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Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register.* In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 90. ~~EXECUTIVE AND LEGISLATIVE BOND OVERSIGHT COMMISSIONS~~ COUNCIL OF BOND OVERSIGHT CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-160]

RULEMAKING ACTION:

Notice of proposed Permanent rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
90:1-1-1. Purpose and scope [AMENDED]
90:1-1-2. Statutory definitions [AMENDED]
90:1-1-3. Clarification of certain definitions [AMENDED]
90:1-1-4. Additional definitions [AMENDED]
Subchapter 3. General Operations of the ~~Commissions~~Council
90:1-3-1. Official office [AMENDED]
90:1-3-2. Meetings of the ~~Commissions~~Council [AMENDED]
90:1-3-3. Executive sessions [AMENDED]
90:1-3-4. Notice of Meetings [AMENDED]
90:1-3-5. Agenda items [AMENDED]
90:1-3-6. Confidential or commercially sensitive information [AMENDED]
90:1-3-7. Open records [AMENDED]
Subchapter 5. Procedures for Adoption, Amendement and Repeal of Rules
90:1-5-1. Procedures for adoption, amendment and repeal of rules [AMENDED]
Subchapter 7. Requests for Declaratory Rulings
90:1-7-1. Requests for declaratory rulings [AMENDED]
Subchapter 9. Severability and Interpretation
90:1-9-2. Interpretation of Title [AMENDED]

SUMMARY:

On September 24, 2002, the Oklahoma Supreme Court ruled that the Oklahoma Legislative Bond Oversight Commission violated the separation of powers doctrine of the Oklahoma Constitution. As a result of this ruling, the powers, duties, and responsibilities of both the Executive and Legislative Bond Oversight Commissions devolve upon the Council of Bond Oversight (as provided by the Oklahoma Bond Oversight and Reform Act). In order for the office to continue operating efficiently and effectively amended rules are needed. Since the Executive and Legislative Bond Oversight Commissions are obsolete a name change is required in the rules in order for the State Bond Advisor's Office to operate. Also, included is the correction of the official office address and telephone numbers.

AUTHORITY:

62 O.S., Section 695.8(A)(4), Executive and Legislative Bond Oversight Commissions; 62 O.S., Section 695.11A., Council of Bond Oversight-Validation of actions and obligations-Members-Quorum-Voting-Vacancy

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m., March 20, 2003, at the Oklahoma State Bond Advisor's Office, 5900 N. Classen Court, Oklahoma City, OK 73118.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules: 2:00 p.m., Friday, March 21, 2003, Oklahoma State Bond Advisor's Office, 5900 N. Classen Court, Oklahoma City, OK 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by 4:00 p.m., March 20, 2003, at the Oklahoma State Bond Advisor's Office, 5900 N. Classen Court, Oklahoma City, OK 73118.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma State Bond Advisor's Office, 5900 N. Classen Court, Oklahoma City, OK. Copies of proposed rules may be obtained at a cost of 25 cents per page copying charge from the Oklahoma State Bond Advisor's Office, 5900 N. Classen Court, Oklahoma City, OK 73118.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available on and after March 5, 2003 at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Lorie Collier, Oklahoma State Bond Advisor's Office (405) 602-3100; Lynn Rogers, Assistant Attorney General Counsel, (405) 522-4411.

[OAR Docket #03-160; filed 1-23-03]

TITLE 90. ~~EXECUTIVE AND LEGISLATIVE BOND OVERSIGHT COMMISSIONS~~ COUNCIL OF BOND OVERSIGHT CHAPTER 10. ADMINISTRATION OF THE OKLAHOMA BOND OVERSIGHT AND REFORM ACT

[OAR Docket #03-161]

RULEMAKING ACTION:

Notice of proposed Permanent rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
90:10-1-1. Purpose and scope [AMENDED]
90:10-1-2. Statutory definitions [AMENDED]
90:10-1-3. Clarification of certain terms [REVOKED]
90:10-1-4. Additional definitions [AMENDED]
Subchapter 3. Application Procedure ~~for Applicants Subject to Commission Approval of Obligations~~
90:10-3-1. General [AMENDED]
90:10-3-3. Provisional Approval Application form information [AMENDED]
90:10-3-4. Final approval form [AMENDED]
90:10-3-5. State Bond Advisor review of request for proposals and approval of fees [AMENDED]
90:10-3-6. Program approval[AMENDED]
90:10-3-7. Lease Purchase Request for Approval form [AMENDED]
90:10-3-8. Substantial changes to Council of Bond Oversight ~~Commission~~ approved applications [AMENDED]
Subchapter 5. Fees
90:10-5-1. Fee payment requirement [AMENDED]
90:10-5-2. Fee Schedule [AMENDED]
Subchapter 7. Evaluation Standards and Criteria
90:10-7-1. General [AMENDED]
90:10-7-2. Legal compliance [AMENDED]
90:10-7-3. Authorized and proper public function or purpose [AMENDED]
90:10-7-4. Criteria applicability [AMENDED]
90:10-7-5. Documentation of ~~Commission~~ Council action [AMENDED]
Subchapter 9. Reporting
90:10-9-1. Closing documentation to the State Bond Advisor [AMENDED]
90:10-9-2. Local governmental entities [AMENDED]
Subchapter 11. Credit Enhancement Reserve Fund Applications
90:10-11-1. General [AMENDED]
90:10-11-2. Evaluation standards and criteria [AMENDED]

SUMMARY:

On September 24, 2002, the Oklahoma Supreme Court ruled that the Oklahoma Legislative Bond Oversight Commission violated the separation of powers doctrine of the Oklahoma Constitution. As a result of this ruling, the powers, duties, and responsibilities of both the Executive and Legislative Bond Oversight Commissions devolve upon the Council of Bond Oversight (as provided by the Oklahoma Bond Oversight and Reform Act). In order for the office to continue operating efficiently and effectively new rules are needed. Since the Executive and Legislative Bond Oversight Commissions are obsolete a name change is required in the rules in order for the State Bond Advisor's Office to operate. Other changes include: deleting unnecessary definitions and outdated reference to CERF applications approved prior to June 9, 1990; clarifying information that needs to be submitted with an application for Council approval of a financing; clarifying information needed by State Bond Advisor in selection of financing team; clarifying the term for which a financing team may be retained; amending lease application requirements where equipment is related to an energy savings program; clarifying fee payment requirements; amending description of "authorized and proper public function or purpose"; clarifying required closing documentation.

AUTHORITY:

62 O.S., Section 695.8(A)(4), Executive and Legislative Bond Oversight Commissions; 62 O.S., Section 695.11A., Council of Bond Oversight-Validation of actions and obligations-Members-Quorum-Voting-Vacancy

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m., March 20, 2003, at the Oklahoma State Bond Advisor's Office, 5900 N. Classen Court, Oklahoma City, OK 73118.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules: 2:00 p.m., Friday, March 21, 2003, Oklahoma State Bond Advisor's Office, 5900 N. Classen Court, Oklahoma City, OK 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by 4:00 p.m., March 20, 2003, at the Oklahoma State Bond Advisor's Office, 5900 N. Classen Court, Oklahoma City, OK 73118.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma State Bond Advisor's Office, 5900 N. Classen Court, Oklahoma City, OK. Copies of proposed rules may be obtained at a cost of 25 cents per page copying charge from the Oklahoma State Bond Advisor's Office, 5900 N. Classen Court, Oklahoma City, OK 73118.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available on and after March 5, 2003

at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Lorie Collier, Oklahoma State Bond Advisor's Office (405) 602-3100; Lynn Rogers, Assistant Attorney General Counsel, (405) 522-4411.

[OAR Docket #03-161; filed 1-23-03]

TITLE 90. ~~EXECUTIVE AND LEGISLATIVE BOND OVERSIGHT COMMISSIONS~~COUNCIL OF BOND OVERSIGHT
CHAPTER 15. ADMINISTRATION OF THE OKLAHOMA PRIVATE ACTIVITY BOND ALLOCATION ACT

[OAR Docket #03-162]

RULEMAKING ACTION:

Notice of proposed Permanent rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
90:15-1-1. Purpose and scope [AMENDED]
90:15-1-2. Statutory definitions [AMENDED]
90:15-1-3 Additional definitions [AMENDED]
Subchapter 3. General Operations of the State Bond Advisor
90:15-3-1. Official office [AMENDED]
90:15-3-2. Records [AMENDED]
Subchapter 7. State Ceiling Pools and Allocations to Pools
90:15-7-1. General scope and applicability; calculation of deadlines and time periods [AMENDED]
90:15-7-2. Qualified Small Issue Pool [REVOKED]
90:15-7-3. Exempt Facility Pool [REVOKED]
90:15-7-4. Student Loan Pool [REVOKED]
90:15-7-5. State Issuer Pool [REVOKED]
90:15-7-6. Local Issuer Single Family Pool [REVOKED]
90:15-7-7. Beginning Agricultural Producer Pool [REVOKED]
90:15-7-8. Oklahoma Housing Finance Agency Pool [REVOKED]
90:15-7-9. Economic Development Pool [REVOKED]
Subchapter 9. Application and Logging Procedures
Part 1. Application
90:15-9-1. Application submission [AMENDED]
90:15-9-4. Rejection of applications following insufficient demand determination; appeals [AMENDED]
90:15-9-5. Applications accepted to permanent status; issuance of confirmations; Final Certification [AMENDED]
Part 3. Register Logging
90:15-9-7. Assignment of applications to pool registers [AMENDED]
90:15-9-8. Qualified Small Issue Pool register [REVOKED]
90:15-9-9 Exempt Facility register [REVOKED]
90:15-9-10. Student Loan Bond register [REVOKED]
90:15-9-11. Local Issuer Single Family Pool register [REVOKED]
90:15-9-12. Beginning Agricultural Producer Pool register [REVOKED]
Subchapter 11. Consolidated Pool and Register
90:15-11-1. Establishment of Consolidated Pool and register [AMENDED]
90:15-11-2. Outstanding requests and new applications [AMENDED]
Subchapter 13. Carryforward Applications
90:15-13-2. Preference [AMENDED]

SUMMARY:

On September 24, 2002, the Oklahoma Supreme Court ruled that the Oklahoma Legislative Bond Oversight Commission violated the separation of powers doctrine of the Oklahoma Constitution. As a result of this ruling, the powers, duties, and responsibilities of both the Executive and Legislative Bond Oversight Commissions devolve upon the Council of Bond Oversight (as provided by the Oklahoma Bond Oversight and Reform Act). In order for the office to continue operating efficiently and effectively new rules are needed. Since the Executive and Legislative Bond Oversight Commissions are obsolete a name change is required in the rules in order for the State Bond Advisor's Office to operate. Other changes included are: clarifying and adding definitions; removing references to certain pools that are described in statutes; clarify application processing and deleting conflicting rules concerning application processing; clarifying recapture of unused cap for consolidated pool; and deleting references to various pool registers.

AUTHORITY:

62 O.S., Section 695.8(A)(4), Executive and Legislative Bond Oversight Commissions; 62 O.S., Section 695.11A., Council of Bond Oversight-Validation of actions and obligations-Members-Quorum-Voting-Vacancy

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m., March 20, 2003, at the Oklahoma State Bond Advisor's Office, 5900 N. Classen Court, Oklahoma City, OK 73118.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules: 2:00 p.m., Friday, March 21, 2003, Oklahoma State Bond Advisor's Office, 5900 N. Classen Court, Oklahoma City, OK 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing

by 4:00 p.m., March 20, 2003, at the Oklahoma State Bond Advisor's Office, 5900 N. Classen Court, Oklahoma City, OK 73118.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma State Bond Advisor's Office, 5900 N. Classen Court, Oklahoma City, OK. Copies of proposed rules may be obtained at a cost of .25 cents per page copying charge from the Oklahoma State Bond Advisor's Office, 5900 N. Classen Court, Oklahoma City, OK 73118.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available on and after March 5, 2003 at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Lorie Collier, Oklahoma State Bond Advisor's Office (405) 602-3100; Lynn Rogers, Assistant Attorney General Counsel, (405) 522-4411.

[OAR Docket #03-162; filed 1-23-03]

TITLE 92. OKLAHOMA PROFESSIONAL BOXING COMMISSION
CHAPTER 10. RULES FOR BOXING AND OTHER ACTIVITIES

[OAR Docket #03-98]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 10. Rules For Boxing And Other Activities [AMENDED]

SUMMARY:

The proposed rules amend licensing procedures and qualifications for all promoters and participants of boxing, kickboxing, elimination tournaments, mixed martial arts, and professional wrestling. The proposed rules establish licensing criteria and create specific rules for mixed martial arts competitions. The proposed rules also increases the amount of required insurance promoters provide for protection of licensed participants and expands testing for illegal substances.

AUTHORITY:

Oklahoma Professional Boxing Commission; 3A O.S. §§ 603 and 604.2

COMMENT PERIOD:

February 19, 2003 through March 20, 2003. Interested persons may informally discuss the proposed rules, or before March 20, 2003, submit written comments to Stephen Bashore, Administrator, Oklahoma Professional Boxing Commission, State Department of Health Building, 1000 NE 10th St., Room 1213, Oklahoma City, Oklahoma 73117-1299.

PUBLIC HEARING:

Part of a special meeting of the Oklahoma Professional Boxing Commission, March 20, 2003 which begins at 1:30 p.m. at the State Department of Health Building, 1000 NE 10th St., Oklahoma City, Oklahoma 73117-1299.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

NA

COPIES OF PROPOSED RULES:

Copies of the rules may be obtained by contacting Stephen Bashore, Administrator, Oklahoma Professional Boxing Commission, State Department of Health Building, 1000 NE 10th St., Room 1213, Oklahoma City, Oklahoma 73117-1299, (405) 271-9444 Ext. 57992.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and may be obtained for review at the Oklahoma Professional Boxing Commission, State Department of Health Building, 1000 NE 10th St., Room 1213, Oklahoma City, Oklahoma 73117-1299.

CONTACT PERSON:

Stephen Bashore, Administrator, Oklahoma Professional Boxing Commission, State Department of Health Building, 1000 NE 10th St., Room 1213, Oklahoma City, Oklahoma 73117-1299, Tel. (405) 271-9444 Ext. 57992.

[OAR Docket #03-98; filed 1-14-03]

TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS
CHAPTER 1. ADMINISTRATIVE ORGANIZATION AND OPERATIONS

[OAR Docket #03-120]

RULEMAKING ACTION:

Notice of proposed Permanent rulemaking

PROPOSED RULES:

Chapter 1. Administrative Organization and Operations [AMENDED]

SUMMARY:

The proposed revisions to chapter 1 are necessary to be in compliance with the Attorney General Opinion 02-22 regarding promulgation of rules pertaining to the scope of practice for a Chiropractic physician in Oklahoma.

AUTHORITY:

59 O.S. Supp. 2002, SEC. 161.2 et seq.; Board of Chiropractic Examiners

COMMENT PERIOD:

Written comments will be accepted February 18, 2003 through March 20, 2003 at: Oklahoma Board of Chiropractic Examiners, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma 73105, Attn: Beth Scott

PUBLIC HEARING:

Public hearing is scheduled on March 20, 2003, 10:00 p.m. at the Office of the Board of Veterinary Medical Examiners and the Oklahoma Board of Dentistry conference room, 201 N.E. 38th Terrace, Suite 1 and 2, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

REQUESTS FOR COMMENTS FROM BUSINESS ETITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Oklahoma Board Of Chiropractic Examiners, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Oklahoma Board of Chiropractic Examiners, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

CONTACT PERSON:

Beth Scott (405) 524-6223

[OAR Docket #03-120; filed 1-22-03]

TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS
CHAPTER 10. LICENSURE OF CHIROPRACTIC PHYSICIANS

[OAR Docket #03-121]

RULEMAKING ACTION:

Notice of proposed Permanent rulemaking

PROPOSED RULES:

Chapter 10. Licensure of Chiropractic Physicians [AMENDED]

SUMMARY:

The proposed revisions to chapter 10 are needed to be in compliance with statutory requirements in Title 59 O.S. 161.10 through 161.11.

AUTHORITY:

59 O.S. Supp. 2002, SEC. 161.10 et seq. and 161.11 et seq.; Board of Chiropractic Examiners

COMMENT PERIOD:

Written comments will be accepted February 18, 2003 through March 20, 2003 at: Oklahoma Board of Chiropractic Examiners, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma 73105, Attn: Beth Scott

PUBLIC HEARING:

Public hearing is scheduled on March 20, 2003, 10:00 p.m. at the Office of the Board Of Veterinary Medical Examiners and the Oklahoma Board of Dentistry conference room, 201 N.E. 38th Terrace, Suite 1 and 2, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

REQUESTS FOR COMMENTS FROM BUSINESS ETITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Oklahoma Board Of Chiropractic Examiners, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Oklahoma Board of Chiropractic Examiners, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

CONTACT PERSON:

Beth Scott (405) 524-6223

[OAR Docket #03-121; filed 1-22-03]

TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS
CHAPTER 15. SPECIAL CERTIFICATES AND MISCELLANEOUS PROVISIONS

[OAR Docket #03-122]

RULEMAKING ACTION:

Notice of proposed Permanent rulemaking

PROPOSED RULES:

Chapter 15. Special Certificates and Miscellaneous Provisions [AMENDED]

SUMMARY:

The proposed revisions to chapter 15 are necessary to be in compliance with statutes pertaining to Animal Chiropractic Diagnosis and Treatment under Title 59 O.S. 161.2.

AUTHORITY:

59 O.S. Supp. 2002, SEC. 161.2 et seq.; Board of Chiropractic Examiners

COMMENT PERIOD:

Written comments will be accepted February 18, 2003 through March 20, 2003 at: Oklahoma Board of Chiropractic Examiners, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma 73105, Attn: Beth Scott

PUBLIC HEARING:

Public hearing is scheduled on March 20, 2003, 10:00 p.m. at the Office of the Board of Veterinary Medical Examiners and the Oklahoma Board of Dentistry conference room, 201 N.E. 38th Terrace, Suite 1 and 2, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

REQUESTS FOR COMMENTS FROM BUSINESS ETITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Oklahoma Board Of Chiropractic Examiners, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

RULE IMPACT STATEMENT:

The rule impact statement may be obtained from the Oklahoma Board of Chiropractic Examiners, 201 N.E. 38th Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

CONTACT PERSON:
Beth Scott (405) 524-6223

[OAR Docket #03-122; filed 1-22-03]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 1. PROCEDURES OF THE OKLAHOMA CONSTRUCTION INDUSTRIES BOARD

[OAR Docket #03-102]

RULEMAKING ACTION:
Notice of proposed PERMANENT rulemaking
PROPOSED RULES:
Subchapter 7. Oklahoma Small Business Regulatory Flexibility Act [NEW]
158:1-7-1 Oklahoma Small Business Regulatory Flexibility Act. [NEW]
158:1-7-2 Definitions [NEW]
158:1-7-3 Waiver or Reduction of Administrative fine or penalty. [NEW]
SUMMARY:
The purpose of the proposed rules is to comply with the Oklahoma Small Business Regulatory Flexibility Act (75 O.S. Supp. 2002, § 501 *et seq.*), these Rules apply to all fines and penalties imposed by the Board.
AUTHORITY:
Construction Industries Board; 59 O.S.§ 1000.4.
COMMENT PERIOD:
Written and oral comments will be accepted between February 18, 2003 through March 20, 2003 during regular business hours at the office of the Administrator, Construction Industries Board, Room 1205, 1000 N.E. 10th, Oklahoma City, Oklahoma, 73117.
PUBLIC HEARING:
A public hearing on these proposed rules will be held at 1:30 p.m. on March 26, 2003 at a special meeting of the Construction Industries Board in meeting room 307, 1000 N.E. 10th, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 1:35 p.m.
REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:
The Construction Industries Board requests that business entities affected by these proposed rules provide the Constructions 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 Jeanne Britt at the above address, before the close of the comment period on March 20, 2003.
COPIES OF PROPOSED RULES:
Copies of the proposed rules may be obtained from the Construction Industries Board, 1000 N.E. 10th, Suite 1205, Oklahoma City, Oklahoma, 73117, before the close of the comment period on March 20, 2003.
RULE IMPACT STATEMENT:
Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to March 5, 2003, and may be obtained from the Construction Industries Board at the above address.
CONTACT PERSON:
Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #03-102; filed 1-16-03]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 10. FINE SCHEDULE

[OAR Docket #03-103]

RULEMAKING ACTION:
Notice of proposed PERMANENT rulemaking
PROPOSED RULES:
Subchapter 5. Oklahoma Small Business Regulatory Flexibility Act [NEW]
158:10-5-1 Oklahoma Small Business Regulatory Flexibility Act. [NEW]
158:10-5-2 Definitions [NEW]
158:10-5-3 Waiver or Reduction of Administrative fine or penalty. [NEW]
SUMMARY:
The purpose of the proposed rules is to comply with the Oklahoma Small Business Regulatory Flexibility Act (75 O.S. Supp. 2002, § 501 *et seq.*), these Rules apply to all fines and penalties imposed by the Board.
AUTHORITY:
Construction Industries Board; 59 O.S. § 1000.4.
COMMENT PERIOD:
Written and oral comments will be accepted between February 18, 2003 through March 20, 2003, during regular business hours at the office of the Administrator, Construction Industries Board, Room 1205, 1000 N.E. 10th, Oklahoma City, Oklahoma, 73117.
PUBLIC HEARING:
A public hearing on these proposed rules will be held at 1:30 p.m. on March 26, 2003, at a special meeting of the Construction Industries Board in meeting room 307, 1000 N.E. 10th, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 1:35 p.m.
REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:
The Construction Industries Board requests that business entities affected by these proposed rules provide the Constructions 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 Jeanne Britt at the above address, before the close of the comment period on March 20, 2003.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 1000 N.E. 10th, Suite 1205, Oklahoma City, Oklahoma, 73117, before the close of the comment period on March 20, 2003.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to March 5, 2003, and may be obtained from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #03-103; filed 1-16-03]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 20. ELEVATOR INJURY REPORTING REGULATIONS

[OAR Docket #03-104]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

158:20-1-1 Purpose [NEW]
158:20-1-2 Definitions [NEW]
158:20-1-3 Procedures of the Construction Industries Board [NEW]

SUMMARY:

The purpose of the proposed rules is to comply with the Elevator Injury Reporting Act Pursuant to Senate Bill 952

AUTHORITY:

Construction Industries Board; 59 O.S.§ 3009.

COMMENT PERIOD:

Written and oral comments will be accepted between February 18, 2003 through March 20, 2003 during regular business hours at the office of the Administrator, Construction Industries Board, Room 1205, 1000 N.E. 10th, Oklahoma City, Oklahoma, 73117.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 p.m. on March 26, 2003 at a special meeting of the Construction Industries Board in meeting room 307, 1000 N.E. 10th, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Constructions 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 Jeanne Britt at the above address, before the close of the comment period on March 20, 2003.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 1000 N.E. 10th, Suite 1205, Oklahoma City, Oklahoma, 73117, before the close of the comment period on March 20, 2003.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to March 5, 2003, and may be obtained from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #03-104; filed 1-16-03]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 30. PLUMBING INDUSTRY REGULATIONS

[OAR Docket #03-105]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
158:30-1-2 Definitions [AMENDED]
Subchapter 5. License Types, Bond Requirements, Display of License and Firm Name
158:30-5-1 License types [AMENDED]
Subchapter 9. Examination Procedures and License and Registration Fees
158:30-9-1 Examination procedures [AMENDED]
158:30-9-2 License and registration fees [AMENDED]
158:30-9-3 Duration of Licenses [AMENDED]

SUMMARY:

The rule change in 158:30-1-2 provides a definition of "Cheating" which allows for sanctions if discovered. This rule change also provides a definition of "Reciprocity" which the Legislature approved in statute last session. The rule change in 158:30-5-1 revises the Apprentice registration procedures by providing a temporary thirty (30)day registration until an apprentice receives a permanent registration apprentice

card. The rule change in 158:30-9-2 sets forth a new title and eliminates set fees for all testing and examination and establishes a fee based on the actual cost to the applicant and provides for the applicant to make payment of said fee directly to the vendor providing such service. The new rule language in 158:30-9-2(d) provides a requirement to resolve outstanding fines and obligations with all departments under the Construction Industries Board before a license can be issued. The rule in 158:30-9-3 adds language to mirror the Mechanical and Electrical rules. Other nonsubstantive changes to correct unclear language or formatting errors are included: 158:30-9-2(a)to 158:30-9-3(d); 158:39-9-2(b) to 30-9-1(b); 158:30-9-2(c) to 158:30-5-3(b); 158:30-11-1.

AUTHORITY:

Construction Industries Board; 59 O.S. §§ 1000.4 and 1002.

COMMENT PERIOD:

Written and oral comments will be accepted between February 18, 2003 through March 20, 2003, during regular business hours at the office of the Administrator, Construction Industries Board, Room 1205, 1000 N.E. 10th, Oklahoma City, Oklahoma, 73117.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 p.m. on March 26, 2003, at a special meeting of the Construction Industries Board in meeting room 307, 1000 N.E. 10th, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Constructions 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 Jeanne Britt at the above address, before the close of the comment period on March 20, 2003.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 1000 N.E. 10th, Suite 1205, Oklahoma City, Oklahoma, 73117, before the close of the comment period on March 20, 2003.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to March 5, 2003, and may be obtained from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #03-105; filed 1-16-03]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 40. ELECTRICAL INDUSTRY REGULATIONS

[OAR Docket #03-106]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
158:40-1-2 Definitions [AMENDED]
158:40-1-4. Standard of installation [AMENDED]
Subchapter 5. Licensing Requirements, Display of License and Firm Name, and Bond Requirements
158:40-5-1 Apprentice requirements [AMENDED]
158:40-5-4 Display of license number and firm name [AMENDED]
Subchapter 9. Examination Applications, Examinations and License and Registration Fees and Renewals
158:40-9-3 License and registration fees and renewals [AMENDED]
Subchapter 11. License Revocation or Suspension and Prohibited Acts
158:40-11-2 Prohibited Acts [AMENDED]

SUMMARY:

The rule change in 158:40-1-2 provides a definition of "Cheating" which allows for sanctions if discovered. The definition of "Electrical work" means work on electrical facilities as defined in 59 O.S. 2001, Section 1682. The rule change also provides a definition of "Reciprocity" which the Legislature approved in statute last session. The rule change in 158:40-1-4 incorporates the 2002 National Electrical Code [National Fire Protection Association Standard 70 02 (NFPA 70 02)] as the new minimum standard for electrical installations in Oklahoma. The rule change in 158:40-5-1(d) revises the Apprentice registration procedures by providing a temporary thirty (30)day registration until an apprentice receives a permanent apprentice registration card. The rule change in 158:40-5-4 requires licensed persons to have their license upon their person. The rule change in 158:40-9-3(a) eliminates set fees for all testing and examination and establishes a fee based on the actual cost to the applicant and provides for the applicant to make payment of said fee directly to the vendor providing such service. The rule in 158:40-9-3(b) provides clean-up language and provides a requirement to resolve outstanding fines and obligation with all departments under the Construction Industries Board before a license can be issued. The rule change in 158:40-9-3(c) provides for renewal eligibility and eliminates language not applicable under the Electrical Licensing Act. The rule change in 158:40-11-2(10) adds "cheating" as a prohibited act, including a prohibition of any act involving the fraudulent misrepresentation of an applicant by an examinee. Other rule changes provide nonsubstantive changes to correct unclear language or formatting errors.

AUTHORITY:

Construction Industries Board; 59 O.S. §§ 1000.4 and 1681.

COMMENT PERIOD:

Written and oral comments will be accepted between February 18 through March 20, 2003, during regular business hours at the office of the Administrator, Construction Industries Board, Room 1205, 1000 N.E. 10th, Oklahoma City, Oklahoma, 73117.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 p.m. on March 26, 2003, at a special meeting of the Construction Industries Board in meeting room 307, 1000 N.E. 10th, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Constructions 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 Jeanne Britt at the above address, before the close of the comment period on March 20,2003.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 1000 N.E. 10th, Suite 1205, Oklahoma City, Oklahoma, 73117, before the close of the comment period on March 20, 2003.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to March 5, 2003, and may be obtained from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #03-106; filed 1-16-03]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS

[OAR Docket #03-107]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

158:50-1-2 Definitions [AMENDED]

158:50-1-3 License requirement and exemptions [AMENDED]

Subchapter 5. License Types, Limitations of Licenses, Bond Requirements, Display of License and Firm Name

158:50-5-4 Display of license number and firm name [AMENDED]

Subchapter 9. Qualifications for Mechanical Licensure, License and Registration Fees, Duration of License, Mechanical License Application, and Apprentice Registration

158:50-9-2 License and registration fees [AMENDED]

158:50-9-5 Apprentice registration [AMENDED]

SUMMARY:

The rule change in 158:50-1-2 provides a definition of "Cheating" which allows for sanctions if discovered. The rule change also provides a definition of "Reciprocity" which the legislature approved in statute in the last session. The rule change in 158:5-4(b) requires licensed persons to have their license upon their person. The rule change in 158:50-9-2 eliminates set fees for all testing and examination and establishes a fee based on the actual cost to the applicant and provides for the applicant to make payment of said fee directly to the vendor providing such service. The rule in 158:50-9-2 also provides a requirement to resolve outstanding fines and obligations with all departments under the Construction Industries Board before a license can be issued. The rule change in 158:50-9-5 revises the Apprentice registration procedures by providing a temporary thirty (30)day registration until the apprentice receives his permanent apprentice registration card. Other rule changes provide nonsubstantive changes to correct unclear language or formatting errors.

AUTHORITY:

Construction Industries Board; 59 O.S. §§ 1000.4 and 1850.3.

COMMENT PERIOD:

Written and oral comments will be accepted between February 18, 2003 through March 20, 2003, during regular business hours at the office of the Administrator, Construction Industries Board, Room 1205, 1000 N.E. 10th, Oklahoma City, Oklahoma, 73117.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 p.m. on March 26, 2003, at a special meeting of the Construction Industries Board in meeting room 307, 1000 N.E. 10th, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Constructions 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 Jeanne Britt at the above address, before the close of the comment period on March 20, 2003.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 1000 N.E. 10th, Suite 1205, Oklahoma City, Oklahoma, 73117, before the close of the comment period on March 20, 2003.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to March 5, 2003, and may be obtained from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #03-107; filed 1-16-03]

TITLE 270. OKLAHOMA FIREFIGHTERS PENSION AND RETIREMENT SYSTEM CHAPTER 10. FIREIGHTERS PENSION AND RETIREMENT PLAN

[OAR Docket #03-112]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

270:10-1-8. [AMENDED]
270:10-1-9. [AMENDED]
270:10-1-10 [NEW]

SUMMARY:

The proposed rule amendments and new section would more clearly define the operating procedures and requirements necessary to be in compliance with recent changes to the statutory provisions of O.S. 11, 49-100.1 through 49-143.3. The proposed rule amendments and new section would further establish procedures necessary to keep the plan in compliance with Internal Revenue Service codes. The proposed rule amendments and new section would further provide for grammatical changes to the section for the purpose of clarity as to their meaning and intent.

AUTHORITY:

Board of Trustees of the Oklahoma Firefighters Pension and Retirement System; O.S. Title 11, Section 49-100.7 (B)

COMMENT PERIOD:

Written or oral comments will be accepted from 08:00 a.m. to 04:30 p.m., from February 18, 2003 to March 20, 2003, at the Oklahoma Firefighters Pension and Retirement System, 4545 N. Lincoln Blvd. Suite 265, Oklahoma City, Oklahoma 73105-3414.

PUBLIC HEARING:

The Oklahoma Firefighters Pension and Retirement System has not scheduled an official hearing. However, if comments arise, the public may demand a hearing at any time from 08:00 a.m. to 04:30 p.m., from February 18, 2003 to March 20, 2003, at the Oklahoma Firefighters Pension and Retirement System, 4545 N. Lincoln Blvd. Suite 265, Oklahoma City, Oklahoma 73105-3414.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules are available at the Oklahoma Firefighters Pension and Retirement System, 4545 N. Lincoln Blvd. Suite 265, Oklahoma City, Oklahoma 73105-3414.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303 (D), a rule impact statement will be prepared and will be available at the above address on and after March 5, 2003.

CONTACT PERSON:

Herb Bradshaw, Deputy Director, Oklahoma Firefighters Pension and Retirement System, (405) 522-4600.

[OAR Docket #03-112; filed 1-21-03]

TITLE 304. STATE USE COMMITTEE CHAPTER 10. OPERATIONAL PROCEDURES

[OAR Docket #03-170]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

304:10-1-2 through 304:10-1-5 [AMENDED]
304:10-1-8 [AMENDED]
304:10-1-10 through 304:10-1-11 [AMENDED]
304:10-1-12 [NEW]

SUMMARY:

Proposed amendments to 304:10-1-2 through 304:10-1-11 clarify, revise and update rule information pertaining to the operational procedures of the State Use Committee, which include definitions; procedures for qualification of individuals or agencies by the Committee; procedures for determination of fair market price for products and services; compilation and approval of the procurement schedule, procedures to file a grievance or protest with the Committee; annual meetings of the Committee; and reports required by the Committee. 304:10-1-12 proposes a new rule to establish payment of the contract levy required by 74 O.S., Section 3004.1, be made to the Department of Central Services no less than quarterly.

AUTHORITY:

State Use Committee, 74 O.S., Section 3009.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on March 25, 2003, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

PUBLIC HEARING:

A public hearing will be held at the Travis Leon Harris Library for the Blind, 300 N.E. 18th Street, Oklahoma City, OK, on Wednesday, March 26, 2003 at 10:00 a.m. Anyone who wishes to speak must sign in by 9:55 a.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after March 5, 2003 at the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Programs Officer, (405) 522-6597

[OAR Docket #03-170; filed 1-23-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 4. CERTIFICATE OF NEED HEARINGS

[OAR Docket #03-124]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

310:4-1-11 [AMENDED]

SUMMARY:

The proposed amendments establish a process for review of construction plans after approval of a Certificate of Need. The process allows for submission of preliminary and final plans, and establishes deadlines for review by the Department. The amendments are proposed to comply with Section 2 of Enrolled House Bill No. 2604 of the Second Session of the 48th Oklahoma Legislature.

AUTHORITY:

Oklahoma State Board of Health: 63 O.S. Section 1-857 and O.S. Law 2002, Chapter 230

COMMENT PERIOD:

February 18, 2003 through March 20, 2003. Interested persons may informally discuss the proposed rules with Protective Health Services staff; or before March 20, 2003, may submit written comments to Darlene Simmons, Director, Health Facility Systems, Protective Health Services, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; or before March 20, 2003 may send electronic mail to darlene@health.state.ok.us; or may ask to present written or oral views at the hearing.

PUBLIC HEARING:

Part of the regular meeting of the State Board of Health, March 20, 2003 which begins at 1:00 p.m. in Room 307 of the Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before March 20, 2003 to Darlene Simmons, Director, Health Facility Systems, Protective Health Services, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; or before March 20, 2003 may send electronic mail to darlene@health.state.ok.us.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Health Facility Systems, Protective Health Services, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 or by electronic mail request to darlene@health.state.ok.us.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning February 18, 2003 at the same location listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Darlene Simmons, Director, Health Facility Systems, Protective Health Services, telephone: 405-271-6868; electronic mail: darlene@health.state.ok.us

[OAR Docket #03-124; filed 1-22-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 99. SECONDHAND TOBACCO SMOKE

[OAR Docket #03-125]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 99. Secondhand Tobacco Smoke [NEW]

SUMMARY:

The proposed rules are to help protect the public and workers from an avoidable health hazard, secondhand tobacco smoke, as authorized by the disease prevention and by the hazardous substances laws in the Public Health Code of Oklahoma. The proposed rules also implement the Smoking in Public Places Act (O.S. 63:1-1521 et seq.)(Act) to assure that tobacco smoke exposure is minimized in various public places and workplaces as provided in the Act. These rules

permit smoking where smoking may be allowed under the Act and provide that indoor nonsmoking areas be free from tobacco smoke, consistent with the Act. Enforcement and penalties are established as well as rights to hearings should an administrative penalty be issued.

AUTHORITY:

Oklahoma State Board of Health: 63 O.S. §§1-104, 1-106, 1-502(b), 1-1526, 1-1602, 1-1701.1A.

COMMENT PERIOD:

February 18, 2003 through March 20, 2003. Interested persons may discuss informally the proposed rules with Protective Health Services staff; or may before March 20, 2003, submit written comment to Bob Miner, Tobacco Use Prevention Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or before March 20, 2003 may send electronic mail to BobM@health.state.ok.us; or may at the hearing ask to present written or oral views.

PUBLIC HEARING:

Part of the regular meeting of the State Board of Health, March 20, 2003, which begins at 1:00 p.m. in Room 307 of the State Health Department Building, 1000 N.E. 10th Street, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before March 20, 2003 to Bob Miner, Tobacco Use Prevention Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299 or via electronic mail to BobM@health.state.ok.us.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Tobacco Use Prevention Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning February 18, 2003 at the same location listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Bob Miner, Tobacco Use Prevention Service, (405) 271-3619, email BobM@health.state.ok.us.

[OAR Docket #03-125; filed 1-22-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 205. ALARM INDUSTRY ~~REGULATIONS~~

[OAR Docket #03-126]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. License Requirements
310:205-3-2 [AMENDED]
310:205-3-3 [AMENDED]
310:205-3-4 [AMENDED]
Appendix A [REVOKED AND REENACTED]

SUMMARY:

The proposed amendments require that the renewal terms of a contract "stand out" on the face of the contract or allow a company to provide a separate disclosure agreement to meet the rule, and require the licensed company representative's signature and license number on the contract/agreement and disclosure. The proposed amendments add language to require the state issued company license number be displayed on invoices, statements, contracts, and on all vehicles that display the alarm company name. Language has been added to define the relationship of the licensed burglar and fire alarm company manager to the licensed burglar and fire alarm company. Language has been added to allow burglar and fire alarm companies to operate branch offices and sets additional requirements for branch offices. Language has also been added to clarify requirements for removal of lockout and access codes from customer owned equipment and to allow the Department to accept new NTS/NBFAA certifications as approved by the Alarm Industry Committee.

AUTHORITY:

Oklahoma State Board of Health; Alarm Industry Act, 59 O.S., Sections 1800.1 et seq.

COMMENT PERIOD:

February 18, 2003 through March 20, 2003. Interested persons may informally discuss the proposed rules with Protective Health Services staff; or before March 20, 2003, may submit written comments to Rocky McElvany, Chief, Consumer Health Services, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; or before March 20, 2003, may send electronic mail to rockym@health.state.ok.us or may ask to present written or oral views at the hearing.

PUBLIC HEARING:

Part of the regular meeting of the State Board of Health, March 20, 2003, which begins at 1:00 p.m. in Room 307 of the Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar

amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before March 20, 2003, to Rocky McElvany, Chief, Consumer Health Services, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; or before March 20, 2003 may send electronic mail to rockym@health.state.ok.us

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Occupational Licensing Division at the above address or by electronic mail request to rockym@health.state.ok.us

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be available beginning February 18, 2003, and may be obtained from the Occupational Licensing Division, Consumer Health Services, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299.

CONTACT PERSON:

Rocky McElvany, Chief, Consumer Health Services, Oklahoma State Department of Health, (405) 271-5243, e-mail: rockym@health.state.ok.us

[OAR Docket #03-126; filed 1-22-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 400. LICENSED MARITAL AND FAMILY ~~THERAPIST REGULATIONS~~THERAPISTS

[OAR Docket #03-127]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Rules of Professional Conduct
310:400-5-3 [AMENDED]
Subchapter 17. Enforcement
310:400-17-2.1 [AMENDED]

SUMMARY:

The amendments to Subchapter 5 provide for requirements for LMFTs who perform forensic services, including, assessment, interviews, consultations, evaluations, custody evaluations, reports, or expert testimony, as well as to provide clarification of roles for treating therapists who perform forensic services. The amendments to Subchapter 17 provide for maintaining the confidentiality of complaints as well as the identity of the person(s) filing the complaint.

AUTHORITY:

Oklahoma State Board of Health; 59 O.S. 2001, Section 1925.5(A)

COMMENT PERIOD:

February 18, 2003 through March 20, 2003. Interested persons may discuss informally the proposed rules with staff of the Office of Professional Counselor Licensing; or may before March 20, 2003, submit written comment to Nena West, Director, Office of Professional Counselor Licensing, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or may at the hearing ask to present written or oral views.

PUBLIC HEARING:

Part of the regular meeting of the State Board of Health, March 20, 2003, which begins at 1:00 p.m. in Room 307 of the State Health Department Building, 1000 N.E. 10th Street, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before March 20, 2003 to Nena West, Director, Office of Professional Counselor Licensing, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Office of Professional Counselor Licensing, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning February 18, 2003 at the same location listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Nena West, Director, Office of Professional Counselor Licensing, (405) 271-6030, e-mail: nenaw@health.state.ok.us

[OAR Docket #03-127; filed 1-22-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 515. COMMUNICABLE DISEASE AND INJURY REPORTING

[OAR Docket #03-128]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

310:515-1-3 [AMENDED]
310:515-1-4 [AMENDED]

SUMMARY:

The proposal updates the list of reportable diseases. Certain diseases have been added to the list due to the recognition of new pathogens, the emergence of surveillance for bioterrorism, and to conform to the list of nationally reportable diseases recommended by the Council of State and Territorial Epidemiologists.

AUTHORITY:

Oklahoma State Board of Health; 63 O.S. 1991, Section 1-503

COMMENT PERIOD:

February 18, 2003 through March 20, 2003. Interested persons may discuss informally the proposed rules with Lauri Smithee, M.E.S., M.S., Director, Communicable Disease Division; or may before March 20, 2003, submit written comment to Mike Crutcher, M.D., M.P.H, State Epidemiologist, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or may at the hearing ask to present written or oral views.

PUBLIC HEARING:

Part of the regular meeting of the State Board of Health, March 20, 2003, which begins at 1:00 p.m. in Room 307 of the State Health Department Building, 1000 N.E. 10th Street, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before March 20, 2003 to Lauri Smithee, M.E.S., M.S., Director, Communicable Disease Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, or by e-mail to LaurieS@health.state.ok.us.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Communicable Disease Division, Acute Disease Service, Room 605, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning February 18, 2003 at the same location listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Lauri Smithee, M.S., Director, Communicable Disease Division, (405) 271-4060, e-mail: LaurieS@health.state.ok.us

[OAR Docket #03-128; filed 1-22-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 641. EMERGENCY MEDICAL SERVICES

[OAR Docket #03-129]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Ambulance Services
Part 1. General Provisions
310:641-3-2 [AMENDED]
Part 3. Ambulance Services
310:641-3-15 [AMENDED]
Part 5. Ground Transport Vehicles
310:641-3-20 [AMENDED]
310:641-3-23 [AMENDED]
Part 7. Air Ambulances
310:641-3-30 [AMENDED]
310:641-3-31 [AMENDED]
Part 9. Specialty Care
310:641-3-41 [AMENDED]
Part 23. Emergency Medical Services Regions
310:641-3-110 [AMENDED]
Subchapter 5. Personnel Licenses and Certification
Part 3. Emergency Medical Personnel Licenses
310:641-5-14 [AMENDED]
310:641-5-16 [REVOKED]
Subchapter 7. Training Programs
Part 3. Training Programs
310:641-7-10 [AMENDED]
310:641-7-11 [AMENDED]
310:641-7-12 [AMENDED]
310:641-7-13 [AMENDED]
310:641-7-14 [AMENDED]
310:641-7-15 [AMENDED]
Part 5. Instructor Qualifications
310:641-7-20 [AMENDED]
310:641-7-21 [AMENDED]

SUMMARY:

The rule change is intended to add definitions, modify the ambulance licensure requirements to establish 'enroute' time requirements, allow more flexible staffing using 'emergency medical dispatch' screening, update vehicle specification, update mandatory equipment lists, establish accreditation requirements for Air Ambulances, modify relicensure criteria consistent with the National Registry of EMT's, require certification for all EMT training programs and define those requirements, remove pass ratio requirements for instructors and establish lab assistant and instructor refresher requirements.

