

TITLE 265. STATE FIRE MARSHAL COMMISSION

Editor's Note: Effective 7-1-17, the Oklahoma Council on Firefighter Training was abolished, and "all powers, duties and responsibilities of the Oklahoma Council on Firefighter Training [were] transferred to the Office of the State Fire Marshal" [House Bill 1833 (2017), Section 2(A)]. For rules effective prior to the 7-1-17 effective date of this legislation, see Title 268 in the 2016 Edition of the OAC.

CHAPTER 1. ADMINISTRATIVE OPERATIONS

[Authority: 74 O.S., §§ 324.1 and 324.7; 75 O.S., §§ 250 et seq.]
[Source: Codified 12-30-91]

265:1-1-1. Purpose and scope

The State Fire Marshal's Office is charged with enforcing codes and standards relative to fire safety adopted by the State Fire Marshal Commission and as designated by state statutes. The State Fire Marshal's Office investigates fires, acts of arson, or attempted arson, or conspiracy to defraud, and keeps records of such investigations. The State Fire Marshal's Office conducts fire prevention inspections in assisted living centers, schools, child care centers, hospitals, and other public-use buildings. The State Fire Marshal's Office issues orders for condemnation or repair of dangerous or dilapidated buildings that constitute a hazard to life or other property. The State Fire Marshal's Office examines plans and specifications of certain types of new construction or remodeling, ensuring that minimum fire and life safety requirements are met. The State Fire Marshal's Office is authorized to assist any city, town or county in the enforcement of the building codes and standards herein adopted. Records of all activities of the State Fire Marshal's Office are on file in Oklahoma City. These guidelines are established to ensure proper efficiency, discipline and uniform procedures with the duties and responsibilities of the State Fire Marshal's Office to the citizens of the State of Oklahoma and our fellow employees.

[Source: Amended at 39 Ok Reg 1183, eff 9-11-22]

265:1-1-2. State Fire Marhsall commission, membership, tenure [REVOKED]

[Source: Amended at 22 Ok Reg 1930, eff 6-25-05; Amended at 31 Ok Reg 1554, eff 9-12-14; Revoked at 39 Ok Reg 1183, eff 9-11-22]

265:1-1-3. Commission chairman, meetings [REVOKED]

[Source: Amended at 22 Ok Reg 1930, eff 6-25-05; Amended at 31 Ok Reg 1554, eff 9-12-14; Revoked at 39 Ok Reg 1183, eff 9-11-22]

265:1-1-4. Commission compensation

Each member of the State Fire Marshal Commission, while engaged in the performance of his or her duties, shall receive mileage and per diem as provided by Chapter 17, Title 74, O.S., Laws 1965, c. 257, Section 3. Amended Laws 1972, c.123, Section 1, emergency effective February 21, 1972. Revoked by Section 81, House Bill #1164, State Travel Reimbursement Act.

[Source: Amended at 31 Ok Reg 1554, eff 9-12-14; Amended at 39 Ok Reg 1183, eff 9-11-22]

265:1-1-5. Fire marshal

The State Fire Marshal Commission may require additional qualifications of the State Fire Marshal that exceed those outlined by statute.

[Source: Amended at 31 Ok Reg 1554, eff 9-12-14; Amended at 31 Ok Reg 1554, eff 9-12-14; Amended at 39 Ok Reg 1183, eff 9-11-22]

265:1-1-6. Assistant State Fire Marshal

The State Fire Marshal Commission may require additional qualifications of the Assistant State Fire Marshal that exceed those outlined by statute.

[Source: Amended at 31 Ok Reg 1554, eff 9-12-14; Amended at 31 Ok Reg 1554, eff 9-12-14; Amended at 39 Ok Reg 1183, eff 9-11-22]

265:1-1-7. Rules, regulations and specifications

Except as otherwise specified by subsection B of this section, the State Fire Marshal Commission shall have the power and duty to prescribe, adopt, and promulgate, in the manner set forth in this act, such reasonable rules, regulations, or specifications on matters relating to the safeguarding of life and property from the hazards of fire and explosion arising from storage, handling, and use of flammable and combustible materials, and from conditions hazardous to life or property in the use or occupancy of buildings or premises, as are deemed just and reasonable and in accordance with the codes as last adopted by the Oklahoma Uniform Building Code Commission, and not inconsistent with this act, and to revoke, amend, or supersede the same. Exceptions to these standards shall be granted to detention and correction facilities in existence on November 1, 1985, when noncompliance would not result in life-threatening condition to inmates incarcerated in such facilities. All such rules, regulations, and specifications or any revisions or amendments thereto shall not become effective until promulgated in accordance with the provisions of the Administrative Procedures Act. [74 O.S., Section 324.7]

[Source: Amended at 31 Ok Reg 1554, eff 9-12-14]

265:1-1-8. Uniform force and effect

The rules promulgated pursuant to Section 324.1 et seq. of this title shall have the uniform force and effect throughout the state and no municipality or subdivision shall enact or enforce any ordinances, rules for construction of or major alterations to buildings with standards less stringent than the building code, as last adopted by the Oklahoma Uniform Building Code Commission. Provided, nothing in this act shall prevent or take away from any city, town or county, the authority to enact and enforce rules containing higher standards and requirements than those provided therein nor prevent or take away from any city, town or county the authority to amend such adopted codes to make changes necessary to accommodate local conditions. And provided further, that nothing in this act shall in any way impair the power of any municipality, county or subdivision to regulate the use of land by zoning, building codes or restricted fire district regulations. [74 O.S., Section 324.8]

[Source: Amended at 31 Ok Reg 1554, eff 9-12-14]

265:1-1-9. Administrative procedures

The State Fire Marshal Commission and the State Fire Marshal shall be subject to the provisions of Title 75 on Administrative Rule Making and shall conduct all hearings and administrative procedures in conformity therewith, and

judicial review of any order issued or action taken by the State Fire Marshal Commission or the State Fire Marshal shall be as provided for therein.

[Source: Amended at 39 Ok Reg 1183, eff 9-11-22]

265:1-1-10. Legal advisor [REVOKED]

[Source: Amended at 31 Ok Reg 1554, eff 9-12-14; Revoked at 39 Ok Reg 1183, eff 9-11-22]

265:1-1-11. Fees [REVOKED]

[Source: Added at 18 Ok Reg 3044, eff 7-12-01; Amended at 31 Ok Reg 1554, eff 9-12-14; Revoked at 39 Ok Reg 1183, eff 9-11-22]

CHAPTER 3. INDIVIDUAL PROCEEDINGS

[Authority: 74 O.S., §§ 317 and 324.7; 75 O.S., §§250 et seq.]

[Source: Codified 12-30-91]

SUBCHAPTER 1. GENERAL PROVISIONS

265:3-1-1. Purpose

The rules and regulations of this chapter provide guidance with the efficient operation, administration, and enforcement by the Office of the State Fire Marshal.

[Source: Amended at 39 Ok Reg 1185, eff 9-11-22]

265:3-1-2. Liberal construction

The rules of this chapter shall be construed liberally to effectuate the purposes and provisions of the act. (Title 74 O.S. 1981 § 317)

[Source: Amended at 31 Ok Reg 1556, eff 9-12-14]

265:3-1-3. Terms

Terms used in this chapter shall have the same meaning as defined in the act unless their context clearly indicates otherwise.

265:3-1-4. "Act" defined

"Act", as used in this chapter, shall refer to the provisions set forth in Title 74 O.S. Sections 311-326.11.

[Source: Amended at 31 Ok Reg 1556, eff 9-12-14; Amended at 39 Ok Reg 1185, eff 9-11-22]

265:3-1-5. "Party" defined

The term "party" as used in this chapter shall mean any person, employee organization or municipal employer named and participating in or properly seeking and entitled by law to participate in, an individual proceeding.

SUBCHAPTER 3. PROCEDURES

265:3-3-1. Filing of documents

(a) All complaints, pleadings, submissions, petitions, reports, exceptions, briefs, memoranda, discovery requests, and other papers required to be filed with the Office of the State Fire Marshal shall be filed at the Office of the State Fire Marshal.

- (b) Such papers may be sent by mail or hand delivered to the Office of the State Fire Marshal within the time limit, if any, for such filing.
- (c) The date on which the papers are actually received by the Office of the State Fire Marshal shall be deemed to be the date of filing.
- (d) All papers must be signed in ink by the party, by duly authorized officer of the party, or by its attorney. The signature of the person signing the document constitutes a certification that such person has read the document; that to the best of such person's knowledge, information, and belief, every statement contained in the instrument is true and correct and no such statements are misleading; and that the document is not interposed for delay. If any document submitted is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the proceeding may continue as though the document had not been served or filed.
- (e) Unless otherwise specifically provided by a particular rule, regulation, or order of the State Fire Marshal, the original and five copies of the papers, with certification of service on all parties, shall be filed.
- (f) The documents indicating any proceeding shall state on the first page thereof the name, mailing address, and telephone number of the person or persons who may be served with any documents filed thereafter in the proceeding.
- (g) The document filed shall be stamped with the date of filing and recorded in a file record book.

[Source: Amended at 39 Ok Reg 1185, eff 9-11-22]

265:3-3-2. Docketing

The Office of the State Fire Marshal shall maintain a docket of all proceedings and each proceeding shall be assigned a case number.

265:3-3-3. Computation of time

The time within which an act is to be performed under the rules of this Chapter shall be computed by excluding the first day and including the last. When the last day for the doing of an act required by the rules falls on a Saturday, Sunday or legal holiday, then the required act may be performed on the next regular business day. The State Fire Marshal, for good cause shown, and with notice to all interested parties, may extend any time prescribed in the rules.

265:3-3-4. Order

The State Fire Marshal, according to the provisions set forth at 74 O.S. 1981, §317, upon a finding that a certain building or buildings is so situated as to endanger other buildings or property, or so occupied that a fire would endanger persons and property therein the State Fire Marshal can order such building or buildings to be repaired, torn down, demolished, materials removed and all dangerous conditions remedied. Whenever the officers determine that a threat to life is eminent, the officers are permitted to order the evacuation of the occupants of the building or buildings. If the State Fire Marshal finds in a building or upon any premises any combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable conditions of any kind, dangerous to the safety of buildings or property, he shall order such materials removed or conditions remedied. Such Order shall be made against the owner, lessee, agent or occupant of such buildings or premises and, thereupon, such Order shall be complied with by the owner, lessee, agent or occupant, and within the time fixed in said Order.

265:3-3-5. Hearing

If an owner, lessee, agent or occupant deems himself aggrieved by an Order of the State Fire Marshal in 265:3-3-4, and desires a hearing, he may complain or appeal in writing to the State Fire Marshal within ten (10) days from the service of the Order and the State Fire Marshal shall investigate said complaint at once. The State Fire Marshal shall set a time and place for a hearing in the county where such property is located. The State Fire Marshal may affirm, modify, revoke or vacate said order at said hearing, and unless such order is revoked or vacated by the State Fire Marshal, it shall remain in force and be complied with by such owner, lessee, agent or occupant within the time fixed in said order, or within such time as may be fixed by State Fire Marshal at said hearing.

265:3-3-6. Appeal

If a person is aggrieved by the Final Order of the State Marshal as made at the hearing set forth in 265:3-3-5, such person may, within ten (10) days thereafter, appeal to the district court of the county in which the property is situated notifying the State Fire Marshal in writing, of such appeal, within three (3) days thereafter. The notice shall be in writing and delivered personally to the State Fire Marshal or by registered mail to the Office of the State Fire Marshal, Oklahoma City, Oklahoma. The party so appealing shall, within three (3) days thereafter, file with the clerk of the district court in which such appeal is made, a bond and in an amount to be fixed by the court and in no case less than a Hundred Dollars (\$100.00), with at least sufficient sureties to be approved by the court, conditioned to pay all costs on the appeal in case the Appellant failed to sustain the same or the appeal be dismissed for any cause. The district court shall hear and determine the appeal de novo, in the same manner as other issues of law and fact are heard and tried in such courts, and the State Fire Marshal shall be the Plaintiff. The district court shall hear and determine the appeal at the next regular term of the district court in the county where the order was issued, and may sustain, modify or annul the order of the State Fire Marshal, and the decision of the district court shall be final.

265:3-3-7. Final order

The State Fire Marshal shall execute the final order of the district court in 265:3-3-6, and if the order is adverse to the appellant, the State Fire Marshal is empowered to cause such building or premises to be repaired, torn down, demolished, materials removed and all dangerous conditions remedied, as the case may be, at the expense of such appellant. If the appellant fails, refuses or neglects to comply with the order, or pay the expense incurred by the State Fire Marshal in executing the same within thirty (30) days thereafter, the expense shall be certified by the State Fire Marshal to the county assessor of the county in which the property is situated and the county assessor shall enter the expense on the tax list on county as a special charge against the real estate on which the building is or was situated, and the same shall be collected as other taxes and, when collected, shall be paid to the county treasurer and credited to the general fund of the county in which the property is located. Any person being the owner, occupant, lessee or agent of buildings or premises, who willfully fails, neglects, or refuses to comply with any order of any officer named in 74 O.S. §317 shall be guilty of a misdemeanor and shall be fined not more than Fifty Dollars (\$50.00) nor less than Ten Dollars

(\$10.00) for each days neglect, pursuant to 71 O.S. §317.

[Source: Amended at 31 Ok Reg 1556, eff 9-12-14]

265:3-3-8. Prehearing conference

A prehearing conference shall be conducted in all proceedings set for hearing before the State Fire Marshal or a duly appointed hearing officer. The prehearing conference may be conducted by telephone when the mutual convenience of the parties so requires. The State Fire Marshal may designate an assistant or legal counsel as provided by State Attorney General's office to conduct a prehearing conference, which may be held as soon as possible after the case is at issue, but in any event upon at least ten (10) days notice to the parties.

265:3-3-9. Transcripts

An official transcript of the proceedings before the Fire Marshal shall be electronically recorded. The State Fire Marshal shall designate the person by whom the recorded proceedings shall be made. A party shall be entitled to a certified copy of the recorded oral proceedings and/or transcript of the recorded oral proceedings upon request, but shall be obligated to pay for the cost incurred in obtaining either. Request for transcripts shall be made through the office of the State Fire Marshal either on the record or in writing. If either party to the proceeding requests a court reporter, the requesting party shall be obligated to pay for the costs incurred. That portion of the hearing constituting adjudicative or quasi adjudicative deliberations of the State Fire Marshal shall not be reported.

