

## **TITLE 165. CORPORATION COMMISSION**

### **CHAPTER 75. COTTON GIN UTILITIES**

#### **PERMANENT RULES**

**UPDATED, EFFECTIVE 7-15-2003**

Note: These rules are provided for the convenience of those who are affected by the jurisdiction of the Oklahoma Corporation Commission. Although the text of these rules is the same as the text of the rules on file in the Office of Administrative Rules, they are not the official version of the Oklahoma Administrative Code. Official rules are available from the Office of Administrative Rules of the Oklahoma Secretary of State.

### **CHAPTER 75. COTTON GIN UTILITIES**

<b>Subchapter</b>	<b>Section</b>
1. General Provisions.....	165:75-1-1
3. Applications.....	165:75-3-1
5. Maintenance and Operation.....	165:75-5-1

**[Authority:** 17 O.S. Section 41 et seq.]

**[Source:** Codified 12-31-91]

## SUBCHAPTER 1. GENERAL PROVISIONS

### Section

165:75-1-1. Purpose

165:75-1-2. Definitions

#### **165:75-1-1. Purpose**

The Cotton Gin Utilities rules and regulations of this Chapter were promulgated in furtherance of 17 O.S. Section 41 *et seq.* and adopted by the Oklahoma Corporation Commission through Cause No. 26977, Order No. 175459 (revised General Order No. 13770 in Cause No. 17759) effective October 29, 1980.

#### **165:75-1-2. Definitions**

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

**"Applicant"** means any person, persons, corporation or entity in the State of Oklahoma applying for a cotton gin license or any authority from the Commission under the terms of the Cotton Gin Utilities rules and regulations as set for in this Chapter and pursuant to law.

**"Burr extractor"** means a machine or device for extracting cotton burrs and other foreign material from seed cotton prior to its being fed into the distributor.

**"Commission"** means the Oklahoma Corporation Commission.

**"Cotton gin utility"** means a cotton gin maintained and operated for the purpose of separating lint from seed cotton for the public.

**"Emergency"** means the result of any unforeseen occurrence or condition such as fire, flood, tornado, or any other act beyond control of the gin operator which would disable the utility and render it incapable of performing proper services.

**"Extractor cleaner"** means a machine or device which serves as an extractor of foreign material from seed cotton such as an incline cleaner, stick machine, green leaf machine, airline cleaner, etc.

**"Extractor feeder"** means a machine or device which serves as an extractor of the burr and other foreign material from seed cotton and at the same time feeds the seed cotton into the gin stands.

**"Gin battery"** means one or more cotton gin stands served by one cotton press.

**"License"** means authority or permission given by the Oklahoma Corporation Commission to maintain and operate a cotton gin utility in the State of Oklahoma, as well as the evidence of such authority which may be issued by this Commission.

**"Lint cleaner"** means a machine or device which extracts foreign material from lint cotton.

**"Rebate"** means any method employed by an owner or operator of a cotton gin utility to evade rates fixed by this Commission as the fair and just charges for the ginning of cotton such as charging less than the rates fixed, the gift of meals, lodging, gasoline for cars or trucks, the use of trucks, trailers, or seed cotton transporters supplied, leased or rented by the gin owners or operators, the improper weighing of seed cotton, lint cotton or cottonseed; the selling of merchandise below cost, and any other similar practice engaged as part of any ginning transaction in any effort to evade rates fixed by this Commission.

**"Seed cotton transporter"** means any device utilized to transport bulk seed cotton.

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

## SUBCHAPTER 3. APPLICATIONS

## Section

- 165:75-3-1. Filing of application
- 165:75-3-2. Notice
- 165:75-3-3. Hearings
- 165:75-3-4. New gins
- 165:75-3-5. Dormant gins
- 165:75-3-6. Dismantled gins
- 165:75-3-7. Change of ownership-lease
- 165:75-3-8. Relocating/moving a gin
- 165:75-3-9. Forms

### **165-75-3-1. Filing of application**

A cotton gin license for maintenance and operation of a cotton gin utility and written authority required to be obtained from this Commission by the terms of this Chapter shall be granted or denied only after an application has been filed with the Commission and a hearing held. An applicant shall show in his application and at the hearing the applicable requirements of this Chapter.