AUTHORITY:

Oklahoma State Board of Health; 63 O.S. Section 1-104; 63 O.S. 2001, Section 1-2501 et seq.

COMMENT PERIOD:

February 18, 2003 through March 20, 2003. Interested persons may discuss informally the proposed rules with Protective Health Service - Emergency Medical Services staff; or may before March 20, 2003, submit written comment to R. Shawn Rogers, Director, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or may at the hearing ask to present written or oral views.

PUBLIC HEARING:

Part of the regular meeting of the State Board of Health, March 20, 2003, which begins at 1:00 p.m. in Room 307 of

the State Health Department Building, 1000 N.E. 10th Street, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before March 20, 2003 to R. Shawn Rogers, Emergency Medical, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Emergency Medical Services Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning February 18, 2003 at the same location listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

R. Shawn Rogers, Emergency Medical Services, (405) 271-4027, electronic mail: ShawnR@health.state.ok.us

[OAR Docket #03-129; filed 1-22-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 655. HEALTH MAINTENANCE ORGANIZATIONS AND PREPAID HEALTH PLANS

[OAR Docket #03-130]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 655. Health Maintenance Organizations and Prepaid Health Plans [AMENDED]

SUMMARY:

These amendments modify the rules to provide for the independence of qualified actuaries; to clarify that HMOs shall provide or arrange medically necessary services; to raise the minimum net worth to $3 million dollars; that the minimum deposit shall not be an admitted asset for determining net worth; and procedures for claims against the deposit. These amendments specify the enrollment period for replacement coverage; identify information to be filed for transactions between affiliates; and allows for the confidentiality of financial data submitted for the purpose of obtaining a license. The requirements for reimbursement of claims are modified to provide for a claims payment report, and to address elements of a clean claim, disclosure requirements and procedures for claims, penalties for failure to pay promptly, criteria to determine date of claim receipt and prohibitions against contract language limiting provider rights. Standards and procedures are added for examinations, delegated entities and risk based capital.

AUTHORITY:

State Board of Health, 63 O.S. Section 1-104; and State Department of Health, 63 O.S. Section 2501 et seq.

COMMENT PERIOD:

February 18, 2003 through March 20, 2003. Interested persons may informally discuss the proposed rules with Protective Health Services staff; or before March 20, 2003, may submit written comments to Ms. Lajuana Wire, Director, Managed Care Systems, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or may ask to present written or oral views at the hearing.

PUBLIC HEARING:

Part of the regular meeting of the State Board of Health, March 20, 2003, which begins at 1:00 p.m. in Room 307 of the Oklahoma State Department of Health Building, 1000 N.E. 10th Street, Oklahoma City, OK.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before March 20, 2003 to Ms. Lajuana Wire, Director, Managed Care Systems, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or before February 15, 2003 may send electronic mail to lajuana@health.state.ok.us.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained from Managed Care Systems, Protective Health Services, Room 1010, State Department of Health Building, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and may be obtained for review beginning February 18, 2003, at the Oklahoma State Department of Health Building, Room 1010, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

CONTACT PERSON:

Ms. Lajuana Wire, Director, Managed Care Systems, Tel. (405) 271-6868, e-mail: lajuana@health.state.ok.us

[OAR Docket #03-130; filed 1-22-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 664. HOME CARE ADMINISTRATOR CERTIFICATION

[OAR Docket #03-131]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Initial Certificate Process
310:664-3-3 [AMENDED]
310:664-3-6 [AMENDED]
Subchapter 7. Requirements for Examination
310:664-7-1 [AMENDED]
310:664-7-2 [AMENDED]
Subchapter 9. Continuing Education Requirements
310:664-9-2 [AMENDED]
310:664-9-3 [AMENDED]
310:664-9-4 [AMENDED]
Subchapter 11. Renewal of Certification
310:664-11-1 [AMENDED]
310:664-11-2 [AMENDED]
Subchapter 13. Enforcement
310:664-13-4 [AMENDED]

SUMMARY:

The proposed amendments establish a 3-month time limit after completion of a preparedness program for an individual to take the certification examination. The amendments establish a 6-month time limit for an individual to apply for a certificate after passing the administrator preparedness examination. Additional requirements are established for an individual who fails to comply with examination and application time limits, or who fails to successfully complete the examination. The types of courses that qualify for continuing education credit are clarified. Limits are placed on continuing education credits for courses with a clinical emphasis. Documentation requirements for proof of continuing education are specified and clarified. Additional proof of continuing education hours earned are specified for an applicant who fails to timely renew certification. Annual fees are required for an applicant who does not timely renew. Procedures for requesting an inactive certificate are clarified. The amendments provide for denial of a certificate for any administrator who alters or allows alteration of a certificate. Grounds for sanctions against an administrator's certificate are amended to include the administrator's misrepresentation or alteration of a certificate.

AUTHORITY:

Oklahoma State Board of Health: 63 O.S. Section 1-1962a and Section 1-1964.

COMMENT PERIOD:

February 18, 2003 through March 20, 2003. Interested persons may informally discuss the proposed rules with Protective Health Services staff; or before March 20, 2003, may submit written comments to Lisa McAlister, RN, Director, Nurse Aide Registry, Protective Health Services, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; or before March 20, 2003 may send electronic mail to lisaam@health.state.ok.us; or may ask to present written or oral views at the hearing.

PUBLIC HEARING:

Part of the regular meeting of the State Board of Health, March 20, 2003 which begins at 1:00 p.m. in Room 307 of the Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before March 20, 2003 to Lisa McAlister, RN, Director, Nurse Aide Registry, Protective Health Services, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; or before March 20, 2003 may send electronic mail to lisaam@health.state.ok.us.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Nurse Aide Registry, Protective Health Services, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 or by electronic mail request to lisaam@health.state.ok.us.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning February 18, 2003 at the same location listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Lisa McAlister, RN, Director, Nurse Aide Registry, Protective Health Services, telephone: 405-271-4085; electronic mail: lisaam@health.state.ok.us

[OAR Docket #03-131; filed 1-22-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 670. JAIL STANDARDS

[OAR Docket #03-132]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
310:670-1-1 [AMENDED]
310:670-1-2 [AMENDED]
310:670-1-3 [AMENDED]
Subchapter 3. Standards for Lockup Facilities
310:670-3-1 [AMENDED]

Subchapter 5. Standards for Jail Facilities
310:670-5-1 [AMENDED]
310:670-5-2 [AMENDED]
310:670-5-3 [AMENDED]
310:670-5-4 [AMENDED]
310:670-5-5 [AMENDED]
310:670-5-6 [AMENDED]
310:670-5-7 [AMENDED]
310:670-5-8 [AMENDED]
310:670-5-9 [AMENDED]
310:670-5-10 [AMENDED]
310:670-5-11 [AMENDED]
Subchapter 7. Standards for Jails Holding Juveniles
310:670-7-1 [AMENDED]

SUMMARY:

This proposal amends the standards governing city and county jails, ten-day lockup facilities, 12-hour holding facilities and city and county jails that hold juveniles. The changes clarify definitions and requirements relating to prisoner medical screening process, number of hours between evening and breakfast meals, clothing and footwear, language assistance, telephone calls and direct supervision. The new language also removes and/or replaces antiquated language and definitions and also specifies a passing score on the jailer-training test. The date was changed for which new construction or substantial remodeling of a facility must meet current jail standards and building codes. The changes are needed to update the requirements relating to jails and are intended to protect the health, safety of jail staff and prisoners.

AUTHORITY:

Oklahoma State Board of Health; 74 O. S. Section 192-197

COMMENT PERIOD:

February 18, 2003 through March 20, 2003. Interested persons may discuss informally the proposed rules with Protective Health Services staff; or may before March 20, 2003, submit written comment to Rocky McElvany, Chief, Consumer Health Services, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or may at the hearing ask to present written or oral views.

PUBLIC HEARING:

Part of the regular meeting of the State Board of Health, March 20, 2003, which begins at 1:00 p.m. in Room 307 of the State Health Department Building, 1000 N.E. 10th Street, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before March 20, 2003 to Rocky McElvany, Chief, Consumer Health Services, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or before February 13, 2002 may send electronic mail to rockym@health.state.ok.us

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Jail Inspection Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299 or by electronic mail request to rockym@health.state.ok.us

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning February 18, 2003 at the same location listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Rocky McElvany, Chief, Consumer Health Services, (405) 271-5243, e-mail: rockym@health.state.ok.us

[OAR Docket #03-132; filed 1-22-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 675. ~~REGULATIONS FOR LICENSURE OF~~ NURSING AND SPECIALIZED FACILITIES

[OAR Docket #03-133]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
310:675-1-2 [AMENDED]
310:675-1-5 [NEW]
Subchapter 3. Licenses
310:675-3-2.1 [AMENDED]
310:675-3-3.1 [AMENDED]
310:675-3-4.1 [AMENDED]
310:675-3-5 [AMENDED]
310:675-3-5.1 [AMENDED]
310:675-3-8 [NEW]
Subchapter 7. Administration
310:675-7-4 [AMENDED]
310:675-7-5.1 [AMENDED]
310:675-7-6.1 [AMENDED]
310:675-7-16.1 [AMENDED]
310:675-7-20 [NEW]
310:675-7-21 [NEW]
Subchapter 9. Resident Care Services
310:675-9-4.1 [AMENDED]
310:675-9-5.1 [AMENDED]
Subchapter 13. Staff Requirements
310:675-13-12 [AMENDED]
Subchapter 15. Temporary Manager or Receiver [AMENDED]
310:675-15-3 [AMENDED]
310:675-15-8 [AMENDED]

310:675-15-11 [AMENDED]
310:675-15-12 [AMENDED]
310:675-15-15 [AMENDED]
310:675-15-16 [AMENDED]
310:675-15-17 [NEW]
Subchapter 17. Inspection Protocols
310:675-17-3 [NEW]

SUMMARY:

The proposed amendments modify the definitions in Subchapter 1 to implement the provisions of Enrolled House Bill No. 2604 of the Second Session of the 48th Oklahoma Legislature. Subchapter 3 is amended to include applications and procedures for suspended licenses, and to reduce paperwork for license renewals when a facility has undergone no change. Forms for suspended licenses and for notices of change are described. Procedures for notifying the Department of changes are specified. Subchapter 7 is amended to describe a report form for allegations of abuse, neglect, or misappropriation of resident property by a nurse aide, which nursing facilities will be required to use when reporting abuse, neglect or misappropriation by a nurse aide to the department. The requirement for notice to a complainant prior to an inspection is deleted to ensure that inspections are unannounced. Quality assessment requirements are amended to be consistent with federal regulations. Financial solvency standards are added pursuant to House Bill 2604. Subchapter 9 is amended to specify minimum levels of supplies required, also pursuant to House Bill 2604. Resident assessment requirements are amended to be consistent with federal regulations for assessments and data submission.

Subchapter 13 is amended to make staffing levels consistent with current state law. The steps for calculating "major fraction thereof" are specified. The amendments to Subchapter 15 require the accrual method of accounting to standardize financial reports from temporary managers. Temporary manager appointment procedures are expanded to include references to federal requirements. Modifications are made to the language on bonds to allow for lesser amounts based on the assets under control of the temporary manager. Requirements relating to issuance of a license to a facility under temporary management are clarified. Conditions under which the Department will seek appointment of a receiver are clarified, and provisions are made for maintenance of a list of receivers. References to the Administrative Law Judge are revised to refer to the Commissioner of Health, to be consistent with the law. Requirements relating to status conferences are revised to provide for submission of monthly reports. Subchapter 17 is amended to implement and formalize the guidance on plans of correction as published in the federal State Operations Manual.

A new section, 310:675-1-5, establishes rules and criteria for transfer of residents initiated by the Department in emergency situations, as required in 63 O.S. Section 1-1929. Section 310:675-7-4 is amended to modify rules and criteria for transfer of residents initiated by a nursing facility, as required in 63 O.S. Section 1-1928. The medical grounds for involuntary transfers or discharges are clarified, and facility documentation requirements are specified. A facility is prohibited from using a legitimate discharge to a hospital as a basis for refusing to readmit to the first available semiprivate bed. The contents of the notice that a facility must provide are reformatted and expanded. Failure to provide required notice results in denial of the right to discharge the resident. Provisions are made for the resident to file a verbal request for hearing. Hearing procedures are specified. The types of orders that the administrative law judge may issue are specified. A new section 310:675-7-21 is added to implement 63 O.S. Section 1-1919(D), by specifying the procedures for notice and hearing when the facility refuses access to the facility to any person.

AUTHORITY:

Oklahoma State Board of Health: 63 O.S. Sections 1-1901 et seq. and Oklahoma Sessions Law 2002, Ch. 230.

COMMENT PERIOD:

February 18, 2003 through March 20, 2003. Interested persons may informally discuss the proposed rules with Protective Health Services staff; or before March 20, 2003, may submit written comments to Dorya Huser, Chief, Long Term Care Service, Protective Health Services, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; or before March 20, 2003 may send electronic mail to doryah@health.state.ok.us; or may ask to present written or oral views at the hearing.

PUBLIC HEARING:

Part of the regular meeting of the State Board of Health, March 20, 2003 which begins at 1:00 p.m. in Room 307 of the Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before March 20, 2003 to Dorya Huser, Chief, Long Term Care Service, Protective Health Services, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; or before March 20, 2003 may send electronic mail to doryah@health.state.ok.us.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Long Term Care Service, Protective Health Services, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 or by electronic mail request to doryah@health.state.ok.us.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning February 18, 2003 at the same location listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Dorya Huser, Chief, Long Term Care Service, Protective Health Services, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; telephone: 405-271-6868; electronic mail: doryah@health.state.ok.us.

Contacts regarding the provisions in Sections 310:675-1-5, 310:675-7-4, or 310:675-7-20 should be directed to Suzanne Nichols, Director, Office of Accountability Systems, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; telephone: 405-271-4200; electronic mail: suzanne@health.state.ok.us.

[OAR Docket #03-133; filed 1-22-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #03-155]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Human Resources Management Division (HRMD)

Part 1. General Provisions

340:2-1-1 through 340:2-1-3 [AMENDED]

340:2-1-5 through 340:2-1-6 [AMENDED]

Part 3. Personnel Regulations Relative to Individual Employee

340:2-1-25 through 340:2-1-29 [AMENDED]

340:2-1-31 through 340:2-1-32 [AMENDED]

340:2-1-34 [AMENDED]

Part 5. Administrative Procedures

340:2-1-55 through 340:2-1-58 [AMENDED]

Part 7. Recruitment, Selection, and Placement Policy and Procedures

340:2-1-75 through 340:2-1-86 [AMENDED]

340:2-1-88 through 340:2-1-89 [AMENDED]

(Reference APA WF # 02-43 and 03-01)

SUMMARY:

Human Resources Management Division (HRMD) proposed rule revisions bring the Oklahoma Department of Human Services' (OKDHS) rules into compliance with the recently passed Senate Bills 1384 and 1553 and clarify language to reflect OKDHS' practice. HRMD rules are revised by: changing the title of the Agency to Oklahoma Department of Human Services and its acronym to OKDHS; removing titles of certain unclassified positions that may be appointed by the OKDHS Director; adding references to state statutes; changing grammar and punctuation to reflect OKDHS' current standards; relocating references to longevity benefits; adding a requirement of written acknowledgement for a direct hire, reinstatement, or any other employee not hired from an Office of Personnel Management (OPM) certificate who will serve a probationary period; adding a requirement that a classified employee who is laterally transferred or voluntarily demoted will serve a six-month trial period; adding conditions of employee's return to former position if the employee does not prove to be satisfactory in the new position; adding a requirement regarding classified employees who are inter-agency transfers; adding conditions of employee's reinstatement to former job family and pay band if the employee does not prove to be satisfactory in the new position; adding the requirement that an employee who requests a salary exception or accepts a voluntary demotion must complete required form; removing language that is no longer needed; adding references that waivers of posting provisions for unclassified positions may not be delegated by the OKDHS Director and the exception to that rule; adding requirement that vacant positions be announced for a minimum of ten working days and exceptions to that rule; adding references that vacancy announcements are posted on the OKDHS website; adding requirements of trial periods and reviews of minimum qualifications for voluntary demotions and lateral transfers; adding references to identity of selecting officials; adding criteria for interviews of employees on applicant list; adding references and criteria for requirement of trial periods for inter-agency transfers; adding requirement of written notice of probationary status for reinstated employees; adding requirement of local administrator to inform all candidates when selection is finalized; clarifying language and criteria when using certain codes on an OPM certificate; and adding language regarding smoking in and around any building or office leased or occupied by OKDHS to comply with Senate Bill 1553.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Section 1247 of Title 21 of the Oklahoma Statutes, Senate Bill 1553; Sections 840-2.17; 840-2.11, 840-3.4, 840-4.2, 840.4.12 of Title 74 of the Oklahoma Statutes, and Senate Bill 1384 (2002).

COMMENT PERIOD:

Written and oral comments will be accepted February 18, 2003 through March 20, 2003 during regular business hours by contacting, Tina Tate, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-522-0591.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than March 20, 2003 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #03-155; filed 1-23-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #03-158]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 28. ~~Child Support Administrative Hearings~~ Office of Administrative Hearings: Child Support

340:2-28-1 through 340:2-28-4 [AMENDED]
340:2-28-4.1 through 340:2-28-4.3 [NEW]
340:2-28-5 through 340:28-7 [REVOKED]
340:2-28-8 and 340:2-28-9 [AMENDED]
340:2-28-10 [REVOKED]
340:2-28-11 through 340:2-28-12 [AMENDED]
340:2-28-13 through 340:2-28-15 [AMENDED AND RENUMBERED TO 340:2-28-4.1 through 340:2-28-4.3]
340:2-28-16 [REVOKED]
340:2-28-16.1 through 340:2-28-16.2 [NEW]
340:2-28-17 [REVOKED]
340:2-28-17.1 and 340:2-28-17.2 [NEW]
340:2-28-18 through 340:2-28-26 [AMENDED]
340:2-28-27 [AMENDED AND RENUMBERED TO 340:2-28-17.2]
340:2-28-28 [REVOKED]
340:2-28-29 through 340:2-28-31 [AMENDED]
340:2-28-32 [REVOKED]
340:2-28-33 through 340:2-28-34 [AMENDED]
340:2-28-35 through 340:2-28-47 [REVOKED]
340:2-28-48 [AMENDED]
340:2-28-49 [REVOKED]
340:2-28-50 [AMENDED]
340:2-28-51 through 340:2-28-54 [REVOKED]
340:2-28-55 [AMENDED]
340:2-28-56 [REVOKED]

(Reference APA WF#03-07)

SUMMARY:

The Office Of Administrative Hearings: Child Support (OAH) proposed new rules and rules revisions will assist both attorneys and those who appear before the OAH without legal representation to have meaningful participation in that they will be aware of how OAH functions and what is required of all parties. Several sections have been renumbered to locate them in a more logical order. OAH proposed rules: clarify the purpose of OAH; remove obsolete definitions and add definitions currently used; remove obsolete language; address the function of OAH; add rules to explain the areas OAH covers; clarify the location of OAH; add rules to delineate the duties of the clerk of OAH; revoke rules that are obsolete, unnecessary, or included in other sections; clarify the necessary qualifications of an administrative law judge (ALJ); clarify the powers of an ALJ; clarify the procedures to utilize when seeking the disqualification of an ALJ; add rules to explain how cases are docketed; add rules to explain the requirement of providing orders to parties; add rules to assist in providing secure hearing rooms; add rules to provide guidance to parties practicing before the OAH and assist parties who are not represented by attorneys to understand the filing of documents; clarify that the Oklahoma Discovery Code applies to proceedings before the OAH; address what constitutes evidence; explain that disruptful behavior is a basis for being excluded from an administrative hearing; clarify that appropriate dress is required at proceedings; clarify what constitutes the record in a case before the OAH; clarify the administrative record to be utilized in an appeal of an OAH administrative proceeding; explain the assignment of case numbers; clarify the procedure for requesting a continuance; clarify the basis for obtaining a default order; specify the requirements placed on ALJs to submit administrative orders and provide a mechanism to be used by parties when an order is not filed in a timely manner by the ALJ; clarify the effect of the adminstrative order; and provide the statutory citation of authority for an appeal.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Sections 237 and 237.7 of Title 56 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted February 18, 2003 through March 20, 2003 during regular business hours by contacting Carolyn Koger, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-522-2596.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than March 20, 2003 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #03-158; filed 1-23-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #03-159]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Office of Client Advocacy
Part 1. Administration
340:2-3-1 through 340:2-3-2 [AMENDED]
340:2-3-12 [AMENDED]
Part 3. Investigations
340:2-3-32 through 340:2-3-38 [AMENDED]
Part 5. Grievances
340:2-3-45 through 340:2-3-46 [AMENDED]
340:2-3-50 through 340:2-3-53 [AMENDED]
340:2-3-55 [AMENDED]
Part 7. Grievance And Abuse Review Committee
340:2-3-61 [AMENDED]
340:2-3-63 through 340:2-3-64 [AMENDED]
Part 9. Ombudsman Programs
340:2-3-71 through 340:2-3-75 [AMENDED]
(Reference APA WF # 03-08)

SUMMARY:

Office of Client Advocacy (OCA) rules are revised to: (1) add definitions to clarify rules relating to OCA investigations; (2) add e-mail contact information for OCA programs; (3) correct phone numbers for contacting OCA and fax contact information, (4) add in-home supports investigations conducted by OCA pursuant to Section 7004-3.4(A)(2)(d)(3) of Title 10 of the Oklahoma Statutes; (5) add OCA's processing for the Community Services Workers Registry (Abuse Registry) the allegations substantiated by Adult Protective Services (APS) involving community services workers and Medicaid personal care assistants, pursuant to Section 1025.1 et seq. of Title 56 of the Oklahoma Statutes; (6) add investigations conducted by OCA pursuant to OAC 340:75-3-8.3 involving the denial of medically beneficial treatment to handicapped infants; (7) clarify incidents to be reported to OCA intake; (8) clarify the dissemination of OCA investigation reports when a confirmed finding results in processing the case for the Abuse Registry; (9) require providers serving Hissom class members to respond to OCA investigation reports directly rather than through Developmental Disabilities Services Division (DDSD); (10) clarify which allegations reported to OCA intake may be referred to a facility for a caretaker conduct review; (11) add a reference to the client resolution process provided by OAC 340:75-1-12.1; (12) limit application of OCA grievance system to providers and facilities that provide services to clients living in Oklahoma; (13) clarify that grievances can be filed verbally or in writing; (14) add a requirement that the name of a facility or provider's local grievance coordinator (LGC) be posted in a place conspicuous to clients; (15) clarify which Notice of Grievance Rights forms are available for use as applicable; (16) provide the option for submitting quarterly reports by e-mail; (17) provide a timeframe within which grievants decide whether to accept the proposed resolution to a grievance; (18) clarify who is the second-level decision maker for responding to a grievance; (19) provide for expediting grievances when time is of the essence; (20) provide for the county director to serve as the LGC for foster parent grievances; (21) clarify that Grievance and Abuse Review Committee (GARC) takes under advisement matters reviewed and informs interested parties of the results of its review by means of a written report; (22) specify a time frame for grievants to indicate whether they accept a proposed resolution to a grievance; (23) clarify the services OCA provides to residents of the Southern Oklahoma Resource Center (SORC), the Northern Oklahoma Resource Center (NORCE), or the Greer Center Facility (Greer); (24) clarify the meaning of short-term advocacy services; and (25) correct spelling and grammatical errors and non-substantive revisions to improve clarity and readability.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Section 1025.1 et seq. of Title 56 of the Oklahoma Statutes; and OAC 340:75-3-8.3; Section 7004-3.4(A)(2)(d)(3) of Title 10 of the Oklahoma Statutes; and Section 10-101 *et seq*. of Title 43A of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted February 18, 2003 through March 20, 2003 during regular business hours by contacting, Judith G. Storandt, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-525-4850.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than March 20, 2003 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:
Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #03-159; filed 1-23-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 40. CHILD CARE SERVICES

[OAR Docket #03-157]

RULEMAKING ACTION:
Notice of proposed PERMANENT rulemaking
PROPOSED RULES:
Subchapter 7. Eligibility
340:40-7-6 [AMENDED]
340:40-7-9 through 340:40-7-13 [AMENDED]
Subchapter 9. Procedures Relating to Case Changes
340:40-9-2 through 340:40-9-3 [AMENDED]
340:40-13-1 through 340:40-13-2 [AMENDED]
Subchapter 13. Child Care Rates and Provider Issues
340:40-13-5 [AMENDED]
(Reference APA WF # 02-27 and 03-06)
SUMMARY:
Child Care Services proposed rules revisions: clarify household composition; add working or looking for a job away from home as a reason for temporary absence; clarify that court-ordered child support must be explored as a potential source of income; better explain the process when the client does not cooperate in pursuing potential income; clarify rules regarding past income; change the method for computing self-employment income; insert references for the Workforce Investment Act; add language to clarify that recurring lump sum payments include income from earnings; eliminate as countable income, educational grants and subsistence allowances paid to veterans or their dependents for educational purposes; exclude specific sources of income in determining income eligibility; require a minimum of 30 rather than 60 days of income to average to better align with food stamp policy; add clarifying information about when to divert income; require two-day processing of changes involving adding children or changing providers; add rules for making changes when clients do not report changes timely; add rules regarding the reopening process for child care authorizations; add language that requires sending a notice when an additional co-payment is paid by someone other than the client directly to the child care provider; add language to clarify that a parent can choose an in-home provider even when an out-of-home provider is available; remove some caregiver qualifications for in-home providers to better reflect current licensing requirements; require a search of the computer system for prior Child Welfare involvement; add language stipulating that child care center providers must have a status of one star plus, two star, or three star before a contract is submitted for Oklahoma Department of Human Services (OKDHS) approval; describe when a new contract can be approved for a one star child care center; specify that the provider completes all identifying information on the contract; change title of social services specialist to worker; and correct citation references.
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [Public Law 104-193]; the Balanced Budget Act of 1997 [Public Law 105-33]; and 45 CFR Parts 98 and 99.
COMMENT PERIOD:
Written and oral comments will be accepted February 18, 2003 through March 20, 2003 during regular business hours by contacting Sandy Stewart, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.
PUBLIC HEARING:
A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than March 20, 2003 at 5:00 p.m.
REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:
n/a
COPIES OF PROPOSED RULES:
Copies of proposed rules may be obtained for review by contacting the above listed person.
RULE IMPACT STATEMENT:
Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.
CONTACT PERSON:
Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #03-157; filed 1-23-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 65. PUBLIC ASSISTANCE PROCEDURES

[OAR Docket #03-156]

RULEMAKING ACTION:
Notice of proposed PERMANENT rulemaking
PROPOSED RULES:
Subchapter 1. General Provisions
340:65-1-5 [AMENDED]
Subchapter 3. Eligibility for Benefits
340:65-3-4 [AMENDED]
Subchapter 5. Procedures Relating to Case Changes
Part. 5. Overpayments [REVOKED]
340:65-5-35 through 340:65-5-44 [REVOKED]
Subchapter 9. Overpayments and Fraud [NEW]
340:65-9-1 through 340:65-9-8 [NEW]

(Reference APA WF # 03-03)

SUMMARY:

Chapter 65. Public Assistance Procedures proposed rule revisions: clarify rules for the destruction of closed case records and replace out-of-date terms; eliminate references concerning purchased data supplied by data brokers; revoke overpayment rules in Part 5 and issue new overpayment rules in Subchapter 9 of Chapter 65 to improve clarity, reflect current procedures, and incorporate overpayment details connected with the electronic benefit transfer (EBT) process.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Sections 171, 230.62, and 241.1 of Title 56 of the Oklahoma Statutes; and Section 204 of Title 67 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted February 18, 2003 through March 20, 2003 during regular business hours by contacting Sandy Stewart, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than March 20, 2003 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #03-156; filed 1-23-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #03-144]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 4. Family-Centered and Community Services
Part 1. Voluntary Family-Centered Services
340:75-4-9 [AMENDED]
340:75-4-10 [REVOKED]
340:75-4-11 [AMENDED]
340:75-4-12 [REVOKED]
340:75-4-12.1 through 340:75-4-12.2 [NEW]
340:75-4-13 through 340:75-4-14 [AMENDED]
Subchapter 15. Adoptions
Part 2. Legal Base and Scope of the Adoption Program
340:75-15-5 through 340:75-15-9 [AMENDED]
Part 6. Adoption ~~Matching~~ Process
340:75-15-41 through 340:75-15-43 [AMENDED]
340:75-15-45 [AMENDED]
340:75-15-47 [AMENDED]
Part 8. Adoptive Placement Process
340:75-15-59 [AMENDED]
340:75-15-61 [AMENDED]
Part 10. Adoptive Family Assessment and Preparation Process
340:75-15-82 through 340:75-15-85 [AMENDED]
340:75-15-87 through 340:75-15-89 [AMENDED]
340:75-15-91 [AMENDED]
340:75-15-93 [AMENDED]
Part 12. Post Placement Services
340:75-15-103 [AMENDED]
340:75-15-104 [REVOKED]
340:75-15-106 [AMENDED]
340:75-15-108 [AMENDED]
Part 14. Post Adoption Services
340:75-15-124 [AMENDED]

(Reference APA WF # 03-04 and 03-05)

SUMMARY:

The revisions to Subchapters 4 and 15 of Chapter 75 reflect changes in the process of voluntary Family Centered Services (FCS); provide guidelines for determining appropriate Child Welfare (CW) referrals to Comprehensive Home-Based Services (CHBS) and decision-making processes following an investigation or assessment; and provide clarification in the areas of adoption procedures and Child Welfare (CW) worker responsibilities for children with the goal of adoption. The rules are revised to improve readability, eliminate unnecessary language, conform to current formatting guidelines, and correct and update cites.

AUTHORITY:

Commission for Human Services; Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 7001-1.2, 7003-2.4, 7003-5.6, and 7501-1.1 through 7501-3.3 of Title 10 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted February 19 through March 20, 2003 during regular business hours by contacting Millie Carpenter, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-522-6325.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on March 20, 2003.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #03-144; filed 1-23-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #03-145]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Foster Home Care
Part 5. Eligibility and Payments
340:75-7-54 [AMENDED]
Part 6. Foster Home Care Support Services
340:75-7-65 [AMENDED]
Subchapter 15. Adoptions
Part 14. Post Adoption Services
340:75-15-128.1 [AMENDED]
340:75-15-128.4 through 340:75-15-128.5 [AMENDED]
(Reference APA WF # 02-48 and 02-49)

SUMMARY:

The revisions to Subchapters 7 and 15 of Chapter 75 comply with amended state statutes and federal laws.

340:75-7-54 is revised to add a new fixed rate, DOC Rate V, which provides $400 per month or $13.33 per day more than the standard rate. Criteria for the new rate are included. The revisions eliminate unnecessary language and provide consistency with language in Adoption Assistance rules describing the same benefits.

340:75-7-65 is revised to comply with OAC 340:40 which requires that the cost of child care in a one star center be the responsibility of the foster parents unless the community does not offer one star plus, two, or three star centers or one of the special exception criteria is met. The revised rule addresses child care overpayments and child care responsibility once the foster parents adopt.

340:75-15-128.1 is revised to reflect that adoption assistance payments are made to eligible families as long as the Oklahoma Department of Human Services (OKDHS) has sufficient funds available as allowable within the OKDHS budget. The revised DOC Rate V will be available to children of any age meeting the criteria.

340:75-15-128.4 is revised to reflect changes in the age and sibling relationship criteria utilized in the determination of special needs.

340:75-15-128.5 is revised to delete references to DOC Rates V and VI recommendations made in consultation with Developmental Disabilities Services Division (DDSD).

AUTHORITY:

Commission for Human Services; Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 7201 et seq. and 7510-1.1 et seq. of Title 10 of the Oklahoma Statutes; Administration for Children and Families (ACF) Child Welfare Manual; and by authority granted under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193.

COMMENT PERIOD:

Written and oral comments will be accepted February 19 through March 20, 2003 during regular business hours by contacting Millie Carpenter, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-522-6325.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on March 20, 2003.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Dena Thayer, Programs Manager, 405-521-4326.

[OAR Docket #03-145; filed 1-23-03]

TITLE 380. DEPARTMENT OF LABOR
CHAPTER 25. BOILER AND PRESSURE VESSEL RULES

[OAR Docket #03-175]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 19. Boiler Operator Licensing [AMENDED]

SUMMARY:

The proposed amendments to Subchapter 1 increase the allowable energy inputs of the water heating boilers that fourth-class boiler operator licensees are qualified to operate and maintain; increase the allowable energy inputs of the steam boilers and water heating boilers that third-class boiler operator licensees are qualified to operate and maintain; increase the allowable energy inputs of all boilers that second-class boiler operator licensees are qualified to operate and maintain; designate a first-class operator license as a supervisory level license by which the licensee is also qualified to supervise others in the operation and maintenance of all single burner boilers; clarify the applicability of the boiler operator licenses; and sets forth a minimal charge for the processing of duplicate or replacement licenses.

AUTHORITY:

Commissioner of Labor; 40 O.S. 141.1 et seq.

COMMENT PERIOD:

Written and oral comments on the proposed rules will be accepted until the conclusion of the public hearing March 21, 2003. Comments may be submitted in person between 8 a.m. and 5 p.m., Monday through Friday, except official state holidays, at the below address. Comments sent by mail must be received by the Oklahoma Department of Labor no later than March 21, 2003, and should be addressed as follows:

Oklahoma Department of Labor
Comments: Chapter 25 Rules
Attention: T.L. Williams
4001 N. Lincoln Blvd.
Oklahoma City, OK 73105

PUBLIC HEARING:

A public hearing is scheduled for 10 a.m. March 21, 2003. Interested persons may present their views orally or in writing at the public hearing. Time will be allocated evenly to each person who requests to be heard. The public hearing will conclude at such time as those attending have had full opportunity to present their views but in no event later than 11 a.m. March 21, 2003. The hearing will be held in the 3rd floor conference room at the Oklahoma Department of Labor, 4001 North Lincoln Blvd., Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of costs, including costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Information mailed by business entities must be received by the Oklahoma Department of Labor by March 21, 2003, and should be addressed as follows:

Oklahoma Department of Labor
Business Comments: Chapter 25 Rules
Attention: T.L. Williams
4001 N. Lincoln Blvd.
Oklahoma City, OK 73105

COPIES OF PROPOSED RULES:

All requests for copies must be in writing and include the complete address of the person requesting the copies. Copies may be picked up in person between 8 a.m. and 5 p.m., Monday through Friday, except official state holidays, at the below address. Requests for copies of the proposed rules must be received by the Department of Labor no later than 5 p.m. March 21, 2003. Requests for copies of the proposed rules sent by mail must be postmarked no later than midnight, March 21, 2003. Copies of the proposed rules may be obtained upon written request addressed to:

Oklahoma Department of Labor
Copy of Proposed Rules: Chapter 25 Rules
Attention: T.L. Williams
4001 N. Lincoln Blvd.
Oklahoma City, OK 73105

RULE IMPACT STATEMENT:

A Rule Impact Statement will be available by March 4, 2003. All requests for the Rule Impact Statement must be in writing and include the complete address of the person requesting it. The Rule Impact Statement may be picked up in person between 8 a.m. and 5 p.m., Monday through Friday, except official state holidays, at the above address. In-person requests for the Rule Impact Statement must be received by the Department of Labor no later than 5 p.m. March 21, 2003. Requests for the Rule Impact Statement sent by mail must be postmarked no later than midnight, March 21, 2003. The Rule Impact Statement may be obtained upon written request addressed to:

Oklahoma Department of Labor
Rule Impact Statement: Chapter 25 Rules
Attention: T.L. Williams
4001 N. Lincoln Blvd.
Oklahoma City, OK 73105

CONTACT PERSON:

T.L. Williams, Rules Liaison, (405) 528-1500, Extension 310

ADDITIONAL INFORMATION:

Comments, requests for copies of proposed rules, and requests for the Rule Impact Statement, if any, must be made separately. Each item sent by mail must have sufficient postage attached. Insufficient postage will result in the return of the item unopened. Requests for documents to be returned by mail must include a self-addressed envelope.

[OAR Docket #03-175; filed 1-23-03]

TITLE 380. DEPARTMENT OF LABOR
CHAPTER 30. PROTECTION OF LABOR

[OAR Docket #03-176]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 1. General Provisions [AMENDED]
Subchapter 3. Wage Claim Procedures [AMENDED]
Subchapter 5. Administrative Hearing Procedures [AMENDED]

SUMMARY:

The proposed amendments to Subchapter 1 delete subsection (e) of section 7 and restates its provisions as a new, separate section; additionally the Subchapter 1 proposals clarify the applicability and use of the term deductions. The proposed revisions to Subchapter 3 and 5 provide for the addition of a subsection setting forth employer requirements regarding retention of employee records and submission of any reports required by rule or order; explain the effect of failing to request an administrative hearing; and clarify the acceptable methods of delivery of notices of hearing and set forth the consequences for failure by either party to accept delivery or pursue their claim or request for hearing.

AUTHORITY:

Commissioner of Labor; 40 O.S. 1; 40 O.S. 165.1 et seq.; 40 O.S. 197.1 et seq.

COMMENT PERIOD:

Written and oral comments on the proposed rules will be accepted until the conclusion of the public hearing March 21, 2003. Comments may be submitted in person between 8 a.m. and 5 p.m., Monday through Friday, except official state holidays, at the below address. Comments sent by mail must be received by the Oklahoma Department of Labor no later than March 21, 2003, and should be addressed as follows:

Oklahoma Department of Labor
Comments: Chapter 30 Rules
Attention: T.L. Williams
4001 N. Lincoln Blvd.
Oklahoma City, OK 73105

PUBLIC HEARING:

A public hearing is scheduled for 2 p.m. March 21, 2003. Interested persons may present their views orally or in writing at the public hearing. Time will be allocated evenly among those who request to be heard. The public hearing will conclude no later than 3 p.m. March 21, 2003. The hearing will be held in the 3rd floor conference room at the Oklahoma Department of Labor, 4001 North Lincoln Blvd., Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of costs, including indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Information mailed by business entities must be received by the Oklahoma Department of Labor by March 21, 2003, and should be addressed as follows:

Oklahoma Department of Labor
Business Comments: Chapter 30 Rules
Attention: T.L. Williams
4001 N. Lincoln Blvd.
Oklahoma City, OK 73105

COPIES OF PROPOSED RULES:

All requests for copies must be in writing and include the complete address of the person requesting the copies. Copies may be picked up in person between 8 a.m. and 5 p.m., Monday through Friday, except official state holidays, at the below address. Requests for copies of the proposed rules must be received by the Department of Labor no later than 5 p.m. March 21, 2003. Requests for copies of the proposed rules sent by mail must be postmarked no later than midnight, March 21, 2003. Copies of the proposed rules may be obtained upon written request addressed to:

Oklahoma Department of Labor
Copy of Proposed Rules: Chapter 30 Rules
Attention: T.L. Williams
4001 N. Lincoln Blvd.
Oklahoma City, OK 73105

RULE IMPACT STATEMENT:

A Rule Impact Statement will be available by March 4, 2003. All requests for the Rule Impact Statement must be in writing and include the complete address of the person requesting it. The Rule Impact Statement may be picked up in person between 8 a.m. and 5 p.m., Monday through Friday, except official state holidays, at the above address. In-person requests for the Rule Impact Statement must be received by the Department of Labor no later than 5 p.m. March 21, 2003. Requests for the Rule Impact Statement sent by mail must be postmarked no later than midnight, March 21, 2003. The Rule Impact Statement may be obtained upon written request addressed to:

Oklahoma Department of Labor
Rule Impact Statement: Chapter 30 Rules
Attention: T.L. Williams
4001 N. Lincoln Blvd.
Oklahoma City, OK 73105

CONTACT PERSON:

T.L. Williams, Rules Liaison, (405) 528-1500, Extension 310

ADDITIONAL INFORMATION:

Comments, requests for copies of proposed rules, and requests for the Rule Impact Statement, must be made separately. Each item sent by mail must have sufficient postage attached. Insufficient postage will result in the return

of the item unopened. Requests for documents to be returned by mail must include a self-addressed envelope.

[OAR Docket #03-176; filed 1-23-03]

TITLE 380. DEPARTMENT OF LABOR CHAPTER 40. OKLAHOMA OCCUPATIONAL HEALTH AND SAFETY STANDARDS ACT RULES

[OAR Docket #03-177]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

380:40-1-9 [AMENDED]
380:40-1-18 [AMENDED]

SUMMARY:

The proposed amendments correct a typographical error and a cite.

AUTHORITY:

Commissioner of Labor; 40 O.S. 401 et seq.

COMMENT PERIOD:

Written and oral comments on the proposed rules will be accepted until the conclusion of the public hearing March 21, 2003. Comments may be submitted in person between 8 a.m. and 5 p.m., Monday through Friday, except official state holidays, at the below address. Comments sent by mail must be received by the Oklahoma Department of Labor no later than March 21, 2003, and should be addressed as follows:

Oklahoma Department of Labor
Comments: Chapter 40 Rules
Attention: T.L. Williams
4001 North Lincoln Boulevard
Oklahoma City, OK 73105

PUBLIC HEARING:

A public hearing is scheduled for 11 a.m. March 21, 2003. Interested persons may present their views orally or in writing at the public hearing. Time will be allocated evenly to each person who requests to be heard. The public hearing will conclude no later than noon March 21, 2003. The hearing will be held in the 3rd floor conference room at the Oklahoma Department of Labor, 4001 North Lincoln Blvd., Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of costs, including costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Information mailed by business entities must be received by the Oklahoma Department of Labor by March 21, 2003, and should be addressed as follows:

Oklahoma Department of Labor
Business Comments: Chapter 40 Rules
Attention: T.L. Williams
4001 N. Lincoln Blvd.
Oklahoma City, OK 73105

COPIES OF PROPOSED RULES:

All requests for copies must be in writing and include the complete address of the person requesting the copies. Copies may be picked up in person between 8 a.m. and 5 p.m., Monday through Friday, except official state holidays, at the below address. Requests for copies of the proposed rules must be received by the Department of Labor no later than 5 p.m. March 21, 2003. Requests for copies of the proposed rules sent by mail must be postmarked no later than midnight, March 21, 2003. Copies of the proposed rules may be obtained upon written request addressed to:

Oklahoma Department of Labor
Copy of Proposed Rules: Chapter 40 Rules
Attention: T.L. Williams
4001 North Lincoln Boulevard
Oklahoma City, OK 73105

RULE IMPACT STATEMENT:

A Rule Impact Statement will be available by March 4, 2003. All requests for the Rule Impact Statement must be in writing and include the complete address of the person requesting it. The Rule Impact Statement may be picked up in person between 8 a.m. and 5 p.m., Monday through Friday, except official state holidays, at the above address. In-person requests for the Rule Impact Statement must be received by the Department of Labor no later than 5 p.m. March 21, 2003. Requests for the Rule Impact Statement sent by mail must be postmarked no later than midnight, March 21, 2003. The Rule Impact Statement may be obtained upon written request addressed to:

Oklahoma Department of Labor
Rule Impact Statement: Chapter 40 Rules
Attention: T.L. Williams
4001 N. Lincoln Blvd.
Oklahoma City, OK 73105

CONTACT PERSON:

T.L. Williams, Rules Liaison, (405) 528-1500, Extension 310

ADDITIONAL INFORMATION:

Comments, requests for copies of proposed rules, and requests for the Rule Impact Statement, if any, must be made separately. Each item sent by mail must have sufficient postage attached. Insufficient postage will result in the return of the item unopened. Requests for documents to be returned by mail must include a self-addressed envelope.