[Source: Amended at 11 Ok Reg 2225, eff 6-1-94; Amended at 39 Ok Reg 1185, eff 9-11-22]

265:3-3-10. The rights of parties at hearings

Any party, as defined in 75 O.S. §250.3 shall have the right to appear in any hearing in person or by counsel duly licensed to practice law in the State of Oklahoma, and any party and the Office of the State Fire Marshal shall have the power to call and examine witnesses, and to introduce evidence in a hearing before the State Fire Marshal.

[Source: Amended at 31 Ok Reg 1556, eff 9-12-14]

SUBCHAPTER 5. HEARINGS

265:3-5-1. Hearing officer

All hearings shall be conducted by the State Fire Marshal unless the State Fire Marshal finds it necessary or desirable to appoint a hearing officer to conduct a hearing. The State Fire Marshal may confer upon such hearing officer the necessary powers, subject to the Oklahoma Administrative Procedures Act, to conduct such hearing and/or any procedural matters related thereto.

265:3-5-2. Open hearings

Hearings shall be open to the public unless otherwise provided by law or ordered, by the State Fire Marshal.

265:3-5-3. Motions

(a) The Office of the State Fire Marshal recognizes all motions permitted under the Oklahoma Pleading Code, 12 O.S. §2001 et seq. and a party's Motion requesting the Office of the State Fire Marshal to defer to an accepted plan of correction.

- (b) All motions made during a hearing shall be made part of the record of the proceedings.
- (c) All motions made outside a hearing are subject to the following rules:
- (1) Such motions shall be made in writing to the State Fire Marshal, shall briefly state relief sought, and shall be accompanied by affidavits and/or memoranda setting forth the grounds upon which they are based.
 - (2) The moving party shall serve a copy of all motions and supporting documents on all other parties.
 - (3) Any response or objection to the motion shall be filed with the State Fire Marshal within fifteen (15) days of receipt of the motion, and shall be served on all parties.
 - (4) The State Fire Marshal may decide to hear oral argument or testimony thereon, in which case the State Fire Marshal shall notify the parties of such fact and of the time and place that such argument or the taking of such testimony.

[Source: Amended at 31 Ok Reg 1556, eff 9-12-14]

265:3-5-4. Appearances

The provisions of Title 75 O.S. §250.3 shall govern appearances at a hearing.

[Source: Amended at 31 Ok Reg 1556, eff 9-12-14]

265:3-5-5. Witnesses

All witnesses in a hearing shall appear in person and shall be examined under oath or affirmation. All witnesses summoned by the State Fire Marshal at the request of a party shall be paid by the party. Witnesses shall be paid the same witness and mileage fees as are paid witnesses appearing in the District Court of Oklahoma.

265:3-5-6. Discovery

- (a) Upon application and for good cause shown, the State Fire Marshal may permit the parties in a hearing to conduct discovery pursuant to the Oklahoma Code Civil Procedure, 12 O.S. §3201 et seq., subject to the provisions of the Oklahoma Administrative Procedures Act.
- (b) A copy of the request for discovery shall be filed with the Office of State Fire Marshal.
- (c) Witness fees and mileage shall be paid by the party at whose instance the witness appears and the person taking the deposition shall be paid by the party whose instance the deposition is taken.

[Source: Amended at 31 Ok Reg 1556, eff 9-12-14]

265:3-5-7. Subpoenas

- (a) **Issuance of subpoenas.** The office of the State Fire Marshal may issue subpoenas to require the attendance of witnesses in this state and the production of books and papers at a hearing or deposition held pursuant to this Chapter.
- (b) **Application for subpoenas.** Any party may file a written application for subpoenas with the State Fire Marshal before the hearing.
- (c) **Motion to revoke subpoenas.**
- (1) A Motion to Revoke or Quash a subpoena may be filed with the State Fire Marshal not later than three (3) days from the date of service of the

subpoena.

(2) The State Fire Marshal shall give notice of the filing of the Motion to revoke or quash to the applicant for subpoena.

(d) Ruling on motion to revoke or quash.

(1) The State Fire Marshal may revoke or quash a subpoena on the ground that the subpoena does not reasonably relate to any matter under investigation, inquiry, or hearing; that the subpoena does not describe with sufficient particularity the evidence sought or that the evidence sought from the witness is privileged under law or these Rules.

(2) The State Fire Marshal shall make a statement as to the basis for his ruling.

(3) An aggrieved party may request that the motion to revoke or quash a subpoena, the answer thereto, if any, and the State Fire Marshal's statement of the basis for its ruling be made part of the record.

(e) Witnesses.

(1) No person served with a subpoena issued by the State Fire Marshal shall refuse or neglect to appear, or testify.

(2) Upon failure to comply with, or neglect of, a subpoena the State Fire Marshal may apply to the district court for an order of compliance pursuant to the Administrative Procedures Act.

265:3-5-8. Rules of evidence

(a) In any proceeding before the Office of the State Fire Marshal, the State Fire Marshal shall not be bound by the technical rules of evidence. The State Fire Marshal may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs.

(b) All irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

(c) The State Fire Marshal shall give effect to the rules of privilege recognized by law.

(d) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available, provided that upon request parties shall be given an opportunity to compare the copy with the original.

(e) Each party shall have the right to conduct such cross examination as may be required for a full and true disclosure of the facts and shall have the right to submit rebuttal evidence.

(f) The State Fire Marshal may take notice of judicially cognizable facts.

(g) The State Fire Marshal may take notice of generally cognizable technical or scientific facts within its specialized knowledge; however, parties shall be notified either before or during the hearing of the material so noticed, and they shall be afforded an opportunity to contest the fact so noticed.

265:3-5-9. Contemptuous conduct

(a) Conduct that constitutes direct or indirect civil contempt, under Oklahoma law, may be grounds for summary exclusion from a hearing. Such misconduct, if of an aggrieved character and engaged in by an attorney or other representative of a party, may be grounds for suspension or disbarment from further practice before the State Fire Marshal upon notice and hearing.

(b) The refusal of a witness of any such to answer any question which has been ruled to be proper may, in the discretion of the State Fire Marshal, be grounds for striking all testimony previously given by such witness on related matters.

265:3-5-10. Amendment of documents

- (a) Any document filed in a proceeding may be amended, at the discretion of the State Fire Marshal, at any time prior to the issuance of a final order thereon.
- (b) If such document is not in substantial conformity with the applicable rules of the State Fire Marshal as to the contents thereof, or is otherwise insufficient, the State Fire Marshal, on its own initiative or upon motion of a party, may strike or dismiss such document, or require its amendment. A party moving for amendment of a document shall file a motion for leave to amend together with the proposed amended document.
- (c) If amended, the document shall be effective as the date of the original filing, if it relates to the same proceeding.

265:3-5-11. Retention of documents by the State Fire Marshal

- (a) All documents filed with or presented to the Office of the State Fire Marshal shall be retained in the files of the State Fire Marshal.
- (b) The State Fire Marshal may permit withdrawal of original documents upon submission of properly authenticated copies to replace such documents.

265:3-5-12. Substitution of parties

Upon motion and for good cause shown, the State Fire Marshal may order substitution of the parties in a hearing, except that in the case of death of a party, substitution may be ordered without the filing of a motion.

265:3-5-13. Consolidation

The State Fire Marshal, on his own initiative or upon motion, may consolidate for hearing or other purposes or may contemporaneously consider two or more proceedings which involve substantially the same parties or issues if he finds that such consolidation of proceedings or contemporaneous consideration will be conducive to the proper dispatch of its business and to the ends of justice and will not unduly delay the proceedings.

265:3-5-14. Agreed statement of facts

In any proceeding an agreed statement of facts may be introduced to the record with respect to any issue. An agreed statement of facts may be accepted by the State Fire Marshal without a hearing. The parties to an agreed statement of facts may agree to a waiver of hearing. Such agreed statements of fact are especially encouraged when the parties have reason to believe that the primary issue(s) for decision by the State Fire Marshal are purely issues of law.

265:3-5-15. Argument, briefs, proposed findings

- (a) Any party shall be entitled, upon request made before the close of a hearing, to present oral argument.
- (b) Any party shall be entitled, upon request made before the close of a hearing, to file a brief or proposed findings of facts and conclusions of law, or both, within such time as may be fixed by the State Fire Marshal.
- (c) The State Fire Marshal may direct oral argument where the finding of briefs or proposed finding of facts, conclusions of law, or both, when it deems the submission of briefs or proposed findings, or both, is warranted by the nature of the proceedings or the particular issues therein.

(d) A request for extension of time within which to file a brief or proposed findings shall be made in writing to the Office of the State Fire Marshal at least three (3) days before the expiration of the required time for filing, and shall be accompanied by an affidavit setting forth the grounds upon which it is based and indicating the position of the other parties with regard to such request.

265:3-5-16. Decisions and orders of the State Fire Marshal

(a) Every decision and order rendered by the State Fire Marshal shall be in writing or stated in the record and shall be accompanied by separate findings of fact and conclusions of law. If any party has filed proposed findings of fact, the State Fire Marshal shall incorporate in its decision a ruling upon each proposed finding so presented. A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed to each party or to each party's attorney or representative.

(b) Copies of such documents shall be available for public inspection in the office of State Fire Marshal or may be obtained upon request and upon payment of costs, if any.

265:3-5-17. Unauthorized ex parte communications

(a) Unauthorized ex parte communications are defined as private communications, other than those permitted elsewhere in the rules of this Chapter, with employees of the Office of the State Fire Marshal or counsel for the State Fire Marshal, as to the merits of a proceeding, i.e., findings of fact or conclusions of law, with a view towards influencing the outcome of the case, except that the following classes of ex parte communications shall not be prohibited:

(1) Those which relate to matters which the Office of the State Fire Marshal is authorized to dispose of on an ex parte basis.

(2) Request for information with respect to the status of a proceeding.

(3) Those which all parties to the proceedings agree, or which the State Fire Marshal has formally ruled, may be made on an ex parte basis.

(b) No public employee, employee organization, public employer, or any other person or organization, whether or not a party to a proceeding before the State Fire Marshal, shall make any unauthorized ex parte communication about the proceeding to any employee of the Office of the State Fire Marshal or to counsel for the State Fire Marshal.

CHAPTER 10. SMOKE DETECTORS

[Authority: 74 O.S., §§ 324.7 and 324.11a; 75 O.S., §§ 250 et seq.]

[Source: Codified 12-30-91]

SUBCHAPTER 1. GENERAL PROVISIONS

265:10-1-1. Purpose

The provisions of this chapter specify where smoke detectors are required and apply to the design, installation, maintenance and operation of all smoke detectors in the listed building and structures.

265:10-1-2. Liberal construction

The rules of this chapter shall be construed liberally to effectuate the purpose and provisions of Title 74 §§324.11a and 324.11b.

[Source: Amended at 31 Ok Reg 1558, eff 9-12-14]

265:10-1-3. Severability

The provisions of this Chapter are severable, and if any clauses, sentence, paragraph, or section thereof shall be held void, the decision of the court shall not affect or impair any of the remaining portions or provisions of this Chapter.

SUBCHAPTER 3. RATIONALIZATION

265:10-3-1. Institutional

(a) Definitions.

(1) "**Hospital**" means a building or part thereof used for the medical, psychiatric, obstetrical or surgical care on a 24-hour basis of three or more inpatients. Hospital wherever used in these rules and regulations shall include General Hospitals, Mental Hospitals, Tuberculosis Hospitals, Children's Hospitals, Specialized Hospitals and any such facilities providing inpatient care.

(2) "**Nursing home**" means a building or part thereof used for the lodging, boarding and nursing care on a 24-hour basis of three or more persons who because of mental or physical incapacity may be unable to provide for their own needs and safety without the assistance of another person. Nursing Home wherever used in these rules and regulations shall include nursing homes, convalescent homes, skilled nursing facilities and infirmaries in homes for the aged.

(3) "**Rest home**" means a facility that contains a group housing arrangement for three or more persons that provides at least two meals per day and such social and personal care services needed by the residents because of age or physical incapacity may be unable to provide for their own needs, but that do not provide intermediate or skilled nursing care.

(b) All hospitals, nursing homes, rest homes and convalescent homes, as defined in (a) of this section shall install smoke detectors as follows:

(1) New facilities: smoke detectors/detection systems shall be installed as per the requirements set out in the building codes as most recently adopted by the Oklahoma Uniform Building Code Commission.

(2) Existing facilities: approved single station or multiple station detectors must be installed in all sleeping rooms, except in facilities which have an approved corridor smoke detection system and are protected by an approved automatic sprinkler system.

[Source: Amended at 11 Ok Reg 2227, eff 6-1-94; Amended at 22 Ok Reg 1931, eff 6-25-05; Amended at 31 Ok Reg 1558, eff 9-12-14; Amended at 39 Ok Reg 1186, eff 9-11-22]

265:10-3-2. Churches, theaters and auditoriums [REVOKED]

[Source: Amended at 11 Ok Reg 2227, eff 6-1-94; Amended at 22 Ok Reg 1931, eff 6-25-05; Revoked at 31 Ok Reg 1558, eff 9-12-14]

265:10-3-3. Day nurseries (day care centers) and child care institutions

(a) Definitions.

(1) "**Day nursery (day care center)**" means a facility which provides care for six or more children for six or more hours of the 24-hour day.

(2) "**Child care institution**" means a 24-hour residential group care facility with a large number of unrelated children living together with adults

other than parents. A specialized service to be selectively and appropriately used for certain children whose needs at the present time cannot be adequately met within the family.

(b) Installation.

(1) Existing and new day nurseries, whether called day care, family day care, or group day care, must follow the provisions for smoke detection as outlined in sections 16.3.4.5 and 17.3.4.5 of the 2009 edition of the Life Safety Code, NFPA 101.

(2) Child Care Institutions shall be provided with smoke detection as follows:

(A) New facilities must meet the provisions of the building codes as most recently adopted by the Oklahoma Uniform Building Code Commission.

(B) Existing facilities must meet the appropriate provisions of the 2009 edition of the Life Safety Code based on the size of the facility.

(C) Existing child care institutions and day nurseries must meet the provisions of the Life Safety Code, 2009 Edition.

[Source: Amended at 11 Ok Reg 2227, eff 6-1-94; Amended at 22 Ok Reg 1931, eff 6-25-05; Amended at 24 Ok Reg 1893, eff 7-1-07; Amended at 31 Ok Reg 1558, eff 9-12-14]

265:10-3-4. Residential

(a) Definitions.

