

## RULE IMPACT STATEMENT

### TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 85. ROOFING CONTRACTOR REGISTRATION REGULATIONS

1. **BRIEF DESCRIPTION OF PURPOSE OF PROPOSED RULE:** Many of the proposed amendments to OAC 158:85 are for the purpose of administration of the provisions of the Roofing Contractor Registration Act in accordance with Oklahoma Attorney General Opinion 2017 OK AG 9. The proposed amendments to 158:85-1-2 is for the purpose of adding definitions for "contract laborer," "direct supervision," and "employee," and clarifying sufficient evidence of the existence of a contract. The amendments to 158:85-2-1 are for the purpose of clarifying that roofing contractors are required to add the Construction Industries Board as a certificate holder on liability and workers' compensation coverage, not as an additional insured, which should be at no additional cost; clarifying requirements related to workers' compensation coverage; and clarifying the consequences with regard to failure to provide proof of current insurance or workers' compensation coverage. The amendment to 158:85-2-2 is for the purpose of requiring commercial roofing contractors to add the Construction Industries Board as a certificate holder but not as an additional insured and with no additional cost in order to help the CIB receive timely notification when the insurance is cancelled or expires. The amendments to 158:85-5-1 are for the purpose of clarifying that a valid and current registration is required for a subcontractor providing direct supervision for roofing contractor work. The amendments to 158:85-5-3 are for the purpose of further clarifying the requirement for the Construction Industries Board to be added as a certificate holder, and requiring roofing contractors to utilize a valid written contract when engaging in the business of roofing contractor work. The amendments to 158:85-11-1 are for the purpose of requiring registered roofing contractors to report changes in address, business relationship, structure or affiliation to the Construction Industries Board. The amendments to 158:85-11-2 are for the purpose of correcting citations and clarifying that the prohibited acts listed in (a) of the Section apply to all persons.
2. **DESCRIPTION OF THE CLASSES OF PERSONS AFFECTED:** The agency, members of industry and the public who are involved in or wish to be involved in the roofing industry/trade registered and regulated by the Construction Industries Board ("CIB"), continuing education providers, and citizens of Oklahoma.
3. **CLASSES OF PERSONS BENEFITTED:** The agency, members of industry and the public who are involved in or wish to be involved in the roofing industry/trade registered and regulated by the Construction Industries Board ("CIB"), continuing education providers, and citizens of Oklahoma.
4. **ECONOMIC IMPACT UPON AFFECTED CLASSES OF PERSONS:** Having clear and unambiguous definitions should have a positive economic impact in that it should help to keep an individual from unknowingly committing a violation that could result in a fine or penalty. There should be no additional cost to a roofing contractor related to the requirement to add the CIB to the certificate of liability insurance as a certificate holder, not as an additional insured.

5. **COSTS AND BENEFITS TO THE AGENCY:** It is a benefit to the agency to have clear and unambiguous rules. It is also a benefit to the agency to receive timely notification when a roofing contractor's liability insurance expires or is cancelled.
6. **ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** No economic impact on any political subdivision is anticipated by the proposed rules.
7. **ECONOMIC IMPACT ON SMALL BUSINESS:** The economic impact on small business is not measurable.
8. **MEASURES TAKEN TO MINIMIZE COMPLIANCE COSTS:** The proposed rule changes are the least costly or least intrusive method of achieving the purpose of the proposed rules. There are no non-regulatory methods for achieving the purpose of the proposed rule changes.
9. **EFFECT OF THE PROPOSED RULE ON PUBLIC HEALTH:** Registration and commercial endorsement of roofing contractors helps to protect the health, safety and welfare of the public. Having clear and unambiguous rules regarding registration and endorsement requirements should have a positive effect on public health.
10. **DETRIMENTS TO PUBLIC HEALTH IF THE RULE IS NOT ADOPTED:** There are no known detriments to public health if the rule is not adopted.
11. **DATE IMPACT STATEMENT PREPARED:** December 12, 2017.

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD  
CHAPTER 85. ROOFING CONTRACTOR REGISTRATION REGULATIONS**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**158:85-1-2. Definitions**

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

**"Act"** means Roofing Contractor Registration Act as found at 59 O.S. § 1151, *et seq.*

**"Administrator"** means the Administrator of the Board as described in the Construction Industries Board Act found at 59 O.S. § 1000.1, *et seq.*

**"Advertise"** means any written publication, dissemination, solicitation, contract, bid, promotional item, or circulation which is intended to directly or indirectly induce any person to contract for roofing construction services with the advertiser, including, but not limited to, business cards, telephone directory display advertisements, vehicle signage, radio, television and electronic solicitations.