[OAR Docket #03-177; filed 1-23-03]

TITLE 380. DEPARTMENT OF LABOR CHAPTER 50. ABATEMENT OF FRIABLE ASBESTOS MATERIALS RULES

[OAR Docket #03-178]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 1. General Provisions [AMENDED]
Subchapter 4. Project Design Requirements [AMENDED]
Subchapter 5. Contractor, Supervisor, and Worker Licensing and Requirements [AMENDED]
Subchapter 6. Training Requirements [AMENDED]
Subchapter 9. Contractor Procedures [AMENDED]
Subchapter 11. Laboratory Requirements [AMENDED]
Subchapter 13. Glovebag Operations [AMENDED]
Subchapter 14. Operation and Maintenance Procedures [AMENDED]
Subchapter 15. Worker and Work Area Protection [AMENDED]
Subchapter 17. Minimum Abatement Standards [AMENDED]
Subchapter 21. Non-Friable Asbestos-Containing Material Procedures [AMENDED]
Subchapter 23. Miscellaneous Friable Asbestos Material Abatement Procedures [AMENDED]

SUMMARY:

Subchapter 1: Proposes an amended definition of "small-scale, short duration operations and maintenance activities" and added definition for "within arm 's reach." Subchapter 4: Proposed addition of item #7 to the General Requirements better clarifies clearance monitoring locations, techniques, and analytical methods to be used. Subchapter 5: The first proposed revision is a correction to the name of one of the associations providing acceptable CPR training. The second proposed revision provides applicants the flexibility to utilize more than one training provider. The third proposed revision is made to remove the requirement of the Initial Contractor training because it is no longer acceptable by EPA federal standards. The proposed amendments also correct typographical errors. Subchapter 6: The first proposed amendment requires instructors to have both academic and field experience in asbestos abatement in order to provide a higher standard of instruction. The second proposed revision is the addition of the American Heart Association and or another DOL recognized provider for the purpose of CPR and/or First Aid training. The third proposed revision is the correction of the typographical error "of the Management Planner." Subchapter 9: The first proposed revision excludes the requirement to notify under 380:50-9-1 for the purpose of emergencies and operations and maintenance. The second proposed revision is a numerical correction in 380:50-9-2. The third proposed revision provides for additional notification requirements for all operations and maintenance activities, except small-scale, short duration work. The fourth proposed revision clarifies the authorization to proceed requirements. The fifth proposed addition requires that all waste shipment records submitted to the ODOL be legible. Subchapter 11: The proposed revisions are intended to make the asbestos air monitoring requirements conform more closely to the federal regulatory standards and asbestos industry standards, and to improve air monitoring procedures and laboratory techniques. Subchapter 13: The proposed revisions include the clarification of air monitoring, electrical provisions, and personal protective equipment that must be implemented during glovebag operations. Subchapter 14: The proposed revisions are intended to better clarify operations and maintence limitations, air monitoring requirements, and notification requirements. Subchapter 15: The first proposed additions provide for clarification of decontamination facility filtration systems and assurances for decontamination facility temperature controls and integrity. The second proposed addition clarifies the requirement for illuminated emergency and fire exits throughout the duration of the project. The third proposed addition provides for location and inspection requirements of fire extinguishers to conform more closely with the NFPA. Subchapter 17: The first proposed addition provides clarification as to when drums, used to haul asbestos waste, may be reused. The second proposed addition outlines procedures to be followed in the event electrical equipment cannot be de-energized in an asbestos abatement containment. The third proposed addition provides for an adhesion test method of asbestos-containing surfacing material that may be used when removal of the surfacing material is not an option. The fourth proposed addition provides better clarification of waste containers that may be used for transportation to the landfill. The fifth proposed revision outlines inspection and clean test requirements in order to re-establish the asbestos work area. Subchapter 21: The proposed addition includes all non-friable asbestos-containing materials, instead of only non-friable asbestos cement. Subchapter 23: The first proposed addition provides clarification of the location of the decontamination facility. The second proposed revision eliminates the ability of a contractor to remove asbestos-containing duct tape under an approved operations and maintenance program. The third proposed revision eliminates the ability of a contractor to remove asbestos-containing ceiling tile under an approved operations and maintenance program. The fourth proposed revision provides specific requirements for electrical equipment within arm's reach of the ceiling tile. The fifth proposed revision provides specific requirements for electrical equipment within arm's reach of the ceiling texturing.

AUTHORITY:

Commissioner of Labor; 40 O.S. 1, 40 O.S. 450 et seq; 27A O.S. Chapter 1, Articles 1 & 3.

COMMENT PERIOD:

Written and oral comments on the proposed rules will be accepted until the conclusion of the public hearing March 21, 2003. Comments may be submitted in person between 8 a.m. and 5 p.m., Monday through Friday, except official state

holidays, at the below address. Comments sent by mail must be received by the Oklahoma Department of Labor no later than March 21, 2003, and should be addressed as follows:

Oklahoma Department of Labor
Comments: Chapter 50 Rules
Attention: T.L. Williams
4001 North Lincoln Boulevard
Oklahoma City, OK 73105

PUBLIC HEARING:

A public hearing is scheduled for 1 p.m. March 21, 2003. Interested persons may present their views orally or in writing at the public hearing. Time will be evenly allocated among all those requesting to be heard. The public hearing will conclude no later than 2 p.m. March 21, 2003. The hearing will be held in the 3rd floor conference room at the Oklahoma Department of Labor, 4001 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of costs, including indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Information mailed by business entities must be received by the Oklahoma Department of Labor by March 21, 2003, and should be addressed as follows:

Oklahoma Department of Labor
Business Comments: Chapter 50 Rules
Attention: T.L. Williams
4001 North Lincoln Boulevard
Oklahoma City, OK 73105

COPIES OF PROPOSED RULES:

All requests for copies must be in writing and include the complete address of the person requesting the copies. Copies may be picked up in person between 8 a.m. and 5 p.m., Monday through Friday, except official state holidays, at the below address. Requests for copies of the proposed rules must be received by the Department of Labor no later than 5 p.m. March 21, 2003. Requests for copies of the proposed rules sent by mail must be postmarked no later than midnight, March 23, 2003. Copies of the proposed rules may be obtained upon written request addressed to:

Oklahoma Department of Labor
Copy of Proposed Rules: Chapter 50 Rules
Attention: T.L. Williams
4001 North Lincoln Boulevard
Oklahoma City, OK 73105

RULE IMPACT STATEMENT:

A Rule Impact Statement will be available by March 4, 2003. All requests for the Rule Impact Statement must be in writing and include the complete address of the person requesting it. The Rule Impact Statement may be picked up in person between 8 a.m. and 5 p.m., Monday through Friday, except official state holidays, at the above address. In-person requests for the Rule Impact Statement must be received by the Department of Labor no later than 5 p.m. March 21, 2003. Requests for the Rule Impact Statement sent by mail must be postmarked no later than midnight, March 21, 2003. The Rule Impact Statement may be obtained upon written request addressed to: Oklahoma Department of Labor

Rule Impact Statement: Chapter 50 Rules
Attention: Teryl L. Williams
4001 North Lincoln Boulevard
Oklahoma City, OK 73105

CONTACT PERSON:

T.L. Williams, Rules Liaison, (405) 528-1500, Extension 310

ADDITIONAL INFORMATION:

Comments, requests for copies of proposed rules, and requests for the Rule Impact Statement, if any, must be made separately. Each item sent by mail must have sufficient postage attached. Insufficient postage will result in the return of the item unopened. Requests for documents to be returned by mail must include a self-addressed envelope.

[OAR Docket #03-178; filed 1-23-03]

TITLE 420. OKLAHOMA LIQUEFIED PETROLEUM GAS BOARD
CHAPTER 10. LIQUEFIED PETROLEUM GAS ADMINISTRATION

[OAR Docket #03-123]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

420:10-1-5. Permits [AMENDED]
420:10-1-6. Application for certificate or permit [AMENDED]
420:10-1-14. Standards for the storage and handling of liquefied petroleum gas [AMENDED]

SUMMARY:

The proposed amendments update several rules currently in effect, delete irrelevant language and add new language that will clarify safety procedures within the LP Gas industry.

Language is deleted in Section 420:10-1-5, Paragraph (b)(4)(A) & (b)(5)(A), which currently limits the Class IV and Class IV-D permit holder to install and service LP Gas systems, appliances, and other LP Gas equipment on homes and mobile homes. By deleting homes and mobile homes from this requirement, the permit holders will be able to work on all LP Gas systems. The current language is too limiting and does not reflect the scope of the permit holders' responsibilities or training.

Language is added in Section 420:10-1-6, to supersede emergency rules that will expire on July 14, 2003. The language is added in order to comply with statute changes

approved by the legislature during the 2002 session. The proposed rule change outlines the conditions by which a Class I Dealer Permit may be transferred.

Language is added in Section 420:10-1-14, Paragraph (b)(16) to give the LP Gas dealers the option of having an A:B:C rated extinguisher instead of requiring a B:C rated extinguisher only. The current language is antiquated because the A:B:C rated extinguisher is now more widely used than a B:C rated extinguisher. The language will update the rules and give dealers more flexibility.

The same A:B:C rating language added to Section 420:10-1-14, Paragraph (b)(26)(E). New language is also added to clarify when and by whom the extinguishers are inspected. The language is consistent with language in other sections of the rules. The language will update the rules and give dealers more flexibility.

The Oklahoma Liquefied Petroleum Gas Board maintains that the promulgation of the rules will ultimately help preserve the health, safety and welfare of the general public. The intended effect of the rules is to increase public safety and aid the LP-Gas Board in enforcing the laws of the State of Oklahoma and the rules and regulations adopted pursuant to such laws.

AUTHORITY:

Oklahoma Liquefied Petroleum Board; Pursuant to Statute 420.3. Oklahoma Liquefied Petroleum Gas Board - Rules, regulations and specifications. Subsection (G)(H)

COMMENT PERIOD:

Persons may present their views, in written form, to the Oklahoma Liquefied Petroleum Gas Administration, Jim Thorpe Building, 2101 N. Lincoln Blvd., Suite B-45, Oklahoma City, OK 73105-4990. Comments will be accepted between February 18 and March 20, 2003.

PUBLIC HEARING:

A Public Hearing is scheduled for 9:00 a.m., Friday, March 21, 2003, in the Jim Thorpe Building, 2101 N. Lincoln Blvd., Suite B-45, Oklahoma City, Oklahoma. Interested persons may orally present their views or arguments at this time.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Liquefied Petroleum Gas Board requests that business entities affected by these proposed rules provide the Board, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Mr. Bill Glass, at the above address, before the close of the comment period on March 20, 2003.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by calling the Oklahoma Liquefied Petroleum Gas Administration at (405) 521-2458. A $6.00 charge will be assessed to offset copying charges and the cost of postage.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available after March 1, 2003, at the offices of the Oklahoma Liquefied Petroleum Gas Administration. (See address above)

CONTACT PERSON:

For information regarding the proposed rulemaking, contact Mr. W.A. Glass, Administrator, at (405) 521-2458.

[OAR Docket #03-123; filed 1-22-03]

TITLE 530. OFFICE OF PERSONNEL MANAGEMENT
CHAPTER 10. MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES

[OAR Docket #03-173]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [AMENDED]
Subchapter 3. Affirmative Action and Equal Employment Opportunity [AMENDED]
Subchapter 7. Salary and Payroll [AMENDED]
Subchapter 13. Reduction-in-Force [AMENDED]
Subchapter 17. Employee Performance Management System and Career Enhancement Programs [AMENDED]
Subchapter 23. Employee Recognition [NEW]
Appendix B. Schedule of Annual and Sick Leave Accrual Rates and Accumulation Limits [NEW]

SUMMARY:

In addition to the specific changes listed below, the Administrator is considering amendments to Subchapters 1, 3, 7, 13, 17, 23, and Appendix B., to make current emergency rules permanent, to provide consistency with statutory changes, to correct citations, improve clarity, alleviate ambiguities, delete obsolete language, and correct scrivener's errors.

Subchapter 3-The Administrator is considering amendments to 530:10-3-22 and 530:10-3-24 to add a specific date by which Discrimination Complaints Investigators must notify OPM of their compliance with continuing education requirements. The Administrator is also considering deleting some requirements in 530:10-3-52 regarding notification when agencies fail to submit an affirmative action plan on time.

Subchapter 17-The Administrator is considering amendments to clarify procedural requirements in 530:10-17-173 regarding the State Work Incentive Program.

AUTHORITY:

The Administrator of the Office of Personnel Management; Sections 840-1.6A, 840-2.1, 840-2.17, 840-5.16 and 4121 of Title 74 of the Oklahoma Statutes.

COMMENT PERIOD:

Persons wishing to present their views may submit written comments to the Office of Personnel Management. Written comments should be addressed to Mr. Oscar B. Jackson, Jr., Administrator, ATTENTION: Kimberlee Williams, Oklahoma Office of Personnel Management, 2101 North Lincoln Boulevard, Room G-80, Oklahoma City, OK 73105. The comment period will begin on February 18, 2003. To be assured of consideration prior to the adoption of permanent rules, written comments must be received no later than 5:00 p.m., Friday, March 21, 2003.

PUBLIC HEARING:

A public hearing will be held at 1:30 p.m. on Thursday, March 20, 2003 at the Concourse Theater, Sequoyah/Will Rogers Concourse, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained between 8:00 a.m. and 5:00 p.m. Monday through Friday at the Office of Personnel Management, 2101 N. Lincoln Blvd., Suite G-80, Oklahoma City, OK 73105. Telephone (405) 522-1736.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning Monday, March 3, 2003. Copies may be obtained at the Office of Personnel Management, address and telephone listed above.

CONTACT PERSON:

Kimberlee Williams, Chief Policy Attorney, (405) 522-1736.

[OAR Docket #03-173; filed 1-23-03]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 10. PHARMACISTS; INTERNS, PRECEPTORS AND TRAINING AREAS

[OAR Docket #03-101]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 9. Pharmaceutical care

535:10-9-5 [AMENDED]

SUMMARY:

The new amended in 535:10-9-5 describes agreements that pharmacists may enter into with physicians licensed with the Oklahoma Board of Medical Licensure or the Board of Osteopathic Examiners as allowed under Title 59 O.S. 353.30.

Title 59 O.S. Section 353.30 allows agreements between pharmacists and physicians and the rule in 535:10-9-5 describes the minimum requirements for these agreements.

This rule will describe the minimum requirements for pharmacist and physician agreements.

AUTHORITY:

Oklahoma State Board of Pharmacy is the regulatory authority under Title 59 O.S., Sec. 353.7, 353.9, 353.11, 353.16A, 353.18, 353.20, 353.22, and 353.24 - 353.26.

Principally authorized under 59 O.S. 353.7 (further authority occurs in other sections) and also 59 OS 364.

COMMENT PERIOD

Written and oral comments will be accepted until March 20, 2003 at 4:00 p.m. at the Board office at 4545 N Lincoln, Ste 112, Oklahoma City, OK 73105-3488.

PUBLIC HEARING:

March 20, 2003, at 8:00 a.m. in our office at 4545 Lincoln Boulevard, Suite 112, Oklahoma City, OK 73105-3488. Please send written request to appear before the Board in advance of hearing, so that we may allot time fairly and conduct an orderly meeting.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the Board, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees and indirect costs such as record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with the proposed rule(s).

COPIES OF PROPOSED RULES:

Proposed rules are available for review in our office at 4545 N Lincoln Blvd, Ste 112, Oklahoma City, OK 73105-3488. Copies may be provided at a cost of 25 cents per page.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and will be available on and after March 5, 2003, at the location listed above for copies of the proposed rules. It may be reviewed in our office or copies may be obtained for 25 cents per page.

CONTACT PERSON:

Mr. Bryan H. Potter, Executive Director, Oklahoma State Board of Pharmacy, 4545 Lincoln Boulevard, Suite 112, Oklahoma City, OK 73105-3488. Phone number (405) 521-3815 and FAX number (405) 521-3758.

[OAR Docket #03-101; filed 1-16-03]

TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 10. FACILITIES MANAGEMENT

[OAR Docket #03-164]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Use of Public Areas of Capitol Building and Plazas [REVOKED]

Subchapter 2. General Provisions [NEW]

580:10-2-1 through 10-2-5 [NEW]

Subchapter 5. Use of Public Areas of Capitol and Plazas [NEW]
580:10-5-1 through 10-5-8 [NEW]
Subchapter 7. Use of State Capitol Park [NEW]
580:10-7-1 through 10-7-3 [NEW]
Subchapter 9. Operation of Buildings Owned, Used or Occupied by or on Behalf of the State [NEW]
Part 1. Smoking [NEW]
580:10-9-1 through 10-9-4 [NEW]
Part 3. Use of Capitol Conference Center and the Concourse Theater [NEW]
580:10-9-8 through 10-9-10 [NEW]

SUMMARY:

Subchapter 1 rules are revoked in order to reorganize the chapter. New Subchapters 2, 5, 7 and 9 are proposed rules addressing different areas administered by the Department of Central Services, Facilities Management Division.

Subchapter 2, 580:10-2-1 through 580:10-2-5 provide general information about the chapter which include the purpose, definitions, forms and procedures to request a waiver from any requirement of the chapter.

Subchapter 5 rules relate to use of public areas of the Capitol and Plazas and other state owned buildings to ensure the safety of visitors and state employees and to preserve state property. 580:10-5-2 establishes formal hours of operation, public building entrances and access procedures for the State Capitol. 580:10-5-3 provides information and procedures for reservation of public areas of the Capitol and plazas. 580:10-5-4 and 10-5-6 rules establish authorized and prohibited activities for events, exhibits and art exhibits held in the Capitol and plazas. 580:10-5-5 rules establish conditions of use for public and private purposes and fees for use of state owned equipment, e.g. tables, chairs, sound system etc., by private parties. 580:10-5-7 rules establish conditions for use of the Governor's Art Gallery and Blue Room. 580:10-5-8 prohibits parking or driving vehicles on a plaza without prior authorization. 580:10-5-9 establishes that the Capitol Dome is not a public area.

Subchapter 7 rules establish requirements and procedures for use of the State Capitol Park based upon the transfer of statutory responsibility for the park from the Department of Tourism to the Department of Central Services. 580:10-7-2 establishes information and procedures for reservation requests and approval for use of the public areas. 580:10-7-3 establish conditions for use of the Park that include authorized and prohibited activities.

Subchapter 9 rules establish information and procedures related to the operation of buildings owned, used or occupied by or on behalf of the state. Part 1. rules relate to the inspection of designated smoking rooms in public buildings to ensure compliance with Senate Bill 1553, specifically 21 O.S., Section 1247.A.(5.c.). 580:10-9-1 provides the purpose and authority for the rules. 580:10-9-2 provides definitions. 580:10-9-3 establishes a smoking room inspection report to be filed with DCS, required contents, authorized signature and due date for the report. 580:10-9-4 provides information and procedures required of DCS for the review of the reports.

Part 3. rules provide information and conditions for the use of the Capitol Conference Center and the Concourse Theater. 580:10-9-8 states the purpose and designates the meeting rooms for public purposes. 580:10-9-9 provides information and procedures for reservation of the meeting rooms. 580:10-9-10 establishes conditions for the use of the meeting rooms.

AUTHORITY:

Department of Central Services; 74 O.S., Section 63

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on March 20, 2003, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Friday, March 21, 2003 at 9:00 a.m. Anyone who wishes to speak must sign in by 8:55 a.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after March 5, 2003 at the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Programs Officer, (405) 522-6597

[OAR Docket #03-164; filed 1-23-03]

TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 15. CENTRAL PURCHASING

[OAR Docket #03-174]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 2. General Provisions [AMENDED]
Subchapter 4. Supplier Provisions [AMENDED]
Subchapter 6. State Agency Provisions [AMENDED]

SUMMARY:

The proposed rule amendments clarify, revise and update information and references pertaining to general provisions of the Purchasing Division of the Department of Central Services. The proposed rule amendments clarify, revise and update information and references that suppliers follow to provide acquisitions to state agencies. The proposed rule amendments clarify, revise and update information and references pertaining to methods state agencies utilize to acquire items and services from suppliers.

AUTHORITY:

Director of the Department of Central Services; 74 O.S., Section 85.5

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on March 21, 2003, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Monday, March 24, 2003 at 9:00 a.m. Anyone who wishes to speak must sign in by 8:55 a.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the Department with information, including, if possible, direct and indirect costs by type with dollar amounts, that a business entity may incur for rule compliance. Business entities may submit the information in writing by the conclusion of the public comment period and public hearing on March 24, 2003, at the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after March 5, 2003 at the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Programs Officer, (405) 522-6597

[OAR Docket #03-174; filed 1-23-03]

TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 20. CONSTRUCTION AND PROPERTIES

[OAR Docket #03-165]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Bidding Procedures
580:20-1-1 through 165:20-1-6. [AMENDED]
580:20-1-8. [REVOKED]
580:20-1-8.1 [NEW]
580:20-1-9 [AMENDED]
580:20-1-12 through 165:20-1-13 [AMENDED]
580:20-1-16 [AMENDED]
580:20-1-18 [AMENDED]
Subchapter 3. Selection of Architects, Engineeers, And Other Design Consultants
580:20-3-2 [AMENDED]
580:20-3-4 through 20-3-7 [AMENDED]
Subchapter 5. Minimum Codes for State Construction
580:20-5-2 [AMENDED]
Subchapter 7. Procedures for Agencies to Perform Responsibilities Exercised by the Construction and Properties Division
580:20-7-2 [AMENDED]
580:20-7-4 [AMENDED]
Subchapter 9. Full-Time Employment by Agencies for Minor Construction Projects
580:20-9-2 [AMENDED]
Subchapter 15. Energy Services Contracts
580:20-15-2 [AMENDED]
Subchapter 17. Construction Management Procedures and Requirements [NEW]
580:20-17-1 through 580:20-17-9 [NEW]
Subchapter 19. Design-Build Procedures and Requirements [NEW]
580:20-19-1 through 580:20-19-13 [NEW]
Subchapter 21. Selection of Construction Management and Design-Build Firms [NEW]
580:20-21-1 through 580:20-21-8 [NEW]

SUMMARY:

The proposed amended rules in Subchapter 1 clarify, revise and update information, procedures and definitions pertaining to the bidding of projects for construction or renovation of state facilities. Proposed new rule 580:20-1-8.1 establishes procedures for the prequalification and evaluation of prospective bidders, general contractors, subcontractors and material suppliers prior to submitting bids. Proposed revocation of 580:20-1-8 is based on a class action lawsuit wherein the state's Minority Business Enterprise Assistance Act was found unconstitutional.

The proposed amended rules in Subchapter 3 clarify, revise and update information pertaining to the selection of architects,

engineers, and other design consultants. Proposed revisions to terms and definitions in the subchapter ensure consistent use of current terms throughout Chapter 20.

Proposed revisions in Subchapter 5 ensure definitions and terms are current and used consistently throughout Chapter 20. Proposed revisions in Subchapter 7 ensure definitions and terms are current and used consistently throughout Chapter 20. Proposed amendments also revise, clarify and update procedures established for agencies to request services of consultants, architects, engineers, and land surveyors. Proposed revisions in Subchapter 9 and Subchapter 15 ensure definitions and terms are current and are used consistently throughout Chapter 20.

Proposed new Subchapters 17, 19 and 21 are to effectively and consistently administer requirements necessary for implementation of the construction management and design-build construction delivery methods as described in 61 O.S. Section 201 through 211 titled "Public Building Construction and Planning Act."

AUTHORITY:

Director of the Department of Central Services; 61 O.S., Section 209

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so before 5:00 p.m. on March 20, 2003, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Friday, March 21, 2003 at 10:30 a.m. Anyone who wishes to speak must sign in by 10:25 a.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the Department with information, including, if possible, direct and indirect costs by type with dollar amounts, that a business entity may incur for rule compliance. Business entities may submit the information in writing by the conclusion of the public comment period and public hearing on March 21, 2003, at the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after March 5, 2003 at the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Programs Officer (405) 522-6597

[OAR Docket #03-165; filed 1-23-03]

TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 30. MOTOR POOL DIVISION

[OAR Docket #03-166]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 30. Motor Pool Division [REVOKED]

SUMMARY:

The proposed rulemaking action revoke Chapter 30 in its entirety based upon Laws 2001, House Bill 1241, c. 168, emerg. eff. May 2, 2001, which repeals statutes related to the State Motor Pool Division and creates the Fleet Management Division within the Department of Central Services.

AUTHORITY:

Director of the Department of Central Services; 74 O.S., Section 78.(B)(4)

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on March 20, 2003, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Monday, March 24, 2003 at 10:30 a.m. Anyone who wishes to speak must sign in by 10:25 a.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

NA

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after March 5, 2003 at the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Programs Officer, (405) 522-6597

[OAR Docket #03-166; filed 1-23-03]

TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 35. FLEET MANAGEMENT DIVISION

[OAR Docket #03-167]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

580:35-1-1. through 580:35-1-3 [AMENDED]
580:35-1-4. through 580:35-1-10 [NEW]
Appendix A. Fleet management inventory report [REVOKED]
Appendix B. Fleet management monthly report [REVOKED]

SUMMARY:

Proposed amendments to 580:35-1-1 through 580:35-1-3 clarify, revise and update obsolete references related to general provisions of the Fleet Management Division of the Department of Central Services, procedures for maintaining the inventory of state-owned vehicles and fleet management practices.

The new rules proposed in 580:35-1-4 through 580:35-1-10 are revised and updated rules compiled from obsolete rules related to the Motor Pool Division. Statutes governing the Motor Pool Division were repealed or amended and recodified by Laws 2001, House Bill 1241, c. 168, emerg. eff. May 2, 2001. The new rules provide information and procedures for the use of state-owned vehicles, vehicle reservations, fuel and oil purchases, other credit card and cash purchases, vehicle break-downs and emergency repairs, and vehicle inspection and maintenance.

Revocation of Appendix A and Appendix B is proposed to facilitate inclusion of report requirements within its respective rule.

AUTHORITY:

Director of the Department of Central Services; 74 O.S., Section 78.(B)(4)

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on March 20, 2003, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Monday, March 24, 2003 at 10:30 a.m. Anyone who wishes to speak must sign in by 10:25 a.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

NA

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after March 5, 2003 at the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Programs Officer, (405) 522-6597

[OAR Docket #03-167; filed 1-23-03]

TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 65. STATE SURPLUS PROPERTY

[OAR Docket #03-168]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
580:65-1-1 through 65:1-2. [AMENDED]
580:65-1-3 through 65-1-6. [REVOKED]
580:65-1-9 through 65-1-12 [NEW]
Subchapter 3. Declaration and Approval of Surplus Property [NEW]
580:65-3-1 through 65-3-4 [NEW]
Subchapter 5. Sale or Disposal of Surplus Property [NEW]
580:65-5-1 through 65-5-5 [NEW]
Subchapter 7. Acquisition of Surplus Property [NEW]
580:65-7-1 through 65-7-7 [NEW]
Subchapter 9. Surplus Property Records [NEW]
580:65-9-1 through 65-9-2 [NEW]

SUMMARY:

These rules revoke existing rules related to surplus vehicles and equipment and create new rules which apply to the management of all state surplus property.

Rules in Subchapter 1 provide the purpose and definitions for the chapter in addition to provisions for an agency to request an exemption and prohibitions for the donation of state property.

Rules in Subchapter 3 provide information and procedures pertaining to the declaration and request for approval of state property as surplus by agencies; storage and preservation of surplus property; approval of surplus property requests by the Department of Central Services; documents required for disposal of surplus vehicles and equipment, including repairs, if necessary prior to disposal; cancellation or amendment of an approved surplus property request; and the transport and delivery of surplus property to State Surplus.

Rules in Subchapter 5 provide information and procedures for the sale and disposal of surplus property by state agencies and State Surplus and handling of certain special classes of surplus property.

Rules in Subchapter 7 provide information and procedures for the acquisition of surplus property which include sales to related parties whereby a conflict of interest with the state may exist; priority purchase by authorized entities; transfer of surplus property to State Surplus cutoff date prior to monthly public auction; public auction payment and pick up deadlines; payment provisions, delinquent accounts and insufficient checks; and state agency reimbursement.

Rules in Subchapter 9 provide information and requirements for state surplus property records to be maintained by state agencies and State Surplus.

AUTHORITY:

Department of Central Services, 74 O.S., Section 62.3

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on March 20, 2003, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Friday, March 21, 2003 at 1:00 p.m. Anyone who wishes to speak must sign in by 12:55 p.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after March 5, 2003 at the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Programs Officer, (405) 522-6597

[OAR Docket #03-168; filed 1-23-03]

TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 70. STATE INVENTORY

[OAR Docket #03-169]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [NEW]
580:70-1-1 through 70-1-4 [NEW]
Subchapter 3. Tangible Assets Reporting [NEW]
580:70-3-1 through 70-3-6 [NEW]
Subchapter 5. Tangible Assets Management [NEW]
580:70-5-1 through 70-5-2 [NEW]

SUMMARY:

New rules in Chapter 70. State Inventory are proposed to ensure compliance with Enrolled Senate Bill 1358, effective June 5, 2002.

Rules in Subchapter 1 provide the purpose and definitions for the new chapter; establish the general tangible asset reporting threshold, procedures by which the Director may specify individual thresholds and the designation of an agency inventory control officer.

Rules in Subchapter 3 establish requirements and procedures for the annual report of tangible assets by agencies to the Department; review of the reports by the Department of Central Services and procedures for noncompliance or insufficient reporting.

Rules in Subchapter 5 establish procedures and information for properly coding tangible assets and availability of inventory records for Risk Management reporting purposes.

AUTHORITY:

Department of Central Services; 74 O.S., Section 110.1.B.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on March 20, 2003, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Friday, March 21, 2003 at 2:30 p.m. Anyone who wishes to speak must sign in by 2:25 p.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after March 5, 2003 at the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Programs Officer, (405) 522-6597

[OAR Docket #03-169; filed 1-23-03]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 10. DRIVER LICENSES AND IDENTIFICATION CARDS

[OAR Docket #03-150]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 1. Procedures for Obtaining and Maintaining a Driver License or Identification Card

Part 2. Application for Initial Driver License

595:10-1-3. Procedures for obtaining an initial driver license [AMENDED]

595:10-1-4. Application by person licensed by another country [AMENDED]

Part 5. Driver License Replacement

595:10-1-18. Procedure for obtaining a replacement driver license [AMENDED]

Part 7. Identification Cards

595:10-1-27. Procedure for obtaining a replacement identification card [AMENDED]

Part 9. Change of Name on a Driver License or Identification Card

595:10-1-35. Procedure to make a change of name on a driver license or an identification card [AMENDED]

Subchapter 3. Examination

595:10-3-7. Knowledge test [AMENDED]

595:10-3-8. Pre-trip inspection of Class A, B, and C commercial vehicles [AMENDED]

595:10-3-9. Skills examination [AMENDED]

Subchapter 9. Certified Schools and Designated Examiners

595:10-9-5. Requirements for certification as a designated examiner, display of certificate, certification renewal [AMENDED]

595:10-9-15. Prohibited acts [AMENDED]

Subchapter 11. Certified Schools and Designated Class D Examiners

595:10-11-7. Examination requirements and standards [AMENDED]

595:10-11-8. Reexamination upon failure of examination [AMENDED]

595:10-11-9. Driver license applicant [AMENDED]

595:10-11-14. Other prohibited acts [AMENDED]

SUMMARY:

Amendments to this chapter would:

clarify the use and acceptance of court orders for purposes of issuing driver licenses and identification cards, including but not limited to court orders relating to a name change;

authorize the Department to require additional identification documents;

modify provisions for licensing a person previously licensed in another country;

establish provisions for changing information regarding the licensee's or card holder's sex;

modify examination process for a commercial driver license;

modify provisions for the issuance and renewal of a restricted commercial driver license;

modify scoring procedures for certain examinations relating to commercial driver licenses;

adopt by reference certain federal regulations relating to the examination for commercial driver licenses;

establish waiting periods for re-administering certain driver license examinations;

modify requirements for certification as a Class A, B, or C designated examiner, and extends from 1 year to 5 years the period the certification is valid;

prohibit a Class A, B, or C designated examiner from administering a test in commercial motor vehicle required to be placarded for hazardous materials;

modify examination failure notification process by Class D designated examiners;

reduce from 2 to 1 the number of times a Class D designated examiner may re-administer an examination; and

prohibit a Class D designated examiner from administering an examination to a person who does not have an Oklahoma driver license or who has a driver license issued by another state or country.

The proposed actions are amendments to existing rules.

The circumstance, other than clarifying language, which created the need for these rules is the need to update and refine the driver license and identification card issuance process.

The intended effect of these rules is to allow the Department of Public Safety to perform its duties as required or authorized by law.

AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 6-101 et seq.

COMMENT PERIOD:

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted up to the close of the public hearing.

PUBLIC HEARING:

A public hearing regarding these proposed rules will be held at 10 a.m., Monday, March 24, 2003, in the Conference Room of the Robert E. Lester Training Center, 3600 N. Martin Luther King, Oklahoma City, OK. Anyone who wishes to speak must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Any business entity affected by this rule is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with this proposed rule.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the contact person.

RULE IMPACT STATEMENT:

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. §303(D), and may be obtained from the contact person on and after March 5, 2003.

CONTACT PERSON:

David W. Beatty, Administrative Rules, Department of Public Safety, 3600 N. M.L. King Ave., P.O. Box 11415, Oklahoma City, OK 73136-0415. Phone: (405) 425-2024. Fax: (405) 425-2258. E-mail: **dbeatty@dps.state.ok.us**

ADDITIONAL INFORMATION:

Pursuant to subsection B of Section 4, Chapter 495, O.S.L. 2002 (subsection B of Section 504 of Title 75 of the Oklahoma Statutes), a copy of the proposed rules and a rule impact statement, as completed prior to this date, have been submitted to the Small Business Regulatory Review Committee for review and comment.

[OAR Docket #03-150; filed 1-23-03]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 25. WRECKERS AND TOWING SERVICES

[OAR Docket #03-151]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 5. All Wrecker Operators

595:25-5-1. Physical requirements for storage facility [AMENDED]

595:25-5-3. Operation [AMENDED]

Subchapter 7. Class AA Operators

595:25-7-2. Operation of storage facility by Class AA operators [AMENDED]

SUMMARY:

Amendments to this chapter would:

require certain vehicle storage facilities be accessible by all-weather roads;

modify requirements for being licensed as a wrecker operator;

clarify to whom a stored vehicle may be released; and correct scrivener's errors.

The proposed actions are amendments to existing rules.

The circumstances, other than clarifying language, which created the need for these rules are to improve the working environment of the wrecker and towing services as well as to ensure the safety and protect the property of the motoring public of Oklahoma.

The intended effect of this rule is to allow the Department of Public Safety to perform its duties as required or authorized by law.

AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 952

COMMENT PERIOD:

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted up to the close of the public hearing.

PUBLIC HEARING:

A public hearing regarding these proposed rules will be held at 1:30 p.m., Monday, March 24, 2003, in the Conference Room at the Robert E. Lester Training Center, 3600 N. Martin Luther King, Oklahoma City, OK. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Any business entity affected by this rule is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with this proposed rule.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the contact person

RULE IMPACT STATEMENT:

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. §303(D), and may be obtained from the contact person on and after March 5, 2003.

CONTACT PERSON:

David W. Beatty, Administrative Rules, Department of Public Safety, 3600 N. M.L. King Ave., P.O. Box 11415, Oklahoma City, OK 73136-0415. Phone: (405) 425-2024. Fax: (405) 425-2258. E-mail: **dbeatty@dps.state.ok.us**

ADDITIONAL INFORMATION:

Pursuant to subsection B of Section 4, Chapter 495, O.S.L. 2002 (subsection B of Section 504 of Title 75 of the Oklahoma Statutes), a copy of the proposed rules and a rule impact statement, as completed prior to this date, have been submitted to the Small Business Regulatory Review Committee for review and comment.

[OAR Docket #03-151; filed 1-23-03]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 35. ENFORCEMENT OF OKLAHOMA MOTOR CARRIER SAFETY AND HAZARDOUS MATERIALS TRANSPORTATION ACT

[OAR Docket #03-152]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

595:35-1-6. Deletions, substitutions, and additions to federal rules adopted by reference [AMENDED]

SUMMARY:

Amendments to this rule would clarify procedures for the display of a USDOT number.

The proposed actions are amendments to existing rules.

The circumstances which created the need for these rules are to clarify equirements related to motor carrier safety and operation.

The intended effect of these rules is to allow the Department of Public Safety to perform its duties as required or authorized by law.

AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 230.4.

COMMENT PERIOD:

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted up to the close of the public hearing.

PUBLIC HEARING:

A public hearing regarding these proposed rules will be held at 2:30 p.m., Monday, March 24, 2003, in the Conference Room of the Robert E. Lester Training Center, 3600 N. Martin Luther King, Oklahoma City, OK. Anyone who wishes to speak must sign in at the door by 2:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Any business entity affected by this rule is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with this proposed rule.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the contact person.

RULE IMPACT STATEMENT:

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. §303(D), and may be obtained from the contact person on and after March 5, 2003.

CONTACT PERSON:

David W. Beatty, Administrative Rules, Department of Public Safety, 3600 N. M.L. King Ave., P.O. Box 11415, Oklahoma City, OK 73136-0415. Phone: (405) 425-2024. Fax: (405) 425-2258. E-mail: **dbeatty@dps.state.ok.us**

ADDITIONAL INFORMATION:

Pursuant to subsection B of Section 4, Chapter 495, O.S.L. 2002 (subsection B of Section 504 of Title 75 of the Oklahoma Statutes), a copy of the proposed rules and a rule impact statement, as completed prior to this date, have been submitted to the Small Business Regulatory Review Committee for review and comment.

[OAR Docket #03-152; filed 1-23-03]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 40. DRIVER TRAINING AND IMPROVEMENT

[OAR Docket #03-153]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 1. Driver Education Instruction

595:40-1-4. Qualifications for instructors [AMENDED]

595:40-1-7. Eligibility for re-issuance of instructor permits [AMENDED]

595:40-1-9. Prescribed course of study [AMENDED]

Subchapter 5. Motor Vehicle Accident Prevention Course

595:40-5-5. Minimum curriculum requirements for MVAPC courses [AMENDED]

595:40-5-7. Responsibilities of sponsoring agencies [AMENDED]

SUMMARY:

Amendments to this chapter would:

provide conformity between qualifications for initial certification and recertification of instructors; and

clarify certain rules in relation to their statutory antecedents;

The proposed actions are amendments to existing rules.

The circumstances, other than clarifying and conforming language, which created the need for these rules is the passage of Enrolled House Bill 2335 (2002) which reduced from 8 to 6 the number of instruction hours for certain driving courses.

The intended effect of these rules is to allow the Department of Public Safety to perform its duties as required or authorized by law.

AUTHORITY:

Commissioner of Public Safety; 47 O.S. §§ 6-105 and 802.

COMMENT PERIOD:

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted up to the close of the public hearing.

PUBLIC HEARING:

A public hearing regarding these proposed rules will be held at 9 a.m., Monday, March 24, 2003, in the Conference Room of the Robert E. Lester Training Center, 3600 N. Martin Luther King, Oklahoma City, OK. Anyone who wishes to speak must sign in at the door by 9:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Any business entity affected by this rule is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with this proposed rule.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the contact person

RULE IMPACT STATEMENT:

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. §303(D), and may be obtained from the contact person on and after March 5, 2003.

CONTACT PERSON:

David W. Beatty, Administrative Rules, Department of Public Safety, 3600 N. M.L. King Ave., P.O. Box 11415, Oklahoma City, OK 73136-0415. Phone: (405) 425-2024. Fax: (405) 425-2258. E-mail: **dbeatty@dps.state.ok.us**

ADDITIONAL INFORMATION:

Pursuant to subsection B of Section 4, Chapter 495, O.S.L. 2002 (subsection B of Section 504 of Title 75 of the Oklahoma Statutes), a copy of the proposed rules and a rule impact statement, as completed prior to this date, have been submitted to the Small Business Regulatory Review Committee for review and comment.

[OAR Docket #03-153; filed 1-23-03]

TITLE 600. REAL ESTATE APPRAISER BOARD
CHAPTER 15. DISCIPLINARY PROCEDURES

[OAR Docket #03-109]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

600:15-1-2. Definitions [AMENDED]

600:15-1-3. Screening officers and hearing officers [REVOKED]

600:15-1-4. Complaint process procedure [AMENDED]

600:15-1-5. ~~Screening officers to respond~~ Issuance of formal complaint: setting date for formal hearing [AMENDED]

600:15-1-6. Notice of disciplinary proceedings [AMENDED]

SUMMARY:

These permanent rules provide for the establishment of a Probable Cause Committee to review the complaints filed with the Board against individuals regulated by the Board and to provide a more effective procedure to be used by the Board in such disciplinary proceedings.

AUTHORITY:

Real Estate Appraiser Board, 59 O.S. § 706(A).

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 5:00 p.m., March 20, 2003, at the offices of the Real Estate Appraiser Board, Oklahoma Insurance Department, Real Estate Appraiser Board Division, Attn: Michelle Dobbs, Rulemaking Liaison, 2401 NW 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer input on the content of the proposed rules. The public hearing will be held at 9:30 a.m. on March 28, 2003, in the Commissioner's Conference Room at the office of the Oklahoma Insurance Department, at 2401 NW 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide the Real Estate Appraiser Board, Attn: Michelle Dobbs, Rulemaking Liaison, within the comment period set out above, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with these proposed rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the Offices of the Oklahoma Insurance Commissioner, State Insurance Department, Real Estate Appraiser Board Division, at 2401 NW 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107. Additional copies of proposed rules may be obtained at the State Insurance Department.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared prior to February 18, 2003, and may be obtained from the Real Estate Appraiser Board at the above address.

CONTACT PERSON:

Michelle Dobbs, Rulemaking Liaison, (405) 522-6636.

[OAR Docket #03-109; filed 1-17-03]

TITLE 650. OKLAHOMA CENTER FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-134]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

RULES:

Subchapter 1. General Provisions
650:1-1-1 [AMENDED]
650:1-1-1.1 [NEW]
650:1-1-2 [AMENDED]
650:1-1-3 [AMENDED]
650:1-1-4 [AMENDED]
650:1-1-5 [REVOKED]
650:1-1-6 [AMENDED]
Subchapter 3. Agency Administration
650:1-3-1 [AMENDED]
650:1-3-2 [AMENDED]
650:1-3-3 [AMENDED]
650:1-3-4 [AMENDED]

SUMMARY:

Senate Bill No. 1391 of the 2002 Legislative Session enacted the Oklahoma Science and Technology Research and Development Act, amending 74 O.S. 2001, Sections 5060.1, 5060.2, 5060.3, 5060.4, 5060.7, 5060.8, 5060.9, 5060.9a and 5060.22, abolished the Oklahoma Futures Board and reconstituted the Oklahoma Center for the Advancement of Science and Technology Board as the Oklahoma Science and Technology Research and Development Board. With the enactment of Senate Bill 1391, Oklahoma Futures no longer has the responsibility of approving the OCAST business plan. This change requires a revision of Title 650 of the Rules and Regulations for the Oklahoma Center for the Advancement of Science and Technology (OCAST) to correct the name of the oversight Board and assure the continued operation of all OCAST programs. These rule changes are intended to supersede Emergency Rules signed by the Governor or September 9, 2002, Docket Number 02-1345. The Emergency Rules were published in the October 15, 2002 Oklahoma Register.

AUTHORITY:

Title 74 O.S., Section 5060.9; The Oklahoma Science and Technology Research and Development Board.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 P.M. on March 20, 2003 at the Oklahoma Center for the Advancement of Science and Technology (OCAST) office, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

PUBLIC HEARING:

A Public Hearing will be held at 2:00 P.M. on Thursday, March 20, 2003 at the Oklahoma Center for the Advancement of Science and Technology (OCAST) office, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Center for the Advancement of Science and Technology (OCAST) office located at 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Sherry Roberts, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement is being prepared and will be available for review after February 18, 2003 at the above address for the Oklahoma Center for the Advancement of Science and Technology (OCAST).