(1) "**Hotels/motels**" means buildings or groups of buildings under the same management in which there are sleeping accommodations for hire, primarily used by transients who are lodged with or without meals, whether designated as a hotel, inn, club or motel, or by any other name. So-called apartment hotels, because they are potentially subject to transient occupancy like that of hotels, shall be classified as hotels.

(2) "**Dormitories**" means buildings or spaces in buildings where group sleeping accommodations are provided for persons not members of the same family group, in one room or in a series of closely associated rooms under joint occupancy and single- management, as in college dormitories, fraternity houses, sorority houses, with or without meals, but without individual cooking facilities.

(3) "**Apartment houses**" means buildings containing three or more living units with independent cooking and bathroom facilities, whether designated as Apartment House, Apartments for the Elderly, Tenement, Garden Apartments, or by any other name. Apartments for the elderly are specifically designed for housing older individuals who are capable of self-preservation.

(4) "**Rooming houses**" Includes buildings in which separate sleeping rooms are rented, providing sleeping accommodations for persons on either a transient or permanent basis, with or without meals, but without separate cooking facilities for individual occupants.

(b) Approved installation. All residential occupancies as defined in (a) of this section shall have smoke detection as prescribed by the building codes as most recently adopted by the Oklahoma Uniform Building Code Commission.

[Source: Amended at 11 Ok Reg 2227, eff 6-1-94; Amended at 24 Ok Reg 1893, eff 7-1-07; Amended at 31 Ok Reg 1558, eff 9-12-14]

265:10-3-5. Clarification of residential rules

None of the above rules of this subchapter, promulgated by the State Fire Marshal Commission, shall be construed to apply to any building or structure except such buildings or structures enumerated in Section 265:10-3-4.

SUBCHAPTER 5. COMPLIANCE

265:10-5-1. Period allowed for compliance

(a) All new construction shall conform to the applicable requirements of this Chapter on certification by the authority having jurisdiction, as described in (b) and (c) of this Section, upon completion of the construction.

(b) All Hospitals, Nursing Homes, Rest Homes, Convalescent Homes, Hotels, Motels, Dormitories, Apartment Houses, including Apartments for the Elderly, and Rooming Houses of less than 10 units, which can not conform with the requirements of this Chapter on the effective Date of November 1, 1986, shall be in compliance with this Subchapter.

[Source: Amended at 11 Ok Reg 2227, eff 6-1-94; Amended at 22 Ok Reg 1931, eff 6-25-05; Amended at 31 Ok Reg 1560, eff 9-12-14; Amended at 39 Ok Reg 1186, eff 9-11-22]

265:10-5-2. Approval of sellers and installers

Every individual, firm or corporation commercially selling, installing, designing or repairing Smoke Detection Systems shall be licensed by the Alarm Division of the Oklahoma Department of Labor.

[Source: Amended at 22 Ok Reg 1931, eff 6-25-05; Amended at 31 Ok Reg 1560, eff 9-12-14]

265:10-5-3. Maintenance responsibilities

In occupancies covered by this Subchapter where the occupant is not the owner of the dwelling unit, guest area, seating area or room, the management/owner is responsible for the maintenance.

265:10-5-4. Equipment

(a) All devices, combination of devices and equipment to be installed in conformity with the edition of National Fire Protection Association (N.F.P.A) Standard #72 as referenced by the building codes most recently adopted by the Oklahoma Uniform Building Code Commission and shall be approved or listed and installed for the purpose for which they are intended.

(b) A device or system of devices having materials or forms different from those detailed in N.F.P.A. Standard #72 may be examined and tested according to the intent of these standards and, if found equivalent, may be approved.

[Source: Amended at 22 Ok Reg 1931, eff 6-25-05; Amended at 31 Ok Reg 1558, eff 9-12-14]

265:10-5-5. Enforcement

(a) No person, partnership, corporation, organization, the State, city, town, county or other sub-division of this State owning a building or structure used as a Hospital, Church, Theater, Hotel, Motel, Apartment House, rooming House, Dormitory, Rest Home, Nursing Home, Day Nursery, Convalescent Home, Auditorium or Child Care Institution, existing or constructed, shall commence the installation of Smoke Detection system without obtaining a permit.

(b) Said permit for which a charge may be made in conformity with the local ordinances, except as limited in this Chapter as to governmental agencies, shall be obtained from the city, town or county in whose jurisdiction the installation is planned.

(c) In all geographical areas wherein no permit is required by local authorities, such permit must be obtained from the State Fire Marshal, who may require the submission of plans and specifications covering the proposed installation, and he shall refuse to issue such permit unless the work planned is in accordance with the applicable provisions of current N.F.P.A. Standard #72 as referenced by the building codes most recently adopted by the Oklahoma Uniform Building Code Commission.

(d) Nothing in this Chapter shall be construed as repealing any ordinance of any city, town or county requiring the submission to the local authorities of plans and specifications and the obtaining of permits, but the power of authority of any such city, town or county to levy or assess any charge for such permit or to make and enforce requirements prerequisite to the issuance of such permit, other than requiring compliance with this Chapter, shall, as to governmental agencies, be limited as set forth in (a) through (f) of this Section.

(e) No city, town, county, State or other subdivision of government shall charge, assess or collect any fee or other charge for such permit, except the regular and customary inspection fees fixed by ordinances for inspection of the work to be done under such permit, and no other charge, fee or other conditions of any kind under the authority of this Act shall be made a condition of or prerequisite to the obtaining of such permit by any such governmental agency.

(f) In all geographical areas where no permit is issued by local authorities, the State Fire Marshal shall certify that said building is equipped with a Smoke Detection system, complying with this Chapter.

[Source: Amended at 22 Ok Reg 1931, eff 6-25-05; Amended at 31 Ok Reg 1558, eff 9-12-14]

CHAPTER 15. PROTECTIVE CLOTHING AND BREATHING APPARATUS [REVOKED]

[Authority: 74 O.S., § 324.7; 75 O.S., §§ 250§ et seq.]

[Source: Codified 12-30-91]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

265:15-1-1. Purpose [REVOKED]

[Source: Revoked at 22 Ok Reg 1934, eff 6-25-05]

265:15-1-2. Liberal construction [REVOKED]

[Source: Revoked at 22 Ok Reg 1934, eff 6-25-05]

SUBCHAPTER 3. [REVOKED]

SUBCHAPTER 5. PROTECTIVE CLOTHING [REVOKED]

265:15-5-1. NFPA standards [REVOKED]

[Source: Revoked at 22 Ok Reg 1934, eff 6-25-05]

265:15-5-2. Body protection [REVOKED]

[Source: Revoked at 22 Ok Reg 1934, eff 6-25-05]

265:15-5-3. Head protection [REVOKED]

[Source: Revoked at 22 Ok Reg 1934, eff 6-25-05]

265:15-5-4. Ear and neck protection [REVOKED]

[Source: Revoked at 22 Ok Reg 1934, eff 6-25-05]

265:15-5-5. Foot and leg protection [REVOKED]

[Source: Revoked at 22 Ok Reg 1934, eff 6-25-05]

265:15-5-6. Hand protection [REVOKED]

[Source: Revoked at 22 Ok Reg 1934, eff 6-25-05]

**SUBCHAPTER 7. SELF-CONTAINED BREATHING APPRARTUS (SCBA)
[REVOKED]**

265:15-7-1. Minimum requirements; testing [REVOKED]

[Source: Revoked at 22 Ok Reg 1934, eff 6-25-05]

265:15-7-2. ANSI standard [REVOKED]

[Source: Revoked at 22 Ok Reg 1934, eff 6-25-05]

265:15-7-3. Use [REVOKED]

[Source: Revoked at 22 Ok Reg 1934, eff 6-25-05]

265:15-7-4. Maintenance [REVOKED]

[Source: Revoked at 22 Ok Reg 1934, eff 6-25-05]

265:15-7-5. Inspection procedures [REVOKED]

[Source: Revoked at 22 Ok Reg 1934, eff 6-25-05]

265:15-7-6. Cleaning and sanitizing requirements [REVOKED]

[Source: Revoked at 22 Ok Reg 1934, eff 6-25-05]

CHAPTER 20. EXPLOSIVES [REVOKED]

[Authority: 63 O.S., § 122 et seq.; 74 O.S., § 324.7; 75 O.S., §§ 250 et seq.]

[Source: Codified 12-30-91]

265:20-1-1. Purpose [REVOKED]

[Source: Revoked at 39 Ok Reg 1187, eff 9-11-22]

265:20-1-2. Reporting theft or loss of explosive materials, including blasting caps [REVOKED]

[Source: Revoked at 39 Ok Reg 1187, eff 9-11-22]

265:20-1-3. Discontinuance of business or operation [REVOKED]

[Source: Revoked at 39 Ok Reg 1187, eff 9-11-22]

265:20-1-4. Inspection of site of accidents, explosions, or fires, right of entry [REVOKED]

[Source: Revoked at 39 Ok Reg 1187, eff 9-11-22]

265:20-1-5. Compliance with law [REVOKED]

[Source: Revoked at 39 Ok Reg 1187, eff 9-11-22]

265:20-1-6. Correct records [REVOKED]

[Source: Revoked at 39 Ok Reg 1187, eff 9-11-22]

265:20-1-7. Transporting for hire [REVOKED]

[Source: Revoked at 39 Ok Reg 1187, eff 9-11-22]

265:20-1-8. Proper storage [REVOKED]

[Source: Revoked at 39 Ok Reg 1187, eff 9-11-22]

265:20-1-9. Barrier [REVOKED]

[Source: Revoked at 39 Ok Reg 1187, eff 9-11-22]

APPENDIX A. AMERICAN TABLE OF DISTANCES [REVOKED]

[Source: Revoked at 39 Ok Reg 1187, eff 9-11-22]

CHAPTER 25. REFERENCED STATE CODES AND STANDARDS: PERMITS

[Authority: 74 O.S., §§ 324.7 and 324.11; 75 O.S., §§ 250 et seq.]

[Source: Codified 12-30-91]

265:25-1-1. Purpose

The rules and regulations of this Chapter are intended to assist in the efficient operation of the Office of the State Fire Marshal, and to provide meaningful avenues for enforcing the statutory obligations of the State Fire Marshal.

[Source: Amended at 39 Ok Reg 1198, eff 9-11-22]

265:25-1-2. Scope of referenced standards

In the event that there are inconsistencies or duplications in the requirements of those provisions incorporated by reference, the provisions incorporated by reference shall prevail, except where the regulations herein set out are more stringent.

[Source: Amended at 31 Ok Reg 1561, eff 9-12-14]

265:25-1-3. Referenced national and state codes and standards

The following building codes and standards are incorporated by reference:

- (1) Those codes most recently adopted by the Oklahoma Uniform Building Code Commission.
- (2) NFPA #99 Health Care Facilities Code, latest Edition, as it applies to life safety inspections of existing facilities and as required by other state referenced codes and federal mandates.
- (3) NFPA #101 Life Safety Code , latest Edition, as it applies to life safety inspections of existing facilities and as required by other state referenced codes and federal mandates.

[Source: Amended at 11 Ok Reg 2231, eff 6-1-94; Amended at 11 Ok Reg 4335, eff 7-8-94 (emergency); Amended at 12 Ok Reg 2265, eff 7-15-95; Amended at 14 Ok Reg 1743, eff 6-2-97; Amended at 16 Ok Reg 2443, eff 6-25-99; Amended at 17 Ok Reg 1172, eff 5-11-00; Amended at 18 Ok Reg 3045, eff 7-12-01; Amended at 19 Ok Reg 2653, eff 7-11-02; Amended at 22 Ok Reg 16, eff 7-14-04 (emergency); Amended at 22 Ok Reg 1938, eff 6-25-05; Amended at 24 Ok Reg 1894, eff 7-1-07; Amended at 27 Ok Reg 831, eff 4-25-10; Amended at 31 Ok Reg 1561, eff 9-12-14; Amended at 35 Ok Reg 1369, eff 9-14-18; Amended at 39 Ok Reg 1198, eff 9-11-22]

265:25-1-4. Building permits

(a) In all geographical areas wherein no building permit is required by local authorities such permit shall be obtained from the State Fire Marshal's Office for all Use and Occupancy Classifications identified in the International Building Code®.

(b) Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structures, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, or plumbing systems, the installation of which is regulated by the state-adopted building codes, or to cause any such work to be performed, shall first make application to the State Fire Marshal's Office and obtain the required permit.

(c) After any change of ownership, change in occupancy use or classification, and/or the building has remained unoccupied or vacated for at least 90 days involving any of the use and occupancy classifications identified in the International Building Code® and Specific Situations identified in the International Fire Code®, shall be brought up to current code requirements.

(d) All cities, towns, or counties that assume building permitting jurisdiction must complete an AHJ letter or form provided by the State Fire Marshal's Office every three (3) years. Any city, town, or county designated as the authority having jurisdiction is considered by the State Fire Marshal's Office to be the Authority Having Jurisdiction for all code requirements and responsibilities within its jurisdiction as set forth in the AHJ letter or form. This section shall not prohibit the State Fire Marshal's Office from providing code assistance to any local entity, regardless of jurisdictional boundaries; including State Fire Marshal enforcing state-adopted minimum codes.

(e) The Authority Having Jurisdiction (AHJ) hierarchy is as follows:

(1) All State owned or State occupied projects must be permitted by the State Fire Marshal's Office.

(2) The State Fire Marshal's Office has jurisdiction for the entire State of Oklahoma unless the County or City/Town has provided the State Fire Marshal's Office with a completed AHJ letter or form.

(3) A County has jurisdiction for the entire County unless a City/Town has provided the State Fire Marshal's Office with a completed AHJ letter for form.

(4) A City/Town has jurisdiction within their city/town limits that has provided the State Fire Marshal's Office with a completed AHJ letter or form.

[Source: Added at 22 Ok Reg 1938, eff 6-25-05; Amended at 31 Ok Reg 1564, eff 9-12-14; Amended at 36 Ok Reg 848, eff 7-25-19; Amended at 39 Ok Reg 1198, eff 9-11-22]

265:25-1-5. Carbon dioxide

All occupancies under the jurisdiction of the State Fire Marshal's Office with a carbon dioxide system with more than 100 pounds of accumulative CO₂, including those used in beverage dispensing applications, must have properly installed carbon dioxide detector(s). If there is a fire alarm system installed, the carbon dioxide detector(s) must be connected to the fire alarm system and sound a general alarm with both audible and visual warnings. If there is not a fire alarm system, the carbon dioxide detector(s) must provide a local alarm with audible and visual warnings. Plans must be approved and a permit issued by the State Fire Marshal's Office.