[Source: Amended at 20 Ok Reg 2333, eff 7-15-03]

### **165:75-3-2. Notice**

(a) **Notice required upon application for license.** An applicant shall give notice of the filing of an application for a license for maintenance and operation of a cotton gin utility by publication once a week for two consecutive weeks in a newspaper of general circulation in the county in which the cotton gin is to be located. An applicant shall also mail notice to all other cotton gin operators within a thirty (30) mile radius of the applicant's proposed operating location. The notice shall be in a form approved by the Director of the Public Utility Division and shall include the name of the entity seeking a license, the cause number, the relief requested in the application, the area to be served, the phone number of the individual to contact for additional information, and the date, time and place of the hearing on the merits.

(b) **Notice required upon application or letter request of a cotton gin utility to dismantle or go dormant.** An applicant filing an application or submitting a letter request to dismantle or go dormant shall give notice of the request by posting notice in three conspicuous places within the county in which the cotton gin is located. The Notice shall be in a form approved by the Director of the Public Utility Division, and shall include the name of the applicant, the relief requested, the date the notice is posted, the name of the individual to contact for additional information, and the statement that protests or objections must be submitted in writing to the Director of the Public Utility Division of the Oklahoma Corporation Commission, P. O. Box 52000, Oklahoma City, OK 73152-2000, on or before an identified date. The applicant must allow no less than a thirty (30) day time period for the submission of written objections or protests.

[Source: Amended at 18 Ok Reg 2455, eff 7-1-01; Amended at 20 Ok Reg 2333, eff 7-15-03]

### **165:75-3-3. Hearings**

Hearings held on any applications shall be open to the public and shall be held in the Commission Courtroom, Jim Thorpe Office Building, Oklahoma City, Oklahoma, or at any other place designated by this Commission. Any party desiring to present material, competent and

relevant testimony for or against the granting of any application shall be afforded an opportunity to do so at such public hearings.

#### **165:75-3-4. New gins**

(a) No corporation, company, firm, or individual shall be permitted to operate and maintain a cotton gin utility without first having secured a license from this Commission after notice and hearing. Separate license shall be obtained for each gin battery.

(b) Applicant seeking a cotton gin license shall satisfactorily show the following primary factors:

- (1) Name of individual, partnership, or corporation and if a corporation, information concerning its organization;
- (2) A complete description of the proposed plant and its facilities, including number of gin stands, number of saws per stand, power, etc., and a statement in full of the cleaning equipment to be used;
- (3) Convenience and necessity for a gin at the proposed location;
- (4) Names and addresses of all corporations, companies, firms, or individuals operating cotton gin utilities within a thirty (30) mile radius of the proposed gin site which are or will be in direct competition therewith;
- (5) Responsibility, reliability, qualifications, and capacity of applicant to perform ginning services and to afford all reasonable facilities, conveniences, and services to the public; and
- (6) Willingness to be governed by this Chapter.

[Source: Amended at 20 Ok Reg 2333, eff 7-15-03]

#### **165:75-3-5. Dormant gins**

(a) No corporation, company, firm, or individual in this State shall allow a cotton gin utility to remain dormant during any ginning season without first obtaining written permission and authority from this Commission. Written permission and authority may be granted by the Director of the Public Utility Division, without notice and hearing, if there have been no objections or protests submitted. In the event that a written protest or objection is received by the Director of the Public Utility Division, a hearing before an Administrative Law Judge will be scheduled, and notice of the hearing will be issued by the Public Utility Division. A new request must be made each year.

(b) Any individual or entity seeking authority to allow a gin to remain dormant must show the following primary factors:

- (1) Name of gin, location, and license number;
- (2) Owner of gin;
- (3) Each cotton gin together with name and address of owner within a thirty (30) mile radius;
- (4) A statement of reasons for making application to remain dormant;
- (5) Name and address of ten (10) cotton farmers now patronizing gin; and
- (6) Convenience and necessity does not require operation of gin during coming season.

(c) Such request shall be made by certified mail on or before August 1 each year and shall be accompanied by an affidavit attesting to the six (6) primary factors listed above.