CONTACT PERSON:

Sherry Roberts (405) 524-1357, ext. 236

[OAR Docket #03-134; filed 1-23-03]

TITLE 650. OKLAHOMA CENTER FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY
CHAPTER 10. APPLIED RESEARCH PROGRAM

[OAR Docket #03-135]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

RULES:

650:10-1-5 [AMENDED]
650:10-1-6 [AMENDED]
650:10-1-7 [AMENDED]
650:10-1-8 [AMENDED]
650:10-1-9 [AMENDED]
650:10-1-11 [AMENDED]
650:10-1-12 [AMENDED]
650:10-1-14 [AMENDED]

SUMMARY:

Senate Bill No. 1391 of the 2002 Legislative Session enacted the Oklahoma Science and Technology Research and Development Act, amending 74 O.S. 2001, Sections 5060.1, 5060.2, 5060.3, 5060.4, 5060.7, 5060.8, 5060.9, 5060.9a and 5060.22, abolished the Oklahoma Futures Board and reconstituted the Oklahoma Center for the Advancement of Science and Technology Board as the Oklahoma Science and Technology Research and Development Board. With the enactment of Senate Bill 1391, Oklahoma Futures no longer has the responsibility of approving the OCAST business plan. This change requires a revision of Title 650 of the Rules and Regulations for the Oklahoma Center for the Advancement

of Science and Technology (OCAST) to correct the name of the oversight Board and assure the continued operation of all OCAST programs. These rule changes are intended to supersede Emergency Rules signed by the Governor or September 9, 2002, Docket Number 02-1345. The Emergency Rules were published in the October 15, 2002 Oklahoma Register.

AUTHORITY:

Title 74 O.S., Section 5060.9; The Oklahoma Science and Technology Research and Development Board.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 P.M. on March 20, 2003 at the Oklahoma Center for the Advancement of Science and Technology (OCAST) office, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

PUBLIC HEARING:

A Public Hearing will be held at 2:00 P.M. on Thursday, March 20, 2003 at the Oklahoma Center for the Advancement of Science and Technology (OCAST) office, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Center for the Advancement of Science and Technology (OCAST) office located at 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Sherry Roberts, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement is being prepared and will be available for review after February 18, 2003 at the above address for the Oklahoma Center for the Advancement of Science and Technology (OCAST).

CONTACT PERSON:

Sherry Roberts (405) 524-1357, ext. 236

[OAR Docket #03-135; filed 1-23-03]

TITLE 650. OKLAHOMA CENTER FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY
CHAPTER 15. CENTERS OF EXCELLENCE PROGRAM

[OAR Docket #03-136]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

RULES:

650:15-1-4 [AMENDED
650:15-1-5 [AMENDED]
650:15-1-8 [AMENDED]
650:15-1-9 [AMENDED]
650:15-1-10 [AMENDED]
650:15-1-11 [AMENDED]
650:10-1-14 [AMENDED]

SUMMARY:

Senate Bill No. 1391 of the 2002 Legislative Session enacted the Oklahoma Science and Technology Research and Development Act, amending 74 O.S. 2001, Sections 5060.1, 5060.2, 5060.3, 5060.4, 5060.7, 5060.8, 5060.9, 5060.9a and 5060.22, abolished the Oklahoma Futures Board and reconstituted the Oklahoma Center for the Advancement of Science and Technology Board as the Oklahoma Science and Technology Research and Development Board. With the enactment of Senate Bill 1391, Oklahoma Futures no longer has the responsibility of approving the OCAST business plan. This change requires a revision of Title 650 of the Rules and Regulations for the Oklahoma Center for the Advancement of Science and Technology (OCAST) to correct the name of the oversight Board and assure the continued operation of all OCAST programs. These rule changes are intended to supersede Emergency Rules signed by the Governor or September 9, 2002, Docket Number 02-1345. The Emergency Rules were published in the October 15, 2002 Oklahoma Register.

AUTHORITY:

Title 74 O.S., Section 5060.9; The Oklahoma Science and Technology Research and Development Board.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 P.M. on March 20, 2003 at the Oklahoma Center for the Advancement of Science and Technology (OCAST) office, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

PUBLIC HEARING:

A Public Hearing will be held at 2:00 P.M. on Thursday, March 20, 2003 at the Oklahoma Center for the Advancement of Science and Technology (OCAST) office, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Center for the Advancement of Science and Technology (OCAST) office located at 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Sherry Roberts, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement is being prepared and will be available for review after February 18, 2003 at the above address for the Oklahoma Center for the Advancement of Science and Technology (OCAST).

CONTACT PERSON:
Sherry Roberts (405) 524-1357, ext. 236

[OAR Docket #03-136; filed 1-23-03]

TITLE 650. OKLAHOMA CENTER FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY
CHAPTER 20. OKLAHOMA HEALTH RESEARCH PROGRAM

[OAR Docket #03-137]

RULEMAKING ACTION:
Notice of proposed PERMANENT rulemaking
RULES:
650:20-1-5 [AMENDED]
650:20-1-6 [AMENDED]
650:20-1-9 [AMENDED]
650:20-1-10 [AMENDED]
650:20-1-14 [AMENDED]
SUMMARY:
Senate Bill No. 1391 of the 2002 Legislative Session enacted the Oklahoma Science and Technology Research and Development Act, amending 74 O.S. 2001, Sections 5060.1, 5060.2, 5060.3, 5060.4, 5060.7, 5060.8, 5060.9, 5060.9a and 5060.22, abolished the Oklahoma Futures Board and reconstituted the Oklahoma Center for the Advancement of Science and Technology Board as the Oklahoma Science and Technology Research and Development Board. With the enactment of Senate Bill 1391, Oklahoma Futures no longer has the responsibility of approving the OCAST business plan. This change requires a revision of Title 650 of the Rules and Regulations for the Oklahoma Center for the Advancement of Science and Technology (OCAST) to correct the name of the oversight Board and assure the continued operation of all OCAST programs. These rule changes are intended to supersede Emergency Rules signed by the Governor or September 9, 2002, Docket Number 02-1345. The Emergency Rules were published in the October 15, 2002 Oklahoma Register.
AUTHORITY:
Title 74 O.S., Section 5060.9; The Oklahoma Science and Technology Research and Development Board.
COMMENT PERIOD:
Persons wishing to present their views orally or in writing may do so before 5:00 P.M. on March 20, 2003 at the Oklahoma Center for the Advancement of Science and Technology (OCAST) office, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.
PUBLIC HEARING:
A Public Hearing will be held at 2:00 P.M. on Thursday, March 20, 2003 at the Oklahoma Center for the Advancement of Science and Technology (OCAST) office, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.
REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:
N/A
COPIES OF PROPOSED RULES:
Copies of the proposed rules may be obtained from the Oklahoma Center for the Advancement of Science and Technology (OCAST) office located at 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Sherry Roberts, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.
RULE IMPACT STATEMENT:
Pursuant to 75 O.S., Section 303(D), a rule impact statement is being prepared and will be available for review after February 18, 2003 at the above address for the Oklahoma Center for the Advancement of Science and Technology (OCAST).
CONTACT PERSON:
Sherry Roberts (405) 524-1357, ext. 236

[OAR Docket #03-137; filed 1-23-03]

TITLE 650. OKLAHOMA CENTER FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY
CHAPTER 25. MOST RESEARCH EQUIPMENT PROGRAM

[OAR Docket #03-138]

RULEMAKING ACTION:
Notice of proposed PERMANENT rulemaking
RULES:
650:25-1-5 [AMENDED]
650:25-1-7 [AMENDED]
650:25-1-8 [AMENDED]
650:25-1-9 [AMENDED]
650:25-1-11 [AMENDED]
650:25-1-14 [AMENDED]
SUMMARY:
Senate Bill No. 1391 of the 2002 Legislative Session enacted the Oklahoma Science and Technology Research and Development Act, amending 74 O.S. 2001, Sections 5060.1, 5060.2, 5060.3, 5060.4, 5060.7, 5060.8, 5060.9, 5060.9a and 5060.22, abolished the Oklahoma Futures Board and reconstituted the Oklahoma Center for the Advancement of Science and Technology Board as the Oklahoma Science and Technology Research and Development Board. With the enactment of Senate Bill 1391, Oklahoma Futures no longer has the responsibility of approving the OCAST business plan. This change requires a revision of Title 650 of the Rules and Regulations for the Oklahoma Center for the Advancement of Science and Technology (OCAST) to correct the name of the oversight Board and assure the continued operation of all OCAST programs. These rule changes are intended to supersede Emergency Rules signed by the Governor or

September 9, 2002, Docket Number 02-1345. The Emergency Rules were published in the October 15, 2002 Oklahoma Register.

AUTHORITY:

Title 74 O.S., Section 5060.9; The Oklahoma Science and Technology Research and Development Board.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 P.M. on March 20, 2003 at the Oklahoma Center for the Advancement of Science and Technology (OCAST) office, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

PUBLIC HEARING:

A Public Hearing will be held at 2:00 P.M. on Thursday, March 20, 2003 at the Oklahoma Center for the Advancement of Science and Technology (OCAST) office, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Center for the Advancement of Science and Technology (OCAST) office located at 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Sherry Roberts, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement is being prepared and will be available for review after February 18, 2003 at the above address for the Oklahoma Center for the Advancement of Science and Technology (OCAST).

CONTACT PERSON:

Sherry Roberts (405) 524-1357, ext. 236

[OAR Docket #03-138; filed 1-23-03]

TITLE 650. OKLAHOMA CENTER FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY
CHAPTER 30. SBIR PHASE I INCENTIVE FUNDING PROGRAM

[OAR Docket #03-139]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

RULES:

650:30-1-5 [AMENDED]
650:30-1-8 [AMENDED]
650:30-1-10 [AMENDED]
650:30-1-11 [AMENDED]
650:30-1-13 [AMENDED]

SUMMARY:

Senate Bill No. 1391 of the 2002 Legislative Session enacted the Oklahoma Science and Technology Research and Development Act, amending 74 O.S. 2001, Sections 5060.1, 5060.2, 5060.3, 5060.4, 5060.7, 5060.8, 5060.9, 5060.9a and 5060.22, abolished the Oklahoma Futures Board and reconstituted the Oklahoma Center for the Advancement of Science and Technology Board as the Oklahoma Science and Technology Research and Development Board. With the enactment of Senate Bill 1391, Oklahoma Futures no longer has the responsibility of approving the OCAST business plan. This change requires a revision of Title 650 of the Rules and Regulations for the Oklahoma Center for the Advancement of Science and Technology (OCAST) to correct the name of the oversight Board and assure the continued operation of all OCAST programs.

OCAST SBIR rule 650:30-1-11(3) will allow OCAST to provide assistance to Oklahoma companies that apply for federal Phase I SBIR funding who can not obtain the expertise required to complete their project within the State of Oklahoma. In the past small businesses that utilized facilities outside Oklahoma to evaluate their test results because the required level of expertise was only available at a specific facility could not apply to OCAST for assistance through the SBIR Incentive Funding Program, even though the actual research and development was conducted within the state. This rule change corrects that problem.

These rule changes are intended to supersede Emergency Rules signed by the Governor or September 9, 2002, Docket Number 02-1345. The Emergency Rules were published in the October 15, 2002 Oklahoma Register.

AUTHORITY:

Title 74 O.S., Section 5060.9; The Oklahoma Science and Technology Research and Development Board.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 P.M. on March 20, 2003 at the Oklahoma Center for the Advancement of Science and Technology (OCAST) office, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

PUBLIC HEARING:

A Public Hearing will be held at 2:00 P.M. on Thursday, March 20, 2003 at the Oklahoma Center for the Advancement of Science and Technology (OCAST) office, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Center for the Advancement of Science and Technology (OCAST) office located at 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Sherry Roberts, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement is being prepared and will be available for review after February 18, 2003 at the above address for the Oklahoma Center for the Advancement of Science and Technology (OCAST).

CONTACT PERSON:

Sherry Roberts (405) 524-1357, ext. 236

[OAR Docket #03-139; filed 1-23-03]

TITLE 650. OKLAHOMA CENTER FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY
CHAPTER 35. SBIR MATCHING FUNDS PROGRAM

[OAR Docket #03-140]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

RULES:

650:35-1-5 [AMENDED]
650:35-1-8 [AMENDED]
650:35-1-10 [AMENDED]

SUMMARY:

Senate Bill No. 1391 of the 2002 Legislative Session enacted the Oklahoma Science and Technology Research and Development Act, amending 74 O.S. 2001, Sections 5060.1, 5060.2, 5060.3, 5060.4, 5060.7, 5060.8, 5060.9, 5060.9a and 5060.22, abolished the Oklahoma Futures Board and reconstituted the Oklahoma Center for the Advancement of Science and Technology Board as the Oklahoma Science and Technology Research and Development Board. With the enactment of Senate Bill 1391, Oklahoma Futures no longer has the responsibility of approving the OCAST business plan. This change requires a revision of Title 650 of the Rules and Regulations for the Oklahoma Center for the Advancement of Science and Technology (OCAST) to correct the name of the oversight Board and assure the continued operation of all OCAST programs. These rule changes are intended to supersede Emergency Rules signed by the Governor or September 9, 2002, Docket Number 02-1345. The Emergency Rules were published in the October 15, 2002 Oklahoma Register.

AUTHORITY:

Title 74 O.S., Section 5060.9; The Oklahoma Science and Technology Research and Development Board.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 P.M. on March 20, 2003 at the Oklahoma Center for the Advancement of Science and Technology (OCAST) office, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

PUBLIC HEARING:

A Public Hearing will be held at 2:00 P.M. on Thursday, March 20, 2003 at the Oklahoma Center for the Advancement of Science and Technology (OCAST) office, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Center for the Advancement of Science and Technology (OCAST) office located at 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Sherry Roberts, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement is being prepared and will be available for review after February 18, 2003 at the above address for the Oklahoma Center for the Advancement of Science and Technology (OCAST).

CONTACT PERSON:

Sherry Roberts (405) 524-1357, ext. 236

[OAR Docket #03-140; filed 1-23-03]

TITLE 650. OKLAHOMA CENTER FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY
CHAPTER 37. STTR PHASE I INCENTIVE FUNDING PROGRAM

[OAR Docket #03-141]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

RULES:

650:37-1-5 [AMENDED]
650:37-1-8 [AMENDED]
650:37-1-10 [AMENDED]

SUMMARY:

Senate Bill No. 1391 of the 2002 Legislative Session enacted the Oklahoma Science and Technology Research and Development Act, amending 74 O.S. 2001, Sections 5060.1, 5060.2, 5060.3, 5060.4, 5060.7, 5060.8, 5060.9, 5060.9a and 5060.22, abolished the Oklahoma Futures Board and reconstituted the Oklahoma Center for the Advancement of Science and Technology Board as the Oklahoma Science and Technology Research and Development Board. With the enactment of Senate Bill 1391, Oklahoma Futures no longer has the responsibility of approving the OCAST business plan. This change requires a revision of Title 650 of the Rules and Regulations for the Oklahoma Center for the Advancement of Science and Technology (OCAST) to correct the name of the oversight Board and assure the continued operation

of all OCAST programs. These rule changes are intended to supersede Emergency Rules signed by the Governor or September 9, 2002, Docket Number 02-1345. The Emergency Rules were published in the October 15, 2002 Oklahoma Register.

AUTHORITY:

Title 74 O.S., Section 5060.9; The Oklahoma Science and Technology Research and Development Board.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 P.M. on March 20, 2003 at the Oklahoma Center for the Advancement of Science and Technology (OCAST) office, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

PUBLIC HEARING:

A Public Hearing will be held at 2:00 P.M. on Thursday, March 20, 2003 at the Oklahoma Center for the Advancement of Science and Technology (OCAST) office, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Center for the Advancement of Science and Technology (OCAST) office located at 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Sherry Roberts, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement is being prepared and will be available for review after February 18, 2003 at the above address for the Oklahoma Center for the Advancement of Science and Technology (OCAST).

CONTACT PERSON:

Sherry Roberts (405) 524-1357, ext. 236

[OAR Docket #03-141; filed 1-23-03]

TITLE 655. SECRETARY OF STATE CHAPTER 10. ADMINISTRATIVE RULES ON RULEMAKING

[OAR Docket #03-142]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Preparation of Documents
Part 5. Notice Documents
655:10-7-26 [AMENDED]
Subchapter 13. Correction of Errors
655:10-13-3 [AMENDED]

SUMMARY:

Provisions related to Notices of Rulemaking Intent are being revised to reflect statutory amendments in SB 948 that extend the required comment period, as well as the earliest possible date for scheduling a public hearing, from 20 to 30 days after publication of the NRI in the Register.

These permanent amendments will supersede emergency amendments which were approved by the Governor and effective July 2, 2002.

AUTHORITY:

Secretary of State; 75 O.S., §§ 250 et seq.

COMMENT PERIOD:

Persons wishing to submit written comments must do so by March 21, 2003 at 5:00 p.m. to Beverly Roundtree at 2401 N. Lincoln Boulevard, Will Rogers Building, Suite 220, P. O. Box 53390, Oklahoma City, Oklahoma 73152-3390.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views at 9:00 a.m. on Friday, March 21, 2003 at 2401 N. Lincoln Boulevard, Will Rogers Building, Suite 228, Oklahoma City, Oklahoma. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Secretary of State, Office of Administrative Rules, 2401 N. Lincoln Boulevard, Will Rogers Building, Suite 220, P. O. Box 53390, Oklahoma City, Oklahoma 73152-3390.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303 (D), a rule impact statement has been prepared and will be available on and after the publication of this notice on February 18, 2003, at the same location listed above for obtaining copies of the proposed rules.

CONTACT PERSON:

Beverly Roundtree, (405) 521-4911.

[OAR Docket #03-142; filed 1-23-03]

TITLE 655. SECRETARY OF STATE CHAPTER 25. NOTARY PUBLIC

[OAR Docket #03-143]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [AMENDED]
Subchapter 3. Revocation, Resignation and Death [AMENDED]
Subchapter 5. ~~Journal and~~ Seal [AMENDED]
Subchapter 7. Change of Name and Address [REVOKED]

Subchapter 9. Availability of Information [REVOKED]

SUMMARY:

The proposed revisions to Chapter 25 include deleting language that is in conflict with law and that unnecessarily repeats statutory language. In addition, the revisions bring the rules into compliance with current agency procedures.

AUTHORITY:

Secretary of State; 49 O.S., §§ 1 et seq.

COMMENT PERIOD:

Persons wishing to submit written comments must do so by March 21, 2003 at 5:00 p.m. to Beverly Roundtree at 2401 N. Lincoln Boulevard, Will Rogers Building, Suite 220, P. O. Box 53390, Oklahoma City, Oklahoma 73152-3390.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views at 9:00 a.m. on Friday, March 21, 2003 at 2401 N. Lincoln Boulevard, Will Rogers Building, Suite 228, Oklahoma City, Oklahoma. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Secretary of State, Office of Administrative Rules, 2401 N. Lincoln Boulevard, Will Rogers Building, Suite 220, P. O. Box 53390, Oklahoma City, Oklahoma 73152-3390.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303 (D), a rule impact statement has been prepared and will be available on and after the publication of this notice on February 18, 2003, at the same location listed above for obtaining copies of the proposed rules.

CONTACT PERSON:

Beverly Roundtree, (405) 521-4911.

[OAR Docket #03-143; filed 1-23-03]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-171]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Chapter 1. Administrative Operations [AMENDED]

SUMMARY:

A new Part 8, dealing with Settlement of Tax Liability, is being promulgated to implement the provisions of Senate Bill 1253, § 1. The bill provided specific statutory authority for the Commission to consider settlement offers under certain statutory conditions, provided that the underlying constitutional authority was approved by the people, which occurred November 5, 2002. These Sections generally set out the manner in which the new law will be implemented. Topics include eligibility requirements, how to make application, what a taxpayer may expect with respect to the procedural aspects of review and determination, and the relationship and effect upon existing remedies and liabilities.

Existing Section 710:1-5-13, which described the settlement procedures previously available to taxpayers, is expanded and amended to describe the scope of the new Part 8 procedures.

Section 710:1-5-31, describing the appointment and duties of Administrative Law Judges employed by the Commission, has been amended to provide for notice to the parties involved when an Administrative Law Judge must be substituted for one initially assigned in a proceeding.

Sections 710:1-5-10, 710:1-5-22, 710:1-5-71, and 710:1-5-72 have been amended to conform to changes in the Uniform Tax Code enacted by SB 1448 §§ 1-2, which expanded the period in which assessments can be protested from 30 days to 60 days, and made other significant changes to the appeals process.

Section 710:1-3-73 has been amended to require that requests for letter rulings be made in writing, identify the requesting individual or group of taxpayers, and state a specific fact situation.

In addition, other rule changes are proposed to clarify policy, to improve readability, to correct scrivener' errors, to update statutory citation, and to insure accurate internal cross-references.

AUTHORITY:

68 O.S. §§ 203, 219.1(H); Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., March 21, 2003, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, at the numbers provided below.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules, **2:00 p.m. Monday, March 24, 2003,** at the main offices of the Oklahoma Tax Commission, M. C. Connors Building, Room 1-24, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this **rulemaking action** is expected to **adversely** impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period,

in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity **due to** compliance with the proposed Rules.

COPIES OF PROPOSED RULES:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be obtained without charge from the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after March 5, 2003, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Carolyn Swifthurst, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: cswifthurst@oktax.state.ok.us

[OAR Docket #03-171; filed 1-23-03]

TITLE 715. TEACHERS' RETIREMENT SYSTEM
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-146]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

715:1-1-4. [AMENDED]

SUMMARY:

This rule is to effect an orderly plan for the operation and administration of the Teachers' Retirement System.

AUTHORITY:

70 O.S. Section 17-101, et seq., especially Section 17-106; Board of Trustees

COMMENT PERIOD:

Written comments may be made from February 18, 2003, through March 20, 2003, filed with and available for inspection in the Office of the Executive Secretary, Teachers' Retirement System of Oklahoma, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma, from 8:00 a.m. until 4:30 p.m. Monday through Friday, excluding holidays, or by mailing same to the Executive Secretary, Teachers' Retirement System of Oklahoma, P.O. Box 53524, Oklahoma City, OK 73152.

PUBLIC HEARING:

A public hearing will be held from 9:00 a.m. until 10:00 a.m. on March 21, 2003, at the offices of the Teachers' Retirement System, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma. Written notice of intent to make oral comments is encouraged. Individuals who file a written notice to comment will be scheduled to speak before comments are accepted from the audience. Written notice may be filed with the Executive Secretary, Teachers' Retirement System of Oklahoma, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, until 4:30 p.m. on March 20, 2003. Written notice may be mailed to: Executive Secretary, Oklahoma Teachers' Retirement System, P.O. Box 53524, Oklahoma City, OK 73152.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained for review from the Teachers' Retirement System of Oklahoma, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

The Oklahoma Teachers' Retirement System will issue a rule impact statement. Copies of the statement may be obtained from the Oklahoma Teachers' Retirement System, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Boulevard, Oklahoma City, Oklahoma, beginning February 18, 2003, between 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding holidays.

CONTACT PERSON:

Jacqueline Scott Shannon (405) 521-4743

[OAR Docket #03-146; filed 1-23-03]

TITLE 715. TEACHERS' RETIREMENT SYSTEM
CHAPTER 10. GENERAL OPERATIONS

[OAR Docket #03-147]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

715:10-1-4 [AMENDED]
715:10-1-7 [AMENDED]
715:10-5-15 [AMENDED]
715:10-5-32 [AMENDED]
715:10-11-2 [AMENDED]
715:10-13-3.1 [AMENDED]
715:10-13-9 [AMENDED]
715:10-15-18 [AMENDED]
715:10-15-22 [AMENDED]
715:10-17-1 [AMENDED]

715:10-17-5 [AMENDED]
715:10-17-6 [AMENDED]
715:10-17-7 [AMENDED]
715:10-19-8 [AMENDED]

SUMMARY:

These rules are to effect an orderly plan for the operation and administration of the Teachers' Retirement System.

AUTHORITY:

70 O.S. Section 17-101, et seq., especially Section 17-106; Board of Trustees

COMMENT PERIOD:

Written comments may be made from February 18, 2003, through March 20, 2003, filed with and available for inspection in the Office of the Executive Secretary, Teachers' Retirement System of Oklahoma, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma, from 8:00 a.m. until 4:30 p.m. Monday through Friday, excluding holidays, or by mailing same to the Executive Secretary, Teachers' Retirement System of Oklahoma, P.O. Box 53524, Oklahoma City, OK 73152.

PUBLIC HEARING:

A public hearing will be held from 9:00 a.m. until 10:00 a.m. on March 21, 2003, at the offices of the Teachers' Retirement System, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma. Written notice of intent to make oral comments is encouraged. Individuals who file a written notice to comment will be scheduled to speak before comments are accepted from the audience. Written notice may be filed with the Executive Secretary, Teachers' Retirement System of Oklahoma, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, until 4:30 p.m. on March 20, 2003. Written notice may be mailed to: Executive Secretary, Oklahoma Teachers' Retirement System, P.O. Box 53524, Oklahoma City, OK 73152.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained for review from the Teachers' Retirement System of Oklahoma, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

The Oklahoma Teachers' Retirement System will issue a rule impact statement. Copies of the statement may be obtained from the Oklahoma Teachers' Retirement System, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Boulevard, Oklahoma City, beginning February 18, 2003, between 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding holidays.

CONTACT PERSON:

Jacqueline Scott Shannon (405) 521-4743

[OAR Docket #03-147; filed 1-23-03]

Continued Hearings/Comment Periods

If an agency continues a hearing or comment period announced in a published Notice of Rulemaking Intent, the agency may submit a notice of such continuation to the Office of Administrative Rules (OAR). The OAR publishes the continuation notice in the *Register* if such publication can be achieved prior to the announced date of the continued hearing or closing date of the continued comment period.

For additional information on continued hearings and comment periods, see OAC 655:10-7-27.

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 105. VITAL STATISTICS

[OAR Docket #03-78]

RULEMAKING ACTION:

Continued comment period and public hearing relating to a proposed PERMANENT rulemaking action

PROPOSED RULES:

Subchapter 1. Purpose, Forms and Fees

310:105-1-3 [AMENDED]

REGISTER PUBLICATION OF NOTICE:

The Notice of Rulemaking Intent for this action was published at 20 Ok Reg 181, Docket #02-1551.

CONTINUED COMMENT PERIOD:

Original comment period:

January 2, 2003 to February 13, 2003

Continued to:

March 20, 2003

CONTINUED PUBLIC HEARING:

Original public hearing:

Part of the regular meeting of the State Board of Health, February 13, 2003, at 1:00 p.m. in Room 307 of the Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299.

Continued to:

March 20, 2003, at 1:00 p.m., Room 307 of the Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by the conclusion of the comment period on March 20, 2003 to John Burks, Sr., State Registrar, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Vital Records, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement was prepared and is available at the same location listed above for reviewing and obtaining copies of the proposed rules.

ADDITIONAL INFORMATION:

For additional information, contact John Burks, Sr., State Registrar, (405) 271-2224

[OAR Docket #03-78; filed 1-8-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 403. LICENSED BEHAVIORAL PRACTITIONERS

[OAR Docket #03-79]

RULEMAKING ACTION:

Continued comment period and public hearing relating to a proposed PERMANENT rulemaking action

PROPOSED RULES:

Subchapter 7. Rules of Professional Conduct

310:403-7-2 [AMENDED]

Subchapter 15. Supervised Experience Requirement

310:403-15-1 [AMENDED]

REGISTER PUBLICATION OF NOTICE:

The Notice of Rulemaking Intent for this action was published at 20 Ok Reg 188, Docket #02-1561.

CONTINUED COMMENT PERIOD:

Original comment period:

January 2, 2003 to February 13, 2003

Continued to:

March 20, 2003

CONTINUED PUBLIC HEARING:

Original public hearing:

Part of the regular meeting of the State Board of Health, February 13, 2003, at 1:00 p.m. in Room 307 of the Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299.

Continued to:

March 20, 2003, at 1:00 p.m., Room 307 of the Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the

business entity due to compliance with the proposed rules. Business entities may submit this information in writing by the conclusion of the comment period on March 20, 2003 to Nena West, Director, Office of Professional Counselor Licensing, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the staff of the Office of Professional Counselor Licensing, Oklahoma State Department of Health Building, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement was prepared and is available at the same location listed above for reviewing and obtaining copies of the proposed rules.

ADDITIONAL INFORMATION:

For additional information, contact Nena West, Director, Professional Counselor Licensing, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, (405) 271-6030, or e-mail: nenaw@health.state.ok.us

[OAR Docket #03-79; filed 1-8-03]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 405. LICENSED PROFESSIONAL ~~COUNSELOR REGULATIONS~~COUNSELORS

[OAR Docket #03-80]

RULEMAKING ACTION:

Continued comment period and public hearing relating to a proposed PERMANENT rulemaking action

PROPOSED RULES:

Subchapter 3. Rules of Professional Conduct

310:405-3-2 [AMENDED]

REGISTER PUBLICATION OF NOTICE:

The Notice of Rulemaking Intent for this action was published at 20 Ok Reg 189, Docket #02-1562.

CONTINUED COMMENT PERIOD:

Original comment period:

January 2, 2003 to February 13, 2003

Continued to:

March 20, 2003

CONTINUED PUBLIC HEARING:

Original public hearing:

Part of the regular meeting of the State Board of Health, February 13, 2003, at 1:00 p.m. in Room 307 of the Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299.

Continued to:

March 20, 2003, at 1:00 p.m., Room 307 of the Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by the conclusion of the comment period on March 20, 2003 to Nena West, Director, Office of Professional Counselor Licensing, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the staff of the Office of Professional Counselor Licensing, Oklahoma State Department of Health Building, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement was prepared and is available at the same location listed above for reviewing and obtaining copies of the proposed rules.

ADDITIONAL INFORMATION:

For additional information, contact Nena West, Director, Professional Counselor Licensing, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, (405) 271-6030, or e-mail: nenaw@health.state.ok.us

[OAR Docket #03-80; filed 1-8-03]

Submissions for Review

Within 10 calendar days after adoption by an agency of a proposed PERMANENT rulemaking action, the agency must submit the proposed rules to the Governor and the Legislature for review. In addition, the agency must publish in the *Register* a "statement" that the rules have been submitted for gubernatorial/legislative review.

For additional information on submissions for gubernatorial/legislative review, see 75 O.S., Section 303.1, 303.2, and 308.

TITLE 45. ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION CHAPTER 10. PROVISIONS AND PENALTIES APPLICABLE TO ALL LICENSEES

[OAR Docket #03-149]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
45:10-3-12. Restriction on delivery of alcoholic beverages [AMENDED]
SUBMITTED TO GOVERNOR:
January 23, 2003
SUBMITTED TO HOUSE:
January 23, 2003
SUBMITTED TO SENATE:
January 23, 2003

[OAR Docket #03-149; filed 1-23-03]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 1. GENERAL PROVISIONS

[OAR Docket #03-89]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 5. Local Project Funding [NEW]
240:1-5-1. Purpose [NEW]
240:1-5-2. Definitions [NEW]
240:1-5-3. Local Project funding announcement [NEW]
240:1-5-4. Evaluation of local project funding contract applications [NEW]
240:1-5-5. Affidavit of LPF officer [NEW]
240:1-5-6. Serial numbering of local project funding contracts [NEW]
240:1-5-7. Monitoring of local project funding contracts [NEW]
SUBMITTED GOVERNOR:
January 10, 2003
SUBMITTED TO HOUSE:
January 10, 2003
SUBMITTED TO SENATE:
January 10, 2003

[OAR Docket #03-89; filed 1-10-03]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

[OAR Docket #03-89A]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 3. Benefits
Part 12. Interest Waiver for Benefit Overpayments [NEW]
240:10-3-60. Definitions [NEW]
240:10-3-61. Filing a request for waiver [NEW]
240:10-3-62. Three year limitation, assessment of penalty and accrual of interest [NEW]
240:10-3-63. Request letter [NEW]
240:10-3-64. Initial determination [NEW]
240:10-3-65. Appeal of initial determination [NEW]
240:10-3-66. Jurisdiction and authority of Appeal Tribunal [NEW]
240:10-3-67. Appeal Tribunal hearing [NEW]
240:10-3-68. Appeal [NEW]
240:10-3-69. Waiver to be denied [NEW]
Subchapter 11. Assessment Board Procedure
Part 1. General Provisions
240:10-11-8. Judicial ethics [AMENDED]
Subchapter 13. Appeal Tribunal Procedure
Part 1. General Provisions
240:10-13-5. Jurisdiction [AMENDED]
240:10-13-9. Judicial ethics [AMENDED]
SUBMITTED GOVERNOR:
January 10, 2003
SUBMITTED TO HOUSE:
January 10, 2003
SUBMITTED TO SENATE:
January 10, 2003

[OAR Docket #03-89A; filed 1-10-03]

TITLE 318. HIGHWAY CONSTRUCTION MATERIALS TECHNICIAN CERTIFICATION BOARD CHAPTER 10. EXAMINATION AND CERTIFICATION

[OAR Docket #03-97]

RULEMAKING ACTION:
Submission for Gubernatorial and Legislature Review
RULES:
318:10-1-3. Areas of Certification [AMENDED]
318:10-1-4. Examination Criteria [AMENDED]
318:10-1-6. Re-certification [AMENDED]
318:10-1-7. Temporary Certification [AMENDED]
318:10-1-8. Continuing Training Requirements [AMENDED]
318:10-1-10. Grounds for Discipline [AMENDED]
318:10-1-11. Fees [AMENDED]
SUBMITTED TO GOVERNOR:
January 14, 2003
SUBMITTED TO HOUSE:
January 14, 2003
SUBMITTED TO SENATE:
January 14, 2003
SUBMITTED TO ADVISORY COMMITTEE:
January 14, 2003

[OAR Docket #03-97; filed 1-14-03]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 21. CERTIFICATION OF ALCOHOL AND DRUG SUBSTANCE ABUSE COURSES (ADSAC), ORGANIZATIONS AND INSTRUCTORS

[OAR Docket #03-116]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
Subchapter 1. Certification of Alcohol and Drug Substance Abuse Courses (ADSAC), Organizations and Instructors
450:21-1-2 [AMENDED]
450:21-1-3 [AMENDED]
450:21-1-5 [AMENDED]
450:21-1-6 [AMENDED]
450:21-1-7 [AMENDED]
450:21-1-7.2 [AMENDED]
450:21-1-8 [AMENDED]
450:21-1-9 [AMENDED]
450:21-1-10 [AMENDED]
450:21-1-11 [AMENDED]
Subchapter 3. Certification Denial or Sanctions
450:21-3-1 [AMENDED]
450:21-3-2 [AMENDED]
450:21-3-3 [AMENDED]
Subchapter 5. Course Attendance and Completion
450:21-5-1 [AMENDED]
450:21-5-2 [AMENDED]
SUBMITTED TO GOVERNOR:
January 21, 2003
SUBMITTED TO HOUSE:
January 21, 2003
SUBMITTED TO SENATE:
January 21, 2003

[OAR Docket #03-116; filed 1-21-03]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 22. CERTIFICATION OF ALCOHOL AND DRUG ASSESSMENT AND EVALUATION PROGRAMS RELATED TO DRIVER'S LICENSE REVOCATION

[OAR Docket #03-117]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
PROPOSED RULES:
450:22-1-1 [AMENDED]
450:22-1-1.1 [AMENDED]
450:22-1-2 [AMENDED]
450:22-1-3 [AMENDED]
450:22-1-4 [AMENDED]
450:22-1-5 [AMENDED]
450:22-1-6 [AMENDED]
450:22-1-7 [AMENDED]
450:22-1-8 [AMENDED]
450:22-1-9 [AMENDED]
450:22-1-10 [AMENDED]
450:22-1-11 [AMENDED]
450:22-1-12 [AMENDED]
450:22-1-13 [AMENDED]
450:22-1-14 [AMENDED]
450:22-1-15 [AMENDED]
450:22-1-16 [AMENDED]
SUBMITTED TO GOVERNOR:
January 21, 2003
SUBMITTED TO HOUSE:
January 21, 2003
SUBMITTED TO SENATE:
January 21, 2003

[OAR Docket #03-117; filed 1-21-03]

TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-115]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULE:
Subchapter 9. Petitions
465:1-9-2 [AMENDED]
SUBMITTED TO GOVERNOR:
January 21, 2003
SUBMITTED TO HOUSE:
January 21, 2003
SUBMITTED TO SENATE:
January 21, 2003

[OAR Docket #03-115; filed 1-21-03]

TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION
CHAPTER 10. LICENSE

[OAR Docket #03-114]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. Commission Licensing Procedures
465:10-1-2 [AMENDED]
465:10-1-3 [AMENDED]
465:10-1-4 [AMENDED]
465:10-1-5 [AMENDED]
465:10-1-6 [AMENDED]
465:10-1-7 [AMENDED]
Subchapter 3. License Identification And Changes
465:10-3-3 [AMENDED]
Subchapter 7. Off Premise Sale and Display
465:10-7-3 [AMENDED]
SUBMITTED TO GOVERNOR:
January 21, 2003
SUBMITTED TO HOUSE:
January 21, 2003
SUBMITTED TO SENATE:
January 21, 2003

[OAR Docket #03-114; filed 1-21-03]

TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION
CHAPTER 15. ADVERTISING

[OAR Docket #03-113]

RULEMAKING ACTION:
Submission for gubernatorial and legislative review
RULES:
Subchapter 1. General Provisions
465:15-1-2 [AMENDED]
Subchapter 3. Specific Advertising Regulations
465:15-3-14 [AMENDED]
Subchapter 7. Enforcement
465:15-7-1 [AMENDED]
465:15-7-2 [AMENDED]
SUBMITTED TO GOVERNOR:
January 21, 2003
SUBMITTED TO HOUSE:
January 21, 2003
SUBMITTED TO SENATE:
January 21, 2003

[OAR Docket #03-113; filed 1-21-03]

TITLE 730. DEPARTMENT OF TRANSPORTATION
CHAPTER 40. RAILROADS

[OAR Docket #03-99]

RULEMAKING ACTION:
Submission for gubernatorial/legislative review
RULES:
Subchapter 1. Railroad Program [NEW]
Subchapter 3. Railroad Rehabilitation Act Loan Program [NEW]
730:40-3-1 [NEW]
730:40-3-2 [NEW]
730:40-3-3 [NEW]
730:40-3-4 [NEW]
730:40-3-5 [NEW]
730:40-3-6 [NEW]
SUBMITTED TO GOVERNOR:
January 14, 2003
SUBMITTED TO HOUSE:
January 14, 2003
SUBMITTED TO SENATE:
January 14, 2003

[OAR Docket #03-99; filed 1-14-03]

Gubernatorial Approvals

Upon notification of approval by the Governor of an agency's proposed PERMANENT rulemaking action, the Office of Administrative Rules (OAR) publishes a notice of such gubernatorial approval in the *Register.*

For additional information on gubernatorial approvals, see 75 O.S., Section 303.2.

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 15. PHYSICIAN ASSISTANTS

[OAR Docket #03-92]

RULEMAKING ACTION:
Gubernatorial approval.
RULES:
Subchapter 9. Guidelines for the Utilization of Physician Assistants
435:15-9-4. Setting [AMENDED]
GUBERNATORIAL APPROVAL:
January 7, 2003

[OAR Docket #03-92; filed 1-13-03]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 20. PHYSICAL THERAPISTS AND ASSISTANTS

[OAR Docket #03-93]

RULEMAKING ACTION:
Gubernatorial approval.
RULES:
Subchapter 3. Licensure of Physical Therapists and Assistants
435:20-3-5. Licensure by examination [AMENDED]
435:20-3-6. Re-entry requirements [AMENDED]
GUBERNATORIAL APPROVAL:
January 7, 2003

[OAR Docket #03-93; filed 1-13-03]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 20. PHYSICAL THERAPISTS AND ASSISTANTS

[OAR Docket #03-94]

RULEMAKING ACTION:
Gubernatorial approval.
RULES:
Subchapter 9. Continuing Education
435:20-9-1. Definitions [AMENDED]
435:20-9-2. Continuing education requirements for renewal [AMENDED]
435:20-9-3. Continuing education categories [AMENDED]
435:20-9-4. Guidelines for the audit process [AMENDED]
GUBERNATORIAL APPROVAL:
January 7, 2003

[OAR Docket #03-94; filed 1-13-03]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 30. OCCUPATIONAL THERAPISTS AND ASSISTANTS

[OAR Docket #03-95]

RULEMAKING ACTION:
Gubernatorial approval.
RULES:
435:30-1-15. Supervision of students, new graduates, techs and aides [AMENDED]
435:30-1-17. Role of Occupational Therapy Assistants in evaluations [NEW]
GUBERNATORIAL APPROVAL:
January 7, 2003

[OAR Docket #03-95; filed 1-13-03]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 40. REGISTERED ELECTROLOGISTS

[OAR Docket #03-96]

RULEMAKING ACTION:
Gubernatorial approval.
RULES:
435:40-1-5. Academic requirements for examination and licensure [AMENDED]
435:40-1-8. Examination for electrology license [AMENDED]
GUBERNATORIAL APPROVAL:
January 7, 2003

[OAR Docket #03-96; filed 1-13-03]

TITLE 610. STATE REGENTS FOR HIGHER EDUCATION
CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS

[OAR Docket #03-148]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 13. Oklahoma Teacher Education Loan Program [REVOKED]

610:25-13-1. Purpose [REVOKED]
610:25-13-2. Eligibility [REVOKED]
610:25-13-3. Application procedure [REVOKED]
610:25-13-4. Terms and conditions of loans [REVOKED]
610:25-13-5. Annual loan limit [REVOKED]
610:25-13-6. Aggregate loan limit [REVOKED]
610:25-13-7. Study load requirements [REVOKED]
610:25-13-8. Certification of compliance [REVOKED]

GUBERNATORIAL APPROVAL:

January 21, 2003

[OAR Docket #03-148; filed 1-23-03]

Emergency Adoptions

An agency may adopt new rules, or amendments to or revocations of existing rules, on an emergency basis if the agency determines that "an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency [action]. . . . [A]n agency may promulgate, at any time, any such [emergency] rule[s], provided the Governor first approves such rule[s]" [75 O.S., Section 253(A)].

An emergency action is effective immediately upon approval by the Governor or on a later date specified by the agency in the preamble of the emergency rule document. An emergency rule expires on July 15 after the next regular legislative session following promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which references the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

For additional information on the emergency rulemaking process, see 75 O.S., Section 253.