[Source: Added at 36 Ok Reg 848, eff 7-25-19; Amended at 39 Ok Reg 1198, eff 9-11-22]

265:25-1-6. Smoke detection

Smoke detection systems connected to the electrical system (as allowed by the International Building Code and International Fire Code, but not connected to a fire alarm system, shall follow all permitting requirements for a fire alarm system. Plans shall be approved and a permit issued by the State Fire Marshal's Office. NFPA 72, International Building Code and International Fire Code.

[Source: Added at 36 Ok Reg 848, eff 7-25-19; Amended at 39 Ok Reg 1198, eff 9-11-22]

265:25-1-7. Access control

All occupancies with access controlled entrance and/or egress shall be permitted. Plans shall be approved and a permit issued by the State Fire Marshal's Office. All permitting requirements are identified on the State Fire Marshal's Office website. NFPA 72, NFPA 101 Life Safety Code, International Building Code and International Fire Code.

[Source: Added at 36 Ok Reg 848, eff 7-25-19; Amended at 39 Ok Reg 1198, eff 9-11-22]

265:25-1-8. Smoke control

All occupancies with a smoke control system shall be permitted. Plans shall be approved and a permit issued by the State Fire Marshal's Office. All permitting requirements are identified on the State Fire Marshal's website. NFPA 92, NFPA 92A, International Building Code and International Fire Code.

[Source: Added at 36 Ok Reg 848, eff 7-25-19; Amended at 39 Ok Reg 1198, eff 9-11-22]

265:25-1-9. Carbon monoxide

All occupancies with a carbon monoxide system shall have properly installed carbon monoxide detector(s). If there is a fire alarm system installed, the carbon monoxide detector(s) must be connected to the fire alarm system and sound a general alarm with both audible and visual warnings. If there is not a fire alarm system, the carbon monoxide detector(s) must provide a local alarm, with audible and visual warnings. Plans must be submitted to and reviewed for approval by the State Fire Marshal's Office. All permitting requirements are identified on the State Fire Marshal's Office website. NFPA 72, NFPA 720, International Building Code and International Fire Code.

[Source: Added at 36 Ok Reg 848, eff 7-25-19; Amended at 39 Ok Reg 1198, eff 9-11-22]

265:25-1-10. Inspections

- (a) As referenced by 74 O. Section 324.11, all Correctional facilities shall be annually inspected by the State Fire Marshal's Office. All inspections will be conducted using the NFPA 101 Life Safety Code.
- (b) As referenced by the Oklahoma Department of Human Services in Title 10, Ch. 51, Section 1430.12, the State Fire Marshal's Office is required to inspect all Day Care Facilities that fall under the State Fire Marshal's Office jurisdiction. All inspections will be conducted using the NFPA 101 Life Safety Code.
- (c) The State Fire Marshal's Office conducts inspections of Education facilities up to the 12th grade that fall under the jurisdiction of the State Fire Marshal's Office. All inspections will be conducted using the NFPA 101 Life Safety Code.
- (d) As referenced by the Oklahoma Department of Health in Title 63, Ch. 1, Article 8, Section 1-828, the State Fire Marshal's Office is required to annually inspect all Assisted Living Facilities. All inspections will be conducted using the NFPA 101 Life Safety Code.
- (e) The State Fire Marshal's Office conducts inspections of state-owned facilities and facilities rented by the State of Oklahoma. All inspection will be conducted using the NFPA 101 Life Safety Code.
- (f) As referenced in 3A O.S., Ch. 2, Section 205.5, all State licensed horse race tracks shall be annually inspected by the State Fire Marshal's Office. All inspections will be conducted using the NFPA 101 Life Safety Code.
- (g) All Educational facilities shall have a commercial fire alarm system installed in accordance with NFPA 72. The commercial fire alarm system shall be monitored by a central station.
- (h) Only a positive pressure primary water source and/or tanks can be used as a reliable primary water source for fire protection.
- (1) No ponds;
 - (2) No pools;
 - (3) No open top containers;
 - (4) No cisterns; or
 - (5) No similar sources as identified above.

[Source: Added at 36 Ok Reg 848, eff 7-25-19; Amended at 39 Ok Reg 1198, eff 9-11-22]

CHAPTER 30. INSPECTION OF RACE TRACKS [REVOKED]

[Authority: 74 O.S., § 324.7]

[Source: Codified 5-11-00]

265:30-1-1. Race tracks [REVOKED]

[Source: Added at 17 Ok Reg 1175, eff 5-11-00; Amended at 19 Ok Reg 2656, eff 7-11-02; Added at 22 Ok Reg 1942, eff 6-25-05; Revoked at 39 Ok Reg 1201, eff 9-11-22]

CHAPTER 35. FIELD CITATIONS, FINES AND APPEALS

[Authority: 74 O.S., §§ 324.7 and 324.9]

[Source: Codified 5-11-00]

265:35-1-1. Field citations, fines and appeals

- (a) The Office of the State Fire Marshal is authorized to issue a field citations for violations of any lawful order of the State Fire Marshal. The field citation shall

describe the nature of the violation.

(b) Violators have the right to appeal. The appeal request must be submitted in writing and received by the State Fire Marshal within ten (10) days of the fine notice. Upon receipt of an appeal request, an appeal hearing shall be set for the next scheduled meeting of the State Fire Marshal Commission.

(c) After hearing the appeal, the State Fire Marshal Commission may affirm, modify, revoke or vacate the order and/or fine at the hearing. If a hearing is held and the violator is found to be responsible for the violation, administrative costs of \$100.00 shall be assessed, in addition to the fine.

(d) If the violator does not contest the field citation, or is found guilty of the violation after appeal, the violator shall have thirty (30) days from the date the citation is issued in which to remit to the Office of the State Fire Marshal the amount identified on the citation. Checks, cashier's checks and/or money orders should be made payable to the Office of the State Fire Marshal.

(e) Failure to pay the amount noted on the citation, or failure to appear and contest the field citation, will result in other enforcement actions and requests for assessment of additional penalties, or administrative assessments as set forth in (c) above.

(f) Issuance or payment of field citations shall in no way preclude other enforcement proceedings, administrative penalties, fines or order of the Office of the State Fire Marshal if the alleged violator fails to correct a violation in a reasonable manner, as determined by the Office of the State Fire Marshal.

(g) Proceeds from payment of field citations shall be deposited into the Office of the State Fire Marshal revolving fund.

[Source: Added at 17 Ok Reg 1176, eff 5-11-00; Amended at 19 Ok Reg 2656, eff 7-11-02; Amended at 22 Ok Reg 1942, eff 6-25-05; Amended at 31 Ok Reg 1565, eff 9-12-14; Amended at 39 Ok Reg 1201, eff 9-11-22]

CHAPTER 40. FIRE SAFETY STANDARDS FOR CIGARETTES

[Authority: 74 O.S. § 324.11]

[Source: Codified 4-25-10]

265:40-1-1. Scope

(a) On and after January 1, 2009, no cigarettes subject to the provisions of the Fire Safety Standard and Firefighter Protection Act or this Chapter shall be sold or offered for sale in this State unless:

- (1) the cigarettes have been tested in accordance with the test method prescribed in OAC 265:40-1-3;
- (2) the cigarettes meet the performance standard specified in OAC 265:40-1-4;
- (3) a written certification has been filed by the manufacturer with the Office of the State Fire Marshal, 2401 N.W. 23rd Street, Suite 4, Oklahoma City, Oklahoma 73107 in accordance with OAC 265:40-1-6; and
- (4) the cigarettes have been marked in accordance with OAC 265:40-1-8.

(b) Nothing in this Chapter shall prohibit:

- (1) any person or entity from manufacturing or selling cigarettes that do not meet the requirements of this Chapter, if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States pursuant to 74 O.S. Supp. 2008 § 326.10 and that person or entity has taken reasonable steps to ensure that such cigarettes will not be sold or offered to sale to persons located in this State; and

(2) the sale of cigarettes solely for the purpose of consumer testing. For purposes of this Chapter, the term 'consumer testing' means an assessment of cigarettes that is conducted by a manufacturer or under the control and direction of a manufacturer, for the purpose of evaluating consumer acceptance of such cigarettes, utilizing only the quantity of cigarettes that is reasonably necessary for such assessment.

[Source: Added at 26 Ok Reg 522, eff 1-2-09 through 7-14-09 (emergency)¹; Added at 27 Ok Reg 834, eff 4-25-10; Amended at 39 Ok Reg 1202, eff 9-11-22]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 265:40-1-1 was no longer effective, and remained as such until added by permanent action on 4-25-10. For the official text of the emergency rule that was in effect from 1-2-09 through 7-14-09, see 26 Ok Reg 522.

265:40-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning:

"Act" means the Fire Safety Standard and Firefighter Protection Act.

"Agent" means any person licensed by the Oklahoma Tax Commission to purchase and affix adhesive or meter stamps on packages of cigarettes.

"Cigarette" means any roll for smoking, whether made wholly or in part of tobacco or any other substance, irrespective of size or shape, and whether or not such tobacco or substance is flavored, adulterated, or mixed with any other ingredient, if the wrapper or cover is in greater part made of paper or any other substance or material except tobacco.

"Manufacturer" means any entity that manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that the manufacturer intends to be sold in this State, including cigarettes intended to be sold in the United States through an importer; the first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or any entity that becomes a successor of an entity described above.

"OSFM" means the Office of the Oklahoma State Fire Marshal.

"Quality Control and Quality Assurance Program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. This program ensures that the testing repeatability remains within the required repeatability values stated in Section 40-1-3(e) of this Part for all test trials used to certify cigarettes in accordance with the Act.

"Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95% of the time.

"Retail Dealer" means any person, other than a manufacturer or wholesale dealer, engaged in selling cigarettes.

"Sale" means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefore. In addition to cash and credit sales, the giving of cigarettes as samples, prizes, or gifts and the exchanging of cigarettes for any consideration other than money are considered sales.

"Sell" means to sell or to offer or agree to sell.

"Wholesale Dealer" means any person who sells cigarettes to retail dealers or other persons for purposes of resale, and any person who owns, operates or maintains one or more cigarette vending machines in, at or upon premises owned or

occupied by any other person.

[Source: Added at 26 Ok Reg 522, eff 1-2-09 through 7-14-09 (emergency)¹; Added at 27 Ok Reg 834, eff 4-25-10]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 265:40-1-2 was no longer effective, and remained as such until added by permanent action on 4-25-10. For the official text of the emergency rule that was in effect from 1-2-09 through 7-14-09, see 26 Ok Reg 522.

265:40-1-3. Test method

(a) Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials (ASTM) Standard E2187-04 (2004) "Standard Test Method for Measuring the Ignition Strength of Cigarettes". This standard may be obtained from the publisher at ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken PA 19428-2959. This material is available for public inspection and distribution at the Office of the State Fire Marshal, 2401 NW 23rd Street, Suite 4, Oklahoma City, Oklahoma 73107.

(b) Testing shall be conducted on 10 layers of filter paper.

(c) Forty replicate tests shall comprise a complete test trial for each cigarette tested.

(d) The performance standard required by OAC 265:40-1-4 shall only be applied to a complete test trial.

(e) Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization (ISO), or other comparable accreditation standard as determined by the State Fire Marshal.

(f) Laboratories conducting testing in accordance with this Chapter shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall be no greater than 0.19.

(g) This Section does not require additional testing, in accordance with this Chapter, if cigarettes are tested consistently with the Act for any other purpose. OSFM may, at its sole discretion, conduct random independent tests of certified brands to verify the accuracy of the information submitted to OSFM by the manufacturer. This testing shall be conducted in accordance with this Section.

[Source: Added at 26 Ok Reg 522, eff 1-2-09 through 7-14-09 (emergency)¹; Added at 27 Ok Reg 834, eff 4-25-10]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 265:40-1-3 was no longer effective, and remained as such until added by permanent action on 4-25-10. For the official text of the emergency rule that was in effect from 1-2-09 through 7-14-09, see 26 Ok Reg 522.

265:40-1-4. Performance standard

(a) When tested in accordance with OAC 265:40-1-3, no more than 25 percent of the cigarettes tested in a test trial shall exhibit full length burns.

(b) Each cigarette listed in a certification submitted pursuant to OAC 265:40-1-6 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in subsection (a) shall have at least two (2) nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two (2) bands fully located at least fifteen (15) millimeters from the lighting end and ten (10) millimeters from the filter end of the tobacco column or

ten (10) millimeters from the labeled end of the tobacco column for a non-filtered cigarette.

(c) The manufacturer of a cigarette that OSFM determines cannot be tested in accordance with the test method prescribed in OAC 265:40-1-3 shall propose a test method and performance standard for that cigarette to OSFM. Upon approval of the proposed test method and a determination by OSFM that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in OAC 265:40-1-4(a), the manufacturer may employ that test method and performance standard to certify the cigarette pursuant to OAC 265:40-1-6. All other applicable requirements of this Chapter shall apply to the manufacturer.

(d) If OSFM determines that another state, with reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in the Act, has adopted an alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to this Section, then the State Fire Marshal shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in this State unless the State Fire Marshal demonstrates a reasonable basis for not accepting the alternative test method.

[Source: Added at 26 Ok Reg 522, eff 1-2-09 through 7-14-09 (emergency)¹; Added at 27 Ok Reg 834, eff 4-25-10]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 265:40-1-4 was no longer effective, and remained as such until added by permanent action on 4-25-10. For the official text of the emergency rule that was in effect from 1-2-09 through 7-14-09, see 26 Ok Reg 522.

265:40-1-5. Test reports

In order to ensure compliance with the performance standard specified in OAC 265:40-1-4, each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of 3 years and shall make copies of those reports available to OSFM upon its request, and to the Office of the Attorney General upon its request.

[Source: Added at 26 Ok Reg 522, eff 1-2-09 through 7-14-09 (emergency)¹; Added at 27 Ok Reg 834, eff 4-25-10]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 265:40-1-5 was no longer effective, and remained as such until added by permanent action on 4-25-10. For the official text of the emergency rule that was in effect from 1-2-09 through 7-14-09, see 26 Ok Reg 522.

265:40-1-6. Certification

(a) Each manufacturer shall submit a written certification attesting that:

- (1) each cigarette listed in the certification has been tested in accordance with OAC 265:40-1-3; and
- (2) each cigarette listed in the certification meets the performance standard set forth in OAC 265:40-1-4 or meets the performance standard by any other state having equal or stricter performance standards.