[Source: Amended at 18 Ok Reg 2455, eff 7-1-01; Amended at 20 Ok Reg 2333, eff 7-15-03]

#### **165:75-3-6. Dismantled gins**

(a) No corporation, company, firm, or individual in this State shall be permitted to dismantle a

cotton gin now licensed to operate without permission and authority from this Commission. Written permission and authority may be granted by the Director of the Public Utility Division, without notice and hearing, if there have been no written objections or protests submitted. In the event that a written protest or objection is received by the Director of the Public Utility Division, a hearing before an Administrative Law Judge will be scheduled, and notice of the hearing will be issued by the Public Utility Division.

(b) Any individual or entity seeking authority to dismantle a gin shall show the following primary factors:

- (1) Name and location of gin;
- (2) Owner of gin;
- (3) Name and address of owner of each cotton gin within thirty (30) mile radius of applicant's gin;
- (4) Name and address of 10 cotton farmers now patronizing gin; and
- (5) Convenience and necessity no longer requires the gin at its present location.

(c) Such request shall be made by certified mail and shall be accompanied by an affidavit attesting to the five (5) primary factors listed above.

[**Source:** Amended at 18 OK Reg 2455, eff 7-1-01; Amended at 20 Ok Reg 2334, eff 7-15-03]

#### **165:75-3-7. Change of ownership-lease**

(a) No corporation, company, firm, or individual in this State shall sell, or lease nor shall any corporation, company, firm, or individual buy or lease, or otherwise change ownership or control of a cotton gin utility without first securing written permission and authority from this Commission.

(b) Applicant seeking authority for change of ownership or control shall show the following primary factors:

- (1) Name of gin and location;
- (2) Name and address of seller or lessor;
- (3) Name and address of purchaser or lessee;
- (4) Name under which gin will operate;
- (5) Financial responsibility of purchaser or lessee; and
- (6) Willingness of purchaser or lessee to abide by the Cotton Gin Utilities rules and regulations as set forth in this Chapter.

#### **165:75-3-8. Relocating/moving a gin**

(a) No corporation, company, firm, or individual shall be permitted to dismantle a cotton gin now licensed to operate and remove to and operate same at a new location without first obtaining written permission and authority from this Commission.

(b) Applicant seeking authority to dismantle and move to a new location shall comply with the Cotton Gin Utilities rules and regulations as set forth in this Chapter pertaining to the dismantling of gins as required by 165:75-3-6 and Cotton Gin Utilities rules and regulations as set forth in this Chapter pertaining to building new gins as defined in 165:75-3-4.

#### **165:75-3-9. Forms**

(a) Proper forms for application to meet requirements made in this subchapter may be had on request address to:

Oklahoma Corporation Commission  
Public Utility Division  
Jim Thorpe Office Building

Oklahoma City, Oklahoma 73105

(b) Proper procedure and detail requirements will be outlined by the Director.

## **SUBCHAPTER 5. MAINTENANCE AND OPERATION**

### **PART 1. SERVICE REQUIREMENTS**

#### Section

- 165:75-5-1. General service
- 165:75-5-2. Equal service
- 165:75-5-3. Abandonment of service
- 165:75-5-4. Replacements/additions
- 165:75-5-5. Rebate
- 165:75-5-6. Pure seed gins

### **PART 3. GINNING REQUIREMENTS**

- 165:75-5-10. Seed cotton transporter
- 165:75-5-11. Out-of-condition seed cotton
- 165:75-5-12. Wrapping
- 165:75-5-13. Wet or damaged wrapping
- 165:75-5-14. Use of ginning aids
- 165:75-5-15. False plating and packing
- 165:75-5-16. Tags

### **PART 5. REPORTING AND RECORD REQUIREMENTS**

- 165:75-5-20. Annual reports and accounting practices
- 165:75-5-21. Exhibits and petitions
- 165:75-5-22. Gin records
- 165:75-5-23. Inspector's report
- 165:75-5-24. Separate records

### **PART 7. LICENSE REQUIREMENTS**

- 165:75-5-30. License fee
- 165:75-5-31. License posting
- 165:75-5-32. Expiration of license

### **PART 9. INSURANCE REQUIREMENTS**

- 165:75-5-40. Insurance coverage
- 165:75-5-41. Fire equipment

### **PART 11. VIOLATIONS**

165:75-5-50. Violations by managers

165:75-5-51. Penalty

## **PART 1. SERVICE REQUIREMENTS**

### **165:75-5-1. General service**

(a) All persons, individuals, or corporations engaged in the business of ginning cotton within the State shall properly equip their gins and hold themselves in readiness to perform such duties, unless for good cause shown, any such person or persons, individuals, copartnerships, or corporations shall be excused therefrom in writing by the Commission as provided in this Order.

