

## TITLE 25. OKLAHOMA DEPARTMENT OF AEROSPACE AND AERONAUTICS

*Editor's Note:* Effective 7-1-02, the Oklahoma Aeronautics Commission ceased to be part of the Department of Transportation and became a "separate and distinct agency" [3 O.S., § 84.2(A)]. For additional information, see Laws 2002, c. 269.

*Editor's Note:* Effective 11-1-23, the name of the Aeronautics Commission was changed to the Oklahoma Department of Aerospace and Aeronautics. [Laws 2023, c. 126, § 82(10)]

### CHAPTER 1. COMMISSION OPERATIONS

[Authority: 75 O.S., §§ 302, 305, and 307; 3 O.S., §§ 81 through 93]

[Source: Codified 12-31-91]

#### 25:1-1-1. Purpose

The purpose of this chapter is to set forth rules, regulations, policies and procedures to govern the proper and orderly performance by the Oklahoma Aeronautics Commission of the aeronautical functions, duties and responsibilities required by law, including, but not limited to, effectively assisting in the development of a statewide system of airports, cooperating with and assisting the municipalities of the state of Oklahoma and others engaged in aeronautics, encouraging and developing aeronautics in all its phases, promoting safety in aeronautics, and cooperating with federal authorities in the development of a national system of civil aviation.

#### 25:1-1-2. Scope [REVOKED]

[Source: Revoked at 38 Ok Reg 899, eff 8-26-21]

#### 25:1-1-3. Definitions

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

**"Aeronautical hazard"** means any structure, object of natural growth, or use of land, which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or that is otherwise hazardous to the operation and navigation of aircraft.

**"Aeronautics"** means the science, art and practice of flight, including, but not limited to, transportation by aircraft and matters relating to air commerce; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports, restricted landing areas, or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

**"Air navigation facility"** means any facility used in, available for use in, or designed for use in, aid of air navigation, including landing areas, any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or

all of such facilities.

**"Aircraft"** means any contrivance now known, or hereafter invented, used, or designed for navigation of or flight in the air or airspace.

**"Airman"** means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way, and any individual who is directly in charge

**"Airport"** means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings, clear zones, or other airport facilities or right-of-ways, together with all airport buildings and facilities located thereon.

**"Airspace"** means the portion of the atmosphere overlying a designated geographical area considered as subject to territorial jurisdiction or international law in respect to its use by aircraft, guided missiles, and rockets.

**"Commission"** means the Oklahoma Aeronautics Commission as created in Title 3 Section 84 of the Oklahoma Statutes.

**"Director"** means the Director of the Oklahoma Aeronautics Commission.

**"Designated Emergency Management Use Landing Site"** means any area of land which has been designated for the landing and take-off of aircraft for emergency management use, including, but not limited to law enforcement, search and rescue, and medical.

**"Municipality"** means any incorporated city, village, or town of this state and any county or political subdivision or district in this state which is, or may be authorized by law to acquire, establish, construct, maintain, improve, and operate airports, airstrips, and aeronautical navigation facilities.

**"Operation of aircraft" or "operate aircraft"** means the use, navigation, or piloting of aircraft in the airspace over this state or upon any airport within this state of the inspection, maintenance, overhauling, or repair, of aircraft, aircraft engines, propellers, and appliances.

**"Person"** means any individual, firm, partnership, corporation, company, association, joint stock association or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

**"Resources"** means services, facilities, funds, equipment, property, personnel, and such other activities as are customarily included within the term.

**"State"** means the State of Oklahoma.

[Source: Amended at 31 Ok Reg 715, eff 9-12-14; Amended at 38 Ok Reg 899, eff 8-26-21]

#### **25:1-1-4. Organization and responsibilities of Commission**

(a) At the last scheduled meeting at the end of each calendar year, the Commission shall organize itself by electing a Chairman, Vice-Chairman, and Secretary. The Chairman shall be the presiding officer at all official meetings and shall execute all documents requiring the Commission's approval. The Vice-Chairman shall act in the capacity of the Chairman, in the absence of the Chairman. The Secretary shall be responsible for written recording of the Commission's actions and shall attest to the signature of the Chairman as required. The Secretary shall act in the capacity of Chairman or Vice-Chairman during their absence providing there is a quorum.

(b) The Commission shall meet as prescribed by law, and all meetings of the Commission shall be in conformance with the "Oklahoma Open Meeting Act", Title 25, Oklahoma Statutes 1981, Section 301 et seq.

(c) The Commission shall prescribe the basic rules, regulations, policies, and procedures by which the Oklahoma Aeronautics Commission operates.

(d) The Commission shall coordinate, develop, and maintain a comprehensive airport systems plan for the State of Oklahoma, develop measurable goals and objectives designed to carry out such a plan, and cooperate with local governments in the planning and development of airport related activities, when consistent with the goals and objectives of the State system plan for airports and the laws of the State of Oklahoma.

(e) The Commission shall formulate and adopt a program of airport construction, improvements, and maintenance throughout the entire state. Its purpose shall be to monitor the construction and maintenance of the statewide system of airports with emphasis on current and future needs while considering the impact of population centers, traffic volume requirements, traffic data, and industrial development areas on these needs.

(f) The Commission shall appoint, by a majority vote of the entire Commission, a State Aeronautics Director to be the principal officer of the Oklahoma Aeronautics Commission in accordance with Title 3, Oklahoma Statutes 1985 Supp., Section 84.B.(1).

[Source: Amended at 38 Ok Reg 899, eff 8-26-21]

### **25:1-1-5. Director**

The Director is hereby granted all the powers and authority necessary for the orderly operation of the Oklahoma Aeronautics Commission, not in conflict herewith or prohibited by law, including, but not limited to the following:

#### **(1) General duties.**

(A) To approve claims for all lawful expenses of the Commission.

(B) To act as the claims and request officer for the Oklahoma Aeronautics Commission.

(C) To appoint an Assistant Director and to delegate to him/her the appropriate authority and responsibility.

(D) To keep the Commission informed on operations and official actions.

(E) To appoint and employ, supervise, and discharge such professional, clerical, and skilled help, labor, and other employees as may be deemed necessary for the proper and lawful discharge of the duties of the Commission.

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

(G) To keep files and to record therein such matters as he/she may deem necessary or advisable, or which the Commission may direct.

(H) To be the keeper of the official seal of the Commission.

(I) To make budgetary transfers within the Commission, within the limits of statutory control and Commission authorization.

(J) To cooperate with governing bodies of cities and towns, boards of the various counties, and other entities, on the basis prescribed by state and federal laws, to the end that joint efforts will be coordinated to attain a maximum of airport development and service; and to execute any appropriate contracts and agreements necessary toward the accomplishment of the Commission's approved program.

(K) Contracts:

(i) To execute all contracts and agreements on behalf of the Commission as provided by law, and in accordance with Commission policy.

(ii) To approve necessary contract extensions or modifications made necessary by unexpected developments as allowed by law.

(L) Federal Aid:

(i) To act for and represent the Oklahoma Aeronautics Commission in all official matters involving the Federal Aviation Administration or any other agency of the United States government, for the purpose of executing Federal Grant Programs.

(ii) To make or withhold commitments, execute contracts and agreements, and to bind the Commission by any other action which the Commission may lawfully do.

(2) **Administration.** To develop forms and to issue more detailed instructions, not inconsistent with the rules of this Chapter, or applicable state and federal laws, by appropriate orders and memoranda for the general guidance and administration of the Commission.

[Source: Amended at 38 Ok Reg 899, eff 8-26-21]

#### **25:1-1-6. Prohibited activities for Commission employees**

Commission employees shall not engage in any outside employment or enterprise which would constitute a conflict of interest, as defined by law, or which would violate the State Employees' Code of Ethics.

#### **25:1-1-7. Printed material; fees**

Official Commission 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 Director's approved schedule of fees, as determined by actual cost. The official Oklahoma Aeronautics Commission aeronautical chart shall be distributed free in reasonable amounts upon request.

#### **25:1-1-8. Windsock program**

In order to insure that a functional wind indicator is present and visible at each airport, open to the public, within the State of Oklahoma, replacement wind socks shall be made available, upon request and proof of need, free of cost to the airport. Airports which are not open to the public shall be provided a wind sock upon request for a fee equal to the cost of the item to the Oklahoma Aeronautics Commission. To insure that a functional wind indicator is present and visible at designated emergency management use landing sites, within the State of Oklahoma, wind socks shall be made available, upon request and proof of need, free of cost to the emergency management use landing site.

[Source: Amended at 31 Ok Reg 715, eff 9-12-14]

### **CHAPTER 10. AIRPORT ZONING ACT [REVOKED]**

[Authority: 3 O.S., §§ 101 through 115]

[Source: Codified 12-31-91]

#### **25:10-1-1. Purpose [REVOKED]**

[Source: Revoked at 14 Ok Reg 2839, eff 7-11-97]

### **25:10-1-2. Statutory scope [REVOKED]**

[Source: Revoked at 14 Ok Reg 2839, eff 7-11-97]

### **25:10-1-3. Definitions [REVOKED]**

[Source: Revoked at 14 Ok Reg 2839, eff 7-11-97]

### **25:10-1-4. Notice of intent for construction [REVOKED]**

[Source: Revoked at 14 Ok Reg 2839, eff 7-11-97]

### **25:10-1-5. Application for permit for proposed construction or alteration [REVOKED]**

[Source: Revoked at 14 Ok Reg 2839, eff 7-11-97]

### **25:10-1-6. Acceptance of application for permit [REVOKED]**

[Source: Revoked at 14 Ok Reg 2839, eff 7-11-97]

### **25:10-1-7. Issuance or denial of permit [REVOKED]**

[Source: Revoked at 14 Ok Reg 2839, eff 7-11-97]

### **25:10-1-8. Airport Grant Program [REVOKED]**

[Source: Revoked at 14 Ok Reg 2839, eff 7-11-97]

## **CHAPTER 15. OAC AIRPORT CONSTRUCTION PROGRAM**

[Authority: 3 O.S., § 81 through 93]

[Source: Codified 7-11-97]

### **25:15-1-1. Purpose**

The purpose of this chapter is to set forth the requirement for participation in the airport grant program administered by the Oklahoma Aeronautics Commission, and to establish the procedures to be followed by the Commission in the administration and enforcement of its duties under Title 3, Oklahoma Statutes, Section 81-93 and Title 68, Oklahoma Statutes, Section 6003.1.