(b) Each cigarette listed in the certification shall be described with the following information:

- (1) brand (i.e., the trade name on the package);
- (2) style (e.g., light, ultra light);
- (3) length in millimeters;
- (4) circumference in millimeters;

- (5) flavor (e.g., menthol, chocolate), if applicable;
 - (6) filter or non-filter;
 - (7) package description (e.g., soft pack, box);
 - (8) marking approved in accordance with OAC 265:40-1-8;
 - (9) the name, address and telephone number of the laboratory, if different than the manufacturer that conducted the test; and
 - (10) the date the testing occurred.
- (c) Each cigarette certified under this Section shall be re-certified every 3 years. Re-certification may be coordinated with re-certification required by other states with the same standard.
- (d) At the time it submits a written certification under this Section, a manufacturer shall pay to the OSFM a fee for each brand family listed in the certification as established by the Act. The fee paid shall apply to all cigarettes within the brand family certified, and shall include any new cigarette certified within the brand family during the three-year certification period.
- (e) The certifications shall be made available by OSFM to the Attorney General for purposes consistent with this Chapter and the Tax Commission for the purposes of ensuring compliance with this Section.
- (f) If a manufacturer has certified a cigarette pursuant to this Section, and thereafter makes any change to such cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by this Chapter, that cigarette shall not be sold or offered for sale in this State until the manufacturer retests the cigarette in accordance with the testing standards set forth in OAC 265:40-1-3 and maintains records of that retesting as required by OAC 265:40-1-5. Any altered cigarette which does not meet the performance standard set forth in OAC 265:40-1-4(a) may not be sold in this State.

[Source: Added at 26 Ok Reg 522, eff 1-2-09 through 7-14-09 (emergency)¹; Added at 27 Ok Reg 834, eff 4-25-10]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 265:40-1-6 was no longer effective, and remained as such until added by permanent action on 4-25-10. For the official text of the emergency rule that was in effect from 1-2-09 through 7-14-09, see 26 Ok Reg 522.

265:40-1-7. Notification of certification

- (a) After the acceptance of the manufacturer's certification by OSFM, manufacturers certifying cigarettes in accordance with OAC 265:40-1-6 shall provide a copy of the certifications to all wholesale dealers and agents to which they sell cigarettes.
- (b) OSFM and the Office of the Attorney General will cooperate to produce a list of cigarette brands and styles that are legal for sale under any and all of the laws of the State of Oklahoma.
- (c) If OSFM intends to remove a brand from the certified list, it will send a notice of intent to remove to the manufacturer. The notice of intent to remove shall include:
- (1) the factual and legal deficiencies upon which OSFM's intended action rests;
 - (2) the actions that the manufacturer must undertake to cure the factual or legal deficiencies upon which the intended action is based; and
 - (3) A notification that the manufacturer shall have 30 calendar days to cure deficiencies and submit documentation or other information of its attempt to cure to OSFM. OSFM may extend the time period for a manufacturer to

cure its deficiencies.

[Source: Added at 26 Ok Reg 522, eff 1-2-09 through 7-14-09 (emergency)¹; Added at 27 Ok Reg 834, eff 4-25-10]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 265:40-1-7 was no longer effective, and remained as such until added by permanent action on 4-25-10. For the official text of the emergency rule that was in effect from 1-2-09 through 7-14-09, see 26 Ok Reg 522.

265:40-1-8. Marking of cigarette packaging

(a) Cigarettes that have been certified by a manufacturer in accordance with OAC 265:40-1-6 shall be marked to indicate compliance with the requirements of this Chapter. Marking shall be in eight (8) point type or larger and consist of:

- (1) the letters "FSC" and be permanently stamped, engraved, embossed or printed on the package at or near the UPC; and
- (2) A manufacturer's marking shall meet all requirements set forth in § 326.5 of the Act.

(b) Wholesale dealers, agents and retail dealers shall permit OSFM, Oklahoma Tax Commission and Office of the Attorney General representatives to inspect cigarette packaging to ensure it is marked in accordance with this Section.

(c) Prior to the certification of any cigarette, a manufacturer shall present its proposed marking to OSFM for approval. Upon receipt of the request, OSFM will approve or disapprove the marking offered. Proposed markings shall be deemed approved if OSFM fails to act within ten (10) business days after receiving a request for approval.

(d) No manufacturer shall modify its approved marking unless the modification has been approved by OSFM in accordance with this Section.

[Source: Added at 26 Ok Reg 522, eff 1-2-09 through 7-14-09 (emergency)¹; Added at 27 Ok Reg 834, eff 4-25-10]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 265:40-1-8 was no longer effective, and remained as such until added by permanent action on 4-25-10. For the official text of the emergency rule that was in effect from 1-2-09 through 7-14-09, see 26 Ok Reg 522.

265:40-1-9. Penalties

(a) Any manufacturer, wholesale dealer, agent, or other person or entity who knowingly sells or offers to sell cigarettes other than through retail sale in violation of OAC 265:40-1-1(a)(3) shall be subject to a civil penalty not to exceed \$500.00 for each pack of such cigarettes sold or offered for sale, provided that the penalty against any such person or entity shall not exceed \$100,000.00 for sales or offers to sell in any thirty (30) day period.

(b) Any retail dealer who knowingly sells or offers to sell cigarettes in violation of OAC 265:40-1-1(a)(3) shall be subject to a civil penalty not to exceed \$500.00 for each pack of cigarettes sold or offered for sale, provided that the penalty against any retailer shall not exceed \$25,000.00 for sales or offers to sell during any thirty (30) day period.

(c) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietorship, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to Section 326.4 of the Act shall be subject to a civil penalty of at least \$75,000.00 and not to exceed \$250,000.00 for each false certification.

(d) Upon discovery by OSFM, the Oklahoma Tax Commission, the Office of the Attorney General, or a law enforcement agency that any person offers, possesses

for sale, or has made a sale of cigarettes in violation of the Act, OSFM, the Oklahoma Tax Commission, the Office of the Attorney General, or the law enforcement agency may seize those cigarettes possessed in violation of the Act.

(e) To enforce the provisions of the Act, the State Fire Marshal or Attorney General may bring an action on behalf of the people of this State to enjoin acts in violation of the Act and to recover civil penalties authorized under Section 326.6 of the Act and this Chapter.

(f) Civil penalties under this Section shall be assessed by administrative citation issued by the OSFM according to the following provisions:

(1) the civil penalties for OAC 265:40-1-9(a) shall be \$100.00 per pack for the first violation, \$250.00 per pack for the second violation and \$500.00 per pack for each subsequent violation, all subject to the thirty (30) day period maximum per the Act;

(2) the civil penalties for OAC 265:40-1-9(b) shall be \$50.00 per pack for the first violation, \$150.00 per pack for the second violation, \$350.00 per pack for the third offense and \$500.00 per pack for each subsequent violation, all subject to the thirty (30) day period maximum per the Act; and

(3) the civil penalties for OAC 265:40-1-9(c) shall be \$75,000.00 for making a knowingly false certification of any brand style. Any subsequent making of a knowingly false certification of the same brand will be subject to a civil penalty of \$250,000.00.

(g) Administrative citations issued pursuant to this Section shall be scheduled for hearing before the State Fire Marshal within sixty (60) days of issuance pursuant to 75 O.S. § 309. Hearings before the State Fire Marshal under this Section shall comply with OAC Title 265, Chapter 1, Subchapter 5.

[Source: Added at 26 Ok Reg 522, eff 1-2-09 through 7-14-09 (emergency)¹; Added at 27 Ok Reg 834, eff 4-25-10]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 265:40-1-9 was no longer effective, and remained as such until added by permanent action on 4-25-10. For the official text of the emergency rule that was in effect from 1-2-09 through 7-14-09, see 26 Ok Reg 522.

265:40-1-10. Federal fire safety standards

If federal fire safety standards for cigarettes preempt the Act or this Chapter, the OSFM will repeal this Chapter.

[Source: Added at 26 Ok Reg 522, eff 1-2-09 through 7-14-09 (emergency)¹; Added at 27 Ok Reg 834, eff 4-25-10]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 265:40-1-10 was no longer effective. For the official text of the emergency rule that was in effect from 1-2-09 through 7-14-09, see 26 Ok Reg 522.

265:40-1-11. Notification to the OSFM

All required notices, test results and documents shall be sent to: Office of the State Fire Marshal, 2401 NW 23rd Street, Suite 4, Oklahoma City, Oklahoma 73107.

[Source: Added at 26 Ok Reg 522, eff 1-2-09 through 7-14-09 (emergency)¹; Added at 27 Ok Reg 834, eff 4-25-10]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-09 (after the 7-14-09 expiration of this emergency action), Section 265:40-1-11 was no longer effective, and remained as such until added by permanent action on 4-25-10. For the official text of the emergency rule that was in effect from 1-2-09 through 7-14-09, see 26 Ok Reg 522.

CHAPTER 45. FIREWORKS

[Authority: 68 O.S. § 1625]

[Source: Codified 7-12-12]

265:45-1-1. Purpose and scope

The purpose of the rules shall be to provide the minimum requirements for outdoor fireworks displays and for licensure of display operators. The State Fire Marshal shall establish a program for the licensure of Outdoor Display Operators. A license may be granted upon demonstration that the applicant has a satisfactory understanding of the handling and use of fireworks, equipment used for outdoor fireworks displays, and the operations of the display as required by the currently adopted version of NFPA 1123 Code for Fireworks Display.

[Source: Added at 29 Ok Reg 1599, eff 7-12-12]

265:45-1-2. Training and renewals

Pre-license Outdoor Display Operator training programs and continuing education classes shall be approved by the State Fire Marshal. Pre-license training programs and continuing education classes shall be taught by a currently licensed Outdoor Display Operator. Pre-license training program curriculum shall include training on the currently adopted NFPA 1123. All requests for approval of pre-license training programs and continuing education classes shall be submitted on forms prescribed by the State Fire Marshal. Upon completion of at least eight (8) hours of OSFM approved pre-license outdoor display operator training an applicant is eligible to take the required examination. An applicant seeking renewal of their existing outdoor display operator license shall submit proof of completion of at least six (6) hours of OSFM approved continuing education prior to issuance of a renewed license.

[Source: Added at 29 Ok Reg 1599, eff 7-12-12]

265:45-1-3. Examination and testing

To obtain an Outdoor Display Operator License an applicant shall pass an examination prescribed by the State Fire Marshal. Correctly answering 70% or more of the questions will be considered a passing score. If the applicant fails to pass the test on the first attempt the applicant is eligible to immediately take the examination a second time. If a passing score is not achieved on the second attempt the applicant may only attempt the examination once every thirty (30) days. Applicants shall be responsible for the cost of administering the examination as prescribed by OSFM administrative rules.

[Source: Added at 29 Ok Reg 1599, eff 7-12-12]

265:45-1-4. Licensing of Outdoor Display Operators

An applicant for licensure as an outdoor fireworks display operator shall:

- (1) Submit a license fee of \$75.00 with the application form prescribed by the State Fire Marshal.
- (2) Complete at least eight (8) hours of OSFM approved pre-license outdoor display operator training.
- (3) Pass the examination prescribed by the State Fire Marshal with a score of 70% or better.

- (4) Provide proof satisfactory to the State Fire Marshal of working under competent supervision on at least three (3) outdoor fireworks displays in the three (3) years immediately preceding the application.

[Source: Added at 29 Ok Reg 1599, eff 7-12-12]

265:45-1-5. Renewals

- (a) Renewal notices will be sent out by the state fire marshal sixty (60) days prior to expiration of each license. Failure to renew a license prior to expiration may result in the retaking of a pre-license training program.
- (b) An applicant for renewal of an Outdoor Display Operator license shall submit a renewal of \$75.00. Re-issuance of a lost license may be at a cost of \$75.00.
- (c) Proof of completion of at least six (6) hours of OSFM approved continuing education requirements must be provided as a prerequisite to renewal.

[Source: Added at 29 Ok Reg 1599, eff 7-12-12]

265:45-1-6. Training; Continuing Education

- (a) All continuing education courses must be approved by the State Fire Marshal for applicants to receive credit for the course.
- (b) The applicant shall provide verification to the State Fire Marshal of having obtained the required continuing education credits. Verification consists of a form certifying attendance at the course, the number of continuing education credits obtained at the course, and the course instructor's signature.
- (c) A renewal applicant shall submit to the State Fire Marshal the application form after completing the required continuing education hours. The applicant is responsible for ensuring timely submittal of the required continuing education verification. Documentation that shows the applicant was self-taught without course instruction will not be accepted for continuing education credits.
- (d) In order to obtain approval to provide pre-license training or continuing education courses, the course provider shall first obtain a Trainer/Instructor issued number through the State Fire Marshal. The provider shall submit to the State Fire Marshal course materials including an outline of the course instruction, resume of the instructor, the number of instruction hours provided, and the dates and times of the course will be offered. A course provider seeking approval of a course shall submit the required documentation no later than forty (40) business days prior to the first offering of the course.
- (e) Continuing education credit may be granted to the instructor, at the discretion of the State Fire Marshal, for the instruction of continuing education courses.
- (f) Applicants who take more hours than the required continuing education for the renewal period will not be permitted to carry-over the credit hours into the next renewal cycle.
- (g) The state fire marshal may conduct random audits of applicants and continuing education courses to ensure compliance.
- (h) Each applicant is responsible for maintaining sufficient records which may be used to support claimed continuing education credits.
- (i) The state fire marshal may require completion of specific continuing education classes in order to renew registration.
- (j) Applicants will not receive credit for taking a course more than once each renewal cycle.

[Source: Added at 29 Ok Reg 1599, eff 7-12-12]

CHAPTER 50. FIRE EXTINGUISHER INDUSTRY

***Editor's Note:** Effective 11-1-13, "all administrative rules promulgated the State Board of Health relating to the Fire Extinguisher Licensing Act [were] transferred to and [became] a part of the administrative rules of the State Fire Marshal Commission" [Laws 2013, c. 111, § 1(G)]. As directed, the Office of Administrative Rules transferred and renumbered the sections from Chapter 451 of the State Board of Health's rules in the Oklahoma Administrative Code [OAC 310:451] to this new Chapter 50 in the State Fire Marshal Commission's rules [OAC 265:50]. The rules "shall continue in force and effect as rules of the State Fire Marshal Commission from and after [November 1, 2013], and any amendment, repeal or addition to the transferred rules shall be under the jurisdiction of the Oklahoma Fire Marshal Commission" [Laws 2013, c. 111, § 1(G)].*

[**Authority:** 59 O.S. §§ 1820.1 et seq.; Laws 2013, c. 111]
[**Source:** Codified 11-1-13]

SUBCHAPTER 1. GENERAL PROVISIONS

265:50-1-1. Purpose

The rules of this chapter implement the Fire Extinguisher Licensing Act, Title 59 O.S., Section 1820.1 et seq.