(b) All gins must be equipped with cleaners to properly clean seed cotton. In trade territories where 25% or more of the total cotton ginned over the latest consecutive three (3) year period is bolly, snapped, or machine harvested cotton, the gin shall be equipped with burr extractors, extractor cleaners, and extractor feeder machinery.

(c) All persons, firms, or corporations operating cotton gins in the State shall perform such ginning service in a proper and workmanlike manner using due care and diligence in producing a clean product and saving for the owner of the cotton the full and fair weight of seed and lint to which he may be fully entitled.

### **165:75-5-2. Equal service**

All owners and operators of cotton gin utilities are hereby required to render similar service to all customers alike. All owners and operators of cotton gin facilities are hereby prohibited from entering into any agreements and practices, or adopting rules tending to monopolize the purchase of cottonseed or seed cotton and are hereby prohibited from entering into any combination with others tending to stifle or limit competition therein, or tending to discriminate against any buyer of seed cotton, cottonseed or bale cotton, and all such owners and operators are hereby required to maintain standard scales.

### **165:75-5-3. Abandonment of service**

All property once devoted to the public service of ginning cotton shall not be abandoned or service discontinued temporarily or otherwise, except in case of emergency, until after permission of authority in writing has been secured from the Commission.

### **165:75-5-4. Replacements/additions**

(a) The Commission shall be notified of destruction, material damage by fire, or tornado, or other causes of all gin utilities provided that nothing herein shall prevent the owner or operator of a gin so damaged or destroyed to replace said ginning facilities prior to the beginning of the next cotton ginning season. If the gin cannot be repaired or rebuilt within the above designated period, the owner or operator shall seek relief under 165:75-3-5.

(b) Additions, replacements, betterments, and repairs in respect to cotton gin plants shall be so defined and classified as follows:

(1) Additions are structures, facilities, equipment, and other property added to those in service at any given time and not taking the place of any property of like kind previously held by the owner or operator and taken into the property accounts. Such additions to the cotton gin utility shall be taken into the property account and shown in the next annual report in the details and particulars and on blanks authorized by the Commission.

(2) Replacements are those installations of plant and equipment which have for their purpose



the substitution of one (1) building, structure, piece of equipment, machine or mechanical part for another, which it has become necessary to retire; the substitute, having substantially no greater capacity than the building, structure, piece of equipment, machine or mechanical part retired, shall be credited to the accounts in which it is carried and the cost of the substitute so installed shall be charged to the appropriate accounts.

(3) If such replaced substitute shall be greater capacity or efficiency than the building, structure, piece of equipment, machine, or mechanical part replaced at the time of the latter's previously installation, the excess of cost of such substitute, if any, over the first cost of that removed shall be carried as cost of betterment, and such increase of capacity or efficiency shall be regarded as betterment and the residue of such cost as replacement cost, and all such shall be shown in the annual report of such cotton gin utility in such detail and particulars and upon such blanks as may be authorized by the Commission.

