty (30) feet of the roadway shoulder.

(4) Round bales or roll bales will not be permitted and all hay must be removed from the highway rights-of-way within ten (10) days after baling.

Any bales not so removed may be removed by the Department without compensation to the permittee.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

SUBCHAPTER 19. OKLAHOMA TRAVELER INFORMATION LOGO SIGNING PROGRAM

730:35-19-1. Purpose

The purpose of this subchapter is to establish guidelines for "logo" signing within highway right-of-way along interstate and controlled access highways for gas, food, lodging, tourism attractions, and camping services which are readily available at the interchanges. Tourism attractions and camping services are limited to rural areas only. Logo signing is authorized as a public service, and when installed at an interchange, existing general motorist signs will be removed.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00; Amended at 27 Ok Reg 1978, eff 7-1-10]

730:35-19-2. Definitions

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

"Business Sign" means a separately attached sign mounted on the rectangular specific information sign panel to show the brand, symbol, logo, trademark, name, or a combination of these, for a motorist service available on a crossroad at or near an interchange.

"Contractor" means the firm awarded the contract to place logo signs.

"Department" means the Oklahoma Department of Transportation.

"General Motorist Service Signs" means signs with applicable words "FOOD," "PHONE," "GAS," "LODGING," "ATTRACTION," and/or "CAMPING" (or the international symbol for these services, and directional information.

"LOGO" means a business identification trademark or name for attachment to a specific service sign, ramp sign, or trailblazer sign.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00; Amended at 27 Ok Reg 1978, eff 7-1-10]

730:35-19-3. Criteria for logo signing

(a) **Types of services.** Services eligible for logo signing are limited to gas, food, lodging, tourism attractions, and camping. To qualify, services shall be open to all persons regardless of race, religion, color, sex, or national origin. A business establishment meeting the following criteria for the designated type of business may be considered for placement of a business or logo sign on a specific service sign panel.

(1) "Fuel Facilities" shall provide:

- (A) Vehicle services, which shall include fuel, oil, and water.
- (B) Restroom facilities and drinking water.
- (C) Continuous operation at least 12 hours per day, 6 days a week.
- (D) Public telephone.

(2) "Food Facilities" shall provide:

- (A) State or local licensing or approval, where required.
- (B) Continuous operation to serve three meals a day, 6 days a week.
- (C) Public telephone.
- (D) Public restroom facilities.

- (3) "Lodging Facilities" shall provide:
 - (A) Adequate sleeping accommodations.
 - (B) Public telephone.
 - (C) State or local licensing or approval, where required.
- (4) "Camping Facilities" shall provide:
 - (A) Adequate parking accommodations.
 - (B) Modern sanitary facilities and drinking water.
 - (C) Adequate waste disposal.
- (5) "Tourism Attractions" shall provide:
 - (A) Tourist oriented service of cultural, historical, recreational or educational significance.
 - (B) Federal, state or local licensing or approval pertaining to health, sanitation, accessibility and safety, where required.
 - (C) Adequate parking accommodations.
 - (D) Continuous operation at least 8 hours per day, 5 days a week, at the least one of which will be a Saturday or Sunday.
 - (E) Public telephone.
 - (F) Attendant on site or have conducted tours available.

(b) Distance to services and facilities.

- (1) **Rural.** The maximum distance that eligible rural services can be located from the end of the off-ramp to qualify for a business sign shall not exceed three miles in either direction, except where, within the three-mile limit, services of the type being considered are not available, or if available, choose not to participate in the logo program. In such cases, the limit of eligibility may be extended in three-mile increments until one or more services of the type being considered are included. The maximum distance that these eligible services can be located from the end of the off-ramp shall not exceed 15 miles in either direction.
- (2) **Urban.** The maximum distance that eligible urban services can be located from the end of the off-ramp to qualify for a business sign shall not exceed one mile in either direction.

(c) Location of logo signs. The following locations shall not be approved for the installation of logo signs:

- (1) An interchange with another freeway.
- (2) Where insufficient space exists to install logo sign panels.
- (3) Any location where the Department believes the installation of logo signs is not in the best interest of the traveling public.