[**Source:** Transferred from 310:451-1-1 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this Chapter); Amended at 31 Ok Reg 1566, eff 9-12-14]

265:50-1-2. Definitions

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

"Agency" means the Oklahoma State Fire Marshal's Office.

"Certificate of course completion" means a document acceptable to the Committee which signifies satisfactory completion of course work.

"Certification of a system" means testing per applicable code of any pre-engineered or engineered fire suppression system by a properly licensed individual working for a properly licensed company to verify that the system complies with all of the requirements of the applicable code, standard or manufacturer's manual.

"Commercial Building" means a building or structure used for any purpose or occupancy that is not defined in this section as a Residential Building.

"Committee" means the Fire Extinguisher Industry Committee.

"Direct Supervision" means the presence of a licensed manager or technician on the premise within the hearing or eye sight of the individual(s) requiring supervision.

"Engineered Fire Suppression System" means any fixed fire suppression unit that is designed by the installing or inspecting company. Manufacturers may provide design, installation or inspection criteria but each system is specifically designed for a specific hazard area by someone outside of the manufacturer of the system.

"Engineered Fire Suppression Company" means a business that provides engineered fire suppression systems to others by any means, including, but not limited to, the sale, lease, rent, design, planning, installation, maintenance, repair, testing, modification, improvement, alteration, inspection or servicing of a engineered fire suppression system; holding oneself or one's company out for hire

to perform any such task; or otherwise offering to perform any such task for compensation, either directly or indirectly.

"Engineered Fire Suppression Designer" means a person who designs engineered fire suppression systems on behalf of a licensed Oklahoma engineered fire suppression system company.

"Engineered Fire Suppression Company Qualified Agent" means the person who shall be responsible for providing direct supervision over the function and local operations of such engineered fire suppression systems industry business or a branch thereof.

"Engineered Fire Suppression System Salesperson" means a person who sells to others on behalf of licensed Oklahoma engineered fire suppression systems company by any means including, but not limited to, telephone or electronic device, public notice or advertisement, door-to-door, or any other type of personal interaction, and/or a person who participates in the specification and/or layout of an engineered fire suppression system on behalf of an engineered fire suppression systems company.

"Engineered Fire Suppression System Technician" means an individual who is employed by an Oklahoma licensed engineered fire suppression systems company to plan, lay out, sell, install, maintain, repair, test, inspect or service engineered fire suppression systems.

"IBC" means the International Building Code®.

"ICC" means the International Code Council, Inc.

"Inspection" means the virtual observation or test of any portable fire extinguisher, pre-engineered fire suppression system or engineered fire suppression system to determine if the system has been installed and is operating according to the applicable code, standard or manufacturer's manual.

"Manufactured Housing" means a structure, transportable in one or more sections, which in the traveling mode is 8 body feet (2438 body mm) or more in width or 40 body feet (12192 body mm) or more in length, or, when erected on site, is 320 square feet (30 m²) or more and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. For the purpose of these rules, a mobile home shall be considered a manufactured home and each shall be regarded as manufactured housing.

"NFPA" means the National Fire Protection Association®.

"Ownership" means the dominion, title or proprietary right in a company subject to the Fire Extinguisher Licensing Act and this chapter.

"Portable Fire Extinguisher" means any hand-held, wheeled, stationery or skid mounted unit designed for the unit itself to be mobile or the means of distributing the firefighting agent to be mobile to extinguish a fire. This includes all units that use a nozzle connected directly to the unit or a nozzle connected to a hose of any length which is connected to the unit.

"Portable Fire Extinguisher Company" means a business that provides portable fire extinguishers to others by any means, including, but not limited to, the sale, lease, rent, planning, installation, maintenance, repair, testing, modification, improvement, alteration, inspection or servicing of a portable fire extinguisher, holding oneself or one's company out for hire to perform any such task; or otherwise offering to perform any such task for compensation, either directly or indirectly.

"Portable Fire Extinguisher Company Qualified Agent" means the person who shall be responsible for providing direct supervision over the function and local operations of such fire extinguisher industry business or a branch thereof.

"Portable Fire Extinguisher Salesperson" means a person who sells to others on behalf of licensed Oklahoma portable fire extinguisher company by any means including, but not limited to, telephone or electronic device, public notice or advertisement, door-to-door, or any other type of personal interaction, and/or a person who participates in the specification and/or layout of a portable fire extinguisher on behalf of a portable fire extinguisher company.

"Portable Fire Extinguisher Technician" means an individual who is employed by an Oklahoma licensed portable fire extinguisher company to plan, lay out, sell, install, maintain, repair, inspect or service portable fire extinguishers.

"Pre-Engineered Fire Suppression System" means any fixed fire suppression system that is engineered by the manufacturer and provides, to installing companies, a design manual with preset limitations for the design, inspection or installation of the system.

"Pre-Engineered Fire Suppression Company" means a business that provides pre-engineered fire suppression systems to others by any means, including, but not limited to, the sale, lease, rent, design, planning, installation, maintenance, repair, testing, modification, improvement, alteration, inspection or servicing of a pre-engineered fire suppression system; holding oneself or one's company out for hire to perform any such task; or otherwise offering to perform any such task for compensation, either directly or indirectly.

"Pre-Engineered Fire Suppression Company Qualified Agent" means the person who shall be responsible for providing direct supervision over the function and local operations of such pre-engineered fire suppression systems industry business or a branch thereof.

"Pre-Engineered Fire Suppression System Salesperson" means a person who sells to others on behalf of licensed Oklahoma pre-engineered fire suppression systems company by any means including, but not limited to, telephone or electronic device, public notice or advertisement, door-to-door, or any other type of personal interaction, and/or a person who participates in the specification and/or layout of a pre-engineered fire suppression system on behalf of a pre-engineered fire suppression systems company.

"Pre-Engineered Fire Suppression System Technician" means an individual who is employed by an Oklahoma licensed pre-engineered fire suppression systems company to design, plan, lay out, sell, install, maintain, repair, test, inspect or service pre-engineered fire suppression systems.

"Security Verification" means information submitted to the appropriate authority on each applicant to verify any criminal records.

"Supervision" means on-site supervision by a licensed qualified agent, technician or salesperson.

"System" means a pre-engineered or engineered fire suppression system, as defined in these rules, or a portion or combination of such systems.

"Trainee" means an individual who is employed by an Oklahoma licensed portable, pre-engineered or engineered company to learn to properly engage in the activities regulated by this chapter that can engage in any licensed category pursuant to this chapter while under the direct supervision of an individual holding the appropriate license in the category of work being performed.

265:50-1-3. Adopted references

The Oklahoma State Fire Marshal Commission hereby incorporates by reference the following standards governing the materials, services and conduct of the licenses and the employees of licensees in regard to the fire extinguisher industry: the most recently adopted International Building Code® (IBC) and the International Fire Code® (IFC) by the Oklahoma Uniform Building Code Commission, and the referenced codes identified within the IBC and the IFC. If a conflict exists between any of the above-referenced installation standards, the more stringent shall apply. If a conflict exists between any of the above-referenced codes or standards and this chapter, the requirements in this chapter shall apply.

[Source: Transferred from 310:451-1-3 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this Chapter); Amended at 31 Ok Reg 1566, eff 9-12-14; Amended at 39 Ok Reg 1203, eff 9-11-22]

265:50-1-3.1. Compliance with intent of Chapter

Where no specific standards or requirements are specified in this chapter or within other codes or regulations adopted by the Oklahoma State Fire Marshal Commission, compliance with the applicable standards of the National Fire Protection Association, American National Standard Institute (ANSI), or other nationally recognized fire safety standards approved by the State is prima facie evidence of compliance with the intent of this chapter.

[Source: Transferred from 310:451-1-3.1 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this Chapter); Amended at 31 Ok Reg 1566, eff 9-12-14]

SUBCHAPTER 3. LICENSE REQUIREMENTS

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

The categories of licensing in the Fire Extinguisher industry shall be:

- (1) Portable fire extinguisher;
- (2) Pre-Engineered fire suppression systems; or
- (3) Engineered fire suppression systems.

[Source: Transferred from 310:451-3-1 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this Chapter)]

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

(a) **Application and license fees.** The following fees apply to the Fire Extinguisher Industry licensure:

- (1) Initial application and licensing fees:
 - (A) Company - \$250.00;
 - (B) Company Qualified Agent - \$200.00;
 - (C) Designer Application - \$200.00;
 - (D) Technician - \$75.00;
 - (E) Trainee - \$75.00;
 - (F) Salesperson - \$75.00;
- (2) Renewal Fees:
 - (A) Company License - \$250.00;
 - (B) Company Qualified Agent - \$100.00;
 - (C) Designer - \$100.00;
 - (D) Technician - \$35.00;

- (E) Trainee - \$35.00;
- (F) Salesperson - \$35.00;
- (G) Duplicate License - \$25.00

(b) License period.

(1) A license shall expire on September 30, 2009 and each year thereafter. Renewals must be received or postmarked on or before September 30 of each year. Beginning October 1 a license may be renewed by paying double the renewal fee.

(2) Initial applicants for managers, designers, technicians, salespersons and trainees shall provide either:

(A) An application and a current criminal history record check dates within thirty days of application, from the Oklahoma State Bureau of Investigations. If the applicant has not resided in the State of Oklahoma for the past ten (10) years, a current criminal history record check from each State of previous residents will be required. In addition two (2) completed fingerprint cards and two (2) passport photos (provides for temporary licensure);

(B) An application two (2) completed fingerprint cards and two (2) passport photos (does not provide for temporary licensure).

(3) A license which has been expired for more than two (2) years shall not be renewed. An individual may obtain a valid license by successful completion of the appropriate examination and/or certification and other licensure requirements.

(4) From July 1, 2008 through September 20, 2008 the State Fire Marshal shall, upon proper application and payment of fee, make license without examination those persons who can provide evidence that they were engaged in fire suppression work prior to November 1, 2007. Example of evidence includes but not limited to:

(A) Invoices for work performed;

(B) Purchase receipts for industry related equipment;

(C) Documents of installation or services by employee;

(D) Provide documentation of printed advertising dated prior to the effective date of November 1, 2007; and

(E) Other documents as provided by the Committee.

(c) Examination and Re-examination. Any applicant failing to pass the appropriate examination shall be required to retake the same category examination and pay the appropriate retest fee to the testing provider prior to licensure. If a passing score is not achieved on the second exam attempt the applicant may only retake the examination once every thirty (30) days. The exam provider will send the exam results directly to the OSFM offices. Passing exam scores are valid for 90 days and application for licensure must be submitted 90 days from taking the exam or the exam must be retaken.

(d) Company license display. The state issued company license number shall be placed on all letterhead stationery, business cards, invoices, statements, contracts, bids, estimates, plans, submittals and printed advertisements and shall be included in electronic media advertisements. Decals and yard signs shall display the state issued company license number. The state issued company license number shall be located on all vehicles that display the company name.

(e) Personal license display. Each qualified agent, designer, technician, trainee or salesperson shall possess the state issued card any time the person is working in such capacity. The individual license shall be presented to any authorized

representative of the Oklahoma State Fire Marshal's Office or other authorities having jurisdiction. In addition the individual shall have a state/government issued photo ID in their possession while engaged in the licensed activity.

(f) Personal license information.

(1) Each individual license holder shall notify the Oklahoma State Fire Marshal's Office on a form specified and provided by the Oklahoma State Fire Marshal's Office within fourteen (14) days of the following:

(A) Any change in the home address.

(B) Any separation from an employer or change in employer.

(C) Any conviction for a felony or entry of a plea of guilty or nolo contendere to a felony charge.

(2) No individual licensed under this Chapter shall contract for his services as an independent contractor without applying for and being issued a company and qualified agent license under this Chapter. No company shall contract for the independent services of a holder of an individual license under this Section.

[Source: Transferred from 310:451-3-2 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this Chapter); Amended at 31 Ok Reg 1566, eff 9-12-14; Amended at 34 Ok Reg 1257, eff 9-11-17]

265:50-3-3. Portable fire extinguisher license requirements

Licensing requirements for the portable fire extinguisher industry are as follows:

(1) Company.

(A) Each company shall employ an Oklahoma licensed portable fire extinguisher qualified agent who is responsible for the operations of the company's office. Any company maintaining separate offices within Oklahoma shall apply for a separate license for each company office and have a licensed portable fire extinguisher qualified agent at each office. A portable fire extinguisher company shall notify the Agency within fourteen (14) days in the event of the death of the portable fire extinguisher qualified agent or the qualified agent's separation from the company for any other reason and the company shall designate another licensed portable fire extinguisher qualified agent within thirty (30) days from separation.

(B) A licensed portable fire extinguisher technician or qualified agent shall be on site for any work being performed.

(2) Qualified agent.

(A) Each application for licensure as a portable fire extinguisher qualified agent shall include verification of 2000 hours of technical experience in the portable fire extinguisher business. The experience shall include verified /or licensed experience as a portable fire extinguisher technician or other related experience approved by the Committee.

(B) Each licensed portable fire extinguisher company qualified agent shall be responsible for all activities conducted within the State of Oklahoma by the office where they are listed as qualified agents.

(C) Each licensed portable fire extinguisher company qualified agent shall have security background verification.

(D) As of October 1, 2008 each applicant for licensure as a portable fire extinguisher qualified agent shall pass an examination prescribed by the Committee.

(3) Technician.

(A) Each portable fire extinguisher technician shall work for a licensed portable fire extinguisher company and under the supervision of a portable fire extinguisher qualified agent.

(B) As of October 1, 2008 each applicant for licensure as a portable fire extinguisher technician shall pass an examination prescribed by the Committee.

(C) Each portable fire extinguisher technician shall have security background verification.

(D) An individual that holds a technician license in this category can engage in any licensed category as trainee pursuant to this Chapter.

(4) Trainee.

(A) A portable fire extinguisher trainee shall be employed by a licensed portable fire extinguisher company.

(B) A portable fire extinguisher trainee shall work under the direct supervision of a licensed portable fire extinguisher qualified agent, portable fire extinguisher technician or a portable fire extinguisher salesperson.