[Source: Added at 14 Ok Reg 2844, eff 7-11-97; Amended at 21 Ok Reg 2959, eff 7-25-04; Amended at 35 Ok Reg 735, eff 9-14-18]

### **25:15-1-2. Definitions**

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

**"Administrative official"** means an official of the airport sponsor who is authorized to legally bind the airport sponsor.

**"Airport Construction Program"** means a list of airport construction projects approved by the Commission for implementation within a five-year programming horizon showing a description of the project, the cost of each phase of the project, when the project is expected to occur, and the sources of funding.

**"Airport Development Worksheet"** means a listing of the capital projects needed at an airport over a twenty-year planning horizon together with the estimated cost, construction type, objective code, and airport component for each

project. Projects identified for a particular airport must be consistent with the service level, functional classification, design standard, and airport reference code identified for the airport in the Oklahoma Airport System Plan. An airport development worksheet is developed and maintained for each system plan airport that is not part of the National Plan of Integrated Airport Systems (NPIAS) cooperatively by the airport sponsor and the Commission staff.

**"Airport layout plan/drawing"** means the basic plan for the layout of an airport that shows, at a minimum, the present boundaries of the airport, the areas that the airport sponsor owns or controls for airport purposes, and any proposed areas that will be acquired by the airport sponsor in the future. It will include the location and nature of existing and proposed airport facilities such as runways, taxiways, aprons, terminal buildings, hangars, roads, and other vital airport infrastructure items. Also, it will provide the location of existing and proposed uses of property under control by the airport sponsor. The full airport layout plan-set is a combination of many pages of documents, including items such as instrument approach path details, terminal area maps, property maps, and the page that is identified as the airport layout drawing. Not every airport will have a full plan-set and may only have an airport layout drawing which will detail most of the above information on a single page drawing.

**"Airport Sponsor" or "Municipality"** is used interchangeably throughout this chapter. Either term means any incorporated city, village, or town of this state, any public institution of higher education, and any county or political subdivision or district of this state, or any public trust thereof, which is, or may be, authorized by law to acquire, establish, construct, maintain, improve, and operate airports, airstrips, and aeronautical facilities. To be eligible for the state grant program, the airport sponsor must be one of the governmental entities referenced in the preceding sentence and included in the Oklahoma Airport System Plan. Nothing herein precludes two or more of these entities from acting jointly as an airport sponsor. In the event a public trust is the airport sponsor, the beneficiary of that public trust must also be a record owner of the airport property.

**"Airport Sponsor Matching Share"** means any funds provided by the airport, municipality or public trust, or any other source of funding that is not FAA.

**"Commission"** means the Oklahoma Aeronautics Commission, the state agency responsible for administering airport grant programs for the State of Oklahoma and the Federal Aviation Administration.

**"Emergency"** means a condition that could not have been foreseen and which affects the safety of the airport sufficiently that the airport or runway may need to be closed if the situation is not remedied.

**"FAA"** means the Federal Aviation Administration, a unit of the U.S. Department of Transportation.

**"Letter of Interest"** means a letter expressing the desire of an airport sponsor to have one or more projects included in the Airport Construction Program.

**"Non- Primary Entitlement (NPE) funds"** are FAA Airport Improvement Program (AIP) funds set aside for general aviation airports listed in the National Plan of Integrated Airport Systems. These airports can each receive up to \$150,000 per year based on the FAA assessment of needs over a 5 year period.

**"Notification Letter"** means correspondence prepared by the Commission staff informing an airport sponsor that one or more of their projects have advanced to the current year of the Airport Construction Program. The letter sets forth the terms the Commission imposes on airport sponsors participating in the state grant program, describes the project, authorizes the airport sponsor to begin engineering

work for the project and directs the sponsor to prepare a grant application once project bids have been received.

**"Oklahoma Airport System Plan"** means the plan, adopted by the Commission, which identifies the airports included in the State's airport system and identifies the service level, functional classification, design standard, and airport reference code for each system airport.

**"Project Sketch"** shown in color the area and location of proposed construction or rehabilitation work for the accompanying construction grant application.

[Source: Added at 14 Ok Reg 2844, eff 7-11-97; Amended at 21 Ok Reg 2959, eff 7-25-04; Amended at 23 Ok Reg 3159, eff 4-3-06 (emergency); Amended at 23 Ok Reg 3205, eff 9-11-06; Amended at 29 Ok Reg 451, eff 5-11-12; Amended at 33 Ok Reg 1143, eff 9-11-16; Amended at 35 Ok Reg 735, eff 9-14-18; Amended at 37 Ok Reg 934, eff 9-11-20; Amended at 40 Ok Reg 829, eff 9-11-23]

### **25:15-1-3. Planning**

#### **(a) Planning and Programming Process.**

- (1) The Commission staff shall, in consultation with airport sponsors, prepare and maintain the Oklahoma Airport System Plan. The Commission shall adopt and approve changes to the plan.
- (2) The Commission staff shall assist publicly owned, publicly used airports in identifying airport needs and deficiencies. Airport sponsors eligible to participate in grant or loan programs are sponsors of publicly owned, public use airports included in the Oklahoma Airport System Plan. The Commission staff shall, in consultation with each airport sponsor, prepare and maintain an airport development worksheet for each airport included in the Oklahoma Airport System Plan. The airport development worksheet shall be reviewed and updated at least once every three years. The airport development worksheet shall identify the capital projects needed at the airport over a 20 year planning horizon, together with the estimated cost, construction type, objective code, and airport component for each project. The identified projects shall be consistent with the service level, functional classification, design standard, and airport reference code identified for the airport in the Oklahoma Airport System Plan.
- (3) The Commission staff shall, in consultation with airport sponsors, prepare and update annually the Airport Construction Program. The Commission shall approve the Airport Construction Program.

#### **(b) Airport Construction Program Content.**

- (1) The Airport Construction Program shall contain a list of proposed State and FAA funded projects that can be implemented with forecast revenues within the five year programming horizon.
- (2) Projects included for an airport in the Airport Construction Program shall be consistent with service level, functional classification, design standard, and airport reference code identified for the airport in the Oklahoma Airport System Plan.
- (3) The Airport Construction Program shall show the proposed sources of funding for each project.
- (4) The Airport Construction Program shall show the proposed implementation schedule for each project.
- (5) The Airport Construction Program shall include other priorities, policies, and procedures as adopted by the Commission.

#### **(c) Airport Construction Program Projects.**

(1) To be included in the Airport Construction Program a project must be eligible to receive airport grant or loan funding from OAC. To be eligible a project must be conducted on active public-use areas of an airport or to support those public-use areas of an airport. Types of projects considered eligible are listed below:

(A) Maintenance: this type of work is limited to pavement maintenance of runways, taxiways, and aprons and can include routine cleaning, filling, or sealing of cracks/joints, maintenance of pavement drainage systems, patching pavement, and remarking of the above mentioned pavement areas. Items not considered maintenance are applying herbicide to prevent grass encroachment, mowing of airport grass, FOD sweeping, replacing light bulbs, replacing light fixtures due to damage from a manmade source, re-topping of trees that had been previously topped in an OAC project, and other similar type activities.

(B) Rehabilitation: this type of work is a more comprehensive restoration of an item to its original functionality. Items such as pavement sealcoats, overlays, replacement of an entire set of lighting fixtures would be considered rehabilitation.

(C) Reconstruction: this type of work is a complete restoration of an item to its original functionality once it has reached the end of its useful life. This results in a virtually new piece of pavement, electrical system, or building.

(D) New Construction/Installation: this type of work would construct new pavement such as a runway widening or extension, hangar taxiway area, or apron expansion, or construct new structures such a terminal building or hangar, or construct new drainage structures to support the removal of water from the airport. This work item would also include the installation of new navigational aids that weren't previously at an airport such a precision approach path indicator, runway edge lighting, omnidirectional approach light system, weather observation system, or similar item.

(E) Planning/Design: this type of work includes the engineer design and associated support work with any of the eligible project types. This could also include planning projects such as master plans, airport layout plans, specialty planning studies, and obstruction/approach surveys.

(F) Off-airport: this type of work is typically for the support of on-airport operations. This work item could include items such as obstruction removal, land acquisition, drainage improvements, relocation of roads and utilities, installation of navigational aids, or similar projects.

(2) The following are three basic tests that must be met to determine if a project is justified for inclusion in the Airport Construction Program:

(A) The project advances OAC policy laid out in 3 O.S. § 85 and the adopted Oklahoma Airport System Plan. The basic goals and objectives in these policies include airport safety, security, and capacity, meeting FAA or OAC standards, preserving and improving airport infrastructure that is for the use and benefit of the public, airport planning, and other similar projects.



(B) OAC must determine if there is an actual need for the project at the airport within the five-year horizon.

(C) The project scope is appropriate. OAC must determine that all the elements of the project are necessary to obtain the project scope's overall goal. Any elements that do not meet this criteria must stand on their own separate merit and justification.

(3) For hangar construction projects, special selection criteria and requirements will be implemented to include the following:

(A) Preference will be given to hangar projects which will support new businesses, expansion/enhancement of existing on-airport businesses, and new aircraft being brought to the state. Preference will also be given to hangar projects which help an airport sponsor increase their based aircraft for potential inclusion into the NPIAS or to attain classified status within the NPIAS.

(B) An airport sponsor must show a valid hangar waiting list for those potential occupants of the hangars to be constructed.

(C) Airport sponsors will need to provide a plan to charge fair market aeronautical rates for hangars that are constructed as a part of this program.

(4) For a project to be considered for inclusion in the Airport Construction Program, the airport sponsor must submit a letter of interest to the Commission detailing the basic scope and estimated cost of the project that they want to have included in the Airport Construction Program.

**(d) Airport Construction Program Development.**

(1) The Airport Construction Program lists projects for which expenditures are expected to begin within the five year programming horizon.

(2) On a two-year cycle, the Commission staff shall update the NPIAS needs database and the ADWS database (for Non-NPIAS airports). To update the Commission's database, sponsors will use FAA's Overall Development Objective (ODO) data sheet for each requested project.