(d) Removal of general motorist service signs. Where logo signing is erected for an interchange, existing general motorist service signs will be removed. If no business elects to participate in the logo program at an interchange, general motorist service signs will remain.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00; Amended at 27 Ok Reg 1978, eff 7-1-10]

730:35-19-4. Standards and design for specific information signs

(a) Standards. Standards for specific information signs shall comply with generally recognized federal standards.

(b) Design.

- (1) Logos may consist of a registered trademark for nationally or regionally known businesses, or a legend message identifying the name or abbreviation of the specific business. All special logo designs shall be reviewed and approved by the Department prior to fabrication. Any logo

which resembles an official traffic control device, contains advertising, or is determined to be in poor taste by the Department shall be prohibited.

(2) The Department shall develop standards for the specific design and placement of logo signs. These standards shall include size, shape, color, number of logos permitted on each sign, size of copy, and location and spacing of signs.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-19-5. Specifications of sign materials

Sign materials shall conform to the requirements of the most current edition of the Oklahoma Department of Transportation "Standard Specifications for Highway Construction", as supplemented.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00]

730:35-19-6. Logo sign contractor

(a) The Department of Transportation shall enter into a contract with a firm, group or association in the State of Oklahoma to establish a logo signing program. This program shall provide for logo signing on the right-of-way of controlled access highways. The signing shall contain specific information on gas, food, lodging, attractions, and camping for the benefit of the motoring public.

(b) The contractor shall administer the entire logo signing program, including contacting all eligible businesses, entering into lease agreements with the businesses, collecting fees to be charged, constructing and erecting the signs, and maintaining the signs.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00; Amended at 27 Ok Reg 1978, eff 7-1-10]

730:35-19-7. Logo agreement; fees

(a) Application.

(1) **Initial contacts.** When the program to install logo signing is initiated, business establishments in the vicinity of the interchange will be surveyed by the contractor to determine eligibility. The program and the costs involved will be explained by the contractor.

(2) **Logo signing agreement.** Eligible businesses that wish to participate in the logo signing program and which can be accommodated will enter into a "Logo Agreement" with the contractor. The logo agreement form must have been approved in advance by the Department.

(b) **Fees.** A monthly or annual fee will be charged by the Contractor to participating businesses. This fee will be used to pay the total project costs including the cost of making the survey and initial contacts, designing the project, all administration costs, construction, erection, and maintenance of the signs. There will be no expense to the Oklahoma Department of Transportation under this program.

(c) **Surcharge.** The contractor, shall pay to the Department of Transportation, a negotiated amount which is no less than 10% of the contract price between the contractor and the advertiser. The contractor shall deliver to the Department of Transportation quarterly, a check, draft, or money order in the amount of the surcharge collected on all advertising rates during the preceding quarter. These monies will be paid to the Department of Transportation no later than the 15th day of January, April, July, and October of each year.

[Source: Amended at 17 Ok Reg 1384, eff 5-11-00; Amended at 27 Ok Reg 1978, eff 7-1-10]

APPENDIX A. URBAN INTERSTATE INTERCHANGE

[Figure 1](#)

[Source: Revoked and reenacted at 27 Ok Reg 1978, eff 7-1-10]

APPENDIX B. RURAL INTERSTATE INTERCHANGE

[Figure 1](#)

[Source: Revoked and reenacted at 27 Ok Reg 1978, eff 7-1-10]

APPENDIX C. RURAL AND URBAN PRIMARY INTERCHANGES

[Figure 1](#)

[Source: Revoked and reenacted at 27 Ok Reg 1978, eff 7-1-10]

APPENDIX D. PREFERRED GUIDELINE CRITERIA FOR SIGNING TRAFFIC GENERATORS ON FREEWAYS OR EXPRESSWAYS

[Figure 1](#)

[Source: Revoked and reenacted at 17 Ok Reg 1410, eff 5-11-00; Revoked and reenacted at 27 Ok Reg 1978, eff 7-1-10]