(C) There shall be no more than three (3) technician/salesperson trainees per portable fire extinguisher company qualified agent, portable fire extinguisher technician or portable fire extinguisher salesperson per job site.

(D) Each trainee shall have security background verification.

(E) An individual that holds a trainee license can engage in any licensed category pursuant to this Chapter while under the direct supervision of an individual holding the appropriate license in the category of activity being performed.

(5) Salesperson.

(A) Each portable fire extinguisher salesperson shall work for a licensed portable fire extinguisher company and under the supervision of a portable fire extinguisher company qualified agent.

(B) As of October 1, 2008 each applicant for licensure as a portable fire extinguisher salesperson shall pass an examination prescribed by the Committee.

(C) Each portable fire extinguisher salesperson shall have security background verification.

[Source: Transferred from 310:451-3-3 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this Chapter); Amended at 31 Ok Reg 1566, eff 9-12-14]

265:50-3-4. Pre-engineered fire suppression system license requirements

Licensing requirements for the pre-engineered fire suppression system industry are as follows:

(1) Company.

(A) Each company shall employ an Oklahoma licensed pre-engineered fire suppression system qualified agent who is responsible for the operations of the company's office. Any company maintaining separate offices within Oklahoma shall apply

for a separate license for each company office and have a licensed pre-engineered fire suppression system qualified agent at each office. A pre-engineered fire suppression system company shall notify the Agency within fourteen (14) days in the event of the death of the pre-engineered fire suppression system qualified agent or the qualified agent's separation from the company for any other reason and the company shall designate another licensed pre-engineered fire suppression system qualified agent within thirty (30) days from separation.

(B) A licensed pre-engineered fire suppression system technician or qualified agent shall be on site for any work being performed.

(C) The company will notify the Agency of the physical address and telephone number for each company office in accordance with 59 O.S. Section 1820.14.

(2) Qualified agent.

(A) Each application for licensure as a pre-engineered fire suppression system qualified agent shall include verification of 4000 hours of experience in the pre-engineered fire suppression system business. The experience shall include verified or licensed experience as a pre-engineered fire suppression system technician or other related experience approved by the Committee.

(B) Each licensed pre-engineered fire suppression system company qualified agent shall be responsible for all activities conducted within the State of Oklahoma by the office where they are listed as qualified agents.

(C) Each licensed pre-engineered fire suppression system company qualified agent shall have security background verification.

(D) As of October 1, 2008 each applicant for licensure as a pre-engineered fire suppression system qualified agent shall pass an examination prescribed by the Committee.

(3) Technician.

(A) Each pre-engineered fire suppression system technician shall work for a licensed pre-engineered fire suppression system company and under the supervision of a pre-engineered fire suppression system qualified agent.

(B) As of October 1, 2008 each applicant for licensure as a pre-engineered fire suppression system technician shall pass an examination prescribed by the Committee.

(C) Each pre-engineered fire suppression system technician shall have security background verification.

(D) An individual that holds a technician license in this category can engage in any licensed category as trainee pursuant to this Chapter.

(4) Trainee.

(A) A pre-engineered fire suppression system trainee shall be employed by a licensed pre-engineered fire suppression system company.

(B) A pre-engineered fire suppression system trainee shall work under the direct supervision of a licensed pre-engineered fire suppression system qualified agent, pre-engineered fire suppression system technician or a pre-engineered fire suppression system

salesperson.

(C) There shall be no more than three (3) trainees per pre-engineered fire suppression System Company qualified agent, pre-engineered fire suppression system technician or pre-engineered fire suppression system salesperson per job site.

(D) Each trainee shall have security background verification.

(E) An individual that holds a trainee license can engage in any licensed category pursuant to this Chapter while under the direct supervision of an individual holding the appropriate license in the category of activity being performed.

(5) Salesperson.

(A) Each pre-engineered fire suppression system salesperson shall work for a licensed pre-engineered fire suppression system company and under the supervision of a pre-engineered fire suppression system company qualified agent.

(B) As of October 1, 2008 each applicant for licensure as a pre-engineered fire suppression system salesperson shall pass an examination prescribed by the Committee.

(C) Each pre-engineered fire suppression system salesperson shall have security background verification.

[Source: Transferred from 310:451-3-4 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this Chapter); Amended at 31 Ok Reg 1566, eff 9-12-14]

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

Licensing requirements for the engineered fire suppression system industry are as follows:

(1) Company.

(A) Each company shall employ an Oklahoma licensed engineered fire suppression system qualified agent who is responsible for the operations of the company's office. Any company maintaining separate offices within Oklahoma shall apply for a separate license for each company office and have a licensed engineered fire suppression system qualified agent at each office. An engineered fire suppression system company shall notify the Agency within fourteen (14) days in the event of the death of the engineered fire suppression system qualified agent or the qualified agent's separation from the company for any other reason and the company shall designate another licensed engineered fire suppression system qualified agent within thirty (30) days from separation.

(B) A licensed engineered fire suppression system technician or qualified agent shall be on site for any work being performed.

(C) The company will notify the Agency of the physical address and telephone number for each company office in accordance with 59 O.S. Section 1820.14.

(2) Qualified agent.

(A) Each application for licensure as an engineered fire suppression system qualified agent shall include verification of experience in the engineered fire suppression system business. The experience shall include verified or licensed experience as an engineered fire suppression system technician or other related experience approved by the Committee.

(B) Each licensed engineered fire suppression system company qualified agent shall be responsible for all activities conducted within the State of Oklahoma by the office where they are listed as qualified agents.

(C) Each licensed engineered fire suppression system company qualified agent shall have security background verification.

(D) As of October 1, 2008 each applicant for licensure as an engineered fire suppression system qualified agent shall pass an examination prescribed by the Committee.

(3) Designer.

(A) Each engineered fire suppression system designer shall work for a licensed engineered fire suppression system company and under the supervision of an engineered fire suppression system qualified agent.

(B) As of October 1, 2008 each applicant for licensure as an engineered fire suppression system designer shall pass an examination prescribed by the Committee.

(C) Each engineered fire suppression system designer shall have security background verification.

(4) Technician.

(A) Each engineered fire suppression system technician shall work for a licensed engineered fire suppression system company and under the supervision of an engineered fire suppression system qualified agent.

(B) As of October 1, 2008 each applicant for licensure as an engineered fire suppression system technician shall pass an examination prescribed by the Committee.

(C) Each engineered fire suppression system technician shall have security background verification.

(D) An individual that holds a technician license in this category can engage in any licensed category as trainee pursuant to this Chapter.

(4) Trainee.

(A) An engineered fire suppression system trainee shall be employed by a licensed engineered fire suppression system company.

(B) An engineered fire suppression system trainee shall work under the direct supervision of a licensed engineered fire suppression system qualified agent, engineered fire suppression system technician or an engineered fire suppression system salesperson.

(C) There shall be no more than three (3) trainees per engineered fire suppression system company qualified agent, engineered fire suppression system technician or engineered fire suppression system salesperson per job site.

(D) Each trainee shall have security background verification.

(E) An individual that holds a trainee license can engage in any licensed category pursuant to this Chapter while under the direct supervision of an individual holding the appropriate license in the category of activity being performed.

(5) Salesperson.

(A) Each engineered fire suppression system salesperson shall work for a licensed engineered fire suppression system company and under the supervision of an engineered fire suppression system company qualified agent.

(B) As of October 1, 2008 each applicant for licensure as an engineered fire suppression system salesperson shall pass an examination prescribed by the Committee.

(C) Each engineered fire suppression system salesperson shall have security background verification.

[Source: Transferred from 310:451-3-5 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this Chapter); Amended at 31 Ok Reg 1566, eff 9-12-14]

SUBCHAPTER 5. SPECIAL PROVISIONS

265:50-5-1. Portable fire extinguisher tagging requirements

(a) **Traffic Light Bright Green Tag (Annual inspection tag/sticker).** The Green Tag shall be the visual record of the last annual inspection or initial certification testing where the system was found to be operable with no impairments. Fire extinguishers that are located in areas requiring weather resistant tags may use a white weather resistant self-adhesive tag in lieu of a green tag. The following additional requirements shall apply to the use of the Green Tag:

- (1) The annual inspection must be conducted in accordance with NFPA testing standards and manufacturer's specifications.
- (2) The tag shall be five and one fourth inches (5 1/4") in height and two and five-eighths inches (2-5/8") in width.
- (3) The tag shall bear the following information:
 - (A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL;"
 - (B) The service company's name, address, and telephone number (local office);
 - (C) The service company's license number;
 - (D) The signature, printed name and license number of the portable fire extinguisher Technician certifying the system; and
 - (E) The date the inspection was performed.
- (4) Only a portable fire extinguisher technician, employed by a portable fire extinguisher Company or the Fire Code Official may remove the tag.

(b) **Traffic Light Bright Red Tag (Annual inspection tag/sticker) Portable Fire Extinguisher Inoperable.** The intent of the Red Tag is to provide notification to the authority having jurisdiction of a portable fire extinguisher that has not been properly tested or is inoperable.

- (1) The annual inspection must be conducted in accordance with NFPA testing standards and manufacturer's specifications.
- (2) The tag shall be five and one fourth inches (5 1/4") in height and two and five-eighths inches (2-5/8") in width.
- (3) The tag shall bear the following information:
 - (A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL";
 - (B) The service company's name, address, and telephone number (local office);
 - (C) The service company's license number;

- (D) The signature, printed name and the license number of a portable fire extinguisher technician certifying the system;
- (E) The month and year the inspection was performed;
- (F) A list of the deficiencies that render the system inoperable; and,
- (G) A list of any deficiencies present that do not render the system inoperable.

(4) Only a portable fire extinguisher technician, employed by a portable fire extinguisher company or the Fire Code Official may remove an annual inspection tag.

(5) If a Red Tag is placed on a portable fire extinguisher the fire extinguisher Company shall notify the building owner or agent and the Fire Code Official in writing of all impairments immediately or as soon as practicable, but no later than twenty-four (24) hours.

[Source: Transferred from 310:451-5-1 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this Chapter)]

265:50-5-2. Pre-Engineered fire suppression system tagging requirements

(a) **The White Tag** shall be the permanent visual record of the original installation and certification. The following additional requirements shall apply to the use of the WhiteTag.

(1) The tag must be permanently affixed to the system as long as the system is in service.

(2) The tag shall be five inches (5") in height by four inches (4") in width and shall be water durable and have a self-adhesive backing.

(3) The tag shall bear the following information:

(A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL";

(B) The certifying company's name, address, and telephone number (local office);

(C) The certifying company's pre-engineered system company license number;

(D) The signature, printed name and the license number of the pre-engineered system technician certifying the system;

(E) The pre-engineered system permit number;

(F) The make and model of the pre-engineered system;

(G) The date of certification; and,

(H) The Code, Edition and year under which the system was installed.

(4) Only the Fire Code Official may remove an installation tag.

(b) **Traffic Light Bright Green Tag (Semi-annual inspection tag/sticker)**. The Green Tag shall be the visual record of the last semi-annual inspection or initial certification testing where the pre-engineered system was found to be operable with no impairments. The following additional requirements shall apply to the use of the Green Tag:

(1) The semi-annual inspection must be conducted in accordance with NFPA testing standards and the manufacturer's specifications.

(2) The tag shall be five and one fourth inches (5 1/4") in height and two and five-eighths inches (2-5/8") in width.

(3) The tag shall bear the following information:

(A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL;"

- (B) The service company's name, address, and telephone number (local office);
- (C) The service company's pre-engineered system company license number.
- (D) The signature, printed name and license number of the pre-engineered system technician certifying the system;
- (E) The month and year the inspection was performed; and
- (F) The type of pre-engineered system that was serviced.

(4) Only a Pre-engineered System technician, employed by a Pre-engineered System Company or the Fire Code Official may remove the tag.

(c) Traffic Light Bright Yellow Tag (Semi-Annual inspection tag/sticker) Operational Pre-engineered System but with minor impairments. The intent of the Yellow Tag is to provide notification to the authority having jurisdiction of a system that is operable with impairments that do not severely compromise the system's functional operation. The Yellow Tag shall be the visual record of the last semi-annual inspection where the system was found to be operable but with minor impairments. The following additional requirements shall apply to the use of the Yellow Tag:

- (1) The semi-annual inspection must be conducted in accordance with NFPA testing standards and manufacturer's specifications.
- (2) The tag shall be five and one fourth inches (5 1/4") in height and two and five-eighths inches (2 5/8") in width.
- (3) The tag shall bear the following information:
 - (A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL;"
 - (B) The service company's name, address, and telephone number (local office);
 - (C) The service company's pre-engineered system company license number.
 - (D) The signature, printed name and license number of the pre-engineered system technician certifying the system;
 - (E) The month and year the inspection was performed;
 - (F) The type of pre-engineered system that was serviced; and
 - (G) A list of the impairments.
- (4) Only a Pre-engineered System technician, employed by a Pre-engineered System Company or the Fire Code Official may remove the tag.
- (5) If a Yellow Tag is placed on a pre-engineered system the Pre-engineered System Company shall notify the building owner or agent and the Fire Code Official, in writing of all impairments immediately or as soon as practicable, but no later than seventy-two (72) hours.

(d) Traffic Light Bright Red Tag (Semi-Annual inspection tag/sticker) Pre-engineered System Inoperable. The intent of the Red Tag is to provide notification to the authority having jurisdiction of a pre-engineered system that is inoperable.

- (1) The semi-annual inspection must be conducted in accordance with NFPA testing standards and the manufacturer's specifications.
- (2) The tag shall be five and one fourth inches (5 -1/4") in height and two and five-eighths inches (2 5/8") in width.
- (3) The tag shall bear the following information:
 - (A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL;"

- (B) The service company's name, address, and telephone number (local office);
 - (C) The service company's pre-engineered system company license number.
 - (D) The signature, printed name and license number of the pre-engineered system technician certifying the system;
 - (E) The month and year the inspection was performed;
 - (F) The type of pre-engineered system that was serviced.
 - (G) A list of the deficiencies that render the pre-engineered system inoperable
- (4) Only a Pre-engineered System technician, employed by a Pre-engineered System Company or the Fire Code Official may remove the tag.
- (5) If a Red Tag is placed on a pre-engineered system the Pre-engineered System Company shall notify the building owner or agent and the Fire Code Official in writing of all impairments immediately or as soon as practicable, but no later than twenty-four (24) hours.

[Source: Transferred from 310:451-5-2 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this Chapter)]

265:50-5-3. Engineered fire suppression system tagging requirements.