**"Applicant"** means the qualifying party, or if no qualifying party, any person applying under the Roofing Contractor Registration Act for a roofing contractor registration to be issued by the Construction Industries Board. Applicant also means any person making application under the Act for endorsement, examination, roofing code variance, or continuing education program and instructor approval.

**"Board"** means the Oklahoma Construction Industries Board.

**"Bonds and Insurance Unit"** means the staff unit that processes bonds and insurance for all trades, under the direction of the Construction Industries Board.

**"Business entity"** means a person as defined in this Subchapter.

**"Certificate of insurance"** means a general liability policy in the amounts specified in 59 O.S. Section 1151.5(C)(4) for roofing contractor work for which the general liability policy includes the registration number, if any, the roofing firm name, and that the policy specifically covers roofing work, with the Construction Industries Board added as a certificate holder to be immediately provided notice in the event such liability policy is cancelled for any reason or expires for non-payment of premiums.

**"Cheating"** means any unapproved deviation from any official instruction given before, during or after a commercial endorsement examination, for the purpose of affecting or influencing the examination results or otherwise providing an undue advantage to any examinee.

**"Commercial roofing contractor work"** means work done on roofing systems or structures as defined as commercial in the International Building Code, as adopted by the Oklahoma Uniform Building Code Commission; except it does not mean buildings used for commercial purposes having equivalent or substantially the same roofing requirements as a "residence" defined herein, including but not limited to business offices converted from a structure that formerly was a residence.

**"Committee"** means the Committee of Roofing Examiners.

**"Contract laborer"** means any person employed on a temporary or leased basis who is performing the labor of roofing work and does not provide either direct supervision, does not employ or terminate the employment of others, does not pay others, or does not act in any way in a supervisory or managing capacity.

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**"Contracting"** means engaging or offering to engage in any roofing work which requires a valid and appropriate registration or endorsement from the Construction Industries Board as required by the Roofing Contractor Registration Act. Also, evidence of securing a permit, including roofing work from a governmental agency or the employment of a person on a roofing project, shall be accepted in any court, including administrative hearings, as prima facie evidence of the existence of a contract.

**"Credit Hour"** or **"Hour"** means at least fifty (50) minutes of classroom instruction with a ten (10) minute break.

**"Direct Supervision"** means when an employer is responsible for, authorizes, or determines the type and extent of work assigned, reviews and approves the quality of an employee's work performed before being considered completed, provides close supervision, direction or guidance, and determines when the work is completed in fulfillment of a contract or subcontract for the construction, alteration, repair or improvement of a new or existing roof. The employer providing direct supervision is one responsible for the details of the work, the locality of the work, instrumentality and tools to be used to complete the work, the length of time for which an employee is employed, or the method, manner, means, and/or amount of payment to an employee.

**"Employee"** means any person, whether lawfully or unlawfully employed, in the service of another and who does not follow his or her own judgment and discretion as to the means, mode, or manner and details in the performance of the work but is hired to do the work and is subject to the control of the employer as to the means, mode, or manner and details in the performance of the work.

**"Excluded from registration"** means those for whom no registration or endorsement is required pursuant to 59 O.S. § 1151.2(18)(a) through (d) and 59 O.S. § 1151.9(B).

**"Handyman"** means, a person who is receiving compensation from the owner in an amount less than \$10,000.00 or a repair area covering less than 25% of the roofing surface and who is performing roofing work in conjunction with other repairs to the property and who does not perform more than two roofing repair jobs per calendar year. Any roofing repair jobs performed by a handyman in excess of two per calendar year are not excluded from the provisions of the Act. Roofing repair jobs estimated at \$10,000.00 or more or repair of an area covering 25% or more of the roofing surface and paid out at less than \$10,000.00 are not excluded.

**"Hearing Board"** means the Roofing Hearing Board created by the Act.

**"Homeowner"** means one who owns and resides in, or who resides in, or who contracts for the purchase, construction, remodeling or repairing of a residence.