APPENDIX E. TRAFFIC GENERATORS THAT DO NOT NORMALLY WARRANT SIGNING

[Figure 1](#)

[Source: Revoked and reenacted at 27 Ok Reg 1978, eff 7-1-10]

APPENDIX F. TOURIST ORIENTED DIRECTIONAL SIGNING (TODS)

[Figure 1](#)

[Source: Added at 17 Ok Reg 1411, eff 5-11-00; Revoked and reenacted at 27 Ok Reg 1978, eff 7-1-10]

CHAPTER 40. RAILROADS

[Authority: 66 O.S., §§ 302.1 et seq., 309.1 et seq.; and 68 O.S., § 2357.104]

[Source: Codified 12-31-91]

SUBCHAPTER 1. RAILROAD PROGRAM

730:40-1-1. Purpose

It is the purpose of this Chapter to establish policies to enable the Department to encourage the continuation of a railroad network within Oklahoma, adequately linked to the regional and national rail network, and which, whenever possible, is privately owned and operated and capable of providing economically feasible and efficient rail service to the State.

730:40-1-2. Authority

The policies of this Chapter are promulgated in accordance with:

- (1) The provisions of the Oklahoma Railroad Revitalization Act, Title 66, Oklahoma Statutes, Section 302.1 et seq. (the Act) and any amendments thereto.
- (2) The findings of the Oklahoma Supreme Court in Application of State ex rel Department of Transportation, 646 P.2d 605 (1982), regarding the constitutionality of the Oklahoma Railroad Revitalization Act and certain programs of assistance to railroads contemplated thereunder.
- (3) The provisions of Attorney General Opinion Number 79-299 as modified by the previously cited Supreme Court decision.

730:40-1-3. Administration

Responsibility for administration of the State Rail Program of this Chapter is hereby vested in the office of the Deputy Director and the Office of Rail Programs; however, the Commission acknowledges the necessity for support of the program by all central office and field divisions in the performance of the Department's duties and responsibilities under the Act and this Chapter.

[Source: Amended at 16 Ok Reg 2033, eff 6-11-99]

730:40-1-4. Use of funds

(a) The Department is authorized to expend any unobligated funds accumulated in the Oklahoma Railroad Maintenance Revolving Fund, any available federal grants, public or private donations or legislative appropriations for non-highway purposes in furtherance of its duties and responsibilities under the Act. With certain exceptions, the Department is expressly prohibited from expending highway user tax revenues or legislative appropriations for highway purposes in furtherance of the State Rail Program. Exceptions to the prohibition are the Highway-Railway Grade Crossing Safety Programs and those funds which have been expressly designated for:

- (1) Regularly scheduled passenger rail operations, and
- (2) Inclusion in an Industrial Development project.

(b) No state funds whatever shall be expended by the Department for rail service continuation payments or for the construction, reconstruction, rehabilitation, replacement, maintenance or repair of rail lines the title to which is not vested in the Department or other entity of the State of Oklahoma.

[Source: Amended at 16 Ok Reg 2033, eff 6-11-99]

730:40-1-5. Eligible projects

(a) **Acquisition of rail lines and properties.** The Department may acquire by purchase, donation or exercise of the right of Eminent Domain such rail lines and collateral properties:

- (1) Upon which rail service has been abandoned or is in imminent danger of abandonment or which are necessary to assure continued, justifiable and economically feasible rail operations or to insure or enhance the economic feasibility of such operations on state-owned rail properties; or
- (2) Upon which no rail service is to be provided immediately but which constitute a link in an otherwise operable system of rail lines, the eventual operation of which is vital to the economic prosperity of the state.