- (a) **White Tag (Installation sticker).** The White Tag shall be the permanent visual record of the original installation and certification. The following additional requirements shall apply to the use of the White Tag.
- (1) The tag must be permanently affixed to the system as long as the system is in service.
 - (2) The tag shall be five inches (5") in height by four inches (4") in width and shall be water durable and have a self-adhesive backing.
 - (3) The tag shall bear the following information:
 - (A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL";
 - (B) The certifying company's name, address, and telephone number (local office);
 - (C) The certifying company's engineered system company license number;
 - (D) The signature, printed name and license number of the engineered system technician certifying the system;
 - (E) The engineered system permit number;
 - (F) The make and model of the engineered system;
 - (G) The month and year of certification; and,
 - (H) The Code, Edition and year under which the system was installed.
 - (4) Only the Fire Code Official may remove an installation tag.
- (b) **Traffic Light Bright Green Tag (Semi-annual inspection tag/sticker).** The Green Tag shall be the visual record of the last semi-annual inspection or initial certification testing where the engineered system was found to be operable with no impairments. The following additional requirements shall apply to the use of the Green Tag:
- (1) The semi-annual inspection must be conducted in accordance with NFPA testing standards and the manufacturer's specifications.
 - (2) The tag shall be five and one fourth inches (5-1/4") in height and two and five-eighths inches (2-5/8") in width.

- (3) The tag shall bear the following information:
 - (A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL;"
 - (B) The service company's name, address, and telephone number (local office);
 - (C) The service company's engineered system company license number.
 - (D) The signature, printed name and license number of the engineered system technician certifying the system;
 - (E) The month and year the inspection was performed; and
 - (F) The type of engineered system that was serviced.

- (4) Only a Engineered System technician, employed by a Engineered System Company or the Fire Code Official may remove the tag.

(c) Traffic Light Bright Yellow Tag (Semi-Annual inspection tag/sticker) Operational Engineered System but with minor impairments. The intent of the Yellow Tag is to provide notification to the authority having jurisdiction of a system that is operable with impairments that do not severely compromise the system's functional operation. The Yellow Tag shall be the visual record of the last semi-annual inspection where the system was found to be operable but with minor impairments. The following additional requirements shall apply to the use of the Yellow Tag:

- (1) The semi-annual inspection must be conducted in accordance with NFPA testing standards and manufacturer's specifications.
- (2) The tag shall be five and one fourth inches (5-1/4") in height and two and five-eighths inches (2-5/8") in width.
- (3) The tag shall bear the following information:
 - (A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL;"
 - (B) The service company's name, address, and telephone number (local office);
 - (C) The service company's engineered system company license number.
 - (D) The signature, printed name and license number of the engineered system technician certifying the system;
 - (E) The month and year the inspection was performed;
 - (F) The type of engineered system that was serviced; and
 - (G) A list of the impairments.
- (4) Only a Engineered System technician, employed by a Engineered System Company or the Fire Code Official may remove the tag.
- (5) If a Yellow Tag is placed on a Engineered system the Engineered System Company shall notify the building owner or agent and the Fire Code Official, in writing of all impairments immediately or as soon as practicable, but no later than seventy-two (72) hours.

(d) Traffic Light Bright Red Tag (Semi-Annual inspection tag/sticker) Engineered System Inoperable. The intent of the Red Tag is to provide notification to the authority having jurisdiction of a engineered system that is inoperable.

- (1) The semi-annual inspection must be conducted in accordance with NFPA testing standards and the manufacturer's specifications.
- (2) The tag shall be five and one fourth inches (5-1/4") in height and two and five-eighths inches (2-5/8") in width.

- (3) The tag shall bear the following information:
- (A) "DO NOT REMOVE BY ORDER OF THE FIRE CODE OFFICIAL;"
 - (B) The service company's name, address, and telephone number (local office);
 - (C) The service company's engineered system company license number.
 - (D) The signature, printed name and license number of the engineered system technician certifying the system;
 - (E) The month and year the inspection was performed;
 - (F) The type of engineered system that was serviced.
 - (G) A list of the deficiencies that render the engineered system inoperable
- (4) Only a Engineered System technician, employed by a Engineered System Company or the Fire Code Official may remove the tag.
- (5) If a Red Tag is placed on a Engineered system the Engineered System Company shall notify the building owner or agent and the Fire Code Official in writing of all impairments immediately or as soon as practicable, but no later than twenty-four (24) hours.

[Source: Transferred from 310:451-5-3 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this Chapter)]

SUBCHAPTER 7. ENFORCEMENT

265:50-7-1. License revocation and suspension

- (a) The employment or use of unlicensed individuals may be grounds to suspend, revoke or deny renewal of the license of the person so employing or using unlicensed individuals.
- (b) The repeated violation of any rule or provision of the Act or the violation of multiple sections of this Chapter or provision of the Act may be grounds to suspend or revoke a licensee's license.
- (c) Any person convicted in a court of competent jurisdiction of forgery, fraud, conspiracy to defraud or any similar offense or pleading guilty or nolo contendere to any such offense may be subject to license suspension or revocation.
- (d) Any person failing to comply with a fine assessment or other administrative order of the Agency within ninety (90) days of issuance of such assessment or order shall be subject to license suspension.
- (e) Any person whose license is revoked pursuant to these rules may not perform fire extinguisher industry work before attaining licensure pursuant to OAC 265:50.

[Source: Transferred from 310:451-7-1 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this Chapter); Amended at 31 Ok Reg 1566, eff 9-12-14]

265:50-7-2. Prohibited acts

- (a) No person, entity or firm may perform portable, pre-engineered or engineered fire suppression work without first obtaining a license pursuant to these Rules.
- (b) No person shall offer to engage in portable, pre-engineered or engineered fire suppression work during the period his license is suspended or revoked.
- (c) No employing firm shall employ or use an unlicensed person to perform portable, pre-engineered or engineered fire suppression industry work.
- (d) No person, entity or firm may transfer a license or registration.

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

(f) No person shall make a materially false or fraudulent statement in an application for license, engage in cheating or otherwise commit an act in violation of Title 59 O.S., Section 1820.1 et seq.

[Source: Transferred from 310:451-7-2 by Laws 2013, c. 111, § 1(G), eff 11-1-13 (see Editor's Notice published at 31 Ok Reg 99 and Editor's Note at beginning of this Chapter); Amended at 31 Ok Reg 1566, eff 9-12-14]

CHAPTER 55. FIREFIGHTER TRAINING ADVISORY COMMITTEE

[Authority: 74 O.S., § 324.11]

[Source: Codified 9-14-18]

SUBCHAPTER 1. PURPOSE AND RESPONSIBILITIES

265:55-1-1. Purpose

The rules of this chapter are to implement the Firefighter Training Advisory Committee in accordance with Title 74 O.S. Section 325.1.

[Source: Added at 35 Ok Reg 1370, eff 9-14-18; Amended at 39 Ok Reg 1204, eff 9-11-22]

265:55-1-2. Firefighter Training Advisory Committee responsibilities

Members of the Firefighting Training Advisory Committee shall be representatives of the State of Oklahoma fire service, with the total and length of appointments to be determined by the State Fire Marshal Commission. The Firefighter Training Advisory Committee shall:

- (1) Advise and assist the State Fire Marshal Commission in identifying firefighter training needs and setting the firefighter training goals for the State of Oklahoma;
- (2) Advise and assist the State Fire Marshal Commission in interacting with the Oklahoma Homeland Security Department's Preparedness and Awareness Division on firefighter training and grants;
- (3) Advise and assist the State Fire Marshal Commission in administering and maintaining the incentive and recognition programs established for Oklahoma firefighters;
- (4) Advise and assist the State Fire Marshal Commission in ensuring that the state has consistent basic and continuing education programs that include steps for all ranks or positions of career and volunteer firefighters, by setting minimum standards for career, recommended levels for volunteer, identifying training programs and courses required for fire service members to achieve those levels; and
- (5) Assist the State Fire Marshal Commission in advising the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the State Senate and the Oklahoma State Fire Service on fire and emergency service training needs for the state. The State Fire Marshal Commission shall submit an annual report or recommendations regarding fire and emergency service training needs to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the State Senate not later than December 31 each year.

[Source: Added at 35 Ok Reg 1370, eff 9-14-18]

SUBCHAPTER 2. VOLUNTEER FIREFIGHTER TAX CREDIT

265:55-2-1. \$200 volunteer firefighter tax credit

In accordance with Title 68 O.S. Section 2358.7, an income tax credit of Two Hundred Dollars (\$200.00) is available for a volunteer firefighter who has completed at least twelve (12) hours toward the State Support or State Basic Firefighter or Firefighter 1 offered by Oklahoma State University Fire Service Training or Oklahoma Department of Career and Technology Education. After the initial year, an additional Two Hundred Dollars (\$200.00) income tax credit is allowed each year the volunteer firefighter has completed an additional six (6) hours of State Support or State Basic Firefighter or Firefighter 1 from an internationally recognized accrediting assembly or board, their equivalent, or other related fire or emergency medical services training approved by the State Fire Marshal Commission until such program or its equivalent is completed.

[Source: Added at 35 Ok Reg 1370, eff 9-14-18]

265:55-2-2. \$400 volunteer firefighter tax credit

In accordance with Title 68 O.S. Section 2358.7, an income tax credit of Four Hundred Dollars (\$400.00) each year is available for a volunteer firefighter who, after completing the State support or State basic Firefighter program,:

- (1) Completes at least six (6) hours of continuing education each year until the firefighter completes Intermediate or Advanced Firefighter or Firefighter 1 from and internationally recognized accrediting assembly or board, their equivalent, or other related fire or emergency medical services training approved by the State Fire Marshal Commission or its equivalent;
- (2) After completion of Intermediate or Advance Firefighter or Firefighter 1, the volunteer firefighter shall complete six (6) hours of training per year to claim the tax credit;
- (3) Provides documentation from the fire chief of the applicable department that the firefighter has participated in all annual training as required by federal and state authorities; and
- (4) Provides documentation for the fire chief of the applicable department that the volunteer firefighter has met the requirements under the fire department's constitution and bylaws and is a member in good standing of the department together with a record of the total number of years of service in good standing with such department.

[Source: Added at 35 Ok Reg 1370, eff 9-14-18]

CHAPTER 60. FEE SCHEDULE

[Source: Codified 9-11-22]

265:60-1-1. Purpose

The purpose of this chapter is to establish a fee schedule for the State Fire Marshal's Office.

[Source: Added at 39 Ok Reg 1204, eff 9-11-22]

265:60-1-2. Fees

(a) In accordance with the Oklahoma Open Records Act [Oklahoma Statutes Title 51 Section 24A.1-24A.201] and Oklahoma State Statute Title 74 Section 324, the State Fire Marshal's Office shall charge the following fees for reproduction of records:

- (1) Copying fee - \$.25 per page
- (2) Certified copying fee - \$1.00 per page

(b) In accordance with the Oklahoma Open Records Act [Oklahoma Statutes Title 51 Section 24A.1-24A.201] and Oklahoma State Statute Title 74 Section 324, the State Fire Marshal's Office shall charge the following fees for reproduction of records when the request is solely for commercial purpose, or clearly would cause excessive disruption of the State Fire Marshal's Office essential functions. The State Fire Marshal's Office may charge a reasonable fee to recover the direct cost of document search [Oklahoma Statute Title 51 Section 24A.5(3)]. Payment with cash, credit card, check or money order shall be for exact amount. Office hours are 8:00 a.m. through 4:30 p.m. Monday through Friday. Upon the submission of the request accompanied by the appropriate fee, the State Fire Marshal's Office will forward within ten (10) working days, via First Class Mail, the requested information.

- (1) Non-Certified "Origin and Cause" Fire Investigation Report - \$1.00 per page.
- (2) Certified "Origin and Cause" Fire Investigation Report - \$2.00 per page.
- (3) Evidence photographs - \$20.00 per electronic copy.
- (4) Roster of all Fire Departments - \$20.00 per hard copy or electronic copy.
- (5) Computer search or excessive disruption of office functions - \$75.00 per employee.

(c) In accordance with Oklahoma Statutes Title 28 Section 91, the State Fire Marshal's Office shall charge the following fees for expert witness fees:

- (1) Expert Witness Fee - \$150.00 per 4 hours (4 hour minimum).
- (2) Deposition Fee - \$150.00 per 4 hours (4 hour minimum).
- (3) Court Testimony Fee - \$150.00 per 4 hours (4 hour minimum).

(d) Pursuant to the International Building Code®, Section 109.2: A fee for each plan examination, building permit, and inspection shall be paid in accordance with the fee schedule outlined in this chapter:

- (1) Exemptions: Detention centers that require an annual inspection are exempt from annual inspection fees. Duly constituted Fire Departments meeting the reporting requirements of the State Fire Marshal's Office are exempt from plan reviews, permits and inspection fees.
- (2) Review of plans submitted with an application for a building permit. Total permit fee is due at the time of submittal. Fees may be waived or reduced when in the opinion of the State Fire Marshal the reduction of fees is in the best interest of both parties.
- (3) Permit fees include the cost of a 50% and 100% on-site inspection and occupancy permit. Additional on-site inspections caused by failure to comply with applicable codes or deviation from approved plans will be billed at \$40.00 per hour the actual cost to the State Fire Marshal's Office.
- (4) Minimum permit fee - \$50.00.
- (5) Rates where total exceeds the minimum:
 - (A) Industrial buildings: per square foot - \$.10
 - (B) Sprinkler plan review only: per square foot - \$.03
 - (C) Fire alarm plan review only: per square foot - \$.03

- (D) Fire Suppression plan review only: per square foot - \$.03
- (E) Carbon monoxide system plan review: per square foot - \$.03
- (F) Electrical smoke detection system (fire alarm) plan review: per square foot - \$.03
- (G) Smoke control system plan review: per square foot - \$.03
- (H) Access control system plan review: \$50.00 per set of access points
- (I) Carbon dioxide system plan review (more than 100 pounds of accumulative CO₂, including those used in beverage dispensing applications): per square foot - \$.03
- (6) Above Ground Fuel Storage: inspection and permit fee - \$125.00
- (7) Fireworks:
 - (A) Class B (1.3G) Fireworks display inspection and permit - \$125.00
 - (B) Class C (1.4G) pyrotechnic display inspection and permit - \$250.00
- (8) Field Inspections - \$40.00 per hour (one hour minimum)
- (9) Explosive Storage Facility - inspection and permit fee - \$108.00 per magazine

[Source: Added at 39 Ok Reg 1204, eff 9-11-22]