TITLE 90. ~~EXECUTIVE AND LEGISLATIVE BOND OVERSIGHT COMMISSIONS~~ COUNCIL OF BOND OVERSIGHT CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-69]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 1. General Provisions
90:1-1-1. Purpose and scope [AMENDED]
90:1-1-2. Statutory definitions [AMENDED]
90:1-1-3. Clarification of certain definitions
90:1-1-4. Additional definitions [AMENDED]
Subchapter 3. General Operations of the ~~Commissions~~Council
90:1-3-1. Official office [AMENDED]
90:1-3-2. Meetings of the ~~Commissions~~Council [AMENDED]
90:1-3-3. Executive sessions [AMENDED]
90:1-3-5. Agenda items [AMENDED]
90:1-3-6. Confidential or commercially sensitive information [AMENDED]
90:1-3-7. Open records [AMENDED]
Subchapter 5. Procedures for Adoption, Amendment and Repeal of Rules
90:1-5-1. Procedures for adoption, amendment and repeal of rules [AMENDED]
Subchapter 7. Requests for Declaratory Rulings
90:1-7-1. Requests for declaratory rulings [AMENDED]
Subchapter 9. Severability and Interpretation
90:1-9-2. Interpretation of Title [AMENDED]
AUTHORITY:
62 O.S., Section 695.8(A)(4), Executive and Legislative Bond Oversight Commissions; 62 O.S. Section 695.11A., Council of Bond Oversight-Validation of actions and obligations-Members-Quorum-Voting-Vacancy
DATES:
Adoption:
November 21, 2002
Approved by Governor:
January 2, 2003
Effective:
Immediately upon approval by the Governor
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the legislature
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
On September 24, 2002, the Oklahoma Supreme Court ruled that the Oklahoma Legislative Bond Oversight Commission violated the separation of powers doctrine of the Oklahoma Constitution. As a result of this ruling, the powers, duties, and responsibilities of both the Executive and Legislative Bond Oversight Commissions devolve upon the Council of Bond Oversight (as provided by the Oklahoma Bond Oversight and Reform Act). In order for the office to continue operating efficiently and effectively Emergency rules are needed. Since the Executive and Legislative Bond Oversight Commissions are obsolete a name change is required in the rules in order for the State Bond Advisor's Office to operate. Under the terms of the Administrative Procedures Act, unless an emergency is declared and certified, these amendments could not go into effect until June 1, 2003.
ANALYSIS:
Change the name of the governing body from the Executive and Legislative Bond Oversight to the Council of Bond Oversight.
CONTACT PERSON:
Lorie Collier, 405/602-3100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253:

SUBCHAPTER 1. GENERAL PROVISIONS

90:1-1-1. Purpose and scope

The ~~Executive Bond Oversight Commission and the Legislative Bond Oversight Commission are Commissions of the State of Oklahoma~~ Council of Bond Oversight was created to implement the Oklahoma Bond Oversight and Reform Act found at 62 O.S., Section 695.1 et.seq. The ~~Commissions have been charged with the duty of~~ Council is responsible for providing systematic oversight ~~in regard to issuances of indebtedness~~ of debt issuances by state governmental entities. ~~In order to provide guidelines for all state governmental entities which are subject to oversight under the terms of the Act and which wish to issue debt obligations, the~~The rules of this Chapter establish the operations of the ~~Commissions~~ Council in order to facilitate the business of the ~~Commissions~~ Council and State Bond Advisor and of such entities.

90:1-1-2. Statutory definitions

The following terms are defined in ~~62 O.S., Section 695.3~~ 62 O.S. 695.1 et.seq.:

~~(1) Executive Commissions~~
~~(2) Legislative Commissions~~
~~(3) Commissions~~
~~(4) State Governmental Entity~~

~~(5) Local Governmental Entity~~
~~(6) Purpose~~
(1) Council
(2) State Governmental Entity
(3) Local Governmental Entity
(4) Purpose

90:1-1-3. Clarification of certain definitions

(a) "Authorized and Proper Public Functions or Purposes". The ~~Commissions are~~ Council is mandated to make determinations regarding public purpose for which obligations are to be issued by State Governmental entities in accordance with Title 60 of the Oklahoma Statutes, Sections 176, et seq, the Oklahoma Public Trust Act (the "Public Trust Act"). The Public Trust Act authorizes obligations to be issued for authorized and proper public functions or purposes. Limitations imposed in regard to public purpose as set out in the Public Trust Act and imposed as a result of statutory language therein may be specified by indenture documents that are the charter documents for a particular entity and/or in statutory language pertaining to a particular Issuer or bond issue in other federal or state laws. Specific prohibitions in Title 60 in regard to the definition of a "proper public purpose" can be found at Section 177.2 and Section 178.4 of that title. In order to provide systematic oversight, in determining "public purpose", the ~~Commissions~~ Council shall review the end sought to be reached and the means to be used in reaching that end in order to promote the public health, safety, morals, security, prosperity and general welfare and contentment of all citizens.

(b) "Authorized Public Functions or Purposes" include functions or purposes which are authorized by law. State governmental entities will be limited to their authority given them by the State Constitution or state statutes. State beneficiary trusts will be limited to their authority in their charter or trust indenture if the function and purpose is one which the State could be authorized to perform.

(c) "Proper Public Function or Purpose" are those functions and purposes which are authorized public functions or purposes. Such public functions or purposes are proper if they benefit a large class of the public, lessen the burdens of government or are deemed proper by the State Constitution.

90:1-1-4. Additional definitions

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

"The Act" means the Bond Oversight and Reform Act, 62 O.S., Section 695.1 et.seq. when used in Chapter 1 of this title.

"Applicant" means the State or Local Governmental Entity making application to the ~~Commissions~~ Council for approval and/or with respect to the reporting requirements specified in these rules.

SUBCHAPTER 3. GENERAL OPERATIONS OF THE ~~COMMISSIONS~~COUNCIL

90:1-3-1. Official office

The Office of the ~~Executive and Legislative Bond Oversight Commissions~~ Council of Bond Oversight as well as the State Bond Advisor is ~~301 Northwest 63rd Street, Suite 225~~ 5900 N. Classen Court, Oklahoma City, Oklahoma ~~73116~~ 73118. The telephone number is (405) ~~521-6198~~ 602-3100 and telecopier number is (405) 848-3314. The office hours are from 8:00 a.m. to 5:00 p.m. Central Time, Monday through Friday, except legal holidays.

90:1-3-2. Meetings of the ~~Commissions~~ Council

Section 695.6(A) of the Act requires the ~~Commissions~~ Council to meet at least once a month on the last Thursday of each month or on another day agreed upon by the Chairs of the ~~Commissions~~ Council. A schedule of meetings may be obtained upon request of the office.

90:1-3-3. Executive sessions

The ~~Commissions~~ Council may hold executive sessions at such meetings as is permitted by the Oklahoma Open Meeting Act.

90:1-3-5. Agenda items

The State Bond Advisor prepares an agenda on behalf of the ~~Commissions~~ Council for each meeting of the ~~Commissions~~ Council. The agenda is filed and posted in accordance with the Oklahoma Meeting Act, supra. Members of the public may request the ~~Commissions~~ Council to place matters on the agenda for a meeting.

90:1-3-6. Confidential or commercially sensitive information

Any information submitted to the ~~Commissions~~ Council which may be kept confidential by the applicant shall be kept confidential by the ~~Commissions~~ Council.

90:1-3-7. Open records

All requests for the public records of the ~~Commissions~~ Council will be made through the State Bond Advisor who will be charged with making the public records of the ~~Commission~~ Council available for inspection by or copying to the requesting party during normal hours. The ~~Commission~~ Council will charge $0.25 per page for each copy of a public record made upon written request. The State Bond Advisor will decide if the request is for a record not otherwise made confidential under Oklahoma Law. The State Bond Advisor is authorized to discuss this decision with the Office of the Attorney General of the State of Oklahoma as may become necessary. Except information that is confidential or commercially sensitive as described in 90:1-3-6, or specifically kept confidential under Oklahoma or federal law, all documents or other records of the ~~Commission~~ Council will be open for public inspection and copying.

SUBCHAPTER 5. PROCEDURES FOR ADOPTION, AMENDMENT AND REPEAL OF RULES

90:1-5-1. Procedures for adoption, amendment and repeal of rules

(a) The ~~Commissions~~ Council may adopt, amend or repeal a rule on ~~their~~ its own initiative, and may adopt, amend or repeal a rule at the request or recommendation of the State Bond Advisor.

(b) The ~~Commissions~~ Council may on ~~their~~ its own motion, conduct hearings on proposed new rules, amendments or repeal of rules.

(c) Any interested person may petition the ~~Commissions~~ Council, requesting the adoption, amendment, or repeal of a rule. All such petitions shall be in writing, and be filed with the principal office. The petition shall include the name and address of the petitioning party and shall state clearly and concisely all matters pertaining to the requested action and the reasons for the request.

(d) The time and location of hearings shall be stated in the notice as required under the Oklahoma Open Meetings Act and shall be conducted in accordance with the Administrative Procedures Act.

(e) Any person who is interested or affected by proposed actions may appear at the hearing. An appearance may be made individually, by an attorney, or by an authorized agent.

(f) Prior to the adoption, amendment or repeal of a rule, the ~~Commissions~~ Council shall afford any interested person a reasonable opportunity to submit data, views and arguments either oral or written. If the rule under consideration affects the substantive rights of any person, the ~~Commissions~~ Council shall grant any person or entity a reasonable opportunity to participate in an oral hearing if requested by the person or entity.

SUBCHAPTER 7. REQUESTS FOR DECLARATORY RULINGS

90:1-7-1. Requests for declaratory rulings

(a) Any interested person or entity may petition the ~~Commissions~~ Council for a declaratory order as to the applicability of any rule of the ~~Commissions~~ Council.

(b) The petition must identify the rule questioned, the date on which such rule became effective, and shall set forth the contents of the rule. The petition shall contain a brief statement of the issue or issues raised by the rule which cause such a request to be made and a statement of the petitioner's personal interest in the ruling of the ~~Commissions~~ Council and how a ruling of the ~~Commissions~~ Council would affect those interests.

(c) Upon receipt of the petition for declaratory ruling the ~~Commissions~~ Council shall consider the petition and within a reasonable time following receipt thereof, either deny the petition in writing, stating its reasons for denial, or issue a declaratory ruling on the matter(s) contained in the petition.

SUBCHAPTER 9. SEVERABILITY AND INTERPRETATION

90:1-9-2. Interpretation of Title

This Title and procedures are adopted to simplify procedure, avoid delays, save expenses and facilitate implementation of the Oklahoma Bond Oversight and Reform Act and the Oklahoma Private Activity Bond Allocation Act by the ~~Bond Oversight Commissions~~ Council of Bond Oversight and the State Bond Advisor. To that end, this Title will be given a fair and impartial construction. This Title shall be cumulative to the Oklahoma Administrative Procedures Act [75 O.S., Section 250 et seq.].

[OAR Docket #03-69; filed 1-8-03]
(format accepted 1-14-03)

TITLE 90. ~~EXECUTIVE AND LEGISLATIVE BOND OVERSIGHT COMMISSIONS~~ COUNCIL OF BOND OVERSIGHT

CHAPTER 10. ADMINISTRATION OF THE OKLAHOMA BOND OVERSIGHT AND REFORM ACT

[OAR Docket #03-67]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions
90:10-1-1. Purpose and scope [AMENDED]
90:10-1-2. Statutory definitions [AMENDED]
90:10-1-3. Clarification of certain terms [AMENDED]
Subchapter 3. Application Procedure for ~~Applicants Subject to Commission~~Council Approval ~~of Obligations~~
90:10-3-1. General [AMENDED]
90:10-3-3. Provisional Approval Application form information [AMENDED]
90:10-3-4. Final approval form [AMENDED]
90:10-3-5. State Bond Advisor review of request for proposals and approval of fees [AMENDED]
90:10-3-6. Program approval [AMENDED]
90:10-3-7. Lease Purchase Request for approval form [AMENDED]
90:10-3-8. Substantial changes to Bond Oversight Commission approved applications [AMENDED]
Subchapter 5. Fees
90:10-5-1. Fee payment requirement [AMENDED]
Subchapter 7. Evaluation Standards and Criteria
90:10-7-1. General [AMENDED]
90:10-7-2. Legal compliance [AMENDED]
90:10-7-3. Authorized and proper public function or purpose [AMENDED]
90:10-7-4. Criteria applicability [AMENDED]
90:10-7-5. Documentation of ~~Commission~~Council action [AMENDED]
Subchapter 9. Reporting
90:10-9-1. Closing documentation to the State Bond Advisor [AMENDED]
90:10-9-2. Local governmental entities [AMENDED]
Subchapter 11. Credit Enhancement Reserve Fund Applications
90:10-11-1. General [AMENDED]
90:10-11-2. Evaluation standards and criteria [AMENDED]

AUTHORITY:

62 O.S., Section 695.8(A)(4), Executive and Legislative Bond Oversight Commissions; 62 O.S., Section 695.11A., Council of Bond Oversight-Validation of actions and obligations-Members-Quorum-Voting-Vacancy

DATES:
Adoption:
November 21, 2002
Approved by Governor:
January 2, 2003
Effective:
Immediately upon approval by the Governor
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the legislature
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
On September 24, 2002, the Oklahoma Supreme Court ruled that the Oklahoma Legislative Bond Oversight Commission violated the separation of powers doctrine of the Oklahoma Constitution. As a result of this ruling, the powers, duties, and responsibilities of both the Executive and Legislative Bond Oversight Commissions devolve upon the Council of Bond Oversight (as provided by the Oklahoma Bond Oversight and Reform Act). In order for the office to continue operating efficiently and effectively Emergency rules are needed. Since the Executive and Legislative Bond Oversight Commissions are obsolete a name change is required in the rules in order for the State Bond Advisor's Office to operate. Under the terms of the Administrative Procedures Act, unless an emergency is declared and certified, these amendments could not go into effect until June 1, 2003.
ANALYSIS:
Change the name of the governing body from the Executive and Legislative Bond Oversight Commission to the Council of Bond Oversight.
CONTACT PERSON:
Lorie Collier, 405/602-3100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253:

SUBCHAPTER 1. GENERAL PROVISIONS

90:10-1-1. Purpose and scope

The ~~Executive Bond Oversight Commission and the Legislative Bond Oversight Commission are Commissions of the State of Oklahoma~~ Council of Bond Oversight was created to implement the Oklahoma Bond Oversight and Reform Act found at 62 O.S., Section 695.1 et.seq. The ~~Commissions~~ Council is responsible for ~~have been charged with the duty of providing systematic~~ oversight ~~in regard to issuances of obligations~~ of debt issuance by ~~state governmental entities~~ State Governmental Entities and certain Local Governmental Entities as provided in 62 O.S., Section 695.9(C). To implement the Act, ~~In order to provide guidelines for all state governmental entities which are subject to oversight under the terms of the Act and which wish to issue obligations~~, the rules of this Chapter establish time frames, methods, criteria for evaluation, fees, and information required on application forms for such entities in order to facilitate the business of the ~~Commissions~~Council and State Bond Advisor and of such entities.

90:10-1-2. Statutory definitions

The following terms are defined in 62 O.S., Section ~~695.3~~695.1 et.seq.:

~~(1) Executive Commissions~~
~~(2) Legislative Commissions~~
~~(3) Commissions~~
~~(4) State Governmental Entity~~
~~(5) Local Governmental Entity~~
~~(6) Purpose~~
(1) Council of Bond Oversight
(2) State Governmental Entity
(3) Local Governmental Entity
(4) Purpose

90:10-1-3. Clarification of certain terms

(a) "Authorized and Proper Public Functions or Purposes". The ~~Commissions~~ Council is directed ~~are mandated~~ to make determinations regarding public purpose for which obligations are to be issued by State Governmental Entities in accordance with Title 60 of the Oklahoma Statutes, Sections 176, et seq, the Oklahoma Public Trust Act (the "Public Trust Act"). The Public Trust Act authorizes obligations to be issued for authorized and proper public functions or purposes. Limitations imposed in regard to public purpose as set out in the Public Trust Act and imposed as a result of statutory language therein may be specified by indenture documents that are the charter documents for a particular entity and/or in statutory language pertaining to a particular Issuer or bond issue in other federal or state laws. Specific prohibitions in Title 60 in regard to the definition of a "proper public purpose" can be found at Section 177.2 and Section 178.4 of that title. In order to provide systematic oversight, in determining "public purpose", the ~~Commissions~~ Council shall review the end sought to be reached and the means to be used in reaching that end in order to promote the public health, safety, morals, security, prosperity and general welfare and contentment of all citizens.

(b) "Authorized Public Functions or Purposes" include functions or purposes which are authorized by law. State governmental entities will be limited to their authority given them by the State Constitution or state statutes. State beneficiary trusts will be limited to their authority in their charter or trust indenture if the function and purpose is one which the State could be authorized to perform.

(c) "Proper Public Function or Purpose" are those functions and purposes which are authorized public functions or purposes. Such public functions or purposes are proper if they benefit a large class of the public, lessen the burdens of government or are deemed proper by the State Constitution.

SUBCHAPTER 3. APPLICATION PROCEDURE FOR ~~APPLICANTS SUBJECT TO COMMISSION~~COUNCIL APPROVAL ~~OF OBLIGATIONS~~

90:10-3-1. General

(a) As an oversight body, the ~~Commissions~~ Council needs sufficient information to make informed decisions regarding the nature, purpose, necessity and legality of proposed financing and they need access to any other information required for decisions in special circumstances. In general, the ~~Commissions~~ Council will not require primary source data but rather require that such information be made available to them in special circumstances. The ~~Commissions~~ Council will require an applicant to collect and evaluate information from borrowers or beneficiaries of obligation financing, and rely on the competent performance of the issuer boards, staffs, or members of financing teams to perform competent due diligence on a financing.

(b) Many obligation financings are complex transactions that may involve multi-stage processes. Some information available to an issuer may be general at the beginning of the process and refined as the transaction progresses. For this reason, application approval will rest on a two step phased approach: provisional approval and final approval.

90:10-3-3. Provisional Approval Application form information

The Request for Provisional Approval form shall be provided by the State Bond Advisor, and shall include but not be limited to the following:

(1) **Proposed obligation issue.** This category requires general information regarding the anticipated amount, schedule and structure for the bond issue. In addition, this category includes information regarding professionals selected for the bond issue along with their quoted fees and expenses.

(2) **Project information.** In this category the Application must provide the name and address of the borrower as well as a one page description of the purpose, nature and need for the project.

(3) **Outstanding obligation information.** This category requires information on the status of the Applicant's outstanding obligations and anticipated issuances. This information will become part of the ~~Commissions'~~ Council's data base regarding State Governmental Entities' issuance activities and enable the ~~Commissions~~ Council to make decisions on individual issues within a broader context.

90:10-3-4. Final approval form

(a) The Request for Final Approval form shall be provided by the State Bond Advisor, and shall include but not be limited to the following:

(1) **Material changes.** The Applicant is required to list and explain any material changes from the information provided on the issuer's Provisional Approval form that have taken place since the date of provisional approval.

(2) **Project information.** The Applicant is required to provide more detailed information on the status of the project and the estimated completion date. Descriptions of any collateral pledged for the borrowing, the revenue stream dedicated for repayment of the loan, and any credit enhancement provider are also required.

(3) **Attachments.** The following attachments are required:

(A) Evidence of provisional approval from the ~~Commissions~~ Council unless the applicant elects to apply for provisional and final approval simultaneously, pursuant to 90:10-3-4(b).

(B) Letter from issuer certifying that due diligence has been completed.

(C) Letter from issuer's attorney or bond counsel stating that they have reviewed the proposed transaction and it will comply with state and federal law.

(D) Copy of the document that authorizes the bond issue. Such documentation would include enabling act, legislation, resolution fro issuer's governing board, and/or other documentation authorizing the obligation.

(E) Letter from the issuer stating that there are no conflicts of interest between the Applicant, any borrowers, service providers affiliated with the issuance, or any other participants in the transaction.

(F) Form of Opinion Letter from Bond Counsel regarding the valid authorization and tax status of the issue. The ~~Commissions~~ Council may approve an application pending receipt of bond counsel opinion letter; however, the letter must be received prior to closing.

(G) In the case of obligations backed by the Credit Enhancement Reserve Fund, the report prepared by the Program Development and Credit Review Committee and the Credit Enhancement Reserve Fund Supplemental Information form.

(H) Preliminary Official Statement, Offering Circular or Private Placement Memorandum. This information may be submitted in draft form, provided the issuer identifies any missing information or data that is incomplete and/or subject to change.

(I) Letter from issuer's attorney or bond counsel stating that the issuer is not currently involved in litigation regarding any outstanding obligations.

(b) In addition to the above, the State Bond Advisor may require an issuer to submit any other materials or information deemed by the State Bond Advisor to be necessary to consideration of the application.

(c) An issuer may elect to apply for final and provisional approval simultaneously. An application must complete both forms and submit together in accordance with the provisions of 90:10-3-2.

90:10-3-5. State Bond Advisor review of request for proposals and approval of fees

(a) State and Local Governmental Entities subject to the provisions of Section 695.7© of the Act, must submit request for proposals to the State Bond Advisor for review and comment. The State Bond Advisor shall have seven days from the date requests for proposals are submitted to provide written or oral comment to the applicant, State or Local Government

Entity, prior to an applicant's use of a request for proposals. Requests for proposals shall make provision for the submission of cost information in a format approved by the State Bond Advisor. Applicants shall also provide to the State Bond Advisor copies of final Requests for Proposals and responses to such requests. State or Local Governmental Entities subject to Section 695.7© of the Act shall prepare a written statement indicating the basis for selections, and make such statement available on request to the ~~Commissions~~ Council.

(b) State or Local Governmental Entities subject to the provisions of Section 695.7© of the Act, must submit fee approval requests in such form as the State Bond Advisor may require at any time. The State Bond Advisor shall approve or disapprove the fees and expenses for goods and services requisite or deemed desirable in the issuance of obligations, including, but not limited to the following:

(1) Underwriter's Discount:
- (A) Management Fee
- (B) Expenses
- (C) Underwriting
- (D) Average Takedown

(2) Bond Counsel or Tax Counsel

(3) Trustee/Paying Agent (new money and escrow agent)

(4) Financial Advisor

(5) Financial Printer

(6) Credit Enhancement

(7) Cash Flow Validation

(8) Bond Pricing

(9) Investment Contracts

(10) Remarketing Agent

(11) Escrow Verification Agent

(c) Unless otherwise provided by law, the provisions of (a) and (b) of this section shall be applicable to an applicant, regardless of whether or not the applicant directly engages such services or such services are engaged by another party to a financing transaction.

(d) State and Local Governmental Entities subject to the Act may request proposals for services in connection with multiple issuances if the services will be performed and completed in a 12 month period and where each issue is part of a single program or related plan of financing as determined by the State Bond Advisor. The 12 month period will begin at the date of first issuance.

90:10-3-6. Program approval

The ~~Commissions~~ Council recognizes that certain potential applicants may not wish to incur time and expense in developing programs or plans of financing without first obtaining tentative approval of the general purpose and intent of the program. Such potential applicants may request such approval from the ~~Commissions~~ Council prior to taking formal preliminary action on any specific issuance without making the formal application for approval under 62 O.S., Section 695.9.

90:10-3-7. Lease Purchase Request for Approval form

(a) State governmental entities requesting approval of a lease purchase obligation must complete and submit the Lease Purchase Request for Approval form provided by the State Bond Advisor to the ~~Commissions~~ Council. The Request for Provisional Approval form and Request for Final Approval form are not applicable to lease purchase agreement applications. Such a submission shall be governed by the filing periods and procedures at 90:10-3-2. The Lease Purchase Request for Approval form is comprised of:

(1) **Proposed lease purchase agreement.** This category requests information regarding the anticipated amount, financing terms, equipment or real property description and budget implications of the proposed lease purchase. An analysis of the method of financing must be obtained from the State Bond Advisor if the amount of the financing is $1 million or greater, or if determined by the State Bond Advisor and Director of Central Purchasing to be in the best interest of the issuer. Requests for negotiated sale of such lease obligations must be approved by the State Bond Advisor. [Title 74 O.S., Sections 85.4(G) and 85.4(I)]

(2) **User information.** The applicant must provide a description of the purpose, nature and need for the lease purchase.

(3) Attachments. The attachments requested include:

(A) Letter from body approving lease purchase agreement. (Examples: Regents, Regents for Higher Education, Commission, Board, etc.)

(B) Letter indicating whether or not applicant is currently involved in litigation concerning outstanding obligations.

(C) If College or University, complete the Outstanding Lease Purchase Information form provided by the State Bond Advisor.

(D) Completed Department of Central Services Central Purchasing or Construction & Properties Requisition, Justification, etc.

(E) If lease purchasing computer or telecommunications equipment, letter from Office of State Finance Information Services Division stating compliance with budget request; as well as the provisions of Title 62 O.S., Sections 41.5(m) and 41.5(j).

(F) For lease purchase requests of equipment related to an energy savings program, the following documentation must be provided with an application.

(i) Proposed Master Agreement; including, but not limited to, Guaranteed Savings Contract, Construction Draw Schedule, and Maintenance Agreement.

(ii) Performance Bond for at least 25% of the outstanding balance of the lease obligation under the energy savings contract(s). The performance bond should be structured to allow the State adequate coverage in the event of an Energy Services Company's default under the terms of the contract(s).

(iii) any other bonds or guarantees to be entered into by the applicant in connection with the lease obligation.

(b) Refer to 74 O.S., Section 85.4 for statutory limitations and requirements of state governmental entities entering into lease purchase agreements. The provisions of (a)(1) of this section do not exempt any application for lease purchase financing from the provisions of the statutes referenced.

(c) Applicants proposing to lease purchase equipment or real property with a cost of $1 million or more, must consult with the State Bond Advisor as to the most cost-effective method of financing. Title 74 O.S., Section 85.4 authorizes negotiated financings when determined by the Council of Bond Oversight ~~Commission~~ to be more cost-effective than competitive bidding through the Department of Central Services Central Purchasing Division. All provisions of the Bond Oversight and Reform Act apply to such negotiated financings. Prior to submitting an application for approval of a lease purchase of $1 million or greater cost, an applicant should send notification to the State Bond Advisor. This notification shall include the following information, in order to determine the method of financing:

(1) Description of equipment and/or real property;

(2) Desired term of financing;

(3) Cost of equipment and/or real property;

(4) Source of funding of lease payments; and

(5) f equipment, letter from Director of Central Purchasing quoting interest rates which could be obtained through competitive bidding. The Director of Central Purchasing will contact at least three (3) certified leasing companies for interest rate quotations. The State Bond Advisor shall notify the issuer of the recommended method of financing. Issuers should give the State Bond Advisor at least two weeks to perform such analysis.

(d) Title 61 O.S., Section 610 authorizes state entities to enter into shared energy savings contracts. The Council of Bond Oversight ~~Commissions~~ will review lease purchase applications related to these contracts for the following:

(1) ll savings projected to be used to retire lease payments shall be guaranteed;

(2) ll savings must be tracked and audited by the energy services company;

(3) he energy services company shall provide evidence of a performance bond, payable to the applicant, equal to at least 25% of the applicants outstanding financial obligation. The performance bond shall be for the term of the lease agreement, as well as any other contracts associated with the shared energy savings program.

(4) lease term no longer than ten years is recommended. The Council of Bond Oversight ~~Commissions~~ will consider longer terms on a case by case basis. [Title 74 O.S., Section 85.4(I)(4)(b)]

(5) Energy savings contracts shall not permit the energy savings company to carry-forward savings above the guaranteed amount from one year(s) to a future year(s) shortfall.

90:10-3-8. Substantial changes to Council of Bond Oversight ~~Commission~~ approved applications

(a) The following shall be considered substantial changes to the nature of an obligation and shall require the issuer to submit a new application to the ~~Commissions~~ Council for approval:

(1) a change in the mode of the obligation from fixed rate to variable rate;

(2) an increase of more than 10% in the amount of variable rate obligations to be issued;

(3) an extension of the final maturity of the proposed issue;

(4) a change in the security pledge, excluding any decision by the issuer to utilize widely accepted credit enhancement techniques; and/or

(5) any other change the State Bond Advisor deems substantial.

(b) A change in the amount of the obligation, shall not be deemed substantial if the amount of the proposed increase is not greater than 10% of the original amount of the obligation.

(c) If the amount of the change of an approved obligation is between 10% and 20% of the original amount approved, the State Bond Advisor shall, in his discretion, determine whether or not such change is substantial. The State Bond Advisor shall prepare a memorandum for the Council of Bond Oversight ~~Commission~~ members stating reasons as to why the increase is not considered a substantial change and does not need to be returned to the Council of Bond Oversight ~~Commissions~~ for approval.

(d) Any change in the amount of the obligation greater than 20% of the original amount approved shall be deemed a substantial change and must be resubmitted to the ~~Commissions~~ Council.

(e) All increases in the amount of obligations backed by the Credit Enhancement Reserve Fund shall be deemed substantial changes. For purposes of applications to approve obligations backed by the Credit Enhancement Reserve Fund, any resubmission of a previously approved application shall not constitute an "appeal" pursuant to 62 O.S., Section 695.9(B)(2).

(f) Approval shall expire one hundred eighty (180) days after such approval. Provided, if such approval expires, nothing shall prevent the State Governmental Entity from refiling with the ~~Commissions~~ Council for approval of such financing and, if granted, any one subsequent approval of such financing shall be valid for a period, not to exceed one hundred eight (180) days, as determined by the ~~Commissions~~ Council.

(g) Applicants having received approval may request and the Oklahoma State Bond Advisor may grant, at the Oklahoma State Bond Advisor's discretion, a single one-hundred-eighty-day extension. Any request for an extension must be made at least five (5) business days prior to the expiration of the original approval. Applicants failing to request an extension in this manner may refile with the ~~Commissions~~ Council.

90:10-5-1. Fee payment requirements

(a) Applicants must pay a fee to the ~~Commissions~~ Council if their submitted application is approved by the ~~Commissions~~ Council or if their application is deemed approved by operation

of law but only if the financing subject to an application is issued and closed. The State Bond Advisor may enter into written agreements with issuers if the approved obligation will be in the form of draws or a line of credit. The State Bond Advisor may waive fee payment if the issue is a conduit financing with a state entity loan program financed with bond proceeds.

(b) The fee shall be paid to the ~~Commissions~~ Council by means of a check or negotiable instrument upon receipt of an invoice from the official office of the ~~Commissions~~ Council and shall be paid within two weeks.

SUBCHAPTER 7. EVALUATION STANDARDS AND CRITERIA

90:10-7-1. General

The ~~Commissions are~~ Council is mandated to make determinations regarding public purpose for which obligations are to be issued by State or Local Governmental Entities subject to Section 695.8 of the Act, in accordance with Title 60 of the Oklahoma Statutes, Sections 176, et seq, the Oklahoma Public Trust Act (the "Public Trust Act"). The Public Trust Act authorizes that obligations may be issued for authorized and proper public purpose. Limitations imposed in regard to public purpose as set out in the Public Trust Act and imposed as a result of statutory language therein may be specified by indenture documents that are the charter documents for a particular entity and/or in statutory language pertaining to a particular Issuer in other federal or state laws. Specified prohibitions in Title 60 in regard to the definition of a "proper public purpose" are previously set out in the definition section of this Chapter.

90:10-7-2. Legal compliance

Bearing the criteria of this Chapter in mind and within the limitations set thereby, the ~~Commissions~~ Council may consider each application from issuers in regard to the following items:

(1) **Compliance with state laws.** All issuances must be in compliance with applicable state laws.

(2) **Federal Laws, Rules, and Regulations Compliance.** Compliance with federal laws effecting environment, taxes, and other aspects of a particular program or project that may apply.

(3) **Compliance with trust indenture or enabling statutes of issuer.** The application and proposed project or program must be in compliance with the enabling document or statutes regarding each issuer subject to ~~Commission approvals~~ Council approval.

(4) **Eligibility.** The user of the proceeds for the proposed project or program must be eligible for the assistance sought.

90:10-7-3. Authorized and proper public function or purpose

(a) In determining whether the obligations proposed will carry out an authorized and proper public function or purpose, the ~~Commissions~~ Council will evaluate if the structure of the issuance or proposed program is designed to carry out these functions and purposes and that the obligations will be issued in the most economical manner. The ~~Commissions~~ Council may give consideration to the relationship between the proposed project or program and the overall needs within the State of Oklahoma in order to evaluate whether the proposed project or program will serve a public purpose and benefit the public interest and welfare.

(b) In the case of proposed refunding and advance refunding bond issues, the ~~Executive and Legislative~~ Council of Bond Oversight ~~Commissions~~ will interpret public purpose to be the extent to which the financing will achieve one or more of the following objectives:

(1) a net present value savings;

(2) changes to restrictive covenants in financing documents; and/or

(3) a restructuring of existing obligations in the event of fiscal distress that will provide relief from such distress.

(c) To ensure that an issue will achieve a public purpose, the ~~Commissions~~ Council may approve financing requests subject to the satisfaction of certain conditions, in accordance with 90:10-7-5(b).

90:10-7-4. Criteria applicability

The general criteria set forth in this subchapter are intended to constitute and shall constitute general guidelines and standards for application review and consideration by the ~~Commissions~~ Council. In all instances, each individual application must be reviewed and considered on its own merit. The criteria and standards set forth shall accordingly, be interpreted and applied so as to allow sufficient flexibility in the ultimate exercise of the ~~Commissions~~ Council judgement and discretion.

90:10-7-5. Documentation of ~~Commission~~ Council action

(a) The ~~Commissions~~ Council shall provide a written determination by means of a statement signed by the State Bond Advisor reflecting the decision of the ~~Commissions~~ Council with respect to their consideration of any application. Such statement shall be copied and sent to the applicant. If the application is disapproved, the statement will indicate the reason(s) for this determination.

(b) The ~~Commissions~~ Council may make their provisional or final approvals contingent upon certain conditions being met or material submitted. The ~~Commission~~ Council may delegate the authority to determine if these conditions have been met or the sufficiency of the material to the State Bond Advisor on an application by application basis. The ~~Commissions~~ Council may also delegate to the State Bond Advisor the authority to sign, on behalf of the ~~Commissions~~ Council, written statements setting forth the ~~Commissions~~ Council actions on applications to the ~~Commissions~~ Council.

(c) The ~~Commissions~~ Council may provide conditional approvals on provisional or final application requests citing information or data that must be provided before approval is deemed complete. In such a conditional approval, the ~~Commissions~~ Council may require that the issuer must appear

before the ~~Commissions~~ Council at a later time to present additional information before final approval and/or authorize the State Bond Advisor to determine if this additional information is sufficient to meet the stated requirements of the ~~Commissions~~ Council.

(d) In the event the ~~Executive Bond Oversight Commission and the Legislative Bond Oversight Commission~~ Council provide conditional approval(s) which contain differing conditions, the issuer must satisfy all conditions contained in both approvals. If conditional approvals are provided that include conflicting conditions, the issuer may not proceed with the financing until the ~~Commissions~~ Council ~~provide~~ provides approvals which do not contain conflicting provisions. The State Bond Advisor shall determine if such conditions are conflicting.

(e) In the case of disapproval, except of proposed obligations supported by the Credit Enhancement Reserve Fund, the applicant may request rehearing or reconsideration of the disapproval by submitting a new application to the ~~Commissions~~ Council along with an explanation of the basis for the appeal or reconsideration within ten (10) days of disapproval.

(f) If a previously disapproved application is reconsidered, the ~~Commissions~~ Council shall first vote on whether or not to reconsider the application. Only if the ~~Commissions~~ Council affirmatively votes to reconsider such an application shall the ~~Commissions~~ Council proceed to vote on the merits of the proposed financing.

SUBCHAPTER 9. REPORTING

90:10-9-1. Closing documentation to the State Bond Advisor

(a) In the case of State or Local Governmental Entity obligations subject to ~~Commission~~ Council approvals, the following documents shall be submitted to the State Bond Advisor within thirty days of the closing of a bond issue or obligation transaction:

(1) Official Notice of Sale, Official Statement, Private Placement memorandum or other applicable document indicating the conditions, amortization, pricing, and terms of a bond or Certificate of Participation sale; or

(2) a copy of an executed lease purchase agreement along with amortization schedules. For all certificated lease obligations, whether sold publicly or privately placed, the issuer shall provide a schedule showing the dates of repayment for all certificates.

(b) Within two working days of a bond closing, a state or local governmental entity subject to ~~Commission~~ Council approval shall notify the State Bond Advisor in writing and/or orally of such closing including, but not limited to, the date and amount of issuance.

90:10-9-2. Local governmental entities

(a) Local Governmental Entity issuers whose obligations are not subject to ~~Commissions~~ Council approvals, must file a copy of the Official Statement, Offering Circular or Private Placement Memorandum within ten days following the date funds become available to the issuer from the sale of the obligations. If one of the aforementioned documents was not prepared in connection with the obligation, the Local Governmental Entity must complete and file the Notice by Local Governmental Entity form provided by the State Bond Advisor. This form shall include, but not be limited to the following:

(1) issue information including size, dated date, delivery date and maturity schedule;

(2) interest rates and reoffering yields; and

(3) call provisions.

SUBCHAPTER 11. CREDIT ENHANCEMENT RESERVE FUND APPLICATIONS

90:10-11-1. General

The provisions of this subchapter are not applicable to Credit Enhancement Reserve Fund applications approved by the ~~Commissions~~ Council, including extensions of such approvals, prior to June 9, 1990. Whenever the Oklahoma Development Finance Authority ("ODFA") submits an application for approval of a request to cover one of its obligations under the Credit Enhancement Reserve Fund ("Fund"), the ~~Commissions~~ Council shall evaluate the application for approval of the issuance of the ODFA's underlying obligation, and the request for coverage by the Fund, as two (2) separate matters. The issuance of the underlying obligation shall be evaluated using the criteria and standards contained in Subchapter 7 [90:10-7]. The Application for the granting of credit enhancement by the Fund shall be considered by the ~~Commissions~~ Council using the standards and criteria of this subchapter.

90:10-11-2. Evaluation standards and criteria

(a) Pursuant to Section 5063.4 (F) of Title 74 and Section 695.8 (A)(4) of Title 62, the ~~Commissions~~ Council are given the authority to approve or disapprove the granting of credit enhancement on any obligation of the ODFA, to the extent they are to be enhanced or supported by the Fund. Because the granting of credit enhancement from the Fund carries with it a pledge to issue general obligation bonds of the State of Oklahoma to be paid by the taxpayers of Oklahoma, it is necessary for the ~~Commissions~~ Council to adopt standards and criteria with which to evaluate such applications. When evaluating applications for the granting of credit enhancement by the Fund, the ~~Commissions~~ Council shall consider the following:

(1) Has the ODFA adopted sufficient rules, policies, and regulations to insure that it can adequately perform its statutory duties relating to the management of the Fund and the evaluation of obligations proposed to be covered by the Fund consistent with 5063.3(A) and 5063.4 of Title 74 of the Credit Enhancement Reserve Fund Act?

(2) Determine if rules, regulations, and policies governing the Credit Enhancement Reserve Fund program adequately and sufficiently fulfill the intents and purposes of the Credit Enhancement Reserve Fund Act. In making

this determination, the ~~Commission~~ Council shall review the findings of the Program Development and Credit Review Committee [74 O.S., Section 5062.6a].

(3) With respect to individual applications for ~~Commission~~ Council approval, in making a determination to approve or disapprove such applications, the ~~Commissions~~ Council shall consider a written report for each application prepared by the Committee. While the ~~Commissions~~ Council ~~hall~~ shall consider the information contained in reports filed by the Committee, the ~~Commissions~~ Council shall not be bound to accept the conclusions reached by the Committee making its determination to approve or disapprove an application. The individual reports shall include:

(A) a determination by the Committee regarding the extent to which an application complies with Rules Regarding the Administration of the Credit Enhancement Reserve Fund as implemented by the Oklahoma Development Finance Authority; and

(B) the assignment of a credit rating indicating the level or risk associated with each application.

(b) The ~~Executive and Legislative Bonds Oversight Commissions~~ Council of Bond Oversight may establish maximum compensation levels to be paid to individuals and firms acting in a fiduciary capacity in connection with Credit Enhancement Reserve Fund Program financings. The ~~Executive and Legislative Bond Oversight Commissions~~ Council of Bond Oversight may set such compensation levels for a one-year period and such compensation will be applicable to all individuals and firms participating in the program for that period. Providers of such services selected prior to making application may be employed subject to the established maximum compensation levels. Prior to December 31 of each year, the ~~Executive and Legislative Bond Oversight Commissions~~ Council of Bond Oversight shall review market conditions and set new compensation levels for the program. Provided, such compensation levels may not exceed the compensation levels obtained by the Oklahoma Development Finance Authority through its most recent invitation to bid for the services of individuals and firms acting in a fiduciary capacity in connection with Credit Enhancement Reserve Fund Program Financing.

[OAR Docket #03-67; filed 1-8-03]
(format accepted 1-14-03)

TITLE 90. ~~EXECUTIVE AND LEGISLATIVE BOND OVERSIGHT COMMISSIONS~~ COUNCIL OF BOND OVERSIGHT
CHAPTER 15. ADMINISTRATION OF THE OKLAHOMA PRIVATE ACTIVITY BOND ALLOCATION ACT

[OAR Docket #03-68]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 1. General Provisions
90:15-1-1. Purpose and scope [AMENDED]
Subchapter 3. General Operations of the State Bond Advisor
90:15-3-1. Official office [AMENDED]
90:15-3-2. Records [AMENDED]
Subchapter 7. State Ceiling Pools and Allocations to Pools
90:15-7-9. Economic Development Pool [AMENDED]
Subchapter 9. Application and Logging Procedures
Part 1. Applications
90:15-9-1. Application submission [AMENDED]
90:15-9-4. Rejection of applications following insufficient demand determination; appeals [AMENDED]
90:15-9-5. Applications accepted to permanent status; issuance of confirmations; Final Certification [AMENDED]
AUTHORITY:
62 O.S., Section 695.8(A)(4), Executive and Legislative Bond Oversight Commissions; 62 O.S., Section 695.11A., Council of Bond Oversight-Validation of actions and obligations-Members-Quorum-Voting-Vacancy
DATES:
Adoption:
November 21, 2002
Approved by Governor:
January 2, 2003
Effective:
Immediately upon approval by the Governor
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the legislature
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
On September 24, 2002, the Oklahoma Supreme Court ruled that the Oklahoma Legislative Bond Oversight Commission violated the separation of powers doctrine of the Oklahoma Constitution. As a result of this ruling, the powers, duties, and responsibilities of both the Executive and Legislative Bond Oversight Commissions devolve upon the Council of Bond Oversight (as provided by the Oklahoma Bond Oversight and Reform Act). In order for the office to continue operating efficiently and effectively Emergency rules are needed. Since the Executive and Legislative Bond Oversight Commissions are obsolete a name change is required in the rules in order for the State Bond Advisor's Office to operate. Under the terms of the Administrative Procedures Act, unless an emergency is declared and certified, these amendments could not go into effect until June 1, 2003.
ANALYSIS:
Change the name of the governing body from the Executive and Legislative Bond Oversight Commission to the Council of Bond Oversight.
CONTACT PERSON:
Lorie Collier, 405/602-3100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253:

SUBCHAPTER 1. GENERAL PROVISIONS

90:15-1-1. Purpose and scope

The State Bond Advisor is responsible for implementing the Oklahoma Private Activity Bond Allocation Act found at 62 O.S., Section 695.21 et seq. The State Bond Advisor is engaged by the ~~Executive and Legislative Bond Oversight Commissions~~ Council of Bond Oversight. This Chapter is issued pursuant to the rulemaking authority of the ~~Executive and Legislative Bond Oversight Commissions~~ Council of Bond Oversight. In order to provide guidelines to local and

state bond issuers which are subject to the Act and wish to issue Private Activity bonds or Mortgage Credit Certificates subject to annual volume ceilings pursuant to federal law, this Chapter establishes pools and registers, including the Consolidated Pool and the Carryforward register, from which certain types of private activity bonds or mortgage credit certificates may be issued, allocation procedures, time frames, and information required on application forms provided by the State Bond Advisor for such entities in order to facilitate the business of the State Bond Advisor and such entities.

SUBCHAPTER 3. GENERAL OPERATIONS OF THE STATE BOND ADVISOR

90:15-3-1. Official office

The Office of the State Bond Advisor is ~~301 Northwest 63rd Street, Suite 225~~ 5900 N. Classen Court, Oklahoma City, Oklahoma ~~73116~~ 73118. The telephone number is (405) ~~521-6198~~ 602-3100 and the facsimile number is (405)848-3314. The official office hours are from 8:00 am to 5:00 pm Central Time, Monday through Friday, except legal holidays.

90:15-3-2. Records

(a) **Open Records.** All requests for the public records of the ~~Commissions~~ Council will be made through the State Bond Advisor who will be charged with making the public records of the ~~Commission~~ Council available for inspection by or copying to the requesting party during normal hours. The ~~Commission~~ Council will charge $0.25 per page for each copy of a public record made upon written request, except as provided in (b) of this section. The State Bond Advisor will decide if the request is for a record not otherwise made confidential under Oklahoma Law. The State Bond Advisor is authorized to discuss this decision with the Office of the Attorney General of the State of Oklahoma as may become necessary. Except information that is confidential or commercially sensitive as described above, or specifically kept confidential under Oklahoma or federal law, all documents or other records of the ~~Commission~~ Council will be open for public inspection and copying.