(3) The Commission staff shall evaluate projects in the NPIAS and ADWS databases and recommend projects for inclusion in the Airport Construction Program based on:

(A) Airport system development priorities, policies, and procedures adopted by the Commission and/or the FAA.

(B) Multi-year on-going projects that are currently identified in the approved Airport Construction Program will be given higher priority during the development of the Airport Construction Program.

(C) The airport's pavement condition index, pavement life-cycle consideration as developed by the pavement management program.

(D) The National Priority Rating System developed by FAA and included in FAA's Order 5090.5 titled "Formulation of the National Plan of Integrated Airport Systems (NPIAS) and the Airports Capital Improvement Plan (ACIP)".

(E) The amount of aviation activity, the types of airplanes served, the numbers of based airplanes at the airport, and the population included in the airport's service area.

(F) Other factors as may be relevant (for example, the services provided at the airport, the sponsor's demonstrated ability to maintain and operate the airport, the sponsor's ability to address

safety inspection deficiencies, etc.)

(G) An emergency project request, with verifiable justification, may be submitted to the Commission for inclusion in the Airport Construction Program at any time.

(4) The five year programming horizon of the Airport Construction Program shall be broken down into three general time periods (Appendix A): near-term program, transition year, and the extended program.

(A) Near-term program: This shall be the current year plus years two and three. Projects in this time period are considered to be of low flexibility.

(B) Transition year: This shall be year four. Projects in this time period are considered to be of moderate flexibility.

(C) Extended program: This shall be year five. Projects in this time period are considered to be flexible.

[Source: Added at 14 Ok Reg 2844, eff 7-11-97; Amended at 21 Ok Reg 2959, eff 7-25-04; Amended at 29 Ok Reg 451, eff 5-11-12; Amended at 29 Ok Reg 451, eff 5-11-12; Amended at 33 Ok Reg 1143, eff 9-11-16; Amended at 35 Ok Reg 735, eff 9-14-18; Amended at 37 Ok Reg 934, eff 9-11-20; ; Amended at 39 Ok Reg 779, eff 9-11-22; Amended at 40 Ok Reg 829, eff 9-11-23]

#### **25:15-1-4. Programming Implementation Airport Grant and Loan Program Requirements and Procedures**

(a) **Contingency.** Implementation of an airport grant program or loan program is contingent upon funding being available to the Commission for this purpose.

(b) **Notification to Proceed.**

(1) As funding becomes available, the Commission staff shall send a notification letter to each airport sponsor that has a capital project included in the approved Airport Construction Program as described in 25:15-1-3.

(2) The notification letter shall:

(A) Advise the airport sponsor of the proposed cost sharing for the project and identify project development items eligible for funding.

(B) Authorize or direct the airport sponsor to:

(i) confirm in writing within 30 days the airport sponsor's intention to proceed with the project as programmed;

(ii) select an engineering consultant and provide a copy of the contract entered into with the consultant;

(iii) prepare project plans and specifications and to coordinate the project design with the Commission staff;

(iv) prepare to meet the federal and state administrative requirements depending upon the proposed funding sources;

(v) provide updated project costs after the final design is completed;

(vi) proceed to bid when directed by the Commission staff; and

(vii) submit a grant application for the Commission's consideration and approval.

(c) **Grant Application or Loan Application; General Information.**

(1) The airport sponsor shall submit a complete grant or loan application for a capital project for:

(A) Reimbursement of the cost of planning and engineering; and/or

(B) Reimbursement for the cost of construction based on the bids received by the airport sponsor.

(2) The airport sponsor's administrative official must sign the grant or loan application form(s). If the administration and/or operation of the airport is performed by a Trust, the Chairman of the Trust must also sign the grant or loan application.

(3) The Commission shall consider all grant or loan applications in accordance with 25:15-1-3(c).

(4) Reimbursement for the cost of engineering is contingent upon submission of the final set of plans and specifications to the Commission staff.

**(d) Grant or Loan Application; Funding Information.**

(1) Each airport sponsor must state in its application that it has on hand funds to pay all estimated costs of the proposed project that are not borne by the Commission or any other state or federal agency. As part of this requirement, each airport sponsor is required to provide written verification in the grant or loan application (designated as Exhibit E) to the Commission that the airport sponsor's share of the project has been deposited in an account that will be used for defraying the costs of the project.

(2) If any of the funds for the project are to be furnished by another state or federal agency, the airport sponsor must provide evidence that the funds are available with the grant or loan application.

**(e) Information Regarding State Level of Participation and Required Matches.**

(1) For state grants, the maximum level of participation for the Commission shall not exceed 95 percent. The airport sponsor is required to provide a minimum of 5 percent of the project funding for the airport sponsor matching share.

(2) For FAA grants for projects identified in the Commission's Airport Construction Program, the Commission may provide half of the match that is required from the airport sponsor.

(3) For FAA grants for projects identified in the Commission's Airport Construction Program, the Commission may provide supplemental state grant funding for project items. The maximum level of participation for the Commission in such supplemental funding shall not exceed 95 percent. The airport sponsor is required to provide a minimum of 5 percent of the supplemental project funding for the airport sponsor matching share.

(4) For non-primary entitlement (NPE) grants or special federal earmarks not identified in the Commission's Airport Construction Program, the Commission will not provide half the match that is required from the airport sponsor. If NPE grant funds are transferred from other airport sponsors to an airport sponsor for a project identified in the Commission's Airport Construction Program, the Commission may assist with half of any required match from the receiving airport sponsor so long as it will save the Commission state funds.

(5) For terminal building projects, the Commission's maximum cost-share level shall be 50 percent and shall not exceed \$1,000,000. The airport sponsor is required to provide a dollar-for-dollar airport sponsor matching share for every dollar the Commission provides. Remaining share to complete project could come from any available source.

(6) For hangar construction projects, the Commission may provide funding via grant or loan.

(A) For state grants the Commission's maximum cost-share level of participation shall not exceed 40 percent. The airport sponsor is

required to provide a minimum 5 percent for the airport sponsor matching share. Remaining share to complete project could come from any available source.

(B) For state loans the maximum cost-share level of participation shall not exceed 70 percent. The airport sponsor is required to provide a minimum 5 percent for the airport sponsor matching share. Remaining share to complete project could come from any available source.

(7) For fuel system construction projects, the Commission's maximum cost-share level shall be 50 percent and shall not exceed \$300,000. The airport sponsor is required to provide a minimum of 5 percent for the airport sponsor matching share. Remaining share to complete project could come from any available source.

(8) For funding directed to the Commission as a part of the Preserving Rural Economic Prosperity (PREP) program or other similar state program created by the legislature for specifically identified site locations and infrastructure projects of a non-competitive nature within the Oklahoma Airport System the Commission may provide funds at a 100 percent level.

**(f) Grant Application; Project Information.** The airport sponsor will provide the following information:

(1) The airport sponsor shall submit an Airport Layout Drawing or project sketch (designated as Exhibit A) indicating the location of the proposed construction work with all grant applications.

(2) The airport sponsor shall submit final project plans and specifications with the grant application (designated as Exhibit B).

(3) The airport sponsor shall submit a project narrative with the grant application describing the items of airport development for which the airport sponsor is requesting assistance (designated as Exhibit B-1).

(4) The airport sponsor shall submit a line-item project cost list with the grant application that provides a detailed cost breakdown of the project (designated as Exhibit B-2). This list will be based on the bid awarded by the airport sponsor. The amounts on this list are considered not to be exceeded amounts without prior approval. Any expenditure over these line-item amounts will not be considered for reimbursement unless approval has been received as described in 25:15-1-4(h).

(5) The airport sponsor shall submit the engineering contract for the project scope and the project engineering fees with the grant application (designated as Exhibit B-3).

(6) The Sponsor will submit a certification stating compliance with FAA standards unless an approved Modification to Standards for state standards has been received from the appropriate funding agency.

(7) The airport sponsor shall submit the contract for on-site construction observations (designated Exhibit B-4).

(8) The airport sponsor shall provide a signed statement in the grant application that the airport sponsor is not currently in default to any state agency for any obligation related to the development, operation or maintenance of the airport (designated as Exhibit C).

(9) The airport sponsor shall provide a signed statement with the grant application that the airport sponsor will not award any contract to any contractor who is currently suspended or disbarred by any federal agency, the Oklahoma Department of Central Services or the Oklahoma

Department of Transportation for the project contemplated under the grant application (designated as Exhibit C-1).

(10) The airport sponsor shall provide an affidavit with the grant application that states the person signing is the administrative official for the sponsor, that the sponsor has not provided any compensation, donation or gift to an officer or employee of the state in procuring the grant, that any employee of the state compensated by the airport sponsor involved in the development of the grant will not provide any services in the project, and that this project will not result in any duplication of previous grant requests or awards (designated as Exhibit C-2).

**(g) Hangar Loan Application; Project Information.** The airport sponsor will provide the following information:

(1) The airport sponsor shall submit an Airport Layout Drawing or project sketch (designated as Exhibit A) indicating the location of the proposed construction work with all loan applications.

(2) The airport sponsor shall submit final project plans and specifications with the loan application (designated as Exhibit B).

(3) The airport sponsor shall submit a project narrative with the loan application describing the items of airport development for which the airport sponsor is requesting assistance (designated as Exhibit B-1).

(4) The airport sponsor shall submit a line-item project cost list with the loan application that provides a detailed cost breakdown of the project (designated as Exhibit B-2). This list will be based on the bid awarded by the airport sponsor. The amounts on this list are considered not to be exceeded amounts without prior approval. Any expenditure over these line-item amounts will not be considered for reimbursement unless approval has been received as described in 25:15-1-4(h).

(5) The airport sponsor shall submit the engineering contract for the project scope and the project engineering fees with the loan application (designated as Exhibit B-3).

(6) The Sponsor will submit a certification stating compliance with FAA standards unless an approved Modification to Standards for state standards has been received from the appropriate funding agency.

(7) The airport sponsor shall submit the contract for on-site construction observations (designated Exhibit B-4).

(8) The airport sponsor shall provide a signed statement in the loan application that the airport sponsor is not currently in default to any state agency for any obligation related to the development, operation or maintenance of the airport (designated as Exhibit C).