**"ICC"** means the International Code Council.

**"Nonresident contractor"** means any contractor who has not established and maintained a place of business as a roofing contractor in this state within the preceding year, or who claims residency in another state, or who has not submitted an income tax return as an Oklahoma resident within the preceding year.

**"Oklahoma Uniform Building Code Commission"** or **"OUBCC"** means the state agency created under 59 O.S. § 1000.20, *et seq.*, and authorized to adopt all building codes and standards for residential and commercial construction to be used as minimum standards by all entities within this State.

**"Owner"** means the person who owns the property or is a lessee of the property.

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**"Person"** means any natural person, firm, limited or general partnership, corporation, association, limited liability company, trust, association, other legal entity and any organization capable of conducting business, or any combination thereof acting as a unit, unless the intent to give a more limited meaning is disclosed clearly by the Roofing Contractor Registration Act.

**"Prime contractor"** means a general contractor, commercial contractor, or other contractor who contracts directly with the owner for construction trade work in multiple trade areas.

**"Project manager"** means one who manages construction projects consisting of work involving multiple trades.

**"Public contract"** means a contract with the State of Oklahoma, its political subdivisions, or any board, commission, or department thereof, or with any board of county commissioners, or with any city council, school board, or with any state or municipal agency, or with any other public board, body, commission, or agency authorized to award contracts for the construction or reconstruction of public works and includes subcontracts undertaken to perform works covered by the original contract or any part thereof.

**"Qualifying party"** means a natural person who is an officer or owner of the corporation, a member of the limited liability company, or a general partner of the limited liability partnership, and who is actively engaged in the work undertaken by the registrant for which a registration is required pursuant to the Roofing Contractor Registration Act who meets the experience and ability requirements for registration on behalf of the registrant.

**"Reciprocity agreement"** means a written agreement between states whereby a person holding a roofing registration, endorsement or license in another state with substantially similar or greater requirements than Oklahoma may be registered and endorsed for commercial roofing work, if any, in this State after application and payment of a fee for registration and endorsement by reciprocity.

**"Registrar"** means the Construction Industries Board or any person designated by the Board to administer the provisions of the Roofing Contractor Registration Act.

**"Registration"** means the process of applying for an initial or renewal registration which upon approval is exhibited by a registration number and card issued pursuant to the Roofing Contractor Registration Act.

**"Registration number"** means the roofing registration number issued by the registrar to the registrant's qualifying party.

**"Registrant"** means a holder of a registration issued pursuant to the Roofing Contractor Registration Act.

**"Residence"** means a single structure for residential occupancy or use which is a detached one- to four-family dwelling or a multiple single-family dwelling (townhouse) not more than three (3) stories/floors above grade plane in height with a separate means of egress, and which is intended for use as a primary habitation, and any appurtenances thereto shall be in compliance with the International Residential Code, as adopted by the Oklahoma Uniform Building Code Commission.

**"Residential roofing contractor work"** means work done on roofing systems as defined in the International Residential Code, as adopted by the Oklahoma Uniform Building Code Commission, or as defined as a "residence" herein; except for buildings used for commercial purposes having equivalent or substantially the same roofing requirements as a "residence" defined herein, including but not limited to business offices converted from a structure that formerly was a residence.

**"Roofing contractor"** means any person, including a subcontractor and nonresident contractor, engaged in the business of commercial or residential roofing contractor work as that term is defined and exclusions listed in 59 O.S. § 1151.2 and this Chapter.

**"Roofing contractor work"** means the installation, fabrication or assembly of equipment or systems included in commercial or residential roofing systems as defined in the International Building Code and the International Residential Code, as adopted by the Oklahoma Uniform Building Code Commission, and roofing construction work including, but not limited to, installation, renovation, remodeling, reroofing, reconstructing, repair, maintenance, improvement, alteration, and waterproofing, unless specifically excluded in the Roofing Contractor Registration Act.

**"Roofing firm"** means any person, as defined by the Act, offering to engage or engaging in roofing contractor work.

**"Roofing Hearing Board"** means the Hearing Board enacted pursuant to 59 O.S. § 1151.28 which shall consist of a designee of the Construction Industries Board, as chair, and the members of the Committee of Roofing Examiners acting in compliance with the provisions of the Construction Industries Board Act, rules and Article II of the Administrative Procedures Act

**"Roofing Unit"** means the staff and administrative support unit to the Committee of Roofing Examiners and the Roofing Hearing Board.