(b) **Reconstruction or rehabilitation.** The Department may:

- (1) Using state, federal or private funds or any combination of such funds, provide for the necessary reconstruction or rehabilitation of rail lines and properties owned by the Department. All track reconstruction or rehabilitation projects shall be designed to the appropriate standards necessary to safe and efficient movement of locomotives and equipment in accordance with the nature and extent of rail services provided or to be provided on the line; or
- (2) Using federal or private funds, or a combination of such funds, provide for the necessary reconstruction or rehabilitation of rail lines owned by private corporations, other public agencies, or by railroads operating as common carriers, where the investment of public funds can be demonstrated to be in the public interest. Prior to requesting Commission approval of any project as set forth in this paragraph, the Department shall conduct a suitable investigation into the financial condition and operating

history of the owner of the line (and the operator of the line if other than the owner) in order to assure that service on the reconstructed or rehabilitated line can be reasonably expected to continue over the useful life of the improvements.

(c) **Maintenance.** Maintenance of Department owned rail lines, facilities and properties shall be the responsibility of the rail service operators; provided, however, the Department may maintain in usable condition, by contract or with its own personnel and equipment, those lines, facilities and properties owned by the Department and upon which rail service is not presently provided.

(d) **Construction of new rail facilities.** New state-owned rail facilities may be constructed by the Department when the results of a complete economic study, including a through analysis of costs versus benefits, indicates such construction will have a substantial public benefit and an agreement for long term operation by a private carrier has been entered into in advance of construction. Rights-of-way for such construction may be acquired by purchase, donation, or exercise of the right of Eminent Domain.

(e) **Dismantlement.** Any state-owned rail line or facility may be dismantled by the Department, by contract or with its own personnel and equipment, when such line or facility is no longer needed for or in conjunction with the provision of rail freight service. Rail, bridges, cross ties, ballast and other track materials may be retained by the Department for use on other state owned rail lines, may be disposed of as surplus property as provided by law, or may be retained by the contractor as full or partial compensation under the dismantlement contract.

[Source: Amended at 16 Ok Reg 2033, eff 6-11-99]

730:40-1-6. Operation of railroads

(a) **By state.** Although the Department is authorized by the Act to conduct rail operations as an operating railroad, the Commission is of the opinion that the day-to-day provision of rail services can best be performed by private enterprise. It is the intent of the Commission that lines of railroad acquired by the Department be operated by private carrier and, where feasible, returned to the private sector and reinstated to the ad valorem tax rolls at the earliest practical time after resumption of economical and continuing rail service.

(b) **By Private railroad company.** The Department may enter into lease or lease-purchase agreements with common carriers by rail to manage and operate all or any portion of any rail line owned by the Department. Such agreements shall require that the rail carrier properly maintain the rail, bridges, track structure and rights-of-way; indemnify and hold the Department harmless from claims or damages arising out of said carrier's performance and shall further require the carrier to acquire and maintain in force adequate insurance for that purpose. Such insurance shall name the Department as an additional insured.

730:40-1-7. Disposition of railroad properties

Subject to Transportation Commission approval, the Department may enter directly into agreements with the owners of operating railroads or persons intending to operate as common carriers by rail to sell outright or to sell by lease-purchase agreement any state-owned rail property on such terms and conditions as best serve the public interest. The Department may also dismantle state owned rail lines as provided for in 730:40-1-5(e). Surplus real property owned in fee by the Department in association with the State Rail Program may be disposed of as provided by law.

730:40-1-8. Land leases

The Department may lease parcels of railroad rights-of-way and/or trackage to persons, firms or corporations, provided such leases do not interfere with the provision of rail freight service. The terms and conditions of all such leases shall be fair and equitable and the lease price shall be based upon a reasonable percentage of the fair market value of the leased property. Land lease agreements shall provide for termination of the lease should it become necessary to utilize the leased property for railroad purposes. Land lease agreements may be marketed, managed, and administered by the Department or, in the alternative, the marketing, management, and administration may be performed by the Department's rail service operator pursuant to the provisions of said operator's track lease and operating agreement with the Department.

[Source: Amended at 16 Ok Reg 2033, eff 6-11-99]

730:40-1-9. Easements and licenses

Easements and licenses for public or private utilities and other facilities to be located along or across state-owned railroad properties may be granted by the Department provided their installation and maintenance do not unreasonably interfere with use of the property as a railroad. Easements and licenses may be marketed, managed, and administered by the Department or, in the alternative, such marketing, management, and administration may be performed by the Department's rail service operator pursuant to the provisions of said operator's track lease and operating agreement with the Department; provided, however, the Department shall retain in any such track lease and operating agreement the exclusive right to grant public road and highway crossings.