(b) **Confirmation records.** The State Bond Advisor will keep continuous and cumulative records to track bond issuances and/or mortgage credit certificate elections that use a portion of the state's annual volume ceiling. The State Bond Advisor shall not award any new confirmations, if such confirmations would cause the state's volume ceiling to be exceeded. Records will include:

(1) final certification of actual bond issuances and mortgage credit certificate elections subject to confirmations;

(2) confirmations of allocations of the volume ceiling for bonds or mortgage credit certificates which have not been closed or elections filed (i.e. confirmations pending final certifications); and

(3) confirmations of carryforward assignments to issuers.

(c) **Fee for confirmation records.** State or local issuers may obtain a copy of these records upon written request and payment of a $15 fee. Fees collected shall be deposited to the General Revenue Fund.

SUBCHAPTER 7. STATE CEILING POOLS AND ALLOCATIONS TO POOLS

90:15-7-9. Economic Development Pool

(a) The second Thirty Million Dollars ($30,000,000) of any portion of the state ceiling which is in excess of One Hundred Seventy Million Dollars ($170,000,000.00) shall be reserved and placed in the Economic Development Pool.

(b) For the period January 1 through September 1 of each calendar year, allocations from this pool may be made only upon the recommendation of the Director of the Oklahoma Department of Commerce and following review and approval of the ~~Executive and Legislative Bond Oversight Commissions~~ Council of Bond Oversight. In order to approve the recommendation, the Council of Bond Oversight ~~Commissions~~ must find that the project for which an allocation is requested will result in the creation of manufacturing jobs in Oklahoma or will in some other way contribute to an economic development objective of the State. The term "manufacturing jobs", as used in this paragraph, means jobs created by manufacturing facilities as that term is defined in subparagraphs a, b and c of paragraph 1 of subsection B of Section 2902 of Title 68 of the Oklahoma Statutes.

SUBCHAPTER 9. APPLICATION AND LOGGING PROCEDURES

PART 1. APPLICATION

90:15-9-1. Application submission

(a) Unless otherwise noted, the provisions of this Subchapter are applicable to the eight pools created by the Act. Each calendar year, a state or local issuer must make application for a confirmation of the state ceiling on the Private Activity State Ceiling Allocation Application form provided by the State Bond Advisor, requiring the following:

(1) The name and mailing address of the issuer, the beneficiary and jurisdiction thereof, the name of the presiding officer of the issuer and the respective pool from which an allocation is requested;

(2) The name and mailing address or other definitive description of the location of the project or bonds and the purpose for which an allocation of the state ceiling is requested, the name and mailing address of both the initial owner or operator of the project, where applicable, and an appropriate person from whom information regarding the project or bonds can be obtained, and the name and address of the person to whom the confirmation should be sent;

(3) The amount of the state ceiling which the issuer is requesting;

(4) A statement of bond counsel for the issuer that the proposed issue requires, pursuant to Section 103, Section 146 or such other applicable sections of the Internal Revenue Code, an allocation of a portion of the state ceiling;

(5) Where applicable, the intention to exchange single family mortgage bond authority for mortgage credit certificates [62 O.S., Section 695.25, as amended]; and

(6) For applications against the Student Loan Pool, documentation supporting demand, as described in 90:15-9-3; and

(7) Single-family mortgage and mortgage credit certificate applications must provide documentation supporting demand as described in 90:15-9-2.

(b) No applications are grand fathered from a prior calendar year. Except for supplemental, appeal, and carryforward applications, an applicant may submit only one application of the same beneficiary for the identical beneficial use. For example, a single applicant may submit only one qualified small issue application on behalf of an identified company, although other applications may be submitted for other companies. A single applicant may submit only one application for the same project, such as an identified exempt facility project, although other applications may be submitted for different exempt facility projects. Single family mortgage and mortgage credit certificate program applications from the same applicant or serving the same geographic area shall be considered identical for purposes of this section and sections of this Chapter governing maximum allocations available to issuers from the Oklahoma Housing Finance Agency and Local Issuer Single Family Pools.

(1) Applications will be accepted by mail, courier, fax, or hand delivery during official office hours. For issuers electing to file an application by facsimile, an original application must be filed by the end of the third business day following the facsimile transmission.

(2) Applications will be date and time stamped at the time of receipt and provisionally placed on one or more pool registers pursuant to this Subchapter and the Act. For applications submitted by facsimile, in the event that an original application has not been received by the end of the third business day following facsimile transmission, the State Bond Advisor may reject the issuance of allocation. In the case of applications determined to be complete by the State Bond Advisor, pursuant to (b)(4), (b)(5) and (b)(6) of this section, the provisionally logged time and date of receipt shall be recorded as the permanent date and time of receipt, provided the determination of complete and demand, where appropriate, are solely based on the content of applications and attachments first submitted by an applicant; i.e. contents of application provisionally logged. Two or more applications received at the same time by mail or otherwise, shall be date and time stamped identically. In the case of identically date and time stamped applications achieving permanent status, such applications will be logged identically on appropriate registers. In the case of identically logged applications, uncommitted state ceiling available on any register shall be split equally between such applications, unless the requested allocations from one or more identically logged applications is less than the amount an equal division would yield in which case the other applicants would be eligible for an allocation greater than that derived from an equal division.

(3) One additional information submission is permitted as a basis for reversing an office determination that an application is incomplete. If such submission of additional information is sufficient to cause a determination of the application to be complete, the permanent chronological order will be determined according to the date of the additional information submission rather than the original application date.

(4) Hand delivered applications for all registers, including the Consolidated Pool and Carryforward register, will be provisionally date and time stamped based on the person delivering the application's place in line at the entrance to the official office of the State Bond Advisor. If a person hand delivers two or more applications at the same time the person may establish the chronological order of such applications for purposes of time and date stamping. Otherwise, multiple applications received at the same time will be time stamped identically and allocations will be made in accordance with (b)(2) of this section.

(5) The State Bond Advisor may reject incomplete applications based on the adequacy of information submitted on the Private Activity State Ceiling Allocation Application form referenced in (a) of this section and required attachments:

(A) Attachment I for qualified small issue and exempt facility bond applicants is a resolution of the issuer that constitutes official action as defined by the Federal Tax Code. All other qualified private activity bond applicants must include a resolution of the issuer approving the issuance of the bonds.

(B) Attachment II requires a final resolution of the beneficiary of the issuer evidencing its approval of the issuance of the issuer's obligations not a TEFRA public hearing and certification if the issuer is a municipal or county public trust. If an issuer is a public trust having the state as its beneficiary then a TEFRA certification signed by the Governor of the state evidencing his/her approval of the issuance of the issuer's obligations is required.

(6) Notwithstanding other Subchapters and sections of this Chapter, the state ceiling allocation request amount logged on any pool register, including the Consolidated Pool and Carryforward register, shall not exceed the lesser of the requested allocation, the maximum allocation available to an applicant from a pool or register, including the Consolidated Pool and Carryforward register, or as limited by state or federal law. ~~However, for purposes of the Consolidated Pool register pursuant to Subchapter 11 of this Chapter, where appropriate, a notation will be made on registers described in this section indicating the full amount of a requested allocation, if such amount~~

~~is greater than the eligible amount logged from a pool from which it was transferred to the Consolidated Pool register, which amount may be transferred, if eligible, to the Consolidated Pool register~~.

90:15-9-4. Rejection of applications following insufficient demand determination; appeals

(a) The State Bond Advisor shall have five (5) days in which to send a denial following a determination of insufficient demand for single-family mortgage revenue bond, mortgage credit certificate, or student loan bond applications. The notice will contain the reason(s) for such determination. Such applications shall be removed from the appropriate pool(s) for purposes of establishing chronological order.

(b) The Bond Advisor shall determine the extent to which demand is demonstrated for single family mortgage bonds, mortgage credit certificate programs and student loan bonds, which amount may be less than a requested confirmation. In such cases, a confirmation notice will be sent to the applicant for the demand amount so determined and a denial notice for the difference of the request. The portion of the request that is denied may be appealed by making an additional information submission or an appeal application.

(c) An applicant may appeal such denials by submitting a new application to the ~~Executive and Legislative Bond Oversight Commissions~~ Council of Bond Oversight, through the State Bond Advisor's Office, along with an explanation justifying why the State Bond Advisor's denial should not be sustained. Such appeal applications will be date and stamped at the time of receipt and provisionally placed on the appropriate pool register(s). The appeal will be placed on the agenda for the next ~~Executive and Legislative Bond Oversight Commissions~~ Council of Bond Oversight meeting in a manner consistent with the requirements for preparation of such agendas.

(d) By affirmative action of the Council of Bond Oversight ~~Commissions~~, an application denied by the State Bond Advisor may be accepted and the ~~Commissions~~ Council may order the State Bond Advisor to issue a confirmation, subject to availability of state ceiling in the appropriate pool(s). For chronological ordering purposes, such appeal applications transition to permanent status on pool(s) registers, including the Consolidated Pool and Carryforward register, at the time of Council of Bond Oversight ~~Commission~~ approval based upon the date and time of receipt of the appeal application. Any allocations made from the date of an appeal application to the date of Council of Bond Oversight ~~Commission~~ approval shall not be rescinded.

90:15-9-5. Applications accepted to permanent status; issuance of confirmations; Final Certification

(a) Upon a determination of receipt of a completed application by the State Bond Advisor and demand, where appropriate, the State Bond Advisor will transfer applications on pool register(s) from provisional to permanent status. In the case of applications determined to be complete by the State Bond Advisor, pursuant to 90:15-9-1(b)(5), the provisionally logged time and date of receipt shall be recorded as the permanent date and time of receipt, provided the determination of completeness and demand, where appropriate, are solely based on the content of applications and attachments first submitted by an applicant.

(b) Confirmations of the state ceiling shall be issued by the State Bond Advisor based on the chronological order of applications classified as permanent on registers established for each pool including the Consolidated Pool and the Carryforward register. Within five business days of classification of an application as permanent, the State Bond Advisor shall send an applicant a confirmation of a requested allocation of the state ceiling, provided the amount of state ceiling requested is available from a pool or register, or give notice of a denial of a confirmation and the reasons therefore.

(c) Applications determined to be incomplete shall not be logged for chronological ordering purposes until an application is considered complete. Within five business days of a determination by the State Bond Advisor that an application is incomplete, the State Bond Advisor shall give notice to an applicant of such a determination and the reasons therefore. If an applicant submits additional information addressing the causes of an incomplete application determination within five business days following receipt of such information, the State Bond Advisor shall give notice to the applicant:

(1) accepting the application as complete and transferring the application to permanent status, or

(2) give notice of the continued rejection of an application and the reasons therefore.

(d) If there is not sufficient uncommitted state ceiling capacity in a pool to issue a confirmation in the full amount of a requested application, except as limited by 90:15-9-1(b)(6), the State Bond Advisor shall issue a partial confirmation to the extent uncommitted state ceiling capacity from a pool is available. In such cases, the difference between the amount of a partial confirmation and requested allocation of the state ceiling shall retain its chronological status on a pool register in the event additional state ceiling capacity on a register becomes available.

(e) An applicant to which a partial confirmation is issued, may reject such confirmation within ten business days of issuance. Such rejections must be made in writing to the State Bond Advisor. A notification by an applicant rejecting a partial confirmation shall act to maintain an applicant's chronological status on a pool register(s) in the full amount of the state ceiling request, except as limited by 90:15-9-1(b)(6). Future confirmations to applicants that have rejected a partial confirmation within ten days will only be made only when confirmations in excess of one dollar ($1.00) of the original allocation can be made. A confirmation, including a partial confirmation, may be rejected by an issuer after ten days, however, the confirmation amount will be removed from the appropriate pool register(s). Confirmation will be issued pursuant to specific applications only. Confirmations cannot be transferred from one applicant to another and/or to a different project(s).

(f) All confirmations issued by the State Bond Advisor from pools, including the Consolidated Pool, shall be effective for the earlier of ~~75~~ 120 days from the date of issuance of the confirmation by the State Bond Advisor, or 9:00 am on December 20th of each calendar year. Within this time period, issuers to whom confirmations have been issued shall file the Final Certification of Private Activity Bond Issuance or Mortgage Credit Certificate (MCC) Program Election form provided by the State Bond Advisor, with the State Bond Advisor evidencing use of a confirmation through issuance of bonds or the filing of mortgage credit certificate elections. The Final Certification shall require the following:

(1) Name of government issuer;

(2) Project name;

(3) Type of qualified private activity bond or mortgage credit certificate election;

(4) Amount of state ceiling or carryforward used; and

(5) Date of bond issuance or mortgage credit certificate election filed or carryforward election filed.

(g) If an issuer fails to file the Final Certification form within the required time period, the confirmation:

(1) ceases to be effective;

(2) the amount of state ceiling allocated pursuant to the confirmation with respect to an application shall be removed from the appropriate pool register(s); and

(3) the confirmation amount shall revolve back to the appropriate pools/registers from which it was derived for purposes of reallocation, except that revolving state ceiling amounts available after September 2nd to December 20th shall revolve to the Consolidated Pool and thereafter to the end of the calendar year to the Carryforward register.

[OAR Docket #03-68; filed 1-8-03]
(format accepted 1-14-03)

TITLE 152. COMMUNITY HOSPITALS AUTHORITY
CHAPTER 1. GENERAL AGENCY RULES

[OAR Docket #03-91]

RULEMAKING ACTION:
Emergency Adoption
RULES:
Subchapter 1. Purpose and Organization [NEW]
Subchapter 3. Meetings [NEW]
Subchapter 5. General Course and Method of Operation [NEW]
Subchapter 7. Rulemaking Procedure [NEW]
AUTHORITY:
Community Hospitals Authority; Title 63, Oklahoma Statutes, Section 3240.6
DATES:
Comment Period:
NA
Public Hearing:
NA
Adoption:
October 23, 2002
Approved by Governor:
December 17, 2002
Effective:
Immediately upon Governor's approval
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTION:
NA
INCORPORATION BY REFERENCE:
NA
FINDING OF EMERGENCY:
The Community Hospitals Authority finds it an emergency to immediately begin their statutory charge to coordinate the delivery of medical services and to access potential federal funds for the medical treatment of Indigent patients. The emergency rules are necessary for a new agency to have basic procedures of operation in place and known to the public as soon as possible.
ANALYSIS:
These are the basic rules of operation and procedures for the functioning of a new agency.
CONTACT PERSON:
Russ Roach (918-743-1935)

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 OS, SECTION 253(D):

SUBCHAPTER 1. PURPOSE AND ORGANIZATION

152:1-1-1. Purpose

(a) The rules of this Chapter are adopted to simplify procedure, avoid unnecessary delays, save expenses, and facilitate the administration of the Community Hospital Authority (63 O.S. §§ 3240.1 *et seq*). These rules also implement and are cumulative to the Administrative Procedures Act, 75 O.S. 1991, Section 250 et seq., as amended ('APA').

(b) This chapter shall be given a fair and impartial construction.

(c) Citations herein to laws and rules shall include laws and rules amendatory thereto.

152:1-1-2. Definitions [RESERVED]

152:1-1-3. [RESERVED]

152:1-1-4. Commission officers

(a) The Authority shall elect from its membership a Chairman and a Vice-Chairman.

(b) Officers of the Authority shall be elected annually, at the last meeting of each calendar year, In the event an officer's position becomes vacant, a replacement shall be elected to complete the unexpired term at the following meeting of the Authority.

(c) The Chairman shall preside over all Authority meetings and rule on all questions of procedure and order. He shall have the power, in the exercise of his discretion, to call special meetings of the Authority, and shall call a special meeting when requested by four members, in writing, to do so. The Chairman shall determine the agenda of each meeting.

(d) The Vice-Chairman shall assume the duties of the Chairman during the Chairman's absence or incapacity.
(e) The Executive Director shall be responsible for insuring the keeping of the minutes of Authority meetings, and have such other duties as the Authority may, from time to time, designate.

152:1-1-5. Authority powers and duties
The Authority shall exercise all powers expressly or impliedly granted to it by statute.

152:1-1-6. Severability
The provisions of this Chapter are severable and the repeal, amendment, or invalidity of any provision hereof shall not serve to repeal or invalidate the remaining provisions of these rules.

SUBCHAPTER 3. MEETINGS

152:1-3-1. Meetings
The Authority shall hold such meetings, as it deems necessary, with a regular meeting once during each quarter of the calendar year. Special meetings may be called by the Chairman at his discretion, and shall be called when three (3) members of the Authority request of the Chairman, in writing, that such a meeting be called.

152:1-3-2. Location
The Authority may convene at any location within the state of Oklahoma as the Authority may specify; provided, that unless otherwise specified, meetings shall be conducted at a room provided for that purpose at the St. John's Medical Center offices at 1924 South Utica, Tulsa, Oklahoma.

152:1-3-3. Opening Meeting Act
All meetings of the Authority shall be conducted in compliance with the applicable provisions of the Oklahoma Open Meeting Act, 25 O.S. 1991, §301 et seq., and laws amendatory thereto.

152:1-3-4. Agenda
(a) The agenda of the Authority's meetings shall be determined by the Chairman, and a copy thereof sent to each member before the meeting.
(b) The agenda of the Authority's special meetings shall be determined by the Chairman, and copies thereof shall be sent to each member prior to the meeting. Only those items appearing on the agenda of such special meetings shall be considered by the Authority.

152:1-3-6. Robert's Rules of Order
All meetings of the Authority shall be conducted in accordance with Robert's Rules of Order except as modified herein or by statute.

SUBCHAPTER 5. GENERAL COURSE AND METHOD OF OPERATIONS

152:1-5-1. Principal office
The principal office of the Community Hospitals Authority is at St. John's Medical Center, 1924 South Utica, Tulsa, Oklahoma, 74120.

152:1-5-2. Office hours
Office hours shall be from 8:00 a.m. to 4:30 p.m., unless otherwise designated by the Executive Director, Monday through Friday inclusive, excepting legal holidays established by statute or proclamation of the Governor.

152:1-5-3. Exercise of powers
The Authority may exercise its official powers at any location in the State of Oklahoma.

152:1-5-4. Writing to the Authority
Every communication in writing to the Authority shall be addressed to the Executive Director of the Authority at the principal office designated above.

152:1-5-5. Records
(a) **Rules and policy.** All rules shall be available at the principal office during regular business hours.
(b) **Proceedings and forms.** All final orders, decisions, and opinions, and all forms, applications, and instructions which are required to be completed in applying for a license or permit, shall be available within the offices of the Authority during regular business hours.
(c) **Copies.** Copies of all official records of the Authority not privileged from disclosure by law shall be available for inspection at the principal office during regular office hours. Copies of such records, certified by the Executive Director or his designee, may be made, and the expense of such copies shall be paid by the person requesting the same.

SUBCHAPTER 7. RULEMAKING PROCEDURES

152:1-7-1. Rulemaking
The Authority may adopt, amend, or repeal a rule of its own initiative, at the request of the Executive Director, or upon a petition filed under the APA.

152:1-7-2. Petitions for rule making

(a) **Form.** Any interested person may request the Authority to adopt, amendment, or repeal a rule. A request shall be in the form of a letter.

(b) **Form and consent.** All such requests shall be in writing, and be filed with the Executive Director at the principal office. The requests shall state, clearly and concisely, all matters pertaining to the requested action and the reasons for the request.

(c) **Consideration of requests.** Requests concerning rules will be considered by the Authority at its next regularly scheduled meeting or at a special meeting. The Authority may, in its discretion, postpone the discussion and ruling on the request until the next regular or special meeting and shall notify all parties of such postponement. Upon hearing the requests, the Authority will notify the requester whether the Authority will consider rule-making action.

152:1-7-3. Rulemaking hearings

(a) The Executive Director may conduct hearings on proposed rules, amendments to or repeal of rule, and shall conduct such hearings when so directed by the Authority.

(b) **Location of hearings.** Unless otherwise specified, and stated in the notice of hearing, all hearings shall be conducted in the offices of the Authority.

(c) **Interested persons.** Any person who is interested or affected by a proposed action may appear at the hearing. An appearance may be made individually, or by an attorney.

152:1-7-4. Opportunity to submit data, views and arguments

Prior to the adoption, amendment, or repeal of a rule, the Authority shall afford any interested persona a reasonable opportunity to submit data, vies, and arguments, either oral or written, concerning such proposed action.

152:1-7-5. Emergency rules

The Authority may adopt an emergency rule without adherence to the above rules concerning notice and hearing. All emergency rules, however, must be adopted in accord with the Administrative Procedures Act, and shall be effective as specified in the Act.

[OAR Docket #03-91; filed 1-13-03]
(format accepted 1-21-03)

TITLE 230. STATE ELECTION BOARD CHAPTER 10. THE COUNTY ELECTION BOARD

[OAR Docket #03-70]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 3. Election Personnel
Part 1. The County Election Board
230:10-3-8. Salary of the Secretary [AMENDED]
Subchapter 7. General Administration of the County Election Board
Part 7. Public Records
230:10-7-59. Public records [AMENDED]
Part 9. Finances
230:10-7-76. Special Depository Account [AMENDED]
230:10-7-82. Expenses paid through Special Depository Account [AMENDED]
AUTHORITY:
Title 26 O.S., Section 2-107. Secretary of the State Election Board
DATES:
Adoption:
November 20, 2002
Approved by Governor:
January 2, 2003
Effective:
Immediately upon Governor's approval
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATION BY REFERENCE:
n/a
FINDING OF EMERGENCY:
The Secretary of the State Election Board finds that the following compelling public interests require the adoption of emergency amendments in this chapter. Senate Bill 1350 included amendments to 26:2-118, 26:5-112, and 26:5-113, and new law codified as 26:4-115.2, all of which affect rules in this chapter. The sections of SB 1350 affecting rules in this Chapter became effective when the Governor signed the bill on June 6, 2002. County Election Board personnel rely on these rules to perform their duties. Although they have been notified of the new and amended laws and have been advised of appropriate methods for implementation, it is necessary to provide the updated rules as soon as possible.
ANALYSIS:
The amendment in Subchapter 3 concerns the salary of the County Election Board Secretary and the timing of salary increases for the Secretary, and is necessary because of an amendment to Title 26, Section 2-118 included in SB1350.

One amendment in Subchapter 7 is needed as a result of new law codified as Title 26, Section 4-115.2 that concerns making the voter registration address information of certain registered voters confidential. Other amendments in Subchapter 7 result from an amendment to Title 26, Sections 5-112 and 5-113. As a result of the change in the law, candidate filing fees now are deposited in the County Election Board Special Depository Account immediately upon receipt. When a candidate becomes eligible to receive his or her filing fee back, the fee is refunded by a voucher from the Special Depository Account. Two Sections are amended to include references to the new process.
CONTACT PERSON:
Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 3. ELECTION PERSONNEL

PART 1. THE COUNTY ELECTION BOARD

230:10-3-8. Salary of the Secretary

(a) The Secretary is paid on a monthly basis from county funds. Each month the State Election Board shall reimburse

the county for the salary and fringe benefits paid to the Secretary, not to exceed 135 percent of the salaries specified. [26:2-118] ~~The Secretary's salary is based on the number of registered voters in the county. *The number of registered voters* is *determined by the number of registered voters, excluding inactive voters, in the county* on January 1 of each odd-numbered year. [26:2-118] The salary schedule is effective for the fiscal year beginning on the following July 1. The Secretary shall file a report with the County Clerk in January each year stating the total number of registered voters in the county. See 230:10-7-50. The registration information contained in this report is used to determine the Secretary's salary for the following fiscal year.~~ The Secretary's salary is set by law and is based on the number of active registered voters in the county on January 1 of each odd-numbered year. [26:2-118]

(b) The Secretary of the State Election Board shall determine the appropriate salary level for each County Election Board Secretary, and shall notify the County Clerk in each county in January of each odd-numbered year. Any salary change shall take effect at the beginning of the County Election Board Secretary's term on May 1 of each odd-numbered year and shall remain in effect throughout the two-year term.

(c) In the event that a County Election Board is under administrative supervision of the State Election Board, as outlined in 230:10-3-9.1, at the time a salary increase becomes effective, the Secretary of that County Election Board shall not receive the salary increase. [26:2-118] The Secretary shall be entitled to receive the salary increase at the time that the administrative supervision ends. The salary increase shall not be retroactive to the time the salary increase generally became effective.

(~~c~~d) The salary of ~~the~~ a County Election Board Secretary shall not fall below the level of the salary paid in the county on ~~June 30, 1997~~ May 1, 2002, regardless of the number of active registered voters in the county . [26:2-118] The salary of a County Election Board Secretary who is reappointed to a new two-year term as Secretary shall not fall below the salary received in the immediately preceding term. [26:2-118]

SUBCHAPTER 7. GENERAL ADMINISTRATION OF THE COUNTY ELECTION BOARD

PART 7. PUBLIC RECORDS

230:10-7-59. Public records

(a) All records of the County Election Board, except as provided in (b) and (c) of this Section, must be made available for public *inspection, copying and/or mechanical reproduction during regular* office hours. [51:24A.5] The County Election Board must provide prompt, reasonable access to its records but may establish reasonable procedures to protect the integrity and organization of its records and to prevent excessive disruptions of its essential functions.

(b) *No information relating to a declination to register to vote in connection with an application made at an office designated a voter registration agency may be used for any purpose other than voter registration*. [26:4-109.2(C)] *The identity of a voter registration agency through which a particular voter registered may not be disclosed to the public*. [26:4-109.2(D)] If a person applies for voter registration in connection with the application for, renewal of or change of address for an Oklahoma driver's license or state identification card, *the office at which the person submits the voter registration application or the fact that the person declined to register shall remain confidential and will be used only for voter registration purposes*. [26:4-109.3(A)]

(c) The residence and mailing addresses of some registered voters shall be kept confidential when such voters apply for confidential status. [26:4-115.2] Members of the judiciary, district attorneys, assistant district attorneys, law enforcement personnel, corrections officers, and persons covered by victim's protection orders are entitled by law to apply to the Secretary of the County Election Board for confidential status. [26:4-115.2] The spouse and/or dependent of a voter entitled to apply for confidential address status also may apply for confidential address status. The confidentiality shall apply to the voter registration form in the Central File, to registration information in OEMS, and to materials used to request and cast absentee ballots. Confidential voter registration information shall be available only to County Election Board personnel for administrative purposes, with the exception that it may be provided to a candidate or a candidate's representative or other lawful authority in connection with a contest of candidacy, contest of election, or a petition challenge as provided by law. [26:4-115.2] Confidentiality shall remain in effect until the voter chooses to end it by notifying the Secretary in writing. See 230:15-9-25.

PART 9. FINANCES

230:10-7-76. Special Depository Account

The County Election Board must use a County Election Board Special Depository Account for receipt and disbursement of monies received by the Board. [26:3-108] The Special Depository Account is operated through the County Treasurer's office. It is used to receive funds such as ~~forfeited~~ filing fees, deposits for contests of candidacy, deposits for contests of election, funds for compensation of Precinct Officials, payments for school elections and payments for municipal elections. Deposits shall be made daily as funds are received, and disbursements shall be made as soon as legally possible. Any balance continuing in the Special Depository Account ~~from month to month~~ after all appropriate disbursements have been made shall be from forfeited filing fees only. The County Election Board Secretary shall be authorized to make expenditures from the amount of forfeited filing fees in the Special Depository Account for any lawful purpose. [26:3-108]

230:10-7-82. Expenses paid through Special Depository Account

For statewide elections, the state's and the county's share of compensation for Precinct Officials and the Absentee Voting Boards are paid through the Special Depository Account.

Refunds of candidate filing fees also are paid from the Special Depository Account. (See 230:20-3-39.1 and 230:20-3-63) All other expenses are handled by submitting purchase orders to the County Clerk. The purchase orders are paid by the County Clerk with warrants drawn on the County Election Board's budget account. For special county elections, only compensation for Precinct Officials is paid through the Special Depository Account. All other expenses for special county elections are paid by submitting purchase orders to the County Clerk. For school district and municipal elections, all warrants received from the entities are deposited in the Special Depository Account and vouchers are written to pay all expenses incurred in the election.

[OAR Docket #03-70; filed 1-8-03]
(format accepted 1-14-03)

TITLE 230. STATE ELECTION BOARD CHAPTER 15. VOTER REGISTRATION

[OAR Docket #03-71]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 3. Voter Outreach
Part 3. Distribution of Voter Registration Application Forms
230:15-3-26. Requests for more than ~~1,000~~ 5,000 Oklahoma Voter Registration Application forms
Subchapter 5. Application for Voter Registration
Part 17. Public Records
230:15-5-73. All registration records public [AMENDED]
Part 21. Voter Registration Application by Mail
230:15-5-84. Information required on voter registration application [AMENDED]
Subchapter 9. ~~State Election Board and County Election Board Responsibilities for~~ Receiving and Processing Voter Registration Applications
Part 5. Processing Voter Registration Applications
230:15-9-18.1. Assigning voter registration addresses in the Street Guide [AMENDED]
230:15-9-25. Processing applications for confidential address status [NEW]
Subchapter 11. Voter Registration List Maintenance
Part 1. Cancellation of Voter Registration
230:15-11-6. Cancellation of registration of deceased voter by next of kin [AMENDED]
AUTHORITY:
Title 26 O.S., Section 2-107. Secretary of the State Election Board
DATES:
Adoption:
November 20, 2002
Approved by Governor:
January 2, 2003
Effective:
Immediately upon approval by Governor
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATION BY REFERENCE:
n/a
FINDING OF EMERGENCY:
The Secretary of the State Election Board finds that the following compelling public interests require the adoption of emergency amendments in this chapter. Senate Bill 1350 included amendments to 26:4-112; 26:4-115.2; and new law codified as 26:4-120.3, all of which affect rules in this chapter. The sections of SB 1350 affecting rules in this Chapter became effective when the Governor signed the bill on June 6, 2002. County Election Board personnel rely on these rules to perform their duties. Although they have been notified of the new and amended laws and have been advised of appropriate methods for implementation, it is necessary to provide the updated rules as soon as possible.
ANALYSIS:
Amendments in this Chapter are required as a result of new law and amendments to existing law that were included in SB1350. Specifically, new law allows certain registered voters to request that their residence and mailing address information be kept confidential. An amendment in Subchapter 5 and a new Section in Subchapter 9 outline procedures for these voters to ask for confidential address status and for the County Election Board Secretary to implement such requests. Other amendments in Subchapter 5 are the result of amendments in 26:4-112 that define the elements of valid residence and mailing addresses. Finally, an amendment in Subchapter 9 is the result of a change in 26:4-120.3 that allows the next of kin of a deceased registered voter to fill out a form at his or her own polling place (as opposed to only at the deceased voter's polling place) to cancel the deceased voter's registration.
CONTACT PERSON:
Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 3. VOTER OUTREACH

PART 3. DISTRIBUTION OF VOTER REGISTRATION APPLICATION FORMS

230:15-3-26. Requests for more than ~~1,000~~ 5,000 Oklahoma Voter Registration Application forms

(a) Any organization, entity or individual anticipating the need for more than ~~1,000~~ 5,000 Oklahoma Voter Registration Application forms shall request permission from the Secretary of the State Election Board to print the forms. Such requests shall be made in writing and shall include the following information: name, address and telephone number of the organization, entity or individual requesting permission to print the Oklahoma Voter Registration Application form; the quantity of forms to be printed; a brief description of plans for use or distribution of the forms; date of request; signature.

(b) When a request for permission to print the Oklahoma Voter Registration Application form is approved by the Secretary of the State Election Board, the State Election Board staff shall provide the printing specifications and camera-ready copy for the Oklahoma Voter Registration Application form to the organization, entity or individual who made the request. The organization, entity or individual shall be required to produce the Oklahoma Voter Registration Application form exactly according to the specification provided.

(c) The Secretary of the State Election Board may revoke permission to print the Oklahoma Voter Registration Application form from any organization, entity or individual at any time.

SUBCHAPTER 5. APPLICATION FOR VOTER REGISTRATION

PART 17. PUBLIC RECORDS

230:15-5-73. All registration records public

(a) All registration records, except as provided in (b) and (c) of this Section, must be available for public inspection and copying or mechanical reproduction during regular office hours. The Secretary shall cooperate with any individual or group wishing to inspect and copy the registration records, and a uniform policy shall be established so that such inspection and copying will not interfere with normal operations of the office. See 230:10-7-59 through 230:10-7-65.

(b) *No information relating to a declination to register to vote in connection with an application made at an office designated a voter registration agency may be used for any purpose other than voter registration*. [26:4-109.2(C)] *The identity of a voter registration agency through which a particular voter registered may not be disclosed to the public*. [26:4-109.2(D)] If a person applies for voter registration in connection with the application for, renewal of or change of address for an Oklahoma driver's license or state identification card, *the office at which the person submits the voter registration application or the fact that the person declined to register shall remain confidential and will be used only for voter registration purposes*. [26:4-109.3(A)]

(c) The residence and mailing addresses of some registered voters shall be kept confidential when such voters apply for confidential status. [26:4-115.2] Members of the judiciary, district attorneys, assistant district attorneys, law enforcement personnel, corrections officers, and persons covered by victim's protection orders are entitled by law to apply to the Secretary of the County Election Board for confidential status. [26:4-115.2] The spouse and/or dependent of a voter entitled to apply for confidential address status also may apply for confidential address status. The confidentiality shall apply to the voter registration form in the Central File, to registration information in OEMS, and to materials used to request and cast absentee ballots. Confidential voter registration information shall be available only to County Election Board personnel for administrative purposes, with the exception that it may be provided to a candidate or a candidate's representative or other lawful authority in connection with a contest of candidacy, contest of election, or a petition challenge as provided by law. [26:4-115.2] Confidentiality shall remain in effect until the voter chooses to end it by notifying the Secretary in writing. See 230:15-9-25.

PART 21. VOTER REGISTRATION APPLICATION BY MAIL

230:15-5-84. Information required on voter registration application

(a) A person who is eligible to register to vote and who applies for voter registration shall be required to provide the information listed in (b) of this Section on a voter registration application form. Voter registration applications that contain all the required information shall be valid applications and shall be approved by the Secretary of the County Election Board and the applicant shall become a registered voter in the county. An application that does not contain the required information, except as provided in (c) and (d) of this Section, shall not be a valid application and shall be rejected.

(b) A valid voter registration application shall contain the following information.

(1) Applicant's full name.

(2) Applicant's date of birth.

(3) Applicant's county of residence. (See exception provided in (d) of this Section.)

(4) Applicant's residence address. (See (e) of this Section.)

(5) Applicant's mailing address. (See (f) of this Section.)

(6) Applicant's political affiliation. (See exception provided in (c) of this Section.)

(7) Last four digits of applicant's social security number.

(8) Applicant's original signature or applicant's original mark.

(9) Name and address of person who helped applicant complete application if applicant is unable to complete it unassisted.

(c) An application for voter registration that is valid in all other respects shall not be rejected because the applicant has made one of the errors listed below when indicating a political affiliation. County Election Board personnel shall be authorized to designate an applicant as an Independent if one of the errors listed below appears on an otherwise valid voter registration application form. A voter designated Independent by County Election Board personnel for one of the following reasons shall be entitled to declare a political affiliation at any time, even during the period beginning at 5 p.m. July 1 and ending at 5 p.m. September 30 in even-numbered years when changes of political affiliation are prohibited. Such declarations of political affiliation shall be subject to the voter registration application deadlines preceding an election. See 230:15-5-86.

(1) The applicant left the space on the application form for political affiliation blank.

(2) The applicant indicated more than one political affiliation and the applicant's intention cannot be determined.

(3) The applicant wrote the name of a political party or political organization not currently recognized in Oklahoma. See 230:15-5-77 and 230:15-5-79.

(d) An applicant for voter registration shall indicate the name of the county in which he or she resides on the application form. However, if an applicant fails to indicate his or her county of residence, the Secretary of the County Election Board shall not reject the application solely for this purpose if the residence address provided by the applicant is in fact located within the county.

(e) An applicant for voter registration must provide his or her address of residence. If the applicant has a street address (a street name and number, an apartment or suite number, if applicable, and zip code), that is the applicant's address of residence. [26:4-112] If the applicant does not have a street address, ~~he or she must provide~~ a physical description of the location of the residence that can be used to pinpoint the ~~applicant's~~ residence on a map must be provided. The applicant may provide a 911 address or may provide the legal description (a Section-Township-Range description, including the appropriate quarter section or quarter-quarter section designation). Neither a rural route address nor a post office box address is acceptable as an address of residence for voter registration purposes. A voter registration application that does not include an address of residence sufficient to locate the residence on a map shall be rejected by the Secretary of the County Election Board.

(f) A mailing address must include the city and zip code. An emergency notification address, or 911 address, a rural route and box number, a post office box, or a street address all constitute valid mailing addresses for voter registration purposes. [26:4-112]

SUBCHAPTER 9. ~~STATE ELECTION BOARD AND COUNTY ELECTION BOARD RESPONSIBILITIES FOR~~ RECEIVING AND PROCESSING VOTER REGISTRATION APPLICATIONS

PART 5. PROCESSING VOTER REGISTRATION APPLICATIONS

230:15-9-18.1. Assigning voter registration addresses in the Street Guide

(a) An applicant for voter registration is required to provide election officials with a residence address for voting purposes. In situations where there is no street address consisting of a street name and house number for the residence, the applicant is required to provide a physical description of the residence address that is sufficient to locate said residence on a map for the purpose of determining the applicant's correct precinct and school district. Applications for voter registration shall not be approved and activated unless the residence address can be assigned in the Street Guide to a precinct and school district. This shall apply to applications for new registration and to applications for change of registration. For more information about residence addresses, see 230:15-5-84.

(b) When the OEMS Street Guide cannot assign an applicant's residence address to a precinct and/or school district, County Election Board personnel shall take the following actions before rejecting the voter registration application for insufficient residence address.

(1) If the street address provided by the voter registration applicant does not match a Street Guide record, County Election Board personnel shall take the following actions before rejecting the application.

(A) Determine whether the given street address may represent a new street or a new extension of an existing street. Create a new Street Guide entry if necessary.

(B) Determine whether the voter has used a variation of the correct street name. For example, if the voter has given the street name "Elm Street" but the correct name of the street is "Elm Tree Street," enter the applicant's residence address using the correct street name. Do not create a new Street Guide entry for the variation of the street name.

(2) If the voter registration applicant has provided a physical description of the location of the residence that is sufficient to determine the voter's precinct and school district, assign the voter according to OEMS Street Guide software instructions. If the applicant used the map grid printed on the Oklahoma Voter Registration Application form, follow these steps as needed.

(A) If the applicant used the map but also provided enough information in the address section of the application to place the applicant in the correct precinct, the map may be discarded.

(B) If information on the map is used to place the applicant in the correct precinct, cut out the map and tape it to the back of the application form. Do not retain any portion of the instruction section that indicates the source of the application.

(C) If the applicant left the address section of the application blank and only provided address information on the map, write "see map" in the address section in such a way that it can be clearly distinguished as an administrative notation. If the applicant wrote anything in the address section, do not write on the application form.

(3) If the applicant has provided a physical description of the location of the residence that is not sufficient to determine the voter's precinct and school district, County Election Board personnel are authorized to attempt to obtain information from the County Assessor's office to identify the correct section-township-range description of the voter's residence and to use that information to assign the voter to a section-township-range geographical location in the Street Guide as outlined below.

(A) An exact match between the applicant's full name and full route and box number, as provided on the voter registration application form, is found in the County Assessor's records. By comparing the physical description given by the applicant with the legal description obtained from the Assessor's records, the applicant's residence address can be assigned to a section-township-range geographical location in the Street Guide.

(B) An exact match between the applicant's name and route and box number and a record in the County Assessor's office is not found, but there is sufficient information to indicate that the voter registration applicant may be a family member of a property owner who has a route and box number. The applicant may

be assigned in the Street Guide and the voter registration application may be approved and activated. Prepare an STR Confirmation Notice to inform the voter of the section-township-range geographical location to which he or she has been assigned. This notice offers the voter the opportunity to provide additional information if the assignment is not correct. Mail the STR Confirmation Notice to the voter with the voter identification card.

(c) If the residence address provided on a voter registration application cannot be assigned in the Street Guide even after taking the actions listed in (b) of this Section, the application must be rejected. Enter a rejection code in OEMS to generate the appropriate rejection notice for the voter. Follow the OEMS software instructions to enter an explanation to the voter of the specific information needed in order to assign the residence address in the Street Guide.

230:15-9-25. Processing applications for confidential address status

(a) The residence and mailing addresses of some registered voters shall be kept confidential when such voters apply for confidential address status. [26:4-115.2] Members of the judiciary, district attorneys, assistant district attorneys, law enforcement personnel, corrections officers, and persons covered by victim's protection orders are entitled by law to apply to the Secretary of the County Election Board for confidential address status. [26:4-115.2] The spouse and/or dependent of a voter entitled to apply for confidential address status also may apply for confidential address status. The confidentiality shall apply to the voter registration form in the Central File, to registration information in OEMS, and to materials used to request and cast absentee ballots. Confidential voter registration information shall be available only to County Election Board personnel for administrative purposes, with the exception that it may be provided to a candidate or a candidate's representative or other lawful authority in connection with a contest of candidacy, contest of election, or a petition challenge as provided by law. [26:4-115.2]

(b) A voter who is eligible for confidential address status may apply for such status by completing a form in the County Election Board office or by writing a letter to the Secretary of the County Election Board setting forth the following information.

(1) Voter's name as it appears on the voter registration form.

(2) Voter's date of birth.

(3) Last four digits of the voter's social security number.

(4) Reason for application for confidential address status. (If voter is covered by victim's protection order, include case number, date of issue and the expiration date of the order.)

(5) Voter's signature.

(6) Date.

(c) Upon receipt of an application for confidential address status, the Secretary of the County Election Board shall cause the following action to be taken.

(1) Make a placeholder for the Central file. Write only the voter's name, date of birth, and political affiliation on a blank voter registration application form. Write the words "Confidential Address" in the space for item 6, "Street address or directions to your home."

(2) Remove the voter's original voter registration application form from the Central File and replace it with the placeholder form.

(3) Check the Additional Information file. Remove any documentation of the voter's registration and attach it to the voter registration application form.

(4) Remove the voter's absentee ballot application from the appropriate file and attach it to the voter registration form.

(5) Locate the voter's registration information in OEMS and follow the appropriate software instructions to apply the confidential address status code.

(6) Attach the voter's application for confidential address status to the voter's registration form and other materials and file in the confidential address status file.

(d) The Secretary of the County Election Board shall designate a file cabinet that may be locked or any other appropriate container with a lock as the confidential address status file. Access to the confidential address status file shall be restricted to the Secretary, Assistant Secretary or Chief Clerk and other County Election Board employees authorized by the Secretary.

(e) Confidential address status shall be effective immediately upon receipt of an application from a qualified voter, and it shall remain in effect until the voter chooses to end it. The voter's registration information may be removed from confidential address status only upon receipt of written instruction from the voter.

(f) Any subsequent application for change of voter registration initiated by a confidential address status voter shall be processed routinely, with the exception that the voter registration application form shall be filed in the confidential address status file instead of the Central File. Any application for absentee ballots from such a voter also shall be processed routinely by following the applicable software instructions to enter the application in OEMS and to issue either a voter identification card or a rejection letter. However, the application for absentee ballots shall be filed in the confidential address status file.

SUBCHAPTER 11. VOTER REGISTRATION LIST MAINTENANCE

PART 1. CANCELLATION OF VOTER REGISTRATION

230:15-11-6. Cancellation of registration of deceased voter by next of kin

(a) The registration of a deceased voter may be cancelled upon execution of a Cancellation of Registration of Deceased Voter form by the voter's next of kin. [26:4-120.3] The form may be executed at the County Election Board office ~~or,~~ at the deceased voter's polling place or at the next of kin's

own polling place in the same county on any election day. [26:4-120.3] The form shall be signed by the next of kin and witnessed by either the County Election Board Secretary, Assistant Secretary or Chief Clerk, or by the Precinct Inspector.