**"Subcontractor"** means one who contracts with a prime contractor, general contractor, residential contractor, project manager, property manager, another subcontractor, or another entity for roofing contractor work.

**"Variance"** means the use of an alternative material or method of construction from that prescribed in the International Building Code or the International Residential Code or other approved documents by the Oklahoma Uniform Building Code Commission, described as the standard of installation at OAC 158:85-1-4, for use at a particular location or project specified in the variance application.

**"Variance and Appeals Board"** means the Oklahoma State Roofing Installation Code Variance and Appeals Board enacted pursuant to 59 O.S. § 1151.29.

## **SUBCHAPTER 2. REGISTRATION AND ENDORSEMENT APPLICATION AND RENEWAL REQUIREMENTS, PROCEDURES, FEES, DURATION, MILITARY AND RECIPROCITY**

### **158:85-2-1. Registration, insurance, and ~~workers~~workers' compensation coverage**

#### **(a) Registration Requirement.**

(1) All persons performing roofing contractor work are required to apply and obtain from the Board a roofing registration number before advertising or engaging in the performance of roofing contractor work unless excluded under the Act. All persons performing commercial roofing contractor work as defined in this Chapter are required to apply and obtain from the Board a commercial endorsement to a roofing registration before advertising or engaging in the performance of commercial roofing contractor work unless excluded under the Act. The commercial endorsement is in addition to the registration. Roofing contractors who do not perform commercial roofing contractor work and only perform residential roofing contractor work do not need to obtain a commercial endorsement.

(2) Each roofing firm must have a person who is currently registered as a roofing contractor, and employed, full time, and who shall give full time to the supervision and

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control of operations necessary to ensure full compliance with the provisions of the Act and these Rules. Such contractor shall be an officer, partner or owner of that roofing firm, and shall be responsible for the work, registered, and endorsed if applicable, on behalf of that roofing firm.

(3) Applications for registration and commercial endorsement for any commercial roofing work shall be made to the Construction Industries Board in writing and under oath on forms approved and provided by the Board and shall be accompanied by the proper fee. If the registrar deems it appropriate or necessary, the registrar may also require other information to be included on the application form to assist the registrar in registering the person as a contractor.

(b) **Insurance.**

(1) Prior to engaging in roofing work, each person on an initial application process, and all roofing contractors submitting renewal applications, shall provide proof of financial responsibility by providing a certificate of insurance which indicates a minimum general liability policy of \$500,000.00 for residential roofing contractor work and \$1,000,000.00 for endorsement of commercial roofing contractor work. Proof that the general liability policy specifically includes coverage of roofing work must be provided by the insurance policy carrier to the registrar.

(2) Any insurance company issuing a liability policy to a roofing contractor pursuant to the provisions of the Roofing Contractor Registration Act shall include the registration number, if any, the roofing firm name, and sufficient information to demonstrate the policy specifically covers roofing work; shall add the Construction Industries Board as a certificate holder which should be at no additional cost, not as an additional insured; and shall be required to notify the Construction Industries Board in the event such liability policy is cancelled for any reason or expires for non-payment of premiums.

(c) **Workers Compensation.** The residential roofing contractor shall submit proof that the residential roofing contractor has secured workers' compensation coverage satisfactory under the Workers' Compensation Act, or ~~an affidavit~~ satisfactory proof of exemption or self-insurance as authorized pursuant to the Workers' Compensation Act which shall be maintained during all times of engaging in and performing residential roofing contractor work. All commercial roofing contractors shall maintain ~~worker's~~ workers' compensation insurance coverage satisfactory under the Workers' Compensation Act and pursuant to Title 59 § 1151.22 ~~on all commercial roofing contractor work. Any~~ The roofing contractor is responsible for having the insurance company issuing a workers' compensation coverage policy to a roofing contractor pursuant to the provisions of the Roofing Contractor Registration Act ~~which~~ shall include the registration number, if any, the roofing firm name, and sufficient information to demonstrate the policy specifically covers roofing work, and add the Construction Industries Board as a certificate holder and shall be required to notify the Construction Industries Board in the event such liability policy is cancelled for any reason or expires for nonpayment of premiums.