[Source: Amended at 16 Ok Reg 2033, eff 6-11-99]

730:40-1-10. Income

All income to the State Rail Program, including but not limited to the revenues generated by the Oklahoma Rail Freight Car Tax under provisions of 68 O.S. 1981, Section 2201 et seq., federal fund reimbursements, federal grants, contributions by any state or agency thereof, private donations and the proceeds from any use or sale of state-owned rail properties, shall be deposited in the Oklahoma Railroad Maintenance Revolving Fund and shall be expended only for the purposes permitted by the Act and this Chapter.

730:40-1-11. Railroad-highway grade crossings

(a) Although rail-highway crossing construction, maintenance, and repair are, in general, the responsibility of the operating railroad, the Department nevertheless has a primary responsibility for providing a system of safe and efficient state highways for the traveling public. That responsibility mandates coordination and cooperation between the Department and the operating railroads with regard to rail-highway crossings.

(b) The Office of Rail Program under the authority of the Deputy Director is authorized to request assistance from the Field Division Engineers in carrying out cooperative efforts between the Department and operating railroads with regard to rail-highway crossing improvements. Field Division Engineers are authorized to respond in such cooperative efforts and to provide such services and exercise such control as they deem necessary and in the interest of the traveling public.

[Source: Amended at 16 Ok Reg 2033, eff 6-11-99]

730:40-1-12. Acquisitions, mergers and abandonments by private railroad companies

The Department shall maintain a continuing review of the status and condition of the railroad network in this state. In that regard, the Department shall coordinate with private railroad companies in rail system rationalization projects, rail line abandonments, mergers of two or more railroad companies, acquisition of one company by another, or acquisition of an operating railroad by a non-carrier entity. Although the Oklahoma Corporation Commission is the state agency authorized by state law to represent the State of Oklahoma in railroad and rail related proceedings before the Interstate Commerce Commission, the Department shall cooperate with the Corporation Commission and its staff, including the provision of such data, information or advice as that Commission may request, in the interest of maintaining an adequate and efficient rail system throughout this State.

[Source: Amended at 16 Ok Reg 2033, eff 6-11-99]

SUBCHAPTER 3. RAILROAD REHABILITATION ACT LOAN PROGRAM

730:40-3-1. Purpose

The Railroad Rehabilitation Act was enacted to provide loans from the Oklahoma Railroad Maintenance Revolving Fund to qualified railroad entities for the purpose of financing the rehabilitation of railroad properties.

[Source: Added at 20 Ok Reg 248, eff 10-29-02 (emergency); Added at 20 Ok Reg 1814, eff 6-12-03]

730:40-3-2. Authority

Pursuant to the provisions contained in Title 66 of the Oklahoma Statutes, Section 309.1, known and cited as the Railroad Rehabilitation Act which grants authority for the Department of Transportation to provide direct loans to qualified private railroad entities for the purpose of financing the rehabilitation of railroad properties and mandates the adoption of rules to effectuate this program.

[Source: Added at 20 Ok Reg 248, eff 10-29-02 (emergency); Added at 20 Ok Reg 1814, eff 6-12-03]

730:40-3-3. Definitions

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

"Qualified railroad entity" means any certified freight railroad regulated by the United States Surface Transportation Board; and

"Rehabilitation" means the replacement of antiquated rail; replacement or reconstruction of deteriorating road beds with adequate rail, ties and ballast; reconstruction of sidings and industrial leads; and bridge replacement or reconstruction.