(4) For the purpose of determining what shall constitute repairs, the major parts of all cotton gin utilities, such as gin stands, et cetera, shall be regarded as equipment and each part of such equipment known in the cotton gin trade as a "unit" shall be regarded as divided into a class having determine function in such unit, such as gin frame, gin breast, saw cylinder, brush cylinder, et cetera; and a class having merely contributory such as saws, et cetera; and the substitution of any unit of a mechanical part of a unit having a determinative function shall be regarded as a replacement and not as a repair, and shall be carried, with the determined betterment, if any, under the paragraph (3); but the replacement or correction of any of the merely contributory parts shall be regarded as a repair and be charged to the appropriate operating expense account. Mechanical parts for such substitutes shall be regarded as replacement line and center shafting, line shaft and pulleys, idlers, fan jacks, fans, complete airlines, droppers, separators, vacuum boxes, cleaners, extractor machine distributors, feeders, gin breast, complete saw cylinder, complete brush, gin frames, complete lint flues, condensers, packers, lint cleaners, complete press boxes, ram cylinder, rams, press screws, pumps, scales, complete conveyor elevators, main drive belting, bull extractors, unloaders, generators, motors, boilers, heaters, engines, engine flywheels, engine cylinders, crank shafts, engine frames or bases. The substitution or repair of any of the minor parts of the foregoing shall be regarded as repair and other mechanical parts not enumerated shall be regarded according the same rule or principle. In the matter of buildings, complete roofs, partitions, complete floors, complete walls, foundations, platforms, and decks and other outside annexes and wells, tanks and complete water lines, etc.; shall be regarded as replacements and that minor corrections or repairs of any one of these and painting shall be regarded as repairs.

[Source: Amended at 10 Ok Reg 2661, eff 6-25-93]

#### **165:75-5-5<sup>1</sup>. Rebate**

Rates and charges for service to the owner or operator of any cotton gin utility shall be the rates fixed by Order of this Commission. No cotton gin utility owner or operator shall directly or indirectly offer or give any rebates as that term is defined in 165:75-1-2.

<sup>1</sup>**Editor's Note:** In the initial codification of this agency's rules (12-31-91), two Sections were numbered 165:75-5-5. Upon discovery of this error, the number of one of the rules, which appeared in Chapter 70, was changed to 165:70-5-5.

#### **165:75-5-6. Pure seed gins**

In any community or district where pure cotton of any variety is grown, the ginner may designate particular ginning days upon which such cotton will be ginned exclusively and notice of such days shall be posted at the gin.

### **PART 3. GINNING REQUIREMENTS**

#### **165:75-5-10. Seed cotton transporter**

Any device used to transport bulk seed cotton to a cotton gin and/or gin yard shall not be supplied, leased, rented, or furnished to a producer by a cotton gin utility.

#### **165:75-5-11. Out-of-condition seed cotton**

Ginners are authorized to delay or refuse to gin seed cotton that is contaminated with any type of foreign material or is out of condition from any cause that would impede or prevent the normal ginning process.

#### **165:75-5-12. Wrapping**

All bale cotton shall be wrapped in only specification material that has currently been approved by the Cotton Industry Bale Packaging Committee of the National Cotton Council and Commodity Credit Corporation of the U.S. Department of Agriculture as recorded in the Federal Register.

#### **165:75-5-13. Wet or damaged wrapping**

Wet or damaged wrapping shall not be placed on custom ginned cotton.

#### **165:75-5-14. Use of ginning aids**

Gin owners or operators shall not, while ginning, use any ginning aids or other substances or devices that will be injurious to the cotton fiber or cottonseed.

#### **165:75-5-15. False plating and packing**

Owners or operators of cotton gin utilities shall not false plate or false pack any cotton baled at their respective gins.

#### **165:75-5-16. Tags**

It shall be the duty of all owners or operators of cotton gins in this State to brand a number by means of a metal tag and/or paper tag approved by the U.S. Department of Agriculture upon each bale of cotton ginned and baled at their respective gins which brand and number shall correspond with the records as provided in 165:75-5-22.

### **PART 5. REPORTING AND RECORD REQUIREMENTS**

#### **165:75-5-20. Annual reports and accounting practices**

Annual cotton gin utility reports for the preceding year shall be filed no later than ninety (90) days following the expiration of the cotton gins utility's fiscal year and shall be made to the Commission in such detail and on such forms as are prescribed and furnished by the Commission. The statements of facts pertaining to the inquiries called for shall be duly signed

and certified under oath of the officers or owners of the gin utilities.