(9) The airport sponsor shall provide a signed statement with the loan application that the airport sponsor will not award any contract to any contractor who is currently suspended or disbarred by any federal agency, the Oklahoma Department of Central Services or the Oklahoma Department of Transportation for the project contemplated under the loan application (designated as Exhibit C-1).

(10) The airport sponsor shall provide an affidavit with the loan application that states the person signing is the administrative official for the sponsor, that the sponsor has not provided any compensation, donation or gift to an officer or employee of the state in procuring the loan, that any employee of the state compensated by the airport sponsor involved in the development of the loan will not provide any services in the project, and that this project

will not result in any duplication of previous grant or loan requests or awards (designated as Exhibit C-2).

(11) The airport sponsor shall provide a signed Loan Agreement with the loan application that confirms the airport sponsor agrees to the terms established in the Loan Agreement.

(A) The interest rate will be determined by the Commission at the time a loan is issued but will be more competitive than what is available in the traditional loan market and allow for the Commission to recover costs associated with administering the loan.

(B) The payback period for a hangar loan will be a 10 year term with annual payments.

(C) The first payment will be due no later than the last day of the month beginning two months after completion and final acceptance of the project and continuing each subsequent year by the last day of that same month for the entire loan term.

**(h) Change Orders.** As described in 25:15-1-4(f) and 25:15-1-4(g) the B-2 form lists line-item project costs that cannot be exceeded. During the course of the construction of a project, change orders and/or supplemental agreements may be necessary to increase or decrease bid or line-item amounts and quantities due to unknown or unforeseen circumstances. A change order and/or supplemental agreement shall be sent to the Commission along with a request to amend the approved grant's B-2 line-item or bid item.

(1) For change orders and/or supplemental agreements that will not increase the Commission's overall share for the project the Director may approve such an amendment to the grant application. Change orders and/or supplemental agreements approved by the Director shall be presented to the Commission at its next regular or special business meeting stating the reasons for the change order and/or supplemental agreement with such information as the Commission may require.

(2) For change orders and/or supplemental agreements involving a total increase to the Commission's overall share for the project not to exceed Ten Thousand Dollars (\$10,000) the Director may approve such an amendment to the grant application. Such change orders and/or supplemental agreements approved by the Director shall be presented to the Commission at its next regular or special business meeting stating the reasons for the change order and/or supplemental agreement with such information as the Commission may require.

(3) Change orders and/or supplemental agreements involving a total increase to the Commission's overall share for the project in excess of Ten Thousand Dollars (\$10,000) must be presented to and approved by the Commission before such an amendment can be made to the grant application.

**(i) Grant or Loan Application; Height Hazard Zoning and Land Use.** Each airport sponsor shall indicate within the application that it has taken action to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and take-off of aircraft, and assuring the protection or control of the aerial approaches to the airport (designated as Exhibit D). The adoption and enacting of these zoning regulations is outlined in Title 3, Section 103 through 116, of the Oklahoma State Statutes.

**(j) Grant or Loan Application; Assurances.** The airport sponsor, upon signing the grant or loan application, agrees to the following assurances:

(1) Upon the approval of the grant or loan by the Commission, the capital project will be completed within a maximum of two years.

(2) The airport sponsor agrees to the following conditions regarding the users of the airport:

(A) Neither the airport sponsor nor the occupant of any of the airport facilities shall discriminate against any person or a class of persons in the use of any facility provided to the public on airport property.

(B) The airport sponsor shall operate the airport in such a manner that the airport is open to all types and classes of users and establish such non-discriminatory conditions required for the safe and efficient operation of the airport.

(C) Any agreement, contract, lease or other arrangement that the airport sponsor enters into shall include provisions that such services meet the demands of all users of the airport, that services shall be provided on a non-discriminatory basis, that charges for goods and services shall be fair and reasonable, that services allow any user of the airport to perform any and all services to their own aircraft, and that essential facilities will be operated in a manner that these facilities shall be available to all users of the airport. In addition, if the airport sponsor provides any or all of these services, the airport sponsor agrees to the same provisions.

(3) The airport sponsor certifies that it has the legal authority to carry out all provisions of the grant or loan application in conformity with State and Federal Statutes, Acts, and Regulations.

(4) The airport sponsor shall reserve sufficient powers and authority when entering into any transaction or arrangement to perform any of the covenants expressed in the grant or loan application.

(5) The airport sponsor shall provide the following minimum essential facilities: a landing area and an aircraft parking area.

(6) The airport sponsor shall agree to properly maintain the airport under the following conditions:

(A) The airport sponsor will operate and maintain the airport and all facilities to meet the needs of all users of the airport.

(B) The airport sponsor shall not permit the airport to be used for an activity that would impede or obstruct aeronautical activity.

(C) The airport sponsor shall appropriate the funds required to properly maintain the airport to prevent deterioration of the facilities. Failure to have a documented pavement maintenance program shall be cause for the Commission to disqualify the airport sponsor for additional funds. In addition, failure to have a documented pavement maintenance program shall be considered a breach of these assurances.

(7) The airport sponsor shall maintain an updated Airport Layout Plan that has been prepared in accordance with the FAA's regulations and shall not make any alterations to the airport other than those outlined in the approved Airport Layout Plan, or approved by the FAA or the Commission in writing.

(8) The Commission shall prepare a financial report of income and expenditures of all project funds. All project records shall be maintained by the airport sponsor for not less than three (3) years from the final acceptance of the project by the Commission, and the airport sponsor shall provide access to these records upon request of the Commission or the FAA. This provision shall in no way affect any requirement imposed upon the airport sponsor by the Oklahoma Open Records Act or any other state or federal law. These records shall include such documentary evidence as invoices, cost estimates, payrolls, vouchers, cancelled checks or warrants, and receipts for cash payments that support each item of project costs. The final 10% of state grant or loan funds will not be released until a satisfactory financial report has been completed and accepted by the Commission staff.

(9) The Commission shall not pay or be obligated to pay for any work on the project that has been incurred prior to the grant or loan application being submitted to and awarded by the Commission except for planning and/or engineering costs incurred pursuant to submitting a completed grant or loan application. In addition, any funds approved by the Commission shall only be used for project costs identified in the grant or loan application unless approval has been obtained as described in 25:15-1-4(g).

(10) The airport sponsor understands that fuel systems funded by the Commission must be operated by the public airport sponsor and not a third party entity or contractor.

**(k) Grant or Loan Agreement; Terms and Conditions.** Upon approval by the Commission, the completed grant or loan application shall constitute an agreement between the Commission and the airport sponsor. Both the Commission and the airport sponsor are bound to all the requirements of the grant or loan agreement. In addition, all grants or loans of the Commission shall be subject to the following terms and conditions:

(1) The time period of the grant or loan agreement between the airport sponsor and the Commission shall be twenty (20) years from the date of the airport sponsor's acceptance and/or the life of the improvements contemplated under the grant or loan application, whichever is longer.

(2) The airport and all visual navigational aids shall be under the control of and maintained by the airport sponsor for the period covered by the grant or loan agreement.

(3) For the purposes of the grant or loan agreement, the airport sponsor must have title free and clear of any reversionary interest, lien, easement, lease, or other encumbrance for all property to be constructed on during the grant or loan agreement. If the property is leased, the airport sponsor asserts that the lease will be maintained no less than the time period of the grant or loan agreement, and in both circumstances, asserts that the property will not be used for any purpose other than the operation of the airport. In addition, airport property as defined in the airport layout plan cannot be transferred by the airport sponsor without the written approval of the Commission.

(4) The airport and all visual navigational aids shall be made available to all classes of aeronautical users without discrimination by airport sponsor with adequate access at all times.

(5) The airport sponsor will not grant or permit, either directly or indirectly, any exclusive right to any person, firm or corporation for any aeronautical activities, and will terminate any existing exclusive rights now existing



before accepting a grant from the Commission.

(6) The airport sponsor shall complete the project in accordance with FAA's standard specifications unless prior written modification to standards has been approved by the FAA (for federally funded projects) or the Commission (for state only projects). The airport sponsor shall provide the following reports to the Commission:

(A) A weekly progress report using the appropriate FAA form;

(B) A copy of all acceptance tests shall be provided by the acceptance testing laboratory as soon as they are available; and

(C) An acceptance test summary report shall be provided to the Commission upon completion of the project.

(7) The airport sponsor, upon request, shall provide annual statements of airport revenues and expenses.

(8) The airport sponsor shall comply with the Municipal Airports Act, Title 3, Section 65, and the provisions thereafter, of the Oklahoma State Statutes, specifically Section 65.12, that requires that revenues from airport operations be deposited in a separate fund and used exclusively for the airport.

(9) All airport development using grant or loan funds shall be consistent with the Airport Layout Plan approved by the FAA. A copy of the approved Airport Layout Plan, with any modifications, will be filed with the Commission.

(10) The airport sponsor shall comply with all applicable provisions of Title 61 of the Oklahoma State Statutes which governs competitive bidding for public construction contracts.

(11) The airport sponsor shall provide a tabulation of all bids signed by the Engineer-of-record for the project with the grant or loan application.

(12) The airport sponsor shall operate lighting for the airport when such lighting is included in the project.

(13) The Commission and/or the state are not parties to any contract entered into by the airport sponsor to accomplish the project.

(14) The airport sponsor shall understand and agree that should the airport sponsor fail to abide by all of the terms and conditions of the grant or loan agreement, then the funds provided by the Commission shall be withdrawn. In addition, the airport sponsor shall notify the Commission of any delays or problems with the project and request an extension or deviation from the Commission.

(15) The airport sponsor shall understand and agree that should the airport sponsor fail to submit timely loan payments during the course of the 10 year loan payback period, the airport sponsor will be prohibited from receiving any additional grants or loans until such payments are made and may have existing federal and state projects programmed in the 5-year Airport Construction Program delayed or removed.

**(1) Grant or Loan Agreement; Payments.**

(1) The airport sponsor shall request reimbursement for project costs from the Commission on a monthly basis upon initiation of the project. The Commission shall reimburse the sponsor only for bid items at the bid unit price. The Commission will only process the request for reimbursement when accompanied by the following documentation:

(A) For federal participation grants, a copy of a FAA Invoice Summary Worksheet and a Cost Distribution Worksheet based upon

the line items in the executed grant or loan.