(d) **Failure to Provide.** Any person failing to provide certificate of insurance or ~~worker's~~ workers' compensation information at the time of initial application may be refused registration or endorsement for incomplete information, and all current registrations and endorsements under the Roofing Contractor Registration Act shall be placed not in good standing on the date of the failure to provide current certificate of insurance or workers' compensation information after policy cancellation, expiration, or failure to notify. The registrar must receive proof of insurance and ~~workers~~ workers' compensation prior to restoring the registration and endorsement. Any

registrations and endorsements remaining in not good standing may be suspended or revoked according to the Act.

**158:85-2-2. Endorsement required for commercial roofing work**

(a) **Application.** Application for roofing endorsement shall be done by filling out an application for examination on a form provided by the Roofing Unit. The requirements for commercial endorsement are the same as for roofing registration with additional requirements as listed in this Subchapter.

(b) **Business entity.** The qualifying party applying for a commercial roofer endorsement must provide information on the legal business entity, including but not limited to the articles, organizational agreements or documents establishing the legal business entity, including a list of the officers, members, managers, partners, or other managing agents of the legal entity.

(c) **Insurance.**

(1) Each person on initial application and upon receiving a contractor's registration endorsement, prior to engaging in commercial roofing work, and all commercial roofing contractors submitting endorsement renewal applications, shall provide proof of financial responsibility by providing a certificate of insurance which indicates a minimum general liability policy of \$1,000,000.00 for endorsement of commercial roofing contractor work.

(2) The Construction Industries Board must be added as a certificate holder but not as an additional insured and with no additional cost. This is required in order for the Construction Industries board to be notified in the event such liability policy is cancelled for any reason or expires for non-payment of premiums. Any insurance company issuing a liability policy to a roofing contractor pursuant to the provisions of the Roofing Contractor Registration Act shall add the Construction Industries Board as a certificate holder and shall be required to notify the Construction Industries Board in the event such liability policy is cancelled for any reason or expires for non-payment of premiums.

(d) **Examination.** In order to obtain a commercial endorsement on a roofing registration for those doing commercial roofing contractor work, the qualifying party shall have successfully passed the appropriate examination. Any applicant initially failing to pass the examination shall not be permitted to take another examination for a period of thirty (30) days. Any applicant subsequently failing to pass the examination shall not be permitted to take another examination for a period of ninety (90) days. However, in a declared state of emergency, the examination shall be available as often as possible as determined by the registrar.

(e) **Continuing Education.** No commercial endorsement shall be renewed unless the qualifying party has completed the required hours of continuing education, as determined and approved by the Committee of Roofing Examiners and the Construction Industries Board. Continuing education requirements are at Subchapter 9.

**SUBCHAPTER 5. REGISTRATION AND ENDORSEMENT REQUIREMENTS AND LIMITATIONS, DISPLAY OF REGISTRATION NUMBER, ENDORSEMENT, FIRM NAME AND CONTACT INFORMATION, EXCLUSIONS**

**158:85-5-1. Registration requirements**

(a) A valid and current registration issued pursuant to the Roofing Contractor Registration Act is required before a person may advertise or act as a roofing contractor, including but not limited to when a person may be a subcontractor providing Direct Supervision for Roofing Contractor



Work as those terms are defined by the Roofing Contractor Registration Act and OAC 158:85-1-2, unless the person is exempt under the Roofing Contractor Registration Act. A roofing contractor's registration and required liability insurance shall be valid and in good standing at the time of soliciting a project and during subsequent job performance.

(b) A roofing contractor's registration certificate cannot be shared or used by any other individual or business entity; provided, however, a combination of contractors may be collectively registered for use by designated contractors acting as agents for a business entity-so long as the application for registration contains sufficient information on each member of the business entity, each member individually meets all of the requirements for registration set forth in the Act and these rules, and the business entity is registered listing all designated contractor members of the business entity.