[Source: Added at 20 Ok Reg 248, eff 10-29-02 (emergency); Added at 20 Ok Reg 1814, eff 6-12-03]

730:40-3-4. Requirements and criteria

The Department shall develop an application form which shall be made available to all qualified railroad entities. The initial loan application period will be from November 1, 2002 to December 31, 2002. Thereafter, the loan application

period will be from January 1 to March 1 for each following state fiscal year beginning July 1, 2003. The application period may be waived by the Department of Transportation (Department) if sufficient unobligated funds are not available for the program. If the Director declares that a transportation emergency has occurred, a loan application(s) outside the annual application period may be submitted to the Department for consideration by the Oklahoma Transportation Commission. Applications submitted during the designated period shall be evaluated based on the following criteria:

- (1) The ratio of benefits to costs for any project funded by such loan shall be greater than one. The benefit/cost methodology to be used for this determination shall be the most recent standard benefit/cost methodology approved by the Federal Railroad Administration of the United States Department of Transportation;
- (2) The qualified entity shall demonstrate that it is financially sound and capable of fulfilling all obligations created by the proposed loan guarantee agreement; and
- (3) The qualified railroad entity shall demonstrate that adequate funding for the proposed project is not otherwise available at terms that would make the proposed project financially feasible.
- (4) Projects that are determined to be the most critical shall take precedence.
- (5) The length of the loan repayment schedule shall be a major consideration in determining the viability of the loan application.
- (6) Privately owned rail facility rehabilitation projects shall take precedence.
- (7) Projects with the earliest start and completion dates shall be given major consideration in determining the viability of the loan application.

[Source: Added at 20 Ok Reg 248, eff 10-29-02 (emergency); Added at 20 Ok Reg 1814, eff 6-12-03]

730:40-3-5. Procedures

- (a) Applications will be submitted to the Railroad Programs Division of the Department.
- (b) The Director shall establish an application review process in conformance with the criteria established by the Oklahoma Transportation Commission. Loan eligibility will be determined within sixty (60) days of the close of the application period.

[Source: Added at 20 Ok Reg 248, eff 10-29-02 (emergency); Added at 20 Ok Reg 1814, eff 6-12-03]

730:40-3-6. Terms

- (a) The Department may choose one or more applications to present before the Transportation Commission for loan approval. The Commission shall have final authority on which, if any, applications will be approved.
- (b) The loan interest rate shall be five percent (5%) for loans approved by the Commission during the calendar years of 2002-2003. The Commission shall establish an annual interest rate for the year 2004 and subsequent years no later than November 15, prior to each calendar year in which loan applications will be considered. Loans will not exceed Five Hundred Thousand Dollars (\$500,000.00) for a duration not to exceed ten (10) years. The loan portion of the agreement will include a promissory note and lien and/or mortgage. All loan applications are subject to the approval of the Transportation Commission.

(c) No more than fifty percent (50%) of the unobligated cash balance of the Oklahoma Railroad Maintenance Revolving Fund (Fund) for any one (1) year may be encumbered for Railroad Rehabilitation loans and the aggregate amount of all loans from the Fund shall not exceed Five Million Dollars (\$5,000,000.00). When these limitations have been reached, the application process will be suspended.

(d) Loan proceeds will be applied by the qualified railroad entity only to the improvements and rehabilitation described in the loan application. The Department may request an audit of records and inspection of the physical location of the rehabilitation project at the expense of the qualified railroad entity.

(e) An agreement between the Department and the qualified railroad entity shall include, but not be limited to, specifying that loan payments will be submitted monthly with a construction report for the duration of the rehabilitation project. All monies submitted for repayment made through the Railroad Loan program will be deposited back into the Fund.

[Source: Added at 20 Ok Reg 248, eff 10-29-02 (emergency); Added at 20 Ok Reg 1814, eff 6-12-03]

SUBCHAPTER 5. RAILROAD MODERNIZATION PROGRAM

730:40-5-1. Purpose and authority

(a) **Purpose.** The purpose of the Railroad Modernization Act is to permit verification of eligible taxpayer's qualified railroad reconstruction or replacement expenditures for the purpose of claiming credit for the tax imposed by 68 O.S. Section 2355.