(B) For non-federal participation grants, an Invoice Summary Worksheet based upon line items in the executed grant or loan.

(C) Copies of all vendor invoices.

(D) A construction quantities report from the primary contractor signed by the Engineer-of-record.

(E) All test invoices.

(2) The Commission shall process the monthly requests for reimbursement until 90% of the grant or loan awarded by the Commission is expended or 90% of the Commission's total project cost is expended in the event the project comes in under budget. The final 10% will be released upon the completion of the following items:

(A) The summary of acceptance testing report and if required by the specifications, the calculated lot-wise percentage within limits (PWL) of the project. The report shall document the results of all acceptance tests performed, the construction lot, location of the material tested and the quantity represented.

(B) A report submitted by the Resident Inspector or Engineer-of-Record detailing those acceptance tests that were out-of-tolerance and include the pay reductions applied and reasons for accepting any out-of-tolerance material.

(C) All final acceptance and close-out forms for the project have been submitted to the Commission.

(D) For federal participation grants, a copy of the final signed FAA form SF 271 Outlay Report.

(E) A satisfactory financial report has been completed by the Commission.

**(m) Endorsement by the Commission:**

(1) Upon receipt of the fully executed and complete grant or loan application, the Commission staff shall verify compliance with the terms of the notification letter.

(2) If the grant or loan application is found to be in compliance with the terms of the notification letter, the Commission staff shall forward the grant or loan application to the Commission for action.

(3) If the Commission approves the grant or loan application, the Commission staff shall communicate that approval to the airport sponsor with authorization to proceed.

(4) If the Commission staff finds that the grant or loan application is not in compliance with the terms of the notification letter, the Commission staff shall notify the airport sponsor of the non-compliance and suggest possible remedies.

(5) Upon receipt of the Commission staff's finding of non-compliance, the airport sponsor may:

(A) Modify the grant or loan application to bring it into compliance with the terms of the notification letter; or

(B) State the reason that the airport sponsor believes it is in compliance and request that the grant or loan application be forwarded to the Commission for action; or

(C) Agree that it is not in compliance and request that the grant or loan application be forwarded to the Commission as is.

(D) Request the grant or loan application not be forwarded to the Commission.

(6) The Commission staff shall notify the airport sponsor of the Commission's action.

[Source: Added at 14 Ok Reg 2844, eff 7-11-97; Amended at 21 Ok Reg 2959, eff 7-25-04; Amended at 23 Ok Reg 3205, eff 9-11-06; Amended at 29 Ok Reg 451, eff 5-11-12; Amended at 33 Ok Reg 1143, eff 9-11-16; Amended at 35 Ok Reg 735, eff 9-14-18; Amended at 37 Ok Reg 934, eff 9-11-20; Amended at 39 Ok Reg 779, eff 9-11-22; Amended at 40 Ok Reg 501, eff 12-20-22 (emergency); Amended at 40 Ok Reg 829, eff 9-11-23]

## APPENDIX A. FIVE YEAR AIRPORT CONSTRUCTION PROGRAM

Figure 1



[Source: Added at 35 Ok Reg 735, eff 9-14-18]

## CHAPTER 20. AIRCRAFT EXCISE TAX DEDICATION PROGRAM [REVOKED]

[Authority: 3 O.S., §§ 81 through 93]

[Source: Codified 7-25-04]

### 25:20-1-1. Purpose [REVOKED]

[Source: Added at 21 Ok Reg 2963, eff 7-25-04; Revoked at 24 Ok Reg 71, eff 8-24-06 (emergency); Revoked at 24 Ok Reg 2505, eff 7-12-07]

### 25:20-1-2. Definitions [REVOKED]

[Source: Added at 21 Ok Reg 2963, eff 7-25-04; Revoked at 24 Ok Reg 71, eff 8-24-06 (emergency); Revoked at 24 Ok Reg 2505, eff 7-12-07]

### 25:20-1-3. Project Identification [REVOKED]

[Source: Added at 21 Ok Reg 2963, eff 7-25-04; Revoked at 24 Ok Reg 71, eff 8-24-06 (emergency); Revoked at 24 Ok Reg 2505, eff 7-12-07]

### 25:20-1-4. Project Certification [REVOKED]

[Source: Added at 21 Ok Reg 2963, eff 7-25-04; Revoked at 24 Ok Reg 71, eff 8-24-06 (emergency); Revoked at 24 Ok Reg 2505, eff 7-12-07]

### 25:20-1-5. Project Implementation [REVOKED]

[Source: Added at 21 Ok Reg 2963, eff 7-25-04; Revoked at 24 Ok Reg 71, eff 8-24-06 (emergency); Revoked at 24 Ok Reg 2505, eff 7-12-07]

#### **25:20-1-6. Purpose [REVOKED]**

[Source: Added at 24 Ok Reg 71, eff 8-24-06 (emergency); Added at 24 Ok Reg 2505, eff 7-12-07; Revoked at 27 Ok Reg 1099, eff 5-27-10]

#### **25:20-1-7. Definitions [REVOKED]**

[Source: Added at 24 Ok Reg 71, eff 8-24-06 (emergency); Added at 24 Ok Reg 2505, eff 7-12-07; Revoked at 27 Ok Reg 1099, eff 5-27-10]

#### **25:20-1-8. Program Participation Request and Consideration [REVOKED]**

[Source: Added at 24 Ok Reg 71, eff 8-24-06 (emergency); Added at 24 Ok Reg 2505, eff 7-12-07; Revoked at 27 Ok Reg 1099, eff 5-27-10]

#### **25:20-1-9. Program Administration [REVOKED]**

[Source: Added at 24 Ok Reg 71, eff 8-24-06 (emergency); Added at 24 Ok Reg 2505, eff 7-12-07; Revoked at 27 Ok Reg 1099, eff 5-27-10]

#### **25:20-1-10. Project Implementation [REVOKED]**

[Source: Added at 24 Ok Reg 71, eff 8-24-06 (emergency); Added at 24 Ok Reg 2505, eff 7-12-07; Revoked at 27 Ok Reg 1099, eff 6-1-10]

### **CHAPTER 25. AEROSPACE AND AVIATION EDUCATION GRANT PROGRAM**

[Authority: 3 O.S., § 85(L)]

[Source: Codified 7-11-09]

#### **25:25-1-1. Purpose**

The purpose of this chapter is to set forth the requirements and criteria for aviation education programs to receive funding from the Oklahoma Aeronautics Commission, and to establish the procedures to be followed by the Commission in the administration and enforcement of its duties under Title 3, Oklahoma Statutes, Section 85.

[Source: Added at 26 Ok Reg 2416, eff 7-11-09]

#### **25:25-1-2. Requirements for receiving funding for an Aerospace and Aviation Education Grant Program**

- (a) The Oklahoma Aeronautics Commission shall identify and award grants to public schools, colleges, and universities, and execute contracts with private entities to promote aviation, aerospace, and STEM (science, technology, engineering and mathematics) education programs that have direct application to aviation and promote careers in aviation and aerospace among Oklahoma students. All grant proposals must demonstrate a direct application to aviation.
- (b) Each school, college, university, teacher or private entity must complete the Aerospace and Aviation Education Grant application located on the website of the Commission.
- (c) A private entity or organization must also complete the Aerospace and Aviation Education Grant application and if their application is selected, enter into a contract with the Oklahoma Aeronautics Commission for the project. Additional contractual

forms will also need to be completed.

(d) Applications must be submitted or postmarked no later than May 31<sup>st</sup> in order to be considered for the following fiscal year which starts July 1<sup>st</sup>. If May 31<sup>st</sup> occurs on a weekend or holiday, applications may be submitted on the next business day following the weekend or holiday.

(e) Applicants who receive approval must provide a Financial Report, corresponding receipts, final invoice and a Completion Report to the Oklahoma Aeronautics Commission which documents the usage of funds and gives a detailed description of the program's implementation. This documentation is due within sixty (60) days of the completion of the program.

(f) If the Financial Report, corresponding receipts, final invoice and the Completion Report are not turned in within the sixty (60) day period, the applicant forfeits the remaining twenty percent (20%) or any outstanding balances.

(g) If an applicant forfeits money, the applicant is prohibited from applying for a grant the following year.

(h) Applicants may request a thirty (30) day extension if they are unable to submit the Financial Report, corresponding receipts, final invoice and the Completion Report within the sixty (60) day period.

(i) The thirty (30) day extension request must be received within sixty (60) days of the completion of the program.

(j) The maximum cost share of any grant or contract awarded by the Commission shall not exceed 50% of the total program cost unless the funding request by the applicant is less than \$3,000 in which case the maximum cost share shall be 90%.

(k) For start-up or new programs, Commission funding cannot be provided until all other funding sources necessary to complete the program have been identified.

[Source: Added at 26 Ok Reg 2416, eff 7-11-09; Amended at 28 Ok Reg 765, eff 5-26-11; Amended at 32 Ok Reg 1515, eff 9-11-15; Amended at 34 Ok Reg 796, eff 9-11-17]

### **25:25-1-3. Criteria selection for applicants**

(a) An applicant's program must have a direct application to aviation with the purpose of increasing aerospace and aviation awareness by promoting science, technology, engineering, and mathematics (STEM) education, or encourage Oklahoma students to pursue a career in the aviation/aerospace industry.

(b) Applications will be rated based on, but not limited to, information provided in the application packet, information obtained from an organization's readily available public information, website, or social media, and past history of administering any aviation education grants the organization may have received from the Commission. The following criteria will be utilized to rate an applicant:

- (1) Program description to include the ability of the program to energize students into joining the aviation/aerospace workforce.
- (2) Number of students involved
- (3) Program goals and objectives, (items to be funded by the Commission must be directly linked to aviation).
- (4) Program relevance to current aviation/aerospace industry issues and workforce demands.
- (5) Curriculum/subject areas covered
- (6) Desired learning outcomes, (items to be funded by the Commission must be directly linked to aviation)
- (7) Ability of the program to determine measurements of success for students who complete the program. Ability of the program to track students' successes, career path, level of education, or similar measure after

completing the program.

(8) Justification of need for the funding

(9) Ability of the program to achieve geographic/demographic diversity among the students who participate in the program.