(b) The registration of a deceased voter may be cancelled upon execution of a Request to Cancel Registration of Deceased Voter form by the voter's next of kin. The form shall be completed and signed by the next of kin and notarized by a Notary Public. [26:4-120.3] The form shall be returned to the County Election Board in the county of the deceased voter's residence. [26:4-120.3] A letter containing all the same information requested on the form, signed by the next of kin, and notarized by a Notary Public also shall be accepted to cancel the registration of a deceased voter.

[OAR Docket #03-71; filed 1-8-03]
(format accepted 1-14-03)

TITLE 230. STATE ELECTION BOARD CHAPTER 20. CANDIDATE FILING

[OAR Docket #03-72]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 3. Filing for State and County Office
Part 7. Procedure for Filing
230:20-3-35. Declarations must be notarized [AMENDED]
230:20-3-37. Checking Declarations [AMENDED]
230:20-3-39. Fees, petitions attached [REVOKED]
230:20-3-39.1. Filing fees deposited in Special Depository Account [NEW]
Part 9. Withdrawals of Candidates
230:20-3-48. Filing fee forfeited upon withdrawal [AMENDED]
Part 13. ~~Return~~ Refund of Filing Fees
230:20-3-61. Conditions for ~~return~~ refund of filing fees [AMENDED]
230:20-3-62. ~~Return~~ Refund of filing fees for Independent candidates [AMENDED]
230:20-3-63. Procedure for ~~return~~ refund of filing fees [AMENDED]
230:20-3-64. Time for ~~return~~ refund of filing fees [AMENDED]
230:20-3-65. Forfeited filing fees [AMENDED]
Subchapter 5. Contests of Candidacy
230:20-5-15. Filing fee forfeited when candidacy is stricken [AMENDED]
AUTHORITY:
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SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATION BY REFERENCE:
n/a
FINDING OF EMERGENCY:
The Secretary of the State Election Board finds that the following compelling public interests require the adoption of emergency amendments in this chapter. Senate Bill 1350 included amendments to 26:5-112 and 26:5-113, and House Bill 1971 amended 49:5. All these amended and new laws affect rules in this chapter. House Bill 1971 became effective on April 11, 2002, and the sections of SB1350 affecting rules in this chapter became effective on June 6, 2002. County Election Board personnel rely on these rules to perform their duties. Although they have been notified of the new and amended laws and have been advised of appropriate methods for implementation, it is necessary to provide the updated rules as soon as possible.
ANALYSIS:
As a result of amendments in 26:5-112 and 26:5-113, which were included in SB1350, several Sections in Subchapter 3 are amended or revoked. Candidate filing fees now are deposited in the County Election Board Special Depository Account immediately upon receipt, instead of when forfeited as in the past. When a candidate qualifies to have his or her filing fee returned, instead of receiving the actual cashier's check filed with the Declaration of Candidacy, the candidate now will receive a voucher from the Special Depository Account in the amount of the fee. In addition to these amendments, several sections also are amended to incorporate new advice from the Attorney General's office concerning the notarization requirements on Declarations of Candidacy as well as to include reference to the new requirement (Title 49, Section 1, as amended by HB1971) that a Notary Public's commission number appear on a notarized document. The Declaration of Candidacy form will be revised prior to filing for the 2004 elections to include space for the commission number.
CONTACT PERSON:
Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 3. FILING FOR STATE AND COUNTY OFFICE

PART 7. PROCEDURE FOR FILING

230:20-3-35. Declarations must be notarized

Declarations of Candidacy must be notarized by a Notary Public or other person authorized by law to administer oaths. [26:5-111] County Election Board personnel shall not act as Notaries Public for this purpose. The Notary Public must include both his or her commission number and commission expiration date. However, failure of a Notary Public to include either of these items shall not be grounds for rejecting a Declaration of Candidacy that is in all other respects valid on its face.

230:20-3-37. Checking Declarations

(a) The Secretary shall scrutinize all information on the Declaration of Candidacy form. Specifically, the Secretary shall confirm the following facts regarding the Declaration:

(1) The candidate's signature ~~shall be~~ is notarized or witnessed by an appropriate authority. ~~Check the expiration date of a Notary Public's commission to be certain it has not expired.~~ Check to see that both the Notary Public's signature and an impression of the Notary's seal are present on the Declaration of Candidacy form.

(2) The supporting petition ~~shall bear~~ bears the required number of signatures or more, or the accompanying

cashier's check or certified check is in the proper amount and form. See 230:20-3-33.

(3) The name of the candidate as it appears on the first line of the Declaration of Candidacy conforms identically to the signature of the candidate at the bottom of the form.

(4) The office sought is complete, including district number if required.

(5) The address of residence listed is within the county (or district) of the office sought.

(6) The mailing address is complete, including zip code.

(7) The box for party candidate, Independent, or Judicial is checked. If the party candidate box is checked, then the name of the political party is written in immediately thereafter. (Judicial candidates file their Declarations of Candidacy only with the Secretary of the State Election Board.)

(8) The precinct and county blanks are completed.

(9) The date of birth blank is completed.

(b) The Secretary has no authority to reject the filing of any candidate unless the Declaration shows on its face that the candidate does not meet the qualifications to become a candidate for the office as contained in the Oklahoma Constitution, statutes, or the resolution calling the election, or in the case of a home rule charter city, in the charter. [26:5-117] If there are errors on the Declaration, the Secretary shall point out such errors to the candidate. For example, one common error is to indicate the current year in the date of birth instead of the actual year of birth. The candidate then shall correct the errors and sign his initials beside the correction.

230:20-3-39. Fees, petitions attached [REVOKED]

~~The cashier's or certified check, or the petition, is part of the Declaration of Candidacy and shall be attached to the Declaration form. All Declarations shall be kept securely locked. No check shall be endorsed.~~

230:20-3-39.1. Filing fees deposited in Special Depository Account

The Secretary shall issue a receipt from the Special Depository Account to each candidate who submits a filing fee. The Secretary shall endorse the filing fee check and deposit it immediately in the County Election Board's Special Depository Account.

PART 9. WITHDRAWALS OF CANDIDATES

230:20-3-48. Filing fee forfeited upon withdrawal

Any candidate who withdraws his candidacy forfeits his filing fee.

PART 13. ~~RETURN~~REFUND OF FILING FEES

230:20-3-61. Conditions for ~~return~~ refund of filing fees

(a) Filing fees are ~~returned~~ refunded to a candidate for a party nomination only when he meets one of the following conditions:

(1) He *is unopposed in the Primary Election*. [26:5-113]

(2) He is a *candidate in the Runoff Primary Election*. [26:5-113]

(3) He receives more than 15 percent of the votes cast in his race in the Primary Election. [26:5-113]

(b) To aid in calculating the required percentage of votes cast, the following example is offered. In the Primary Election, the following candidates for County Treasurer received the following votes: Carr, 1,212 votes; Berger, 715 votes; Lawson, 106 votes. The total votes cast in this race was 2,033. Fifteen percent of 2,033 is 304.95. The number of votes needed to have filing fees returned must exceed 304.95. Therefore, the minimum number of votes required to have one's filing fee ~~returned~~ refunded is 305. Carr and Berger received more than the number of votes needed to have their filing fees ~~returned~~ refunded. Lawson received fewer than the required number; therefore, Lawson's filing fee is forfeited.

230:20-3-62. ~~Return~~ Refund of filing fees for Independent candidates

Filing fees are ~~returned~~ refunded to an Independent candidate only if he receives more than 15 percent of the votes cast in his race in the General Election.

230:20-3-63. Procedure for ~~return~~ refund of filing fees

~~The Secretary shall endorse checks for filing fees before the checks are returned to candidates. The filing fee check shall be returned to the candidate by mail, with return receipt requested, to the mailing address listed on his Declaration of Candidacy form. The filing fee check may be returned to a candidate in person, but a receipt must be obtained.~~ As soon as practicable after a candidate qualifies for a filing fee refund as outlined in 230:20-3-61, the Secretary of the County Election Board shall cause a voucher, made in the appropriate amount and payable to the candidate, to be prepared and registered with the County Treasurer. The applicable accounting software instructions shall be followed to prepare the voucher and to record the refund in OEMS.

230:20-3-64. Time for ~~return~~ refund of filing fees

No filing fee may be ~~returned~~ refunded to a candidate until after the contest period following the filing period, in the case of unopposed candidates, or until after the contest period following an election, in the case of all other candidates, has expired.

230:20-3-65. Forfeited filing fees

~~In the event a filing fee is forfeited by virtue of the failure of a candidate to meet one of the conditions outlined in 230:20-3-61 and 230:20-3-62, the fee shall be deposited in the County Election Board's Special Depository Account. [26:5-~~

~~113]~~ A candidate forfeits the filing fee submitted with the Declaration of Candidacy under any one of the following conditions.

(1) The candidate withdraws his candidacy.

(2) The candidate fails to meet one of the conditions listed in 230:20-3-61(a).

(3) The candidate's name is stricken from the ballot as a result of a contest of candidacy.

SUBCHAPTER 5. CONTESTS OF CANDIDACY

230:20-5-15. Filing fee forfeited when candidacy is stricken

In the event a candidate's candidacy is stricken, his filing fee is forfeited ~~and shall be disposed of as outlined in 230:20-3-65~~.

[OAR Docket #03-72; filed 1-8-03]
(format accepted 1-14-03)

TITLE 230. STATE ELECTION BOARD CHAPTER 25. BALLOT PRINTING

[OAR Docket #03-73]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 7. Competitive Bidding Process for Ballot Printing
230:25-7-1. Competitive bidding required [AMENDED]
230:25-7-4. Contract requirements [AMENDED]
230:25-7-5. Printer's ~~bond~~ certificate of insurance [AMENDED]
AUTHORITY:
Title 26 O.S., Section 2-107. Secretary of the State Election Board
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SUPERSEDED EMERGENCY ACTIONS:
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FINDING OF EMERGENCY:
The Secretary of the State Election Board finds that the following compelling public interests require the adoption of emergency amendments in this chapter. Senate Bill 1350, which became effective when it was signed by the Governor on June 6, 2002, included an amendment to 26:6-120 that affects rules in this chapter. County Election Board personnel rely on these rules to perform their duties. Although they have been notified of the amended law and have been advised of appropriate methods for implementation, it is necessary to provide the updated rules as soon as possible.
ANALYSIS:
Senate Bill 1350 amended 26:6-120 to require that a contract for ballot printing be awarded to the bidder evaluated as the "best value" according to definitions included in the Oklahoma Central Purchasing Act and to require the successful bidder for a ballot printing contract to provide a "certificate of insurance," instead of the performance bond required in the past. Several sections in Subchapter 7 are amended to reflect one or both of these amendments.
CONTACT PERSON:
Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 7. COMPETITIVE BIDDING PROCESS FOR BALLOT PRINTING

230:25-7-1. Competitive bidding required

(a) All ballots which the County Election Board is responsible for printing shall be printed by a printer selected through the county's competitive bidding process. [26:6-120] The competitive bidding process shall be observed for all ballot printing regardless of the total cost of the printing. [26:6-120] The Secretary shall follow the procedure established by the County Purchasing Agent to cause advertisement for bids for printing of all ballots. A contract for ballot printing shall be awarded to the lowest and best bidder or to the bidder determined to be the best value, according to the Oklahoma Central Purchasing Act. [26:6-120]

(b) The State Election Board shall maintain a list of printers that have demonstrated the ability to print ballots that can be read accurately by the voting device. See 230:25-19-7. The Secretary of the County Election Board and the County Purchasing Agent are advised to consider these printers when advertising for bids for ballot printing.

230:25-7-4. Contract requirements

The Secretary shall consult the County Purchasing Agent regarding the county's requirements for drawing up a contract with the successful bidder. The contract shall include, but shall not be limited to, the printer's responsibilities insofar as the quantity, size and types of ballots to be printed, delivery dates and ~~the condition for forfeiture of the printer's bond~~ the conditions for making a claim against the printer's insurance. If the election involves candidates, the contract shall allow the Secretary and the successful bidder to meet following the filing period to determine the actual layout of the ballot, the number of races that will appear on the ballots and the quantity of regular and absentee ballots that will be required for the election. The State Election Board shall provide a model contract for use by County Election Board Secretaries.

230:25-7-5. Printer's ~~bond~~ certificate of insurance

(a) The successful bidder for a ballot printing contract ~~for an individual election~~ is required to ~~post a bond of double the amount of the bid. [26:6-120] The bond shall be taken in the name of the county and shall be conditioned upon the faithful performance of the contract~~ provide a copy of the bidder's certificate of insurance to the county purchasing agent at the time the contract is awarded to ensure proper and prompt

completion of the work as required by the contract provisions and the bidding papers. [26:6-120] The certificate of insurance shall be in the amount specified by the county purchasing agent. *The successful bidder shall provide proof of insurance coverage for the duration of the contract*. [26:6-120]

(b) ~~The successful bidder for a six-month or a twelve-month ballot printing contract is required to post a bond of double the amount of the cost of the most expensive ballots for any election covered by the bid. [26:6-120] The bond shall be in effect throughout the term of the contract. The bond shall be taken in the name of the county and shall be conditioned upon the faithful performance of the contract. [26:6-120]~~

~~(c)~~ The Secretary shall request the District Attorney or County Purchasing Agent to assist in requiring the printer to ~~post the bond~~ provide an appropriate certificate of insurance.

[OAR Docket #03-73; filed 1-8-03]
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TITLE 230. STATE ELECTION BOARD CHAPTER 30. ABSENTEE VOTING

[OAR Docket #03-74]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 1. General Provisions
230:30-1-2. Definitions [NEW]
Subchapter 3. Authorization for Absentee Voting
230:30-3-3. Voters eligible for absentee ballots [AMENDED]
230:30-3-4. Voters not eligible for services of Absentee Voting Board [NEW]
Subchapter 5. Applications for Absentee Ballots
230:30-5-8.1. Time for absentee ballot applications [AMENDED]
Subchapter 7. Absentee Voting Boards
230:30-7-6. Scheduling Absentee Voting Boards for an election [AMENDED]
230:30-7-9. Procedure for the nursing home Absentee Voting Board [AMENDED]
230:30-7-11.1. Preparation of polling place and voting device for in-person absentee voting [AMENDED]
230:30-7-11.2. Assistance for the in-person Absentee Voting Board [AMENDED]
230:30-7-11.3. Sheriff provides security for memory pack and voted ballots [AMENDED]
230:30-7-13. In-person absentee voting procedure for military discharge or military leave voter [AMENDED]
230:30-7-14. Verifying voter registration information and status of in-person absentee voters [AMENDED]
Subchapter 9. Processing Applications
230:30-9-3. Processing applications for absentee ballots [AMENDED]
Subchapter 11. Receiving and Processing Absentee Ballots
230:30-11-1. ~~Handling of~~ Preparing absentee ballot box and handling outer envelopes
230:30-11-2. Opening outer envelopes and examining affidavits [AMENDED]
230:30-11-3. Opening and storing properly executed affidavits [AMENDED]
230:30-11-6. Transmitting absentee ballots [AMENDED]
230:30-11-7. Undeliverable absentee ballots returned by postal service to County Election Board [NEW]
Subchapter 17. Replacement of Lost or Undelivered Absentee Ballots
230:30-17-1. Replacement of lost or undelivered absentee ballots [AMENDED]
230:30-17-2. Application for ~~second set of~~ replacement absentee ballots [AMENDED]
230:30-17-3. Voter's agent [AMENDED]
230:30-17-4. Transmittal of ~~second set of~~ replacement absentee ballots [AMENDED]
Subchapter 23. Suspected Violations of Absentee Voting Laws
230:30-23-1. Suspicious activities [AMENDED]
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FINDING OF EMERGENCY:
The Secretary of the State Election Board finds that the following compelling public interests require the adoption of emergency amendments in this chapter. Senate Bill 1350 included amendments to 26:14-108; 26:14-113.2; 26:14-114; 26:14-115; 26:14-115.2; 26:14-121; 26:14-121.1; 26:16-123.1 and Senate Bill 867 amended 26:14-115.4, all of which affect rules in this chapter. The sections of SB 1350 affecting rules in this chapter became effective when the Governor signed the bill on June 6, 2002. Senate Bill 867 becomes effective on August 23, 2002, and will affect conduct of the August 27, 2002, Primary Election. County Election Board personnel rely on these rules to perform their duties. Although they have been notified of the new and amended laws and have been advised of appropriate methods for implementation, it is necessary to provide the updated rules as soon as possible.
ANALYSIS:
Senate Bill 867 amended 26:14-115.4, changing the days and hours of in-person absentee voting. In-person absentee voting now occurs from 8 a.m. to 6 p.m. on Friday and Monday before an election and from 8 a.m. to 1 p.m. on Saturday before an election. Several Sections in Subchapters 5 and 7 are amended to update references to days and times for in-person absentee voting.

Senate Bill 1350 amends several statutes that concern absentee voting — Title 26, Section 14-108; 14-113.2; 14-114; 14-115; 14-121; 14-121.1. As a result of these amendments, a new Definitions Section is created in Subchapter 1 and several Sections in Subchapters 3, 5, 7, 9, 11, and 17 are amended.

Amendments in Subchapter 1 consist of a new Definitions Section.

Amendments in Subchapter 3 concern the new days and hours of in-person absentee voting and a new Section identifies the types of facilities in which residents may receive the services of a nursing home Absentee Voting Board.

Amendments in Subchapter 5 concern the new days and hours for in-person absentee voting.

Amendments in Subchapter 7 concern the new days and hours for in-person absentee voting; a reference to a new item included on a form used by the nursing home Absentee Voting Board; instructions for handling absentee ballot materials from voters whose address information is confidential; and new provisions allowing the spouse or dependent of a military voter recently discharged or home on leave or of an overseas voter recently returned home to cast an in-person absentee ballot. References to the new title of a form used by such voters also are amended.

The amendment in Subchapter 9 concerns applications for absentee ballots from voters who have asked that their residence and mailing address information be kept confidential.

The amendments in Subchapter 11 include the new provision that private mail delivery services, such as Federal Express, may be used by a voter to return voted absentee ballots to the County Election Board. A new Section concerns handling absentee ballots that are returned undelivered by the post office. When absentee ballots are returned undelivered, the County Election Board is instructed to consider the application for ballots cancelled. Guidelines are offered to the County Election Board Secretary who wishes to attempt to contact the voter for a new absentee ballot mailing address when there is sufficient time for the voter to submit a new application and to receive, vote and return absentee ballots. Other amendments concern a new provision making it illegal for one person, except members of Absentee Voting Boards, to witness the signatures on the affidavits of more than five physically incapacitated absentee voters. The County Election Board is instructed to count the ballots

but to report the witness's name to the District Attorney. Also, one amendment includes new advice from the Attorney General concerning notarization requirements on some absentee ballot affidavits.

Several Sections in Subchapter 17 are amended to include a new requirement that applications for a replacement set of absentee ballots to be witnessed or acknowledged in the same manner as the affidavit envelope for the voter's ballot.

The amendment in Subchapter 23 concerns the new provision making it illegal for one person, except members of Absentee Voting Boards, to witness the signatures on the affidavits of more than five physically incapacitated absentee voters.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 1. GENERAL PROVISIONS

230:30-1-2. Definitions

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

"Convalescent hospital" means a nursing facility as defined in Title 62 O.S. 2001, Section 1-1902.

"Nursing home" means a nursing facility as defined in Title 62 O.S. 2001, Section 1-1902.

SUBCHAPTER 3. AUTHORIZATION FOR ABSENTEE VOTING

230:30-3-3. Voters eligible for absentee ballots

(a) ~~*Any registered voter may apply for an absentee ballot*~~ A registered voter may request absentee ballots for any election in which ~~he~~ the voter is eligible to vote. An absentee voter shall not be required to state any reason for the request. [26:14-105]

(b) Registered voters may apply for absentee ballots by stating one of the following reasons.

(1) **Nursing home voters.** Nursing home voters are registered voters who swear or affirm that they are physically incapacitated and ~~*confined to a nursing home or convalescent hospital within the county*~~ confined to a nursing home or convalescent hospital within the county in which they are registered to vote. [26:14-115] They may vote by absentee ballot.

(2) **Physically incapacitated voters.** Physically incapacitated voters are registered voters who swear or affirm that they are physically ~~*unable to vote in person* at their precincts~~ unable to vote in person at their precinct polling places on the day of an election because they are physically incapacitated but are not confined to a nursing home or convalescent hospital within the county in which they are registered to vote. [26:14-110.1(1)] They may vote by absentee ballot.

(3) **Voters charged with the care of physically incapacitated persons.** Voters charged with the care of physically incapacitated persons are registered voters who swear or affirm that they are physically unable to vote in person at their precincts on the day of the election because they are ~~*charged with the care of another person who is physically incapacitated and who cannot be left unattended*~~ charged with the care of a physically incapacitated person who cannot be left unattended. [26:14-110.1] They may vote by absentee ballot.

(4) **Emergency incapacitated voters.** Emergency incapacitated voters are registered voters who ~~*become incapacitated after 5 p.m. on Tuesday preceding an election* and are *unable to vote in person at* their precincts on the day of the election~~ become incapacitated after 5 p.m. on Tuesday preceding an election and are unable to vote at their precinct polling places on election day. [26:14-115.1] They may vote by absentee ballot.

(5) **Military voters.** Military voters are residents of Oklahoma who are members of the Armed Forces or Merchant Marine, and their spouses and dependents, who are 18 years of age or older. They may vote by absentee ballot. These persons need not be registered, but must be qualified to be registered. [26:14-116]

(6) **Overseas voters.** Overseas voters are residents of Oklahoma who are citizens of the United States residing outside the territorial limits of the United States, and their spouses and dependents, who are 18 years of age or older. They may vote by absentee ballot. These persons need not be registered, but must be qualified to be registered. [26:14-116]

(c) Any registered voter may apply for an in-person absentee ballot at the in-person absentee polling place on ~~Thursday,~~ Friday, Saturday or Monday preceding an election. [26:14-115.4(A)] An in-person absentee voter shall not be required to state a reason for the request but shall be required to swear or affirm that he has not voted a regular absentee ballot and that he will not vote at the polling place on election day. [26:14-115.4(A)]

230:30-3-4. Voters not eligible for services of nursing home Absentee Voting Board

Registered voters who reside in an assisted living center as defined by law and registered voters who are in attendance at an adult day care center as defined by law may apply for and cast absentee ballots by mail or at the in-person absentee polling place. Registered voters in such facilities shall not be entitled to the services of a nursing home Absentee Voting Board. In the event a nursing home is housed in the same location as an assisted living center or an adult day care center, only residents of the nursing home portion of the facility are entitled to the services of a nursing home Absentee Voting Board.

SUBCHAPTER 5. APPLICATIONS FOR ABSENTEE BALLOTS

230:30-5-8.1. Time for absentee ballot applications

(a) All absentee voters, except in-person absentee voters and emergency incapacitated voters, may apply any time prior to 5 p.m. on the Wednesday preceding the election. [26:14-103] The application must be in the hands of County Election Board personnel by that time. An application received after 5 p.m. on Wednesday preceding the election --- even if postmarked prior to that time --- must be rejected.

(b) Applications for in-person absentee ballots may only be made from ~~9 a.m. to 5 p.m.~~8 a.m. to 6 p.m. on ~~Thursday,~~ Friday ~~or~~ and Monday or from 8 a.m. to 1 p.m on Saturday immediately preceding an election at the in-person absentee polling place. [26:14-115.4]

(c) Applications for emergency incapacitated absentee ballots may be made any time after 5 p.m. on Tuesday preceding an election through 7 p.m. on election day. [26:14-115.1]

(d) The County Election Board office shall remain open until 5 p.m. on Wednesday preceding an election so that applications may be made in person until that time.

SUBCHAPTER 7. ABSENTEE VOTING BOARDS

230:30-7-6. Scheduling Absentee Voting Boards for an election

(a) **Notification of Absentee Voting Board members.** At least ten days before the election, the Secretary of the County Election Board shall notify the members of one or more Absentee Voting Boards of the day or days the services of the Absentee Voting Board will be required. The Secretary also shall request the members of the Absentee Voting Board to meet on Wednesday before the election to make plans for their work.

(b) **Scheduling the nursing home Absentee Voting Board.** On Wednesday before the election, the Secretary shall work with the Absentee Voting Board to schedule visits to each affected nursing home or convalescent hospital. Visits must be scheduled on Friday, Saturday or Monday immediately preceding the election. [26:14-115(1)] Visits shall be planned to all nursing homes in as few days as possible, preferably in a single day, and preferably on Friday. The Secretary shall consult the administrator of each affected nursing home to schedule a time that will be convenient for the Absentee Voting Board to visit.

(c) **Scheduling the in-person Absentee Voting Board.** An Absentee Voting Board is required to be on duty at the in-person absentee polling place from ~~9 a.m. to 5 p.m. on Thursday,~~ 8 a.m. to 6 p.m. on Friday and Monday and from 8 a.m. to 1 p.m. on Saturday immediately preceding an election. [26:14-115.4]

(d) **Notifying Sheriff of in-person absentee voting.** The Secretary shall notify the County Sheriff of the dates for in-person absentee voting for an election and shall arrange for the Sheriff to provide security for the memory pack and the voted ballots as outlined in 230:30-7-11.3.

230:30-7-9. Procedure for the nursing home Absentee Voting Board

(a) On the day scheduled for the Absentee Voting Board to visit nursing homes, the Board shall meet with the Secretary of the County Election Board at the County Election Board office. The members shall sign the Absentee Voting Board Record. The ballot box shall be prepared as outlined in 230:30-7-8 and issued to the nursing home Absentee Voting Board members. Adequate supplies and ballots shall be provided to anticipate voter assistance requirements and spoiled ballots. Precautions shall be taken to insure accounting for each ballot. The Secretary shall instruct the Absentee Voting Board as to the type of ballots each voter shall receive in case a voter spoils a ballot and a new ballot must be issued.

(b) The Absentee Voting Board shall observe the following procedure:

(1) The two members of the Absentee Voting Board shall travel together in one automobile, taking all necessary forms and supplies.

(2) Upon arrival at a nursing home, the Absentee Voting Board shall make arrangements for those incapacitated voters listed on the Absentee Voting Board Record to vote. Only those persons whose names are on the Absentee Voting Board Record shall be permitted to vote. If the message "Confirm Address" or "Insufficient Address" appears on the Absentee Voting Board Record, the Absentee Voting Board members shall give the voter a copy of the Address Information Requested handout and shall ask the voter to complete an Oklahoma Voter Registration Application form.

(3) The voter must mark his ballots with a ballot marking pen in the presence of the Absentee Voting Board, but in such a manner as to make it impossible for anyone but the voter to tell how the ballots are marked. [26:14-115(3)]

(4) *Insofar as is possible, the voting procedure shall be the same as if the voter were casting his ballot in person at a precinct*. [26:14-115(3)] This includes providing assistance, as provided by law, to persons who are unable to mark their ballots due to physical or visual disabilities or illiteracy. The procedures outlined in the PRECINCT PROBLEM SOLVER shall be followed. However, the Voter Assistance Form shall not be used. The person who marks the voter's ballot shall complete and sign the "Assistant's Oath"on the affidavit envelope. [26:14-113.2]

(5) While a voter may receive assistance, only the voter himself may determine how the ballots are to be marked. If the voter is unable to instruct the person providing assistance, the voter shall not be permitted to vote. If necessary, the voter also may receive assistance to complete the Oklahoma Voter Registration Application.

(6) The procedure outlined in the PRECINCT PROBLEM SOLVER shall be followed if a voter spoils a ballot. The Spoiled Ballot Affidavit shall be used as required.

(7) When the voter has marked his ballots, he shall fold them and seal them in the white ballots envelope. [26:14-115(4)] He then shall seal the white ballots envelope inside the pink affidavit envelope. [26:14-115(4)]

(8) The voter then shall complete and sign the affidavit. [26:14-115(4)] The voter's signature must be witnessed by both members of the Absentee Voting Board. [26:14-115(4)] The members shall sign the affidavit in the space for witnesses but shall not be required to provide their addresses.

(9) The affidavit envelope then shall be placed in the outer envelope and sealed. [26:14-115(5)]

(10) Each outer envelope containing absentee ballots immediately shall be placed in the absentee ballot box.

(11) A member of the Absentee Voting Board shall ~~write the month and day in numbers in the "Did Not Vote" column on the Absentee Voting Board Record if a voter does not vote~~ check either the "Did Vote" column or the "Did Not Vote" column, as appropriate.

(12) All Oklahoma Voter Registration Application forms completed by voters to update their voter registration information shall be placed with other voting supplies for return to the County Election Board office.

(13) When the Absentee Voting Board has completed its visits to each nursing home or convalescent hospital scheduled for that particular day, the members shall return to the County Election Board office and leave the ballot box in the custody of the Secretary. [26:14-115(5)] The Absentee Voting Board shall account for all supplies and unused ballots. The ballot box shall be removed from the County Election Board office only when the Absentee Voting Board is performing its duties. The ballot box, once locked, shall not be unlocked again until it is time for the County Election Board members to remove the outer envelopes. See 230:30-11-2.

230:30-7-11.1. Preparation of polling place and voting device for in-person absentee voting

(a) **Receiving supplies and setting up polling place on first day.** On each in-person absentee voting day, the Absentee Voting Board members meet in the County Election Board office at the time set by the County Election Board Secretary to receive their supplies for the day. The Absentee Voting Board members then go together to the in-person absentee polling place. A table and chairs, one or more voting devices, voting booths, and an OEMS terminal or the Central File should already be in place at the in-person absentee polling place when the Absentee Voting Board members arrive. The Absentee Voting Board members unpack the supplies and prepare each voting device as outlined in (b) of this Section. The Absentee Voting Board members must be ready to receive applications from in-person absentee voters at ~~9 a.m.~~8 a.m.

(b) **Preparing voting device on first day.** The Absentee Voting Board prepares each in-person voting device as outlined in 230:35-5-32.

(c) **Receiving supplies and setting up polling place on second and third days.** On the second and third days of in-person absentee voting, the members of the Absentee Voting Board meet at the County Election Board office at the time specified by the Secretary to receive their supplies for the day. The Absentee Voting Board members also must receive the memory pack for each voting device from the Sheriff no later than ~~8:45 a.m.~~7:45 a.m. [25:14-115.4] The Absentee Voting Board members then follow the instructions in (d) of this Section to prepare each voting device.

(d) **Preparing voting device on second and third days.** On the second and third days of in-person absentee voting, the Absentee Voting Board receives the memory pack from the Sheriff and prepares the voting device as follows:

(1) Follow the procedure outlined in 230:35-5-32(a)(1) through (9).

(2) After unlocking the back panel, insert the memory pack into the voting device. Secure the memory pack door with a seal provided by the Secretary of the County Election Board. Verify that the number on the seal is the same as the number recorded on the Voting Device Report. Check the voting device serial number printed on the back of the voting device and verify that it is the same as the serial number recorded on the Voting Device Report. If either of these numbers does not match the numbers recorded on the Voting Device Report, tell the Secretary of the County Election Board immediately.

(3) Plug the voting device into the electrical outlet. The voting device will immediately begin printing the message RESTARTED WITHOUT ZEROING TOTALS. The voting device is then ready to accept ballots. DO NOT tear off the voting device tape at any time during in-person absentee voting.

(4) If the message does not print out automatically when the device is plugged in, try plugging the voting device into a different electrical outlet. If the message still does not print, tell the Secretary of the County Election Board immediately.

(5) Check the front panel of the voting device. The red light indicates the power is on. The green light indicates the voting device is ready to accept ballots.

(6) Close and lock the rear panel door. Replace the keys in the voting device key envelope, but do not seal the envelope.

(7) Repeat steps (1) through (6) of this subsection for each additional in-person absentee voting device.

230:30-7-11.2. Assistance for the in-person Absentee Voting Board

The County Election Board Secretary may assign employees of the County Election Board to assist the in-person Absentee Voting Board at the in-person polling place. Assistance may include distributing Application for In-Person Absentee Ballots forms~~,~~; verifying voter registration in OEMS ~~or~~ ; in the Central File or in the confidential address status file;~~,~~ locating appropriate ballots~~,~~; directing voters to the correct voting device if more than one is used~~,~~; and helping to maintain order in the in-person absentee polling place.

230:30-7-11.3. Sheriff provides security for memory pack and voted ballots

The Sheriff is required to provide security for the memory pack from the in-person absentee voting device and for the voted ballots in the same manner as for absentee and regular

ballots on election night. [26:14-115.4] See 230:35-3-86. The Sheriff shall receive the memory pack, sealed inside the appropriate envelope, and the voted ballots, sealed inside a ballot transfer box, at the end of each day of in-person absentee voting. The Sheriff shall return the memory pack to the in-person Absentee Voting Board members no later than ~~8:45 a.m.~~7:45 a.m. on each following day of in-person absentee voting. On election day, the Sheriff shall return the memory pack to the Secretary in the presence of the members of the County Election Board when it is time to begin counting absentee ballots received through the mail or from the nursing home Absentee Voting Board. The Sheriff retains custody of the voted in-person absentee ballots unless an election night recount is required. [26:14-115.4] See 230:30-19-4(8) and 230:35-3-85.1.

230:30-7-13. In-person absentee voting procedure for military discharge or military leave voter

If voter registration information for an in-person absentee ballot applicant cannot be found in the Central File or in OEMS and that applicant informs the Absentee Voting Board members that he or she is on leave or has recently been honorably discharged from the United States Armed Forces or has recently been terminated in service or employment overseas, the applicant may be entitled to vote without being registered. [26:14-121] The spouse or dependent of such a person also is entitled to vote without being registered. [26:14-121] Refer to the "Military Discharge or Military Leave" section of the PRECINCT PROBLEM SOLVER (230:35-5-114) and follow those instructions to assist this applicant and to use the Military ~~Discharge~~ /Overseas Affidavit, if necessary. Ask a County Election Board employee for help to determine the correct absentee ballot to issue to the voter.

230:30-7-14. Verifying voter registration information and status of in-person absentee voters

The Absentee Voting Board members are required to verify the registration information of each voter who applies for an in-person absentee ballot. The County Election Board Secretary shall instruct the Absentee Voting Board members to use one of the following methods to verify voter registration information and status. However, the in-person Absentee Voting Board is required to use the OEMS terminal when a school district or vocational-technical school district election is held.

(1) **OEMS terminal.** The Absentee Voting Board members may use an OEMS terminal set up in public access mode to verify voter registration. County Election Board personnel shall place an OEMS terminal at the in-person absentee polling place location and shall prepare the terminal for use. County Election Board personnel shall teach the Absentee Voting Board members to use the terminal to find voter registration information about each applicant for in-person absentee ballots. While viewing the applicant's voter registration information in OEMS, the Absentee Voting Board member also shall determine whether the voter is active or inactive. If the "Voter Status" field indicates the voter is inactive, if the number in the section field is greater than "36," or if the "SD" field on the screen is blank, the Absentee Voting Board member shall give the voter a copy of the "Information Requested" handout and an Oklahoma Voter Registration Application form and shall ask the voter to use the form to update his or her voter registration information. In the event that a voter's residence address, mailing address, and precinct information does not appear on the screen, ask a County Election Board employee for help to process the voter.

(2) **Central File.** The Absentee Voting Board members may use the Central File to verify voter registration, except in school or vocational-technical district elections. The Absentee Voting Board member shall locate the voter's original registration form in the Central File. If the Absentee Voting Board uses the Central File to verify registration information, the County Election Board Secretary may provide them with a copy of the Registered Voter Mailing List report that lists only inactive voters. After locating an applicant's original registration form in the Central File and recording the precinct number, the Absentee Voting Board member looks for the voter's name on the Registered Voter Mailing List report for that precinct. If the voter's name is on the report, the Absentee Voting Board member gives the voter a copy of the "Address Information Requested" handout and an Oklahoma Voter Registration Application form and asks the voter to update his or her voter registration information. In the event that a voter's residence address, mailing address, and precinct information does not appear on the registration form in the Central File, ask a County Election Board employee for help to process the voter.

SUBCHAPTER 9. PROCESSING APPLICATIONS

230:30-9-3. Processing applications for absentee ballots

Applications from all absentee voters, except military and overseas voters, shall be processed according to the following procedures:

(1) Indicate on the application form the date on which the application is received at the County Election Board office.

(2) Enter the application information into OEMS. When applications from absentee voters, nursing home voters, physically incapacitated voters, voters charged with the care of physically incapacitated persons and emergency incapacitated voters are entered into OEMS, the system automatically verifies the applicant's registration. If an applicant is not registered, see 230:30-9-4.

(3) If a voter requests absentee ballots for a school district other than the one to which he or she is assigned, mark the appropriate field on the OEMS screen. OEMS will generate a notice that tells the voter that he or she is assigned to a different school district than the one for which ballots were requested and that ballots for the assigned district will be issued. If a voter is not assigned to a

school district, the school district field will be empty. Enter the appropriate code for the school district indicated by the voter on the absentee ballot application in the school district field.

(4) If the application must be rejected for any reason, enter the reason for the rejection in the appropriate place on the screen. OEMS will produce a Notice of Rejection of Absentee Ballot Application letter for the voter. However, in the event that an Application for In-Person Absentee Ballot has been rejected, it shall not be entered into OEMS.

(5) Designate the election or elections for which the voter is requesting ballots in the appropriate place on the screen.

(6) Write the applicant's voter identification number and registration status (active or inactive) on the application form. Fill in the information required in the shaded "For Election Board Use Only" box in the lower right corner of the form.

(7) File the application form in the appropriate absentee voting materials file. If the applicant is a confidential address status voter, file the application in the confidential address status file.

(8) If the application is from an in-person absentee voter and ballots were issued by the Absentee Voting Board, enter the date the application was processed by the Absentee Voting Board in the appropriate space on the screen to give the voter credit for voting. See 230:30-7-12. If the application was rejected, no entry shall be made in OEMS. A rejected Application for In-Person Absentee Ballot shall be retained with other rejected applications.

(9) If ballots are available, immediately prepare the appropriate absentee voter packet with the correct ballots for the voter and mail it. See 230:30-9-1 and 230:30-9-2. If the letter "I" appears in the upper-right corner of the absentee mailing label, the voter is either an inactive voter or a voter unassigned to a school district due to insufficient address information. Enclose an Oklahoma Voter Registration Application form and an Instructions for Updating Voter Registration Information sheet with the absentee voter packet and ballots.

SUBCHAPTER 11. RECEIVING AND PROCESSING ABSENTEE BALLOTS

230:30-11-1. ~~Handling of~~ Preparing absentee ballot box and handling outer envelopes

(a) Upon receipt of the first outer envelope containing regular mail absentee ballots, the Secretary of the County Election Board shall lock a ballot box of the type described in 230:30-7-8(b) and shall give one key each to the Chairman and Vice Chairman of the County Election Board. The keys may be mailed to the Chairman and Vice Chairman if necessary. The Secretary shall retain the third key.

(b) The date on which the outer envelope is received shall be entered in the voter's application information in OEMS. The outer envelope then shall be placed in the locked absentee ballot box, which shall be retained in the County Election Board office. All subsequently returned absentee ballots shall be handled in the same manner.

230:30-11-2. Opening outer envelopes and examining affidavits

The County Election Board may meet any time after 10 a.m. on the Saturday preceding the election to remove outer envelopes. [26:14-123] Unless the number of absentee ballots is extremely high, this meeting shall be scheduled on the day of the election. Upon meeting, the Board shall unlock each ballot box containing absentee ballots. Each envelope shall be removed from the ballot box. The outer envelopes shall be opened and removed and the affidavit envelopes examined. If an inactive voter has enclosed the Oklahoma Voter Registration Application form inside the outer envelope, set the application aside to be processed later. The examination shall determine whether or not the affidavit is properly executed. The following requirements shall be observed:

(1) The signature on a pink affidavit submitted by a physically incapacitated voter, a voter charged with the care of a physically incapacitated person or an emergency incapacitated voter must be witnessed by two other persons. [26:14-113.2]

(A) No one may witness signatures on more than five of these pink affidavits per election. [26:14-113.2(B)]

(B) If someone witnesses signatures on more than five of these pink affidavits, the absentee ballots shall be counted but the witness shall be reported to the District Attorney. See 230:30-23-1.

(2) The signature on a yellow affidavit submitted by an absentee voter must be witnessed by a Notary Public. [26:14-108] Affidavits from states other than Oklahoma may be notarized by a person other than a Notary Public who is authorized to administer oaths.

(A) The Notary Public must sign and impress the notarial seal on the affidavit for the attestation to be valid.

(B) The number and expiration date of a Notary Public in Oklahoma should be included in the attestation. However, the attestation shall be considered valid even if this information is missing.

(3) The signature on a pink affidavit submitted by a nursing home voter must be witnessed by two members of the nursing home Absentee Voting Board, who shall not be required to show their addresses. [26:14-115]

(4) Voters using the red and white affidavit need not have their signatures witnessed.

(5) The outer (mailing) envelope of a federal write-in absentee ballot shall not be opened at this time. The voter's declaration/affirmation on the mailing envelope shall be examined. The voter's signature need not be witnessed.

230:30-11-3. Opening and storing properly executed affidavits

(a) If the County Election Board meets prior to election day to open outer envelopes as outlined in 230:30-11-2, it is permissible for the Board members also to open and remove affidavit envelopes that are determined to be executed properly. Upon removing the affidavits, the Board members shall place the ballot envelopes in a ballot box of the type described in 230:30-7-8(b) and shall lock the box. If an inactive voter enclosed the Oklahoma Voter Registration Application form inside the affidavit envelope, set the application aside to be processed later. Additionally, the Board members shall affix a long white State Election Board seal across the opening on the top of the box so that the opening is entirely obstructed. The County Election Board members each shall sign and date the seal. Each member of the County Election Board shall retain the key to only one of the locks on the ballot box. The Secretary shall store the ballot box in a secure place until it is time to count the absentee ballots on election day. The affidavits shall be set aside in a secure place and shall be retained as outlined in 230:30-21-4.

(b) The procedure for opening and removing affidavit envelopes described in (a) of this Section shall be observed only in the event that an extraordinarily large number of absentee ballots has been received.

(c) In the event that one person witnesses signatures of more than five physically incapacitated voters on pink affidavits as outlined in 230:30-11-2(1), separate the affidavits signed by that witness from other properly executed affidavits, but place the ballot envelopes they contain with all other ballot envelopes to be opened and counted. See 230:30-23-1.

230:30-11-6. Transmitting absentee ballots

(a) **Transmitting absentee ballots to voter.** The County Election Board shall transmit absentee ballots to all absentee voters --- except nursing home absentee voters, in-person absentee voters, and emergency incapacitated absentee voters --- by United States mail. [26:14-106; 26:14-111.1; 26:14-118] Absentee ballots for nursing home absentee voters shall be delivered to the voters in person by the nursing home Absentee Voting Board as outlined in 230:30-7-9. [26:14-115] Absentee ballots for in-person absentee voters shall be issued to the voter by the in-person Absentee Voting Board at the in-person absentee polling place as outlined in 230:30-7-11. [26:14-115] Absentee ballots for emergency incapacitated absentee voters shall be delivered to the voter by the voter's agent as outlined in 230:30-9-6. [26:15-115.1]

(b) **Transmitting voted absentee ballots from voter to the County Election Board.** All absentee voters --- except nursing home absentee voters, in-person absentee voters, and emergency incapacitated absentee voters --- shall transmit their voted absentee ballots back to the County Election Board by United States mail. [26:14-108; 26:14-113.2; 26:14-120] Express delivery service provided by the United States Postal Service (Express Mail™) is considered United States mail. Voted absentee ballots from nursing home absentee voters shall be delivered to the County Election Board office by the nursing home Absentee Voting Board as outlined in 230:30-7-9. [26:14-115] Voted absentee ballots from in-person absentee voters shall be deposited by the voter directly into the appropriate voting device as outlined in 230:30-7-11. [26:14-115.4] Voted absentee ballots from emergency incapacitated absentee voters are delivered to the County Election Board by the voter's agent as outlined in 230:30-9-6. [26:14-115.1]

(c) Absentee ballots ~~received via a courier service or an express delivery~~ may be returned by a private mail service (such as Federal Express™) ~~shall be rejected~~ that provides delivery documentation. ~~Such delivery services are not United States mail.~~ The decision to use such a private mail service to return voted absentee ballots, as well as the expense of such service, shall be the voter's.