(b) **Authority.** Pursuant to the provisions contained in 68 O.S. Section 2357.103, known and cited as the Railroad Modernization Act, the Department of Transportation is required to provide verification of eligibility of a taxpayer's expenditures for the purpose of claiming the credit. The Act directs that the approval of qualified railroad reconstruction or replacement expenditures be made prior to commencement of a project and to provide a certificate of verification upon completion of a project for such expenditures.

[Source: Added at 23 Ok Reg 429, eff 11-16-05 (emergency); Added at 23 Ok Reg 2879, eff 6-25-06]

730:40-5-2. Definitions

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

"Class II and Class III railroad" means a railroad that is classified by the United States Surface Transportation Board as a Class II or Class III railroad;

"Eligible taxpayer" means any Class II or Class III railroad; and

"Qualified railroad reconstruction or replacement expenditures" mean expenditures for:

(A) reconstruction or replacement of railroad infrastructure including track roadbed, bridges industrial leads and track-related structures owned or leased by a Class II or Class III railroads as of January 1, 2006 or

(B) new construction of industrial leads, switches, spurs and sidings and extensions of existing sidings by Class II or Class III railroad.

[Source: Added at 23 Ok Reg 429, eff 11-16-05 (emergency); Added at 23 Ok Reg 2879, eff 6-25-06]

730:40-5-3. Requirements and criteria

The Department shall develop a certification of verification that shall satisfy all requirements of the Tax Commission pertaining to the eligibility of the person claiming the credit.

(1) Cross tie project applications shall be for a ratio equivalent to a minimum of 500 ties per track mile. Qualified expenditures for a cross tie project shall include but not be limited to items such as engineering costs, materials, labor, equipment and freight.

(2) Bridge project applications shall identify improvements that qualify the bridge for a minimum 286,000 pound rating. Applications shall also include a Professional Engineers report which has been stamped to validate the structural integrity of the improvement to be made. Qualified expenditures for a bridge project shall include but not be limited to items such as engineering costs, bridge materials, labor, equipment and freight.

(3) Replacement of a bridge structure with a culvert will require plans certified by a Professional Engineer. The plans are to be filed with the application identifying the specifications that must be met to accommodate a 286,000 pound rating and that proper hydraulic specifications have been maintained.

(4) Rail replacement projects for a main line track shall have a minimum rail weight of 110 pounds per foot and new ties. All replacement rail must be classified as New Rail, Number 1 Rail or Number 2 Rail relay rail. A siding or industrial lead project may use Number 1 relay ties.

(5) Maintenance means: Track Maintenance project will consist of expenditures incurred by the railroad in the normal course of day to day operations of the railroad. Qualified expenditures shall include inspections, tie and rail replacement not covered in paragraph (1) and (4), bridges, mowing, spraying and all other material, labor, equipment and freight required to keep the railroad operational.

(6) Crossings: eligible crossing projects will consist of expenditures incurred by the railroad at the intersection of any railroad to roadway, public or private. Qualified expenditures shall include but not limited to items such as engineering costs, materials, labor, equipment and freight.

(7) Natural disasters: eligible natural disasters projects will consist of expenditures incurred by the railroad because of the natural disaster. Qualified projects shall have been caused by floods, fire, tornados, earthquakes or other acts of God or when a local, state or national emergency declaration is made in the area the railroad operates in. Qualified expenditures shall include but not limited to items such as engineering costs, material, labor, equipment and freight.

[Source: Added at 23 Ok Reg 429, eff 11-16-05 (emergency); Added at 23 Ok Reg 2879, eff 6-25-06; Amended at 38 Ok Reg 2569, eff 9-11-21]

730:40-5-4. Railroad modernization program applications

Detailed information concerning application for this program may be obtained from the Rail Division of the Oklahoma Department of Transportation. Completed application packages shall be submitted to the Rail Division.