(c) Applications will also be rated according to the following financial information provided by the applicant:

(1) Total budget of the organization

(2) Total budget of the program

(3) Other contributors and the amount contributed

(4) Percentage of the program that the Oklahoma Aeronautics commission is being asked to fund

(5) Cost of the program per student or for fixed, one-time expenditures, projected benefit and estimated longevity of the program.

[Source: Added at 26 Ok Reg 2416, eff 7-11-09; Amended at 32 Ok Reg 1515, eff 9-11-15; Amended at 34 Ok Reg 796, eff 9-11-17]

#### **25:25-1-4. Procedures for awarding funding to an Aerospace and Aviation Education Grant Program**

(a) Staff will take up to sixty (60) days after the May 31<sup>st</sup> deadline date to review the applications based upon the above mentioned criteria. Applications will then be submitted to the Commission for approval at the next regularly scheduled Commission meeting.

(b) The Oklahoma Aeronautics Commission will make a partial payment of eighty percent (80%) upon completion of the program. The remaining twenty percent (20%) will be paid upon receipt of the Financial Report, corresponding receipts, final invoice and the Completion Report.

[Source: Added at 26 Ok Reg 2416, eff 7-11-09; Amended at 32 Ok Reg 1515, eff 9-11-15]

### **CHAPTER 30. AIRCRAFT PILOT AND PASSENGER PROTECTION ACT**

[Authority: 3 O.S., §§ 120.1 through 120.14]

[Source: Codified 5-26-11]

#### **SUBCHAPTER 1. GENERAL PROVISIONS**

##### **25:30-1-1. Purpose**

The purpose of this chapter is to set administrative rules for the implementation of HB 2919-the Aircraft Pilot and Passenger Protection Act. This chapter establishes the requirements and procedures to be followed by the Commission in the administration and enforcement of its duties under Title 3, Oklahoma Statutes, Section 120.1 for construction of structures in the vicinity of public-use airports.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11]

##### **25:30-1-2. Definitions**

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

"**Airport elevation**" is the highest point of an airport's usable runways measured in feet from mean sea level;

"**Airport reference point**" is the geometrical center of all usable runways;

**"Applicant"** is an individual, firm, partnership, corporation, association, or body politic and includes a trustee, receiver, assignee, or other similarly authorized representative of any of them;

**"Approach surface"** is an imaginary surface shaped like a trapezoid:

(A) longitudinally centered on the extended runway centerline at a public use airport,

(B) beginning two hundred (200) feet beyond the end of each runway pavement and at the runway end elevation,

(C) having an inner-edge width of one thousand (1,000) feet expanding outward uniformly to a width of sixteen thousand (16,000) feet at the outer edge, and

(D) sloping upward for a distance of ten thousand (10,000) feet at a slope of fifty (50) to one (1), with an additional forty thousand (40,000) feet at a slope of forty (40) to one (1);

**"Commission"** means the Oklahoma Aeronautics Commission or a successor agency;

**"Conical surface"** is an imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) to one (1) for a horizontal distance of four thousand (4,000) feet;

**"FAA"** means the Federal Aviation Administration or a successor agency;

**"Horizontal surface"** is an imaginary horizontal plane one hundred fifty (150) feet above the airport elevation, the perimeter of which is constructed by swinging arcs of ten thousand (10,000) feet radii from a point located on the extended runway centerline two hundred (200) feet beyond each end of runway pavement and connecting the adjacent arcs by lines tangent to those arcs;

**"Incompatible purpose"** means the use of a building structure, or area as a residence, educational center (including all types of primary and secondary schools, preschools, and child-care facilities), place of worship, place of public assembly, hospital, medical inpatient treatment facility, nursing/convalescent home, retirement home, transportation facility, storage facility, above-ground utility facility, or similar use;

**"Legal representative"** means a person who is authorized to legally bind an entity;

**"Permit"** means a permit issued by the Commission under this act;

**"Person"** means an individual, firm, partnership, corporation, association, or body politic and includes a trustee, receiver, assignee, or other similarly authorized representative of any of them;

**"Primary surface"** is a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is one thousand (1,000) feet;

**"Public-use airport"** means a structure or an area of land or water that is designed and set aside for the landing and taking off of aircraft, is utilized or to be utilized by and in the interest of the public for the landing and taking off of aircraft and is identified by the FAA as a public-use airport. Public-use airport shall include any military airport operated by a branch of the armed services of the United States government. Public-use airport shall not include any privately owned airport for private use as identified by the FAA, or any airport owned by a municipality with a

population exceeding five hundred thousand (500,000) according to the most recent Federal Decennial Census;

**"Runway"** means the portion of an airport designated as the area used for the landing or takeoff of aircraft;

**"Runway protection zone"** is a trapezoidal zone centered along the extended runway centerline, beyond each end of the primary surface, two thousand five hundred (2,500) feet long, with an inner width of one thousand (1,000) feet and an outer width of one thousand seven hundred fifty (1,750) feet. The function of the runway protection zone is to enhance the protection of people and property on the ground;

**"Structure"** means any constructed or installed object or area, including, but not limited to, buildings, towers, wind turbines, smokestacks, electronic transmission or receiving towers, and antennae and overhead transmission lines. The term does not include:

- (A) any aviation navigational aids that are fixed by function, or
- (B) any construction or installed object on property owned by the federal government; and

**"Total structure height"** means the elevation of the ground above mean sea level at the structure's location, plus the height of the structure above ground level in feet, plus the applicable survey type adjustment, as described in Appendix A, provided the survey adjustment is in accordance with Federal Aviation Administration standards.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11; Amended at 29 Ok Reg 457, eff 5-11-12; Amended at 35 Ok Reg 744, eff 9-14-18]

### **25:30-1-3. Who is required to file**

A person shall obtain a permit from the Commission prior to the construction or installation of any of the following near a public-use airport:

- (1) Any proposed structure for an incompatible purpose in the primary surface or the runway protection zone;
- (2) Any structure, alteration or addition to a structure within three (3) statute miles from the airport reference point of a public-use airport, that would result in a total structure height in excess of one hundred fifty (150) feet above the airport elevation; and
- (3) Any structure, alteration or addition to a structure that would result in a total Structure height greater than the horizontal, conical or approach surfaces, as Defined in 25:30-1-2 of the Aircraft Pilot and Passenger Protection Act.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11; Amended at 29 Ok Reg 457, eff 5-11-12]

### **25:30-1-4. Who is not required to file**

A permit from the Commission shall not be required for the following:

- (1) For mobile or temporary equipment used to construct or install a new structure or to perform routine maintenance, repairs, or replace parts of an existing structure, or for temporary structures that will be in place for less than 24 months; or
- (2) To repair, replace, or alter an existing structure that would not result in a total structure height greater than the horizontal, conical or approach surfaces as defined in Section 25:30-1-2, or change the location of an existing structure.



(3) Structures that exist or have an approved building permit from the local authority with jurisdiction over the property that the structure is proposed to be constructed upon, prior to October 1, 2010.

(4) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11; Amended at 35 Ok Reg 744, eff 9-14-18]

### **25:30-1-5. Violations**

Each violation of the Aircraft Pilot and Passenger Protection Act, or rulings promulgated by the Commission pursuant to this act, shall constitute a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00). Each day that such a failure continues constitutes a separate violation. In addition, the Commission may institute in any court of general jurisdiction, an action to prevent, restrain, correct, or abate any violation of this act, or any rules adopted or orders issued by the Commission pursuant to this act. The court may grant such relief, by way of injunction, which may be mandatory, or otherwise, as may be necessary under this act and the applicable rules or orders of the Commission issued under this act.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11]

## **SUBCHAPTER 3. APPLICATION REQUIREMENTS**

### **25:30-3-1. Application form and time of notice**

(a) **Form.** Each person that is required to file for a permit from the Commission in accordance with 25:30-1-3, shall send one original and one copy of OAC form A-1 to the Commission or on an electronic form approved by the Commission. Copies of the Form may be obtained free of charge from the Commission's Office or downloaded in electronic format from the Commission's website. The Commission will make available a web-based application for online permit application that is consistent with the requirements set forth in Title 62 of the Oklahoma Statutes.

(b) **Additional application requirements.** Applications to the Commission for a permit in accordance with the provisions of these rules shall include the following in addition to the requirements of 25:30-3-1(a):

(1) For construction in a primary surface or runway protection zone, in accordance with section 25:30-5-1:

(A) The following statement signed by a legal representative of the applicant: "The applicant acknowledges for itself, its heirs, its successors, and its assigns, that the real estate described in this application is located in the primary surface or the runway protection zone of a public-use airport, and that the applicant is building a structure upon this real estate, with the full knowledge and acceptance that it may be incompatible with the normal airport operations including the landing and takeoff of aircraft."

(B) if notice is required to be filed with FAA, a copy of the FAA Form 7460-1, "Notice of Proposed Construction or Alteration", as described in 14 CFR part 77, sub-part B, Section 17, to be submitted to the FAA.

(2) For construction or alteration of a structure in a horizontal, conical, or approach surface in accordance with section 25:30-5-2: a copy of FAA Form 7460-1, if required to be submitted to the FAA.

(c) **When to file for a permit.** If FAA Form 7460-1 is required to be filed for the proposed construction, then an application for a permit pursuant to Section 25:30-1-3 shall be filed at the same time the FAA Form 7460-1 is sent to the FAA, or at any time before that. If FAA Form 7460-1 is not required to be filed with the FAA, then the application shall be filed at least thirty (30) days before the earlier of the following:

- (1) The date the proposed construction or alteration is to begin; or
- (2) The date an application for a construction or building permit is to be filed with the municipality.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11]

### **25:30-3-2. Acceptance of application and amendments**

(a) **Complete applications.** The date of receipt of an application shall be the date the Commission determines an application is complete in all respects including application fee in accordance with 25:30-3-4, and this date termed as the "date of record" shall be noted in the records.

(b) **Incomplete applications.** If the Commission determines the application is incomplete, the Commission shall advise the applicant and a period of sixty (60) days shall be allowed for the refiling of a complete application. If the Commission determines that a completed application was not submitted within the time allowed, the Commission will consider the application withdrawn, unless the Commission agrees to give the applicant more time.