230:30-11-7. Undeliverable absentee ballots returned by postal service to County Election Board

(a) In the event that absentee ballots mailed to a voter are returned to the County Election Board by the postal service because they are undeliverable as addressed, County Election Board personnel shall note on the envelope the date the undeliverable ballots were received and shall set them aside in a secure place. Such returned undeliverable absentee ballots shall be retained for 24 months with other absentee voting materials for the election. No entry concerning the undelivered ballots shall be made in the voter's absentee application in OEMS. Do not mail the ballots to another address unless it is provided in writing by the voter in the form of a new application for absentee ballots. If the voter's application includes additional upcoming elections, the application shall be considered cancelled and shall be deleted from OEMS. See 230:30-5-8.2.

(b) When the postal service returns undeliverable absentee ballots to the County Election Board, the Secretary is not required to try to contact the voter to obtain a new or a corrected mailing address. The Secretary may choose to do so, however, if there is sufficient time for such communication before the election, or if the voter has applied for absentee ballots for additional upcoming elections. If the Secretary chooses to contact the voter, the following guidelines should be observed. See (c) of this Section for the suggested contents of a letter to the voter.

(1) If the postal service has provided a forwarding address on the returned mailing envelope, mail a letter to the voter at that address

(2) If the ballots were not mailed to the voter's residence address, mail a letter to the voter at the residence address or to the mailing address provided on the voter's voter registration application.

(3) If the ballots were mailed to a military or overseas voter and were returned with a forwarding address, mail a letter to the voter at that address.

(c) Prepare a letter to the voter explaining that the absentee ballots could not be delivered to the voter by the postal service at the address provided on the absentee ballot application form and that ballots cannot be mailed again to that address. Enclose a new application form and ask the voter to fill it out

with a new or a corrected mailing address and to return it. Include the deadline for absentee ballot applications for the affected election, or for the next election covered by the original application.

(d) If a voter whose absentee ballots were returned undelivered by the postal service contacts the County Election Board to inquire about the ballots, follow the procedures outlined in 230:30-17-1 through 230:30-17-4 to replace the ballots.

SUBCHAPTER 17. REPLACEMENT OF LOST OR UNDELIVERED ABSENTEE BALLOTS

230:30-17-1. Replacement of lost or undelivered absentee ballots

Absentee voters who lose or do not receive the absentee ballots mailed to them by the County Election Board may apply for a second set of absentee ballots to replace the original set. [26:14-121.1] An application for ~~a second set of~~ replacement absentee ballots cannot be made earlier than seven days after the ballots were mailed by the County Election Board. [26:14-121.1]

230:30-17-2. Applications for ~~second set of~~ replacement absentee ballots

(a) ~~If more than seven days have passed since the absentee ballots were mailed by the County Election Board, the voter may apply for a second set of absentee ballots by making a written request.~~ An application for replacement absentee ballots must be made in writing. [26:14-121.1] The voter ~~shall~~ is required to swear or affirm that the first set of absentee ballots ~~were~~ either was received but subsequently lost by the voter or ~~were~~ that is was not received and that ~~only one set of absentee ballots will be voted~~ the voter will vote and return only one set of absentee ballots. [26:14-121.1] The voter shall personally sign the written request and the voter's signature shall be acknowledged ~~by a Notary Public~~ in the same manner as required on the affidavit envelope that accompanies the voter's ballots. [26:14-121.1]

(1) If the voter receives a yellow affidavit envelope, the voter's signature must be notarized.

(2) If the voter receives a pink affidavit envelope, the voter's signature must be witnessed by two persons whose names and addresses must be included on the application.

(3) If the voter receives a red and white affidavit envelope, the voter's own signature is sufficient.

(b) The voter may use the Application for ~~Second Set of~~ Replacement Absentee Ballots form, but use of the form is not required. [26:14-121.1] A letter setting forth the same facts shall be a sufficient application, provided that it is signed by the voter and acknowledged ~~by a Notary Public shall be a sufficient application~~ in the same manner as required on the affidavit envelope that accompanies the voter's ballots. [26:14-121.1] See (a) of this Section. The application for ~~a second set of~~ replacement absentee ballots may be transmitted to the County Election Board in person by the voter, by United States mail or by an agent designated by the voter. [26:14-121.1]

230:30-17-3. Voter's agent

A voter who applies for ~~a second set of~~ replacement absentee ballots may designate an agent to transmit the application to the County Election Board. [26:14-121.1] This agent may be anyone of the voter's choosing who is at least 16 years of age, provided that the agent is not employed by nor related within the third degree of consanguinity or affinity to any person whose name appears on the ballot. [26:14-121.1] No person may be an agent for more than one voter at any election. [26:14-121.1]

230:30-17-4. Transmittal of ~~second set of~~ replacement absentee ballots

The ~~second set of~~ replacement absentee ballots shall be transmitted to the voter in the same manner as was the original set of absentee ballots. The voter shall return the voted ~~second set of~~ replacement ballots to the County Election Board in the same manner as required for the original set of absentee ballots. [26:14-121.1]

SUBCHAPTER 23. SUSPECTED VIOLATIONS OF ABSENTEE VOTING LAWS

230:30-23-1. Suspicious activities

(a) **Large number of requests.** Typically, absentee voting accounts for about 1.5 percent of the votes cast in an election. The Secretary of the County Election Board shall monitor requests for absentee ballots and shall compare the level of requests with previous elections of a similar nature in his county. In the event there appears to be an unusually large number of requests, the Secretary shall notify the proper authorities.

(b) **Requests for same address.** If there appears to be an unusual number of requests for absentee ballots to be mailed to a single address, the Secretary of the County Election Board shall notify the proper authorities.

(c) **Unusual notarization.** If it appears that a single Notary Public is witnessing a large number of absentee ballot affidavits, the Secretary shall notify the proper authorities.

(d) **Improper witnessing.** If one person witnesses the signatures of more than five physically incapacitated voters, voters charged with the care of physically incapacitated persons, or emergency incapacitated voters, the Secretary shall notify the proper authorities. The absentee ballots shall be counted, however.

(e) **Other suspicious activities.** If there are any suspicious activities, or extraordinary activities, concerning absentee voting, the Secretary shall notify the proper authorities.

[OAR Docket #03-74; filed 1-8-03]
(format accepted 1-14-03)

TITLE 230. STATE ELECTION BOARD CHAPTER 35. ELECTION CONDUCT

[OAR Docket #03-75]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 3. County Election Board Responsibilities
Part 17. Disposition of Materials
230:35-3-101. Processing Forms for use by Precinct Officials Booklets [AMENDED]
Subchapter 5. Instructions for Precinct Election Officials
Part 21. Problems with Eligibility
230:35-5-111. Voter whose name is not in Precinct Registry — Challenged Voter Procedure [AMENDED]
230:35-5-114. Military ~~discharge or military leave~~ or Overseas Voter [AMENDED]
Part 25. Special Services
230:35-5-129. Cancellation of registration of deceased voter [AMENDED]
AUTHORITY:
Title 26 O.S., Section 2-107. Secretary of the State Election Board
DATES:
Adoption:
November 20, 2002
Approved by Governor:
January 2, 2003
Effective:
Immediately upon approval by Governor
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATION BY REFERENCE:
n/a
FINDING OF EMERGENCY:
The Secretary of the State Election Board finds that the following compelling public interests require the adoption of emergency amendments in this chapter. Senate Bill 1350 included amendments to 26:4-120.3 and 26:14-121, which affect rules in this section. In addition, the many changes in precinct lines as a result of redistricting have required amendments to clarify and expand a procedure that directly affects voters at the polling place on election day. The sections of SB 1350 that affect this chapter became effective when the Governor signed the bill on June 6, 2002. County Election Board personnel rely on these rules to perform their duties. Although they have been notified of new and amended laws and have been advised of appropriate methods for implementation, it is necessary to provide the updated rules as soon as possible.
ANALYSIS:
The amendment in Subchapter 3 is needed to change the name of a form used by Precinct Officials on election day. The form has a new title but is unchanged in content and purpose.

Most precinct boundary lines changed radically following redistricting, and many voters will be voting in different precincts beginning with the Primary Election in August. As part of the process of drawing new precinct lines, several County Election Board Secretaries chose to renumber every precinct, with the result that precinct numbers on old voter identification cards are no longer valid. Unfortunately, many voters may not have received their new voter identification cards showing their new precinct numbers and polling places.

A section in Subchapter 5 is amended to clarify a procedure for assisting voters whose names do not appear in the Precinct Registry. By law, a voter may vote if he or she presents the Precinct Judge with a voter identification card showing the voter to be a registered voter in the precinct. In the past, that was determined based on the precinct number. However, especially in counties that renumbered all precincts, the precinct number alone will not help many voters who appear at the wrong polling place. The procedure is revised to provide that any voter whose voter identification card shows a residence address located within the current boundaries of the precinct may vote. Instructions also are included for directing a voter who does not reside in the current precinct to the correct precinct polling place. This amended procedure was developed in consultation with several County Election Board Secretaries.

Other amendments in Subchapter 5 concern the new provision allowing the spouse or dependent of a military voter who has been recently discharged or who is home on leave or an overseas voter who has recently returned home to cast in-person absentee ballots. References to the name of a form used by such voters also is changed. A section also is amended to provide that the next of kin of a deceased voter may complete a form to cancel the deceased voter's registration at the next of kin's polling place on election day. In the past, this action could be taken only at the deceased voter's polling place.
CONTACT PERSON:
Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 3. COUNTY ELECTION BOARD RESPONSIBILITIES

PART 17. DISPOSITION OF MATERIALS

230:35-3-101. Processing forms for use by precinct officials booklets

(a) The Secretary shall remove the FORMS FOR USE BY PRECINCT OFFICIALS booklet and all used Oklahoma Voter Registration Applications from the election supply container from each precinct. Examine the FORMS booklet, tear out all used forms and process them according to the following procedure.

(1) The Secretary shall examine the Challenged Voter Affidavit and shall verify that a completed Oklahoma Voter Registration Application form with an old voter identification card attached has been returned by every voter who signed the affidavit. These voter registration applications shall be processed as new applications or as transfers on election day as appropriate. See 230:15-9-18 and 230:15-9-24. The surrendered voter identification card shall be retained for 24 months in the Cancellation File. See 230:10-7-40.

(2) The Secretary shall cancel the registrations of deceased voters indicated by used Cancellation of Registration of Deceased Voter forms as outlined in 230:15-5-63 and 230:15-5-65.

(3) The Secretary shall read the Inspector's Notes to Secretary sheets and shall take any necessary action.

(4) The Secretary shall examine the Absentee Voter Affidavit. If OEMS identifies voters who voted both by absentee ballot and in person, the Secretary shall notify both the District Attorney and the State Election Board. The Secretary shall follow any instructions concerning the Absentee Voter Affidavit given by either the District Attorney or the State Election Board.

(5) The Secretary shall examine the Military ~~Discharge~~ /Overseas Affidavit and shall verify that persons who

signed it also completed a voter registration application form. These applications shall be processed as new applications. See 230:15-9-18. If a voter signed the Military ~~Discharge~~ /Overseas Affidavit and voted but did not return a completed voter registration application form to Precinct Officials, the Secretary shall mail an application form to the voter.

(6) The Secretary shall examine the Valid Application Affidavit and shall verify that the processing of voter registration applications from persons who signed the affidavit is completed as outlined in 230:15-9-12, 230:15-9-18 and 230:15-9-19.

(b) All remaining voter registration application forms shall be processed as transfers on election day. See 230:35-3-101.1 and 230:15-9-24.

(c) After the used forms have been processed as outlined in (a) of this Section they shall be retained for 24 months following the date of the election. The booklet covers and any unused forms remaining inside the covers shall be retained for 30 days following the election and then shall be destroyed.

SUBCHAPTER 5. INSTRUCTIONS FOR PRECINCT ELECTION OFFICIALS

PART 21. PROBLEMS WITH ELIGIBILITY

230:35-5-111. Voter whose name is not in Precinct Registry --- Challenged Voter Procedure

(a) A person not listed in the Precinct Registry may vote if he or she has a voter identification card for and address located within the current boundaries of the precinct. When a person's name is not in the Precinct Registry, the Judge follows this procedure.

(1) Ask to see the person's voter identification card.

(2) Show the voter the precinct map and tell the voter to locate the residence address printed on the voter identification card on the map.

(A) If the ~~person does not have a~~ residence address on the voter identification card ~~for~~ is not located within the current geographical boundaries of this precinct, the person may not vote. ~~For one exception, see 230:35-5-111.1.~~ If information provided by the County Election Board indicates the voter's correct polling place, refer the voter to that location. If not, tell the voter to contact the County Election Board office for more information.

(B) If the ~~person has a~~ residence address on the voter identification card ~~for~~ is located within the current geographical boundaries of this precinct, the person may vote ~~only~~ after ~~surrendering the card to the Judge, filling out an Oklahoma Voter Registration Application form, and signing the Challenged Voter Affidavit~~ the actions outlined in paragraphs 3 through 7 of this subsection are completed.

(C) If the person does not have a voter identification card because the voter recently applied for voter registration and has not received a card, see 230:35-5-111.1.

(~~2~~3) Give the voter an Oklahoma Voter Registration Application form.

(~~3~~4) Ask the voter to fill out and sign the application.

(~~4~~5) Print the voter's name, address, telephone number, political affiliation and the ballots to be issued on the Challenged Voter Affidavit and sign it in the space for the Judge's signature.

(~~5~~6) Tell the voter to read the oath printed on the Challenged Voter Affidavit and to sign the affidavit.

(~~6~~7) Attach the voter's old voter identification card to the Oklahoma Voter Registration Application form with a paper clip and ~~returns~~ return to the routine procedure.

(b) If a person not listed in the Precinct Registry has a voter identification card ~~for the~~ with an address located within the current boundaries of this precinct but refuses to fill out an Oklahoma Voter Registration Application form, refuses to surrender the voter identification card, and/or refuses to sign the Challenged Voter Affidavit form, the person may not vote. If the person has a voter identification card but ~~it is not for~~ the address on the card is not located within the current boundaries of this precinct, the person may not vote. Refer such persons to the Secretary of the County Election Board if they have questions.

230:35-5-114. Military ~~discharge or military leave~~ or Overseas Voter

(a) Some persons may be entitled to vote without being registered if they are eligible to become registered voters, if they are residents of the precinct, and if they also meet one of the following requirements.

(1) The person was honorably discharged from the Armed Forces of the United States and has returned home 24 days or less before the election.

(2) The person is on officially authorized leave from the Armed Forces of the United States and has returned home 24 days or less before the election.

(3) The person was terminated in his or her service or employment overseas and returned home 24 days or less before the election.

(4) The person is the spouse or dependent of a person described in (1), (2) or (3) of this subsection.

(b) The Inspector follows this procedure.

(1) Ask the voter to fill out and sign the Oklahoma Voter Registration Application form.

(2) Print the voter's name, address, political affiliation and the ballots to be issued to the voter in the appropriate spaces on the Military ~~Discharge~~ /Overseas Affidavit.

(3) Tell the person to read the oath printed on the Military ~~Discharge~~ /Overseas Affidavit.

(4) Tell the voter to sign the Military ~~Discharge~~ /Overseas Affidavit.

(5) Tell the Clerk the voter's political affiliation.

(6) Return to the routine procedure.

(c) Voters who sign the Military ~~Discharge~~ /Overseas Affidavit swear this oath. "Do you swear or affirm that you have been honorably discharged, or that you are on leave from the

Armed Forces of the United States, or that you have been terminated in your service or employment overseas and returned home 24 days or less before the election being conducted today, or that you are the spouse or dependent of such a person? [25:14-121] Do you swear or affirm that you are eligible to vote in this precinct? [26:14-121] Do you swear or affirm that you have filled out and signed an Oklahoma Voter Registration Application form? [26:14-121] Do you swear or affirm that you have not voted by absentee ballot in the election being conducted today?"

PART 25. SPECIAL SERVICES

230:35-5-129. Cancellation of registration of deceased voter

~~If a deceased voter's name is in the Precinct Registry, the person's~~ The next of kin of a deceased voter may cancel the deceased voter's registration at the polling place on election day. [26:4-120.3] The decision to cancel ~~the~~ such a registration belongs to the next of kin. The Inspector follows this procedure if the next of kin chooses to cancel the registration.

(1) Print the following information on the green Cancellation of Registration of Deceased Voter form.

(A) Precinct number.

(B) Today's date.

(C) The deceased voter's name, residence address, and birth date.

(2) Ask the next of kin to read the Cancellation of Registration of Deceased Voter form and to sign it if all the information is correct.

(3) Sign the form, indicate your title, and date the form.

[OAR Docket #03-75; filed 1-8-03]
(format accepted 1-14-03)

TITLE 230. STATE ELECTION BOARD CHAPTER 40. TYPES OF ELECTIONS

[OAR Docket #03-76]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 1. General Provisions
230:40-1-2. Definitions [NEW]
Subchapter 3. Special Elections
Part 3. Vacancies
230:40-3-10. Vacancies in other county offices [AMENDED]
230:40-3-11. Irrevocable resignation of incumbent [NEW]
Subchapter 7. School Elections
Part 1. Date for Annual Election
230:40-7-1. Annual School Elections [AMENDED]
230:40-7-3. Resolution required [AMENDED]
Part 7. Ballot Printing
230:40-7-26. Materials and ballots [AMENDED]
230:40-7-27. County Purchasing Agent obtains bids [REVOKED]
Part 9. Procedures
230:40-7-34. General laws apply [AMENDED]
230:40-7-35. ~~Polling places~~Precincts in school elections [AMENDED]
230:7-35.1. Procedure for closing split precinct in which 100 or fewer voters are registered in school district or technology center district [NEW]
230:40-7-37. Precinct Registries [AMENDED]
230:40-7-39. Absentee voting [AMENDED]
230:40-7-40. Forms provided by the County Election Board [AMENDED]
Part 11. Special Elections
230:40-7-47. Notice of special election [AMENDED]
230:40-7-50. Closing precincts in special elections [REVOKED]
230:40-7-50.1. Notification letter [REVOKED]
230:40-7-50.2. County Election Board responsibilities for closed precincts [REVOKED]
230:40-7-50.3. Voting alternatives for voters in closed precincts [REVOKED]
230:40-7-51. Combining precincts in school elections [REVOKED]
230:40-7-51.1. Conditions that prohibit or limit combination of precincts [REVOKED]
230:40-7-51.2. Responsibilities of the school district superintendent [REVOKED]
230:40-7-51.3. Responsibilities of the County Election Board [REVOKED]
Part 23. Multi-County School Districts
230:40-7-97. Multi-county school districts [AMENDED]
AUTHORITY:
Title 26 O.S., Section 2-107. Secretary of the State Election Board
DATES:
Adoption:
November 20, 2002
Approved by Governor:
January 2, 2003
Effective:
Immediately upon approval by Governor
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATION BY REFERENCE:
n/a
FINDING OF EMERGENCY:
The Secretary of the County Election Board finds that the following compelling public interests require adoption of emergency amendments in this Chapter. Senate Bill 1350 included an amendment to 26:13A-101 and an amendment to 26:12-111. Senate Bill 1350 became effective on when the Governor signed it on June 6, 2002. Senate Bill 826 created new law to be codified as 26:12-119 that became effective on November 1, 2002. County Election Board personnel rely on these rules to perform their duties. Although they have been notified of the new and amended laws and have been advised of appropriate methods for implementation, it is necessary to provide the updated rules as soon as possible.
ANALYSIS:
A Definitions section as been added in Subchapter 1 to define the term "split precinct."

In Subchapter 3, one section is amended to change the specified county population level from 550,000 to 600,000 in accordance with the amendment to 26:12-111. A new Section is added to describe the irrevocable resignation procedure created by 26:12-119.

Senate Bill 1350 included an amendment to 26:13A-101 that removed language that had allowed school districts to combine precincts in some circumstances. New language was added to this section that allows school districts to close split precincts in which no one lives in the part of the precinct located within the district's boundary and that instructs the Secretary of the State Election Board to promulgate rules to allow school districts to close split precincts in which 100 or fewer voters are registered at addresses located in the part of the precinct that lies within the district. In Subchapter 7, several sections are amended to create a procedure for closing split precincts in school elections. Several Sections concerning closing precincts and combining precincts in school elections are revoked because they no longer comply with 26:13A-101 as amended by SB1350. Additionally, several sections are amended to replace the term "vocational-technical school district" or "vo-tech" with the new term "technology center school district" or "technology center."
CONTACT PERSON:
Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 1. GENERAL PROVISIONS

230:40-1-2. Definitions

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

"Split precinct" means a precinct that includes portions of territory of two or more school or technology center districts or two or more municipalities.

SUBCHAPTER 3. SPECIAL ELECTIONS

PART 3. VACANCIES

230:40-3-10. Vacancies in other county offices

(a) In the event a vacancy occurs for any county office other than for County Commissioner in any county having a population of less than ~~550,000,~~ 600,000, according to the latest Federal Decennial Census, the vacancy shall be filled as follows:

(1) If a vacancy occurs prior to the filing period for regular county elections and the vacated office is not scheduled to be on the ballot at that election, the vacancy shall be filled at a Special Election proclaimed by the County Commissioners. [51:10(b)] The filing period and the election dates contained in the proclamation shall be the same as for the regular county Primary, Runoff Primary and General Elections. [51:10(b)] At the time they call the elections, the Commissioners also shall appoint someone to hold the office until the Special Election. [51:10(b)]

(2) If a vacancy occurs in an office that is scheduled to be on the ballot at the next regular county election, the Commissioners shall fill the vacancy by appointment for the unexpired term, and no Special Election shall be held.

(b) In a county having a population of more than ~~550,000,~~ 600,000, according to the latest Federal Decennial Census, a vacancy in any elective county office shall be filled by special election in the same manner as a vacancy in the office of County Commissioner. See 230:40-3-9.

230:40-3-11. Irrevocable resignation of incumbent

(a) An incumbent United States Senator, United States Representative, State Senator, State Representative, or County Commissioner may file an irrevocable resignation that will not become effective immediately but on a specified date in the future. An irrevocable resignation must be made in writing and filed with the Oklahoma Secretary of State. The Governor is authorized to proceed as if the office already were vacant and to call a special election to fill the vacancy. The special election shall be held as required by law for the office to be filled. (See 230:40-3-7 through 230:40-3-10.) The person elected at the special election shall take office on the date the election is certified or on the date the irrevocable resignation becomes effective, whichever is later.

(b) An incumbent in any elective county office in any county with a population of more than 600,000, according to the most recent federal decennial census, may file an irrevocable resignation as outlined in (a) of this section. See 230:40-3-10(b).

SUBCHAPTER 7. SCHOOL ELECTIONS

PART 1. DATE FOR ANNUAL ELECTION

230:40-7-1. Annual School Elections

Annual School District and ~~Vocational-Technical~~ Technology Center School District Elections shall be held *on the second Tuesday in February of each year*. [26:13A-103(A)]

230:40-7-3. Resolution required

(a) ~~Resolutions~~ A resolution from the Board of Education of a school district or a technology center school district calling for the Annual School Elections ~~*shall be delivered to the Secretary of the County Election Board no fewer than 15 days preceding the first day of the filing period*~~ shall be delivered to the County Election Board Secretary no fewer than 15 days before the first day of the candidate filing period established by law. [26:13A-109(C)] The resolution for the Annual School Election also shall ~~include the date of the~~ call for an Annual School Runoff Election to be held if needed under the circumstances set forth by law.

(b) A resolution from the Board of Education of a school or technology center district calling for a special election shall be delivered to the County Election Board Secretary ~~*no fewer than 60 days preceding the election*~~ no fewer than 60 days before the special election date. [26:13A-109(D)]

(c) ~~The~~ A resolution from the Board of Education of a school or technology center district shall include, but shall not be limited to, the following ~~items of~~ information: [26:13A-109(B)]

(1) ~~*Date or dates of the election or elections*~~ The date of the election. [26:13A-109(B)] The resolution for the district's Annual School Election must also include the date of the Annual School Runoff Election.

(2) ~~*The office or offices to be filled.*~~ The office or offices, identified by number, to be filled. [26:13A-109(B)]

(3) ~~*Qualifications of candidates for office.*~~ The qualifications of candidates for office. [26:13A-109(B)]

(4) ~~*Length of term of office.*~~ The length of the term of each office to be filled. [26:13A-109(B)]

(5) ~~*Description of election districts within the school district, if applicable.*~~ Descriptions of the election districts within the school district, if applicable; or, in the case of a technology center district, descriptions of the zones within the district. [26:13A-109(B)]

(6) Ballot titles of all questions to be voted upon, if applicable. [26:13A-109(B)]

(7) ~~Description of persons eligible to vote in the election.~~ Information identifying the persons eligible to vote in the election. [26:13A- 109(B)]

(8) Certification to close split precincts in which no one lives in the district for this election, if applicable. [26:13A-101]

(9) ~~*All other information necessary for conducting the election.*~~ All other information required to conduct the election or elections.[26:13A-109(B)]

PART 7. BALLOT PRINTING

230:40-7-26. Materials and ballots

All materials and ballots necessary to conduct any school district or ~~vocational-technical school~~ technology center district election shall be provided by the County Election Board and shall be the same, as nearly as possible, as those used for state and county elections.

230:40-7-27. County Purchasing Agent obtains bids [REVOKED]

~~The Secretary shall notify the County Purchasing Agent to obtain bids for printing all regular ballots, absentee ballots and sample ballots for all school districts, including those school districts for which the county is an affected county. The Secretary shall follow the procedures for ballot printing contained in Chapter 25 of this Title.~~

PART 9. PROCEDURES

230:40-7-34. General laws apply

The laws governing state and county Primary and General Elections shall be applicable to all school district and ~~vocational-technical school~~ technology center district elections, except as otherwise provided by law.

230:40-7-35. ~~Polling places~~ Precincts in school elections

(a) **Precincts in school and technology center district elections.** ~~The regular polling places of all~~ All precincts totally or partially contained within the geographical boundaries of a school district or a technology center district shall be open for all ~~Annual School Elections~~ elections held by the ~~school~~ district except as provided in ~~230:40-7-51. In special elections, polling places may be closed under the specific conditions outlined in 230:40-7-50 or 230:40-7-51~~ (b) or (c) of this section.

(b) **Closing a split precinct in which no one lives in the district.** A school district or technology center district may close a split precinct by certifying in the resolution that no one resides in the part of the precinct located within the district's boundaries. [26:13A-101(B)] Prior to preparing the resolution, district officials should contact the Secretary of the County Election Board to verify that no registered voters in the precinct are assigned by OEMS to the district and that no voters who are unassigned to a school district in the precinct are believed to be located within the district's boundary. In addition, before including the certification required to close the precinct in the resolution, a district official should visit the area in question to verify that no one resides there. When a split precinct is closed as provided in this subsection, the precinct shall not be included in the district's election; the district shall incur no expenses related to the precinct polling place; neither regular nor absentee ballots shall be printed for the precinct; and the services of neither the nursing home or in-person Absentee Voting Board shall be required by the district for the precinct.

(c) **Closing a split precinct with 100 or fewer voters.** A school district or technology center school district may close a split precinct in which there are 100 or fewer registered voters in the district only under the circumstances outlined in 230:40-7-35.1 and by following the procedure outlined in that Section. [26:13A-101(C)] When a split precinct is closed as outlined in 230:40-7-35.1, the district shall not incur any costs or share in Precinct Official compensation, Precinct Registry fees, polling place rent for the precinct for the election. Regular ballots shall not be printed. However, absentee ballots shall be printed and the services of the in-person Absentee Voting Board and a nursing home Absentee Voting Board, if necessary, shall be required.

(d) **Closing a split precinct in an affected county.** If the split precinct to be closed as outlined in (b) of this section is located in an affected county, the Secretary of the parent County Election Board shall notify the Secretary of the affected County Election Board that the precinct will be closed for the election. If the split precinct to be closed as outlined in (c) of this section and in 230:40-7-35.1 is located in an affected county, the request to close the precinct shall be submitted to the Secretary of the parent County Election Board with the resolution calling the election. The parent county Secretary immediately shall forward the request to the Secretary of the affected County Election Board. The Secretary of the affected County Election Board shall follow the procedure outlined in 230:40-7-35.1, and shall notify both the district officials and the parent County Election Board Secretary of the approval or denial of the request.

230:40-7-35.1. Procedure for closing split precinct in which 100 or fewer voters are registered in school district or technology center district

(a) A request to close a split precinct with 100 or fewer voters registered in the school district or technology center district shall be made in writing and shall be submitted to the Secretary of the parent County Election Board with the resolution calling the election. A request to close such a split precinct in the Annual School Election shall be submitted no later than 15 days before the candidate filing period for Board of Education candidates. A request to close such a split precinct in the Annual School Runoff Election shall be submitted no later than 45 days prior to the election. A request to close such a split precinct in a special election shall be submitted no later than

60 days before the special election date. District officials may use a form prescribed by the Secretary of the State Election Board to make the request but use of the form is not required. A letter containing substantially the same information shall be sufficient.

(b) Upon receiving a request to close a split precinct in which 100 or fewer voters are registered at addresses within the district's boundaries, the Secretary of the County Election Board shall follow these steps to approve or disapprove the request.

(1) Determine the number of registered voters in the precinct who are assigned in OEMS to this school or technology center district.

(A) If more than 100 voters already are assigned to the district, the precinct cannot be closed. Notify the district superintendent that the request cannot be approved for this reason.

(B) If fewer than 100 voters are assigned to the district, proceed the next step.

(2) Determine whether the voters in the district are eligible to vote in any other election being held on the same date.

(A) If voters in the district are eligible to vote in another election on the same date, the request to close the split precinct shall be denied.

(B) If voters in the district are not eligible to vote in another election on the same date, the request to close the split precinct shall be approved.

(3) Send a copy of the Registered Voter Mailing List or of a Precinct Registry for the precinct and a copy of the precinct map showing the district's boundary to the district superintendent.

(4) The superintendent shall be required to examine the residence addresses of voters in the precinct who are not assigned to a school district. The superintendent shall mark the list to indicate which voters, if any, are believed to be registered at addresses located within the boundaries of the district. The superintendent shall return the marked list to the Secretary of the County Election Board within 5 business days.

(5) Upon receiving the list of unassigned voters back from the superintendent, the Secretary shall count the voters marked by the superintendent. Add the number of voters marked on the list to the number of voters assigned to the school district by OEMS.

(A) If the total number is 100 or less, the precinct may be closed for the election.

(B) If the total number is more than 100, the request must be denied and the precinct must remain open for the election.

(C) Even if the number is 100 or less, the precinct must remain open if voters in the district are eligible to vote in another election in the precinct on the same date.

(6) The Secretary shall notify district officials whether the precinct will be closed or must remain open.

(7) The Secretary shall prepare and mail to each voter identified in the district a notice that the precinct will be closed for the election. A yellow application for absentee ballots shall be enclosed with the notice, as well as information about in-person absentee voting for the election. These notices shall be mailed to voters not less than 30 days prior to the election.

(8) The Secretary shall monitor voter registration activity in the precinct. If a new voter is assigned by OEMS to the school or technology center district in the split precinct, the Secretary shall mail the notice and information described in (8) of this subsection to the new voter immediately.

230:40-7-37. Precinct Registries

Precinct Registries shall be used in all school district and ~~vocational-technical school~~ technology center district elections. A Precinct Registry fee shall be charged as outlined in 230:35-3-57.1.

230:40-7-39. Absentee voting

Absentee voting shall be available in all school district and ~~vocational-technical school~~ technology center district elections. The procedures for absentee voting shall be the same as for all other elections. Applications for absentee ballots shall be processed and the ballots shall be issued by the Secretary of the County Election Board in the county wherein the voter is registered. See 230:30.

230:40-7-40. Forms provided by the County Election Board

All forms used in school district and ~~vocational-technical school~~ technology center district elections shall be provided by the County Election Board.

PART 11. SPECIAL ELECTIONS

230:40-7-47. Notice of special election

(a) A special election may be called by the Board of Education. The Board of Education shall notify the County Election Board of the election by delivering a resolution to the Secretary not fewer than 60 days preceding the election. [26:13A-109(D)] The resolution shall contain the information necessary for the County Election Board to conduct the election, as outlined in 230:40-7-3.

(b) The Board of Education ~~of a school district or a vocational-technical school district~~ may call a special election to be held on the date of the Annual School Runoff Election by delivering a resolution to the Secretary of the County Election Board not fewer than 45 days preceding the election. [26:12-116]

230:40-7-50. Closing precincts in special elections [REVOKED]

~~(a) The polling places in precincts in which fewer than 200 voters are registered within the boundaries of a school district may be closed during special school elections if the school~~

~~district is the only entity holding an election in the precinct on the date of the special election.~~

~~(b) The following procedure shall be observed to close a precinct polling place in a special election.~~

~~(1) The superintendent shall notify the County Election Board of the intention to close a precinct in writing. The written notification shall be submitted at the same time the resolution calling the special election is submitted to the County Election Board.~~

~~(2) The County Election Board Secretary shall provide the following items to the superintendent upon receiving written notice that the school district desires to close a precinct polling place.~~

~~(A) A list of all registered voters in the precinct.~~

~~(B) A map of the precinct.~~

~~(C) A copy of the notification letter. See 230:40-7-50.1.~~

~~(D) A list of all other entities with territory in the precinct.~~

~~(3) The superintendent shall identify all voters registered in the portion of the precinct contained within the school district boundaries. The superintendent shall use the list of all registered voters supplied by the County Election Board Secretary in the precinct for this purpose. The superintendent shall mark the list to indicate the voters identified within the school district. In the event that the superintendent is unable to identify any voters registered at addresses within the portion of the precinct contained within the school district, he shall certify this fact in writing to the County Election Board.~~

~~(4) Not less than 25 days before the election, the superintendent shall mail to every registered voter in that portion of the precinct contained within the school district a letter which explains that the regular precinct polling place will be closed on election day and offering information on mail and in-person absentee voting procedures. The letter shall contain substantially the same language as specified in 230:40-7-50.1. The letter shall be accompanied by an application form for a regular mail absentee ballot.~~

~~(5) The superintendent shall return the list of registered voters in the precinct, marked to indicate the voters identified in the school district. The superintendent also shall provide a signed statement that the required information, as outlined in (b)(2) of this Section, has been mailed to every voter identified in the district.~~

~~(6) After the notification letters are mailed, the superintendent also shall be required to provide notice of the closed polling place to all voters who become registered in the precinct at addresses within the school district. These new voters also must be informed of absentee voting procedures. The superintendent must certify to the County Election Board that the newly registered voters were notified of the closed polling place.~~

~~(c) The conditions and procedures described in (a) and (b) of this Section may be applied to the Annual School Runoff Election only if the school district is the only entity holding an election in the precinct on that date. The superintendent shall notify the Secretary of the intention to close a precinct in the Annual School Runoff Election no later than 45 days prior to the date of the Annual School Runoff Election.~~

230:40-7-50.1. Notification letter [REVOKED]

~~The notification letter mailed to voters in the closed precinct by the superintendent according to the provisions of 230:40-7-50(b)(2) shall contain substantially the same language as follows.~~

~~"At the request of school officials, your regular precinct polling place will be closed for the (name of school district) election to be held (date).~~

~~"Instead of voting at your regular precinct polling place, you may vote by mail absentee ballot. An application form for a mail absentee ballot is enclosed with this letter. As an alternative to voting by mail absentee ballot, you may vote in person at the (county name) Election Board office on Monday (date) from 9:00 a.m. to 5:00 p.m. The County Election Board office is located at (street address and city).~~

~~"Recent changes in the law provide these new voting alternatives and save your tax dollars by not opening and paying expenses of polling places where few voters are eligible to participate in this election.~~

~~"You may vote at your regular polling place for all other elections or you may choose to vote absentee by mail or at the County Election Board office for other elections.~~

~~"If you have questions about where or how to vote, please call the County Election Board at (phone number).~~

~~Sincerely,~~

~~(signature of school official)~~

~~(typed name of school official)~~

~~(title of school official)"~~

230:40-7-50.2. County Election Board responsibilities for closed precincts [REVOKED]

~~(a) When a school district chooses to close a precinct polling place as outlined in 230:40-7-50, the County Election Board Secretary shall have the following responsibilities.~~

~~(1) The Secretary shall provide a printout of all registered voters in the precinct which may be closed. The printout shall be provided at no cost to the school district.~~

~~(2) The Secretary shall provide a map of the precinct.~~

~~(3) The Secretary shall provide a copy of the recommended text of the notification letter. See 230:40-7-50.1.~~

~~(4) The Secretary shall provide an adequate supply of yellow Application for Absentee Ballot forms.~~

~~(b) After the superintendent returns the list of voters and the signed statement as required in 230:40-7-50(b)(5), the Secretary shall have the following responsibilities.~~

~~(1) The Secretary shall monitor voter registration activity in the closed precinct. As voter registration applications are approved and activated in the precinct, the names and addresses of the voters shall be provided to the superintendent.~~

~~(2) The Secretary shall post a notice at each polling place and at the County Election Board office that the polling place is closed at the request of school officials and explaining options for mail and in-person absentee voting.~~

~~(3) The Secretary shall include information about closed polling places and voting alternatives in all news releases and media references to the election.~~

~~(4) The Secretary shall provide a list of closed precincts at every open precinct in the school district on election day.~~

~~(c) In the event that the precinct closed is in an affected county of the school district, and if the superintendent has certified that no voters are registered in the portion of the precinct located within the school district's boundaries, the Secretary of the affected County Election Board shall not be required to print absentee ballots and shall not be required to provide an in-person Absentee Voting Board. The Secretary of the affected County Election Board may request copies of the absentee ballots for the school district that were printed by the parent County Election Board.~~

230:40-7-50.3. Voting alternatives for voters in closed precincts [REVOKED]

~~Voters registered in a precinct closed for an election, as outlined in 230:40-7-50, shall be entitled to vote according to one of the following alternatives.~~

~~(1) The voter may apply for and cast a mail absentee ballot.~~

~~(2) The voter may vote by in-person absentee ballot at the County Election Board office on Thursday, Friday, or Monday preceding the election.~~

~~(3) The voter may vote at any open precinct in the school district by presenting a voter identification card showing him to be registered in a closed precinct and by signing the Challenged Voter Affidavit. This alternative is not to be encouraged but must be available.~~

230:40-7-51. Combining precincts in school elections [REVOKED]

~~(a) **Request to combine precincts.** The Board of Education of any school or vocational-technical school district may request that the Secretary of the County Election Board move the voter registration records for any precinct within the district to the regular polling place of an adjacent precinct within the district in the same county for an election. [26:13A-101(C)] If the territory of a school district and vocational-technical school district overlap within a precinct and both districts are holding elections on the same date, the voter registration records may be moved upon request by both districts. Voter registration records shall not be moved across county lines. [26:13A-101(C)]~~

~~(b) **Time for request.** The request to combine precincts for a school election shall be made by the Board of Education in writing at the time the resolution calling the election is submitted to the County Election Board. The request shall specify the precincts to be combined.~~

~~(c) **Approval of request.** The Secretary shall approve the request unless one of the conditions described in 230:40-7-51.1 exists. Not fewer than 50 days preceding the election, or not fewer than 40 days preceding the election if the election is held on the date of the Annual School Runoff Election, the Secretary of the County Election Board shall notify the Board of Education whether any condition exists that would prohibit combining the precincts for the election.~~

230:40-7-51.1. Conditions that prohibit or limit combination of precincts [REVOKED]

~~(a) Voter registration records shall not be moved to an adjacent precinct for a school election if any of the following conditions exists in the precinct from which records are to be moved.~~

~~(1) Voter registration records shall not be moved if a precinct is split by two or more school or vocational-technical school districts holding elections on the same day. [26:13A-101(C)]~~

~~(2) Voter registration records shall not be moved if a precinct is split by two or more board districts (see 230:40-7-8 through 230:40-7-10) holding elections on the same day. [26:13A-101(C)]~~

~~(3) Voter registration records shall not be moved if another entity is holding an election in the precinct on the same date. [26:13A-101(C)]~~

~~(b) The records of no more than two other precincts may be moved into any precinct.~~

230:40-7-51.2. Responsibilities of the school district superintendent [REVOKED]

~~(a) **Superintendent shall publish notice.** The superintendent shall cause a notice to be published in a newspaper of general circulation in each county in the district where precincts are to be combined. [26:13A-101(E)] The notice shall be published not fewer than ten days preceding the election. [26:13A-101(E)] The notice shall list the precinct number and the name and location of the polling places where voting will be conducted for the election, and it also shall list the precincts that are combined at each of the voting locations. The notice shall contain information concerning options for voting by mail absentee ballot and by in-person absentee ballot.~~

~~(b) **Superintendent shall issue press release.** The superintendent shall prepare a press release and shall issue it to all newspapers and radio stations in each county in the district in which precincts are to be combined. The press release also shall be issued to local television stations, if applicable. The press release shall be issued not fewer than ten days preceding the election. [26:13A-101(E)] The press release shall list the precinct number and the name and location of the polling places where voting will be conducted for the election, and it also shall list the precincts that are combined at each of the voting locations. The press release also shall contain information concerning options for voting by mail absentee ballot and by in-person absentee ballot.~~

230:40-7-51.3. Responsibilities of the County Election Board [REVOKED]

~~(a) **Secretary shall post notice at polling place.** The Secretary of the County Election Board shall post a notice on the door of each precinct polling place from which voter registration records are moved. [26:13A-101(E)] The notice shall be posted not fewer than ten days preceding the election.~~

~~[26:13A-101(E)] The notice shall be signed and dated by the Secretary and the County Election Board seal shall be affixed to it.~~

~~(b) **Contents of notice.** The notice shall contain substantially the same language as follows.~~

~~(1) Notice to Registered Voters in Precinct (NUMBER OF PRECINCT)~~

~~(2) This precinct polling place will be closed on Tuesday, (MONTH DAY, YEAR) for the (TYPE OF ELECTION) election for the (NAME OF SCHOOL DISTRICT) School District at the request of the Board of Education.~~

~~(3) Voter registration records for this precinct have been moved for this election only to Precinct (NUMBER). The polling place for Precinct (NUMBER) is located at (NAME AND ADDRESS OF POLLING PLACE). You may vote in person at that location on election day.~~

~~(4) You are entitled to vote by absentee ballot in this election. You may apply to have an absentee ballot mailed to you. Your application must be received by the County Election Board no later than 5 p.m. (DATE OF APPLICATION DEADLINE FOR THIS ELECTION.) You may vote by in-person absentee ballot by going to the County Election Board office between the hours of 9 a.m. and 5 p.m. on Thursday, (MONTH DAY), Friday, (MONTH DAY), or Monday, (MONTH DAY).~~

~~(5) The County Election Board office is located at (ADDRESS). The telephone number of the County Election Board is (TELEPHONE NUMBER).~~

~~(c) **Notice on County Election Board office door.** The Secretary of the County Election Board shall post a notice on the door of the County Election Board office listing those polling places from which voter registration records have been moved. [26:13A-101(E)] The notice shall list the polling places to which such records have been moved. The notice shall be posted no fewer than ten days before the election. [26:13A-101(E)]~~

~~(d) **Preparation of Precinct Registries.** The Secretary of the County Election Board shall prepare a separate Precinct Registry for the election for each precinct. When a school or vocational-technical school district chooses to combine precincts for an election, separate Precinct Registries for each precinct shall be sent to the polling place conducting the voting