[Source: Added at 23 Ok Reg 429, eff 11-16-05 (emergency); Added at 23 Ok Reg 2879, eff 6-25-06]

CHAPTER 45. PUBLIC TRANSPORTATION PROJECT DEVELOPMENT ASSISTANCE

[Authority: 69 O.S., §§ 303, 4002, 4005, and 4031 through 4035; P.L. 105-178]
[Source: Codified 12-31-91]

730:45-1-1. Purpose

It is the purpose of this Chapter to establish policies enabling the Department to develop, review and monitor both local and statewide passenger transportation services which are available to the public, such as passenger rail service, inter-city and intra-city bus service, special transportation services (such as demand responsive mini-buses), and similar services. These policies also provide for the Department to actively pursue federal and state funds for the development and maintenance of public transportation services, and to administer and grant these funds to eligible local transit operators throughout the State.

[Source: Amended at 12 Ok Reg 1839, eff 6-12-95; Amended at 16 Ok Reg 2035, eff 6-11-99]

730:45-1-2. Authority

These policies are promulgated in accordance with the provisions of 69 O.S. §§ 4002 and 4005. The Department is the Governor's designee to apply for, receive and administer federal public transportation financial assistance programs. These federal programs shall include, but not limited to, capital grants, metropolitan and state planning funds, and urbanized and non-urbanized formula grants for areas fewer than 200,000 population. The Governor's delegation of authority shall not apply to the federal apportionments under the Urbanized Area Formula Program for the cities of Lawton and Norman, Oklahoma. The designee for these annual apportionments shall be the Lawton Transit Trust and the City of Norman, respectively. With these exceptions only, this designation shall include all Federal funding provided by the Transportation Equity Act for the 21st Century (TEA-21) and any Federal legislation supplementing or supplanting TEA-21. The Department is also responsible for the administration of the funds appropriated to the State's Public Transit Revolving Fund.

[Source: Amended at 12 Ok Reg 1839, eff 6-12-95; Amended at 16 Ok Reg 2035, eff 6-11-99; Amended at 21 Ok Reg 1837, eff 6-11-04; Amended at 37 Ok Reg 2270, eff 9-11-20]

730:45-1-3. Administration

Responsibility for administering these financial assistance programs is hereby vested in the Transit Programs Branch and in the office of the Deputy Director. Expenditures of both federal and state funds will be made in accordance with the State Management Plans developed by the Transit Programs Branch.

[Source: Amended at 12 Ok Reg 1839, eff 6-12-95; Amended at 16 Ok Reg 2035, eff 6-11-99]

730:45-1-4. Use of funds

The Department is hereby authorized to expend any available federal grants and state funds in strict accordance with applicable federal and state laws, rules and regulations, and to expend legislative appropriations for non-highway purposes to lawfully assist in the development, administration and operation of local and statewide public transportation services, including but not limited to publicly and privately owned inter-city and intra-city bus services, passenger rail services, and para-transit services. The Department is also authorized to expend the aforementioned funds to provide direct public transportation technical assistance, to compile and disseminate relevant transit information including but not limited to inventories of existing transit equipment, facilities and services, statistics on

systems' operations, information on technical innovations, legislation, and alternative solutions to statewide transit issues.

[Source: Added at 12 Ok Reg 1839, eff 6-12-95; Amended at 16 Ok Reg 2035, eff 6-11-99]

730:45-1-5. Eligible projects

The Department may, using federal grants and/or state legislative appropriations for non-highway purpose transportation services, participate in the following:

- (1) Department administration and technical assistance - Administer financial assistance programs for public transportation services and provide technical assistance to local transit operators. Such technical assistance may include project planning, program development of vehicle and equipment specifications, management development, coordination of public transportation programs (public and private) and such research as the Department may deem appropriate to promote effective means of delivering public transportation services.
- (2) Capital expenses - The acquisition, construction and improvement of public transit facilities and equipment as may be deemed appropriate for an efficient and coordinated public transportation system.
- (3) Project administrative expenses - The payment of eligible project administrative expenses incurred by a local public transportation provider. These costs may include, but are not limited to, general administrative and overhead costs, supplies, facilities rental and insurance.
- (4) Operating expenses - The payment of eligible operating expenses which directly relate to a public transportation system's operations.

[Source: Added at 12 Ok Reg 1839, eff 6-12-95; Amended at 16 Ok Reg 2035, eff 6-11-99]