### **158:85-5-3. Registration responsibilities and limitations**

The holder of a roofing registration or roofer registration with commercial endorsement, shall:

- (1) maintain, and provide notice to the Construction Industries Board as Certificate Holder, the required liability insurance coverage at all times,
- (2) maintain workers' compensation coverage satisfactory under the Workers' Compensation Act.
- (3) maintain or renew a roofing contractor registration as provided in the Roofing Contractor Registration Act;
- (4) file or renew a trade name registration;
- (5) file, renew, or properly amend any fictitious name certificate.
- (6) maintain an active status of a corporation or registration as a foreign corporation, a limited liability company or registration as a foreign limited liability company, a limited liability partnership registration or foreign limited liability partnership registration, or a limited partnership certificate or limited partnership or foreign limited partnership certificate of authority, with the Oklahoma Office of the Secretary of State.
- (7) maintain a registration or license as required by law in another state while registered in this state as a nonresident roofing contractor;
- (8) notify the registrar in writing within ten (10) days of a change in name, qualifying party, address, legal business entity, business relationship, structure or affiliation, change in firm ownership of fifty percent (50%) or more of the stock or beneficial interest in the company, legal service agent, or adjudication by a court of competent jurisdiction for any act or omission specified in 59 O.S. § 1151.14(A) or a violation of the Roofing Contractor Registration Act;
- (9) file and pay all taxes of the qualifying party and business entity when due in this state.
- (10) pay all fines imposed by final orders of the Construction Industries Board, and fines and penalties imposed by courts of competent jurisdiction and agreements with a District Attorney.
- (11) comply with state laws and local ordinances relating to standards and permits for roofing services and projects;
- (12) submit the roofing contractor's registration certificate number when applying for any permit issued by the state, or any of its political subdivisions, for commercial or residential roofing services or projects, if a permit is required by such authority;

(13) notify the registrar within ten (10) days after he or she receives notice that any conviction has been rendered against him or her or the registrant or qualifying party has made any plea of guilty, nolo contendere or finding of guilt. The notification shall be in writing, by certified mail, and shall include a copy of the conviction, plea, finding of guilt or judgment and sentence;

(14) notify the registrar immediately upon receipt of an order imposing disciplinary action upon its registration issued by any other professional regulatory board, in this or any other jurisdiction.

(15) Utilize a valid written contract when engaging in the business of roofing contractor work as described in Sections 1151.7 and 1151.21 of the Act.

## **SUBCHAPTER 11. REGISTRATION AND ENDORSEMENT REVOCATION OR SUSPENSION AND PROHIBITED ACTS**

### **158:85-11-1. Registration and endorsement retention requirements**

(a) Roofing contractor registrations and commercial endorsements are to be retained subject to the limitations of the Act and subject to being removed from good standing, suspended, or revoked pursuant to the Act. The violation of these rules or any provisions of the Act may be considered justification to suspend or revoke a registration or endorsement.

(b) Any changes in address, business relationship, structure or affiliation shall be reported in writing to the Oklahoma Construction Industries Board within thirty (30) days of such change.

### **158:85-11-2. Prohibited acts**

(a) The following prohibited acts apply to all persons ~~performing roofing contractor work~~:

(1) Offering to engage in, by advertisement or otherwise, or performing roofing contractor work without first obtaining the appropriate registration and endorsement, if applicable, and maintaining it in good standing pursuant to the Act and these rules, unless otherwise excluded under the Act.

(2) Advertising, either directly or through another, for roofing contractor work without a valid registration, or without displaying registration number and endorsement, if any, on any advertisement, including but not limited to contracts and signage on vehicles.

(3) Soliciting roofing contractor work through contracts obtained by salespersons not under the direct supervision and employment of a registered roofing contractor when such contract is then sold for remuneration or something of value and consists of a pattern of conduct that can be shown to be a business practice in a secondary market of sales of contracts for profit. This does not include marketing or sales leads where no contract or bid was made.

(4) Bringing or maintaining any claim, action, suit or proceeding in any court of this state related to the person's capacity as a roofing contractor without a valid registration and endorsement, when required, continuously while performing the work for which the claim, action, suit or proceeding is sought.

(5) Committing fraud when executing or materially altering a roofing contract, mortgage, promissory note or other document incidental to performing roofing contractor work.

(6) Performing roofing work contrary to any provision of the adopted references in OAC 158:85-1-4, except as otherwise provided by law or rule. Each violation of the adopted references in OAC 158:85-1-4 can be treated as a separate violation of this Chapter.

(7) Making a false or fraudulent statement in an application for registration or endorsement.