(c) **Application amendments.** Applications shall be amended or revised by the applicant or his legal representative. Amendments to the application will be classified as either minor or major, depending upon the nature of the amendment requested.

(1) **Minor amendments** are administrative in nature and do not amend the location or total height of the proposed structure. Also, a minor amendment will not amend the "date of record" of the application.

(2) **Major amendments** are defined as those that affect the location and/or the total structure height. The "date of record" for a completed application will be revised once the amendment has been accepted by the Commission.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11]

### **25:30-3-3. Applications filed later than provided in section 25:30-3-1 subsection (c)**

Applications not filed in accordance with the provisions of section 25:30-3-1(c), or filed after construction has begun, will be assessed penalties or be subject to action in accordance with 25:30-1-5.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11]

### **25:30-3-4. Fees**

Pursuant to Title 3, Oklahoma Statutes, Section 120.1 for construction of structures in the vicinity of public-use airports, the Commission shall charge reasonable fees for services rendered, not to exceed Two Hundred Dollars (\$200.00). All fees shall be paid to the Oklahoma Aeronautics Commission. Required fees must be paid before any action will be taken by the Commission on

the matter relating thereto and before the issuance of any permit. Permit fees will not be refunded if the application for a permit is denied or withdrawn. The following fee will be charged: Application for a new permit: \$200.00

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11; Amended at 29 Ok Reg 457, eff 5-11-12]

## **SUBCHAPTER 5. OBSTRUCTION STANDARDS**

### **25:30-5-1. Incompatible structures**

The construction of a structure for an incompatible purpose within the primary surface or the runway protection zone is presumed to be incompatible with normal airport operations including the landing and takeoff of aircraft.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11]

### **25:30-5-2. Tall structures**

Any structure or alteration to a structure is presumed to be a hazard to air navigation if its total structure height is greater than the horizontal, conical or approach surfaces, as defined in Section 25:30-1-2 of the Aircraft Pilot and Passenger Protection Act.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11]

## **SUBCHAPTER 7. NOTICE, DETERMINATION AND COMMISSION ACTIONS**

### **25:30-7-1. Commission review**

(a) Upon receiving an application, the Commission shall notify a legal representative of the public-use airport owner affected by the application and solicit comments from the airport owner.

(b) In determining whether to issue a permit, the Commission shall consider sections 25:30-5-1 and 25:30-5-2, and the following:

- (1) The nature of the terrain and height of existing structures;
- (2) Public and private interests and investments of an airport;
- (3) The character of flying operations and planned developments of an airport;
- (4) Whether the construction of the proposed structure would cause an increase in the minimum descent altitude or the decision height at the affected airport;
- (5) Technological advances;
- (6) The safety of persons on the ground and in the air;
- (7) Land use density;
- (8) Comments from all interested persons;
- (9) Findings and determinations of other government agencies;
- (10) Depending upon the type of survey used, an adjustment will be made in accordance with FAA regulations to the horizontal and vertical measurements of the proposed structure as described in Appendix A of this Chapter. If the survey type (horizontal and vertical) is not certified by a licensed engineer or a licensed surveyor, a horizontal adjustment of plus or minus two hundred fifty (250) feet and a vertical adjustment of fifty (50) feet will be applied to the structure measurements;

(11) Any other information the Commission finds pertinent to that applications review.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11; Amended at 29 Ok Reg 457, eff 5-11-12; Amended at 35 Ok Reg 744, eff 9-14-18]

### **25:30-7-2. Review time period**

The review time period for an application will commence once a complete application has been accepted in accordance with section 25:30-3-2.

(1) If FAA Form 7460-1 is also required to be filed with FAA, then the Commission shall notify the applicant of its determination within thirty (30) days of the FAA completing its aeronautical study. If the applicant has not been notified by the Commission of its determination within thirty (30) days of the FAA completing its aeronautical study, then the applicant shall notify the Commission that it has not received notice of the Commission's determination. The Commission shall then have seven (7) working days from the date of the applicant's notice to notify the applicant of its determination. Nothing herein precludes the Commission from making its determination before the FAA completes its aeronautical study.

(2) If FAA Form 7460-1 is not required, then the Commission shall notify the applicant of its determination within sixty (60) days of the date of record. If the applicant has not been notified by the Commission of its determination within sixty (60) days of date of record, then the applicant shall notify the Commission that it has not received notice of the Commission's determination. The Commission shall then have seven (7) working days from the date of the applicant's notice to notify the applicant of its determination.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11]

### **25:30-7-3. Commission's determination**

The Commission's review of an application can lead to the following determinations:

(1) The proposed construction would exceed the obstruction standards set forth in sections 25:30-5-1 or 25:30-5-2 and is therefore denied;

(2) The proposed construction would exceed the limitations set forth in section 25:30-1-3; however, due to other considerations listed in section 25:30-7-1, the application is approved; and

(3) The proposed construction would not exceed any limitation set forth in section 25:30-1-3; therefore, a permit from the Commission is not required and shall not be issued.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11; Amended at 29 Ok Reg 457, eff 5-11-12]

### **25:30-7-4. Actions required for approved applications**

Upon the determination of the Commission to approve an application, an original permit shall be forwarded to the applicant. The applicant shall complete the following steps:

(1) The applicant for a permit under Section 25:30-1-3 shall record each permit issued by the Commission in the office of the county clerk for the county where the structure is located not later than sixty (60) business days after the Commission issues the permit. If a structure is located in more than one county, the county that contains the majority of the structure is the

county in which the permit must be filed. A permit issued under Section 25:30-1-3 (1) shall contain the following statement: "The permittee acknowledges for itself, its heirs, its successors, and its assigns, that the real estate described in this permit is located within the primary surface or the runway protection zone of a public-use airport, and that the permittee is building a structure upon this real estate with the full knowledge and acceptance that it may be incompatible with normal airport operations including the landing and takeoff of aircraft.";

(2) Every permit issued by the Commission shall specify that obstruction markers, markings, lighting, or other visual or aural identification required to be installed on or in the vicinity of the structure shall conform to federal laws and regulations; and

(3) A permit issued in accordance with the provisions of Section 25:30-7-3 is valid only after the Commission receives a certified copy of the recorded permit with the recording data from the county clerk of the county in which the structure is located.

(4) Once a permit is valid the permittee may request to amend a permit under these conditions:

(A) The amendment is to change the administrative items of the permit including the transfer of ownership rights. There shall be no limit to the amount of times a permittee can request an amendment that is administrative in nature.

(B) The amendment is for the purposes of micro-siting a structure that has been permitted, but not yet constructed. Micro-siting shall allow for a structure to be moved 400 feet or less in a horizontal direction provided the new location will not impact an airport's instrument or visual approaches. A permittee can request to amend a permit for micro-siting up to two times. A third micro-siting request on the structure will require the permittee to file a new permit application.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11; Amended at 35 Ok Reg 744, eff 9-14-18]

#### **25:30-7-5. Denial of permit**

(a) **Denial of permit and notification.** If the Commission determines that a permit should not be issued under the provisions of these rules, the Commission shall notify the applicant in writing of its determination by sending it through certified or registered mail to the applicant at the address specified in the application.

(b) **Final determination and/or reconsideration.** The determination is final thirty (30) days after notification of the determination is served, unless the applicant, within the thirty-day period, requests reconsideration in writing to the Commission and provides written evidence showing why the application should have been approved. The Commission has up to a period of thirty (30) days from the receipt of the request. The Commission shall notify the applicant of its determination as specified in subsection (a) of this section. In the event of a second denial by the Commission of the permit request, the applicant can request a hearing before the Commission with reference to the application. A hearing under this section shall be open to the public. The applicant may appear and be heard either in person or by counsel and may present pertinent evidence and testimony. At the hearing, the applicant has the burden to show cause why the Commission should have issued the permit to erect the proposed structure.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11]

#### **25:30-7-6. Construction of works.**

A permit issued in accordance with the provisions of the Aircraft Pilot and Passenger Protection Act is valid only if the proposed structure has been constructed within ten (10) years of the issuance of a permit by the Commission pursuant to Section 25:30-7-4.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11]

### **SUBCHAPTER 9. PERMITS**

#### **25:30-9-1. Contents of permits**

- (a) Every permit issued by the Commission shall contain the following:
- (1) The date the permit is issued.
  - (2) The county or counties in which the structure(s) is or are located.
  - (3) The permit number and date issued, which shall be the date the permit is approved by the Commission or where appropriate, by the Director.
  - (4) The name and address to whom issued.
  - (5) The purpose for which the structure will be used.
  - (6) Survey information of the site location and total height of the structure provided with the application.
  - (7) Any other items to be specified by the Commission.
- (b) In addition to the above, the permit shall contain any additional terms, conditions, limitations, or restrictions the Commission may prescribe.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11; Amended at 29 Ok Reg 457, eff 5-11-12]

#### **25:30-9-2. Acceptance of permit by permittee**

Acceptance of the permit shall be an acknowledgement and agreement that permittee will comply with all the terms, provisions, limitations, conditions and restrictions contained in the permit.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11]

#### **25:30-9-3. Amendments to permit**

The Commission shall consider amendments to permits that are administrative in nature including the transfer of ownership rights. The permit holder or his legal representative shall notify the Commission in writing of the amendments to the permit and shall provide the affected permit number(s). A change to the latitude/longitude or an increase in the total height of a permitted structure will require the applicant to obtain a new permit.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11; Amended at 29 Ok Reg 457, eff 5-11-12]

### **SUBCHAPTER 11. MISCELLANEOUS PROVISIONS**

#### **25:30-11-1. Military airspace**

- (a) Any person required to notify the FAA of any proposed construction or alteration pursuant to Subpart B of Section 77.13 of the Federal Aviation Regulations Part 77, that in response receives an acknowledgement from the FAA that further aeronautical study is required to determine whether the proposed

construction or alteration would be a hazard to air navigation, shall, upon requesting further aeronautical study by the FAA, concurrently notify the Commission of the request and shall provide the Commission with true and correct copies of all relevant filings made with the FAA.

(b) Upon receipt of such notification of the filing of a request for further aeronautical study, the Commission shall give timely notice thereof to the Oklahoma Strategic Military Planning Commission, or any successor agency, and to any military airport within Oklahoma potentially affected by the proposed construction or alteration.