[Source: Amended at 10 Ok Reg 2661, eff 6-25-93]

#### **165:75-5-21. Exhibits and petitions**

(a) An applicant seeking to establish convenience and necessity as required in any of the Cotton Gin Utilities rules and regulations as set forth in this Chapter shall attach to his application a map embracing an area not less than a thirty (30) mile radius from the applicant's proposed gin. The exact location of applicant's proposed gin shall be shown on said map together with the location of each competitive gin plant within a thirty (30) mile radius thereof. The applicant shall prepare an exhibit from the records of the Commission or from any reliable source showing the exact amount of cotton ginned by each of the competitive gins for the three (3) years next preceding the filing of the application. This exhibit shall show the name and address of the owner of each of such gins, the number of saws, the type of equipment as to gins stands, cleaners, power, and any other such information that may be pertinent. The exhibit shall show the average number of bales ginned by said competitive gins for the past year and shall show the percentage of capacity of existing approved cotton gin facilities to the amount of cotton available for the average of three (3) years and for the past year. In the event the applicant or any party desires to present a petition from the cotton growers of the territory affected, the same shall show the names of the cotton growers, the number of acres devoted to cotton in each of the past three (3) years, the number of bales raised by said petitioner during each of the last three (3) years, and the proposed number of acres to be planted in cotton for the current year. No person or firm not directly growing cotton shall be eligible to sign a petition of this nature. No one growing cotton outside of the thirty (30) mile radius of the gin in question shall be eligible to sign such petition unless there is no gin closer to his land.

(b) A full copy of the information as listed shall be mailed under registered cover to the record owner of each gin within a radius of thirty (30) miles of the proposed gin site and be so stated in the application of the Commission.

#### **165:75-5-22. Gin records**

All owners or operators of cotton gin utilities shall cause to be kept at their place of business a book which shall be open for inspection by the public at all reasonable hours in which shall be registered at the time of receiving any cotton, each bale (modified gin flat or Universal Density) of cotton, or load of unginned cotton, giving dates of ginning, the name of persons for whom it is ginned, pounds of seed cotton ginned, bale number, gross weight of bale, and price paid for ginning.

#### **165:75-5-23. Inspector's report**

A copy of each gin inspectors inspection report shall be posted near the license (or facsimile) of the gin in the office after each visit.

#### **165:75-5-24. Separate records**

If the owner or operator of any cotton gin utility is engaged in carrying on any other business in connection with the operation of said cotton gin he shall keep records that will show distinctly and separately the cost of the operation and gross revenue for each gin.

## **PART 7. LICENSE REQUIREMENTS**

**165:75-5-30. License fee**

The fee for a license issued by the Commission for any gin battery shall be five dollars (\$5.00) per gin stand.

**165:75-5-31. License posting**

The Gin License Certificate or a reasonable facsimile must be posted in the office of the gin for which such license is issued.

**165:75-5-32. Expiration of license**

If any holder of a license to operate a cotton gin utility allows his gin to remain dormant for five (5) consecutive years, regardless of express authority from the Commission to allow his gin to remain dormant for each of said years, his license to operate, in absence of good cause shown to the contrary, shall be subject to cancellation after reasonable notice and hearing before the Commission.

## **PART 9. INSURANCE REQUIREMENTS**

**165:75-5-40. Insurance coverage**

Each licensed cotton gin utility owner or operator shall insure, and at all times, keep insured in his name all seed cotton, baled cotton, and cotton transporting vehicles owned by the cotton producer for the full market value thereof against loss from fire, windstorm, tornado, explosion, collision, and theft while in the custody of the cotton gin utility. Each cotton gin utility owner or operator shall, at his own expense, take the necessary steps to collect any monies which may be due as indemnity for any loss or damage. For the purpose of this Section, full market value shall mean the value used by underwriters in paying losses. The insurance carrier issuing the policy must be licensed in the State of Oklahoma.

**165:75-5-41. Fire equipment**

Each cotton gin owner or operator shall follow all guidelines established by their insurance carrier with regard to fire fighting equipment and fire prevention policies.

## **PART 11. VIOLATIONS**

**165:75-5-50. Violations by managers**

The Commission shall have the right after notice and hearing to refuse to allow any owner or operator to continue the operation of a cotton gin who has violated the laws or the Cotton Gin Utilities rules and regulations as set forth in this Chapter.

**165:75-5-51. Penalty**

Any person, firm, or Corporation that violates any of the rules set forth in this Chapter shall be guilty of contempt and shall be fined not exceeding one hundred dollars (\$100.00) for each violation and in the discretion of the Commission be subject to cancellation of its permit.