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- (8) Falsifying a registration.
  - (9) Transferring a registration or endorsement.
  - (10) Sharing a roofing contractor's registration or endorsement with another individual or business entity not otherwise allowed pursuant to 59 O.S. § 1151.7.
  - (11) Engaging in or offering to engage in roofing contractor work using a roofing registration number or endorsement of another, whether the registration or endorsement is or is not in good standing.
  - (12) Engaging in cheating or any act involving the fraudulent misrepresentation of an applicant by an examinee or one in the process of sitting for the examination.
  - (13) Denying access to the Construction Industries Board or its representative on a job site for purposes of administering the Act.
  - (14) Contracting for or performing roofing contractor work with expired general liability insurance policy.
- (b) The following prohibited acts apply to persons having received a registration number:
- (1) All prohibited acts applying to all persons ~~performing roofing contractor work~~ in (a) ~~above of this Section~~ apply to one having received a registration number.
  - (2) Offering to engage in roofing contractor work while not in good standing or during a period of suspension or revocation of a registration or endorsement; or, acting as a roofing contractor without complying with the required disclosure and owner option to cancel the contract pursuant to 59 O.S. § 1151.5.
  - (3) Making a false or misleading statement in an application for roofing contractor registration or renewal application or in soliciting a contract for roofing services.
  - (4) Failing to display the roofing firm name and the roofing contractor registration number on all vehicles used to transport materials and tools in the operation of the business in letters and numerals at least two (2) inches in height in a conspicuous location on both sides of each vehicle in contrasting color to the background color.
  - (5) Failing to post in a conspicuous place on each job site the name, registration number, and telephone number for the registration under which any work is being performed.
  - (6) Performing roofing contractor work without keeping their registration on their person or in close proximity.
  - (7) Failing to utilize a valid written contract when engaging in the business of roofing contractor work as described in Sections 1151.7 ~~Section~~ and 1151.21 of the Act.
  - (8) Transferring a registration or endorsement.
  - (9) Engaging in any fraudulent or deceptive acts or practices or misrepresentation of products, services or qualifications as a roofing contractor;
  - (10) Failing to comply with any tax laws authorized by the state or any of its political subdivisions.
  - (11) Abandoning a roofing contract without legal excuse after a deposit of money or other consideration has been paid.
  - (12) Diverting funds or property entrusted to a roofing contractor.
  - (13) Engaging in or offering to engage in roofing services without obtaining a proper permit as may be required by any state or local authority.
  - (14) Damaging property or injuring persons while performing roofing services under a valid roofing contractor registration for which the roofing contractor's liability insurance or workers compensation coverage was inadequate.

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- (15) Performing roofing work having gross defects in workmanship in a roofing contractor project that risks serious harm or injury to a person, or unjustly causes monetary damages in excess of Five Thousand Dollars (\$5,000.00).
- (16) Failing to comply with a specified provision of this Chapter or the Roofing Contractor Registration Act.
- (17) Demonstrating incompetence to act as a roofing contractor performing residential roofing work.
- (18) Violating any provisions of the Roofing Contractor Registration Act, or any rule or order prescribed by the Construction Industries Board pursuant to the provisions of the Roofing Contractor Registration Act.
- (19) Willfully failing to perform normal business obligations without justifiable cause.
- (c) The following prohibited acts apply to those having received an endorsement:
  - (1) All prohibited acts applying to all persons in (a) of this Section and those having received a registration number in (b) of this Section apply to one having received an endorsement.
  - (2) Making a material misstatement in the application for an endorsement, or the renewal of an endorsement.
  - (3) Obtaining any endorsement by false or fraudulent representation.
  - (4) Loaning or allowing the use of such endorsement by any other person or illegally using an endorsement.
  - (5) Transferring an endorsement.
  - (6) Failing to display the existence of any commercial roofer endorsement on all vehicles used to transport materials and tools in the operation of the business in letters at least two (2) inches in height in a conspicuous location on both sides of each vehicle in contrasting color to the background color.
  - (7) Failing to post in a conspicuous place on each job site the existence of any commercial roofer endorsement for the registration under which any work is being performed.
  - (8) Performing roofing contractor work without keeping their registration and endorsement on their person or in close proximity while performing roofing contractor work.
  - (9) Demonstrating incompetence to act as a commercial roofing contractor.
  - (10) Violating any provisions of the Roofing Contractor Registration Act, or any rule or order prescribed by the Construction Industries Board pursuant to the provisions of the Roofing Contractor Registration Act.