(c) The Commission further shall use its best efforts to establish regular and consistent communication with the FAA to encourage sharing of information regarding construction or alteration in a military training route or slow-speed low-altitude training route within the state of Oklahoma with appropriate state agencies and military installations.

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11]

## APPENDIX A. SURVEY TYPE ADJUSTMENT

Figure

Survey Type Adjustment			
Survey Type	Horizontal Adjustment	Survey Type	Vertical Adjustment
1	+20 ft (6 m)	A	+3 ft (1 m)
2	+50 ft (15 m)	B	+10 ft (3 m)
3	+100 ft (30 m)	C	+20 ft (6 m)
4	+250 ft (75 m)	D	+50 ft (15 m)
5	+500 ft (150 m)	E	+125 ft (38 m)

[Source: Added at 28 Ok Reg 77, eff 9-17-10 (emergency); Added at 28 Ok Reg 766, eff 5-26-11]

## CHAPTER 35. ANEMOMETER TOWER REGULATIONS

[Authority: 3 O.S., § 121]

[Source: Codified 8-27-15]

### SUBCHAPTER 1. GENERAL PROVISIONS

#### **25:35-1-1. Purpose**

The purpose of this chapter is to set forth administrative rules for the implementation of Title 3, Oklahoma Statutes, Section 121. This chapter establishes the requirements and procedures to be followed by the Commission in the administration and enforcement of its duties under this provision. HB 3348 gives the Commission the authority to promulgate rules to ensure that anemometer towers are marked for clear visibility and to establish a data base of anemometer

tower locations throughout the state.

[Source: Added at 32 Ok Reg 431, eff 12-17-14 (emergency); Added at 32 Ok Reg 750, eff 8-27-15]

### **25:35-1-2. Definitions**

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

**"Anemometer"** is an instrument for measuring and recording wind speed;

**"Anemometer tower"** is a structure, including all guy wires and accessory facilities, on which an anemometer is mounted, that is fifty (50) feet in height above the ground or higher, is not located within the boundaries of a municipality, and whose appearance is not otherwise regulated by state or federal law; and

**"Commission"** means the Oklahoma Aeronautics Commission as created in Title 3, Oklahoma Statutes, Section 84 of the Oklahoma Statutes.

[Source: Added at 32 Ok Reg 431, eff 12-17-14 (emergency); Added at 32 Ok Reg 750, eff 8-27-15]

### **25:35-1-3. Additional zoning requirements**

In addition to any zoning requirements of the Airport Zoning Act or the Aircraft Pilot and Passenger Protection Act, the Commission shall promulgate rules regulating the appearance of anemometer towers to ensure that anemometer towers are clearly recognizable in clear air during daylight hours.

[Source: Added at 32 Ok Reg 431, eff 12-17-14 (emergency); Added at 32 Ok Reg 750, eff 8-27-15]

## **SUBCHAPTER 3. MARKING OF ANEMOMETER TOWERS**

### **25:35-3-1. Marking of anemometer towers**

Marking as required by this chapter shall include marking the anemometer tower, guy wires, and accessory facilities as follows:

- (1) The entire anemometer tower shall be painted in seven equal, alternating bands of aviation orange and white, beginning with orange at the top of the tower and with orange at the bottom of the tower.
- (2) Two marker balls shall be attached to and evenly spaced on each of the outside guy wires.
- (3) One seven-foot safety sleeve shall be placed at each anchor point and shall extend from the anchor point along each guy wire attached to the anchor point with a second sleeve attached to the outer guy wire.

[Source: Added at 32 Ok Reg 431, eff 12-17-14 (emergency); Added at 32 Ok Reg 750, eff 8-27-15]

## **SUBCHAPTER 5. ESTABLISHMENT OF DATABASE**

### **25:35-5-1. Database requirements**

(a) The Commission shall establish and maintain a database containing the location of all anemometer towers by November 1, 2015. The Commission may contract with a governmental entity or private entity to create and maintain the database.

(b) An owner of any existing anemometer tower erected in the state shall provide the Commission with information that specifies the owner, location and height of the tower and any other information that the Commission finds necessary for aviation safety.

(c) At least ten (10) days before the erection of an anemometer tower, an owner of the tower shall provide the Commission with information that specifies the owner, location and height of the tower and any other information that the Commission



finds necessary for aviation safety.

(d) An owner of an anemometer tower shall notify the Commission within thirty (30) days after the removal of the tower.

[Source: Added at 32 Ok Reg 431, eff 12-17-14 (emergency); Added at 32 Ok Reg 750, eff 8-27-15]

## **SUBCHAPTER 7. ADMINISTRATIVE PENALTIES**

### **25:35-7-1. Administrative penalties**

(a) Failure to comply with the requirements of this chapter shall result in a fine of One Hundred Dollars (\$100.00) per day.

(b) Subsequent violations shall result in a fine of at least Five Hundred Dollars (\$500.00) and not more than Two Thousand Dollars (\$2,000.00) per day.

[Source: Added at 32 Ok Reg 431, eff 12-17-14 (emergency); Added at 32 Ok Reg 750, eff 8-27-15]

## **SUBCHAPTER 9. EFFECTIVE DATES**

### **25:35-9-1. Effective dates**

Anemometer towers erected prior to December 17, 2014 shall be exempt from Subchapter 3 until November 13, 2015.

[Source: Added at 32 Ok Reg 431, eff 12-17-14 (emergency); Added at 32 Ok Reg 750, eff 8-27-15]

## **CHAPTER 40. WIND ENERGY RULES**

[Authority: 17 O.S., §§ 160.20 and 160.21]

[Source: Codified 9-11-20]

## **SUBCHAPTER 1. GENERAL PROVISIONS**

### **25:40-1-1. Purpose of this chapter**

The purpose of this chapter is to implement the Aeronautics Commission's responsibilities within the Oklahoma Wind Energy Development Act, 17 O.S. §§ 160.11 *et seq.*, by establishing rules and procedures for an owner of a wind energy facility to submit documentation to the Aeronautics Commission.

[Source: Added at 37 Ok Reg 823, eff 11-15-19 (emergency); Added at 37 Ok Reg 941, eff 9-11-20]

### **25:40-1-2. Definitions**

In addition to terms defined in the Oklahoma Wind Energy Development Act, 17 O.S. § 160.11 *et seq.*, the following word(s) or term(s), when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Clearinghouse"** means the Military Aviation and Installation Assurance Siting Clearinghouse.

**"Determination of No Hazard"** means a document issued by the Federal Aviation Administration.

**"Director"** means the Director of the Oklahoma Aeronautics Commission.

**"FAA"** means the Federal Aviation Administration.

**"Owner"** means the entity having a majority equity interest in commercial wind energy equipment, including their respective successors and assigns.

**"Project boundary"** means a graphic depiction of a wind energy facility's outer boundary, which should adequately demonstrate the project's outer perimeter,

inclusive of all wind turbines.

**"Wind energy facility"** means an electrical generation facility consisting of one or more wind turbines under common ownership or operating control, and includes substations, meteorological data towers, aboveground and underground electrical transmission lines, transformers, control systems, and other buildings or facilities used to support the operation of the facility, and whose primary purpose is to supply electricity to an off-site customer or customers. Wind energy facility shall not include a wind energy facility located entirely on property held in fee simple absolute estate by the owner of the wind energy facility.

**"Wind turbine"** means a wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blade, tower, base, and pad transformer, if any.

[Source: Added at 37 Ok Reg 823, eff 11-15-19 (emergency); Added at 37 Ok Reg 941, eff 9-11-20]

### **SUBCHAPTER 3. SUBMITTAL REQUIREMENTS FOR FEDERAL AVIATION ADMINISTRATION AND DEPARTMENT OF DEFENSE DOCUMENTATION**

#### **25:40-3-1. Notification of intent to build a wind energy facility and other notices**

(a) The owner of a wind energy facility shall submit to the Aeronautics Commission copies of all initial FAA 7460-1 form(s) for all individual wind turbines or any other individual structure that requires a FAA form 7460-1 that is part of a wind energy facility within thirty (30) days of the initial filing with the FAA.

(b) If the owner of a wind energy facility is required to file subsequent 7460-1 forms with the FAA due to changing locations or heights of individual structures from the locations or heights originally proposed in the initial 7460-1 forms submitted to the Aeronautics Commission, the owner shall, within ten (10) calendar days of filing with the FAA, submit such subsequent 7460-1 forms to the Aeronautics Commission.

(c) The 7460-1 form(s) shall be submitted electronically unless prior approval of another format has been granted by the Director. A cover letter shall accompany the 7460-1 form(s) detailing the name of the project, the owner of the wind energy facility, and indicating whether the submittal is for initial 7460-1 form(s) or subsequent 7460-1 form(s).

[Source: Added at 37 Ok Reg 823, eff 11-15-19 (emergency); Added at 37 Ok Reg 941, eff 9-11-20]

#### **25:40-3-2. Final Documentation from the Federal Aviation Administration and Department of Defense**

(a) The owner of a wind energy facility shall submit to the Aeronautics Commission the Determination of No Hazard from the FAA for each individual wind turbine or other individual structure that requires a 7460-1 form that is part of a wind energy facility prior to the start of construction.

(b) The owner of a wind energy facility shall submit to the Aeronautics Commission the Military Compatibility Certification Letter or successor form from the Clearinghouse which serves as documentation of the resolution of adverse impacts to the Department of Defense prior to the start of construction.

(c) All submissions shall be submitted electronically unless prior approval of another format has been granted by the Director.

[Source: Added at 37 Ok Reg 823, eff 11-15-19 (emergency); Added at 37 Ok Reg 941, eff 9-11-20]

## **SUBCHAPTER 5. AERONAUTICS COMMISSION ACTIONS TO THE OKLAHOMA STRATEGIC MILITARY PLANNING COMMISSION**

### **25:40-5-1. Notification to the Strategic Military Planning Commission**

After receiving a FAA 7460-1 form from the owner of a wind energy facility, either as an initial or subsequent 7460-1 form, the Aeronautics Commission shall notify the Strategic Military Planning Commission within 10 days of receiving the 7460-1 form.

[Source: Added at 37 Ok Reg 823, eff 11-15-19 (emergency); Added at 37 Ok Reg 941, eff 9-11-20]