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD  
CHAPTER 85. ROOFING CONTRACTOR REGISTRATION REGULATIONS**

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions

158:85-1-2 [AMENDED]

Subchapter 2. Registration and Endorsement Application and Renewal Requirements, Procedures, Fees, Duration, Military and Reciprocity

158:85-2-1 [AMENDED]

158:85-2-2 [AMENDED]

Subchapter 5. Registration and Endorsement Requirements and Limitations, Display of Registration Number, Endorsement, Firm Name and Contact Information, Exclusions

158:85-5-1 [AMENDED]

158:85-5-3 [AMENDED]

Subchapter 11. Registration and Endorsement Revocation or Suspension and Prohibited Acts

158:85-11-1 [AMENDED]

158:85-11-2 [AMENDED]

**SUMMARY:**

Many of the proposed amendments to OAC 158:85 are for the purpose of administration of the provisions of the Roofing Contractor Registration Act in accordance with Oklahoma Attorney General Opinion 2017 OK AG 9. The proposed amendments to 158:85-1-2 add definitions for "contract laborer," "direct supervision," and "employee," and clarify sufficient evidence of the existence of a contract. The amendments to 158:85-2-1 clarify that it is required to add the Construction Industries Board as a certificate holder on liability and workers' compensation coverage, not as an additional insured, which should be at no additional cost; clarifies requirements related to workers' compensation coverage; and clarifies the consequences with regard to failure to provide proof of current insurance or workers' compensation coverage. The amendment to 158:85-2-2 requires commercial roofing contractors to add the Construction Industries Board as a certificate holder but not as an additional insured and with no additional cost. The amendments to 158:85-5-1 clarifies that a valid and current registration is required for a subcontractor providing direct supervision for roofing contractor work. The amendments to 158:85-5-3 further clarify the requirement for the Construction Industries Board to be added as a certificate holder, and requires roofing contractors to utilize a valid written contract when engaging in the business of roofing contractor work. The amendments to 158:85-11-1 requires registered roofing contractors to report changes in address, business relationship, structure or affiliation to the Construction Industries Board. The amendments to 158:85-11-2 corrects citations and clarifies that the prohibited acts listed in (a) of the Section apply to all persons.

**AUTHORITY:**

Construction Industries Board; 1000.4, 1000.5, 1151.2a, and 1151.4

**COMMENT PERIOD:**

Written and oral comments will be accepted until 4:30 p.m. on January 16, 2018, at the following address: Construction Industries Board, ATTN: Administrative Rules Division, 2401 NW 23rd Street, Ste. 2F, Oklahoma City, OK 73107. During the open public comment period, comments may be delivered during regular business hours or submitted via regular mail.

**PUBLIC HEARING:**

A Public Hearing is scheduled for 1:30 p.m. on Wednesday, January 17, 2018, at the monthly meeting of the Construction Industries Board which will be held in the Construction Industries Board Conference Room at 2401 NW 23rd Street, Suite 2F, Oklahoma City, OK 73107. Anyone who wishes to make comments regarding the proposed rules at the public hearing must sign in by 1:30 p.m. See "Additional Information" section below.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to the Administrative Rules Division through the close of the comment period on January 16, 2018, at the address shown below for obtaining copies of the proposed rules.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules are available at the Construction Industries Board, 2401 NW 23rd Street, Ste. 2F, Oklahoma City, OK 73107, or online at [www.cib.ok.gov](http://www.cib.ok.gov).

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available beginning December 29, 2017, at the address listed above for obtaining copies of the proposed rules.

**CONTACT PERSON:**

Kim Stell, Business Program Officer/Assistant, 405-521-6550

**ADDITIONAL INFORMATION:**

If the monthly meeting of the Construction Industries Board scheduled for Wednesday, January 17, 2018, cannot be held due to inclement weather or lack of a quorum, the Public Hearing that would have occurred January 17, 2018, at that monthly meeting of the Construction Industries Board will be held instead at the monthly meeting scheduled for Wednesday, February 21, 2018, at 1:30 p.m., in the Construction Industries Board Conference Room at 2401 NW 23rd Street, Suite 2F, Oklahoma City, OK 73107. Anyone who wishes to make comments regarding the proposed rules at the public hearing must sign in by 1:30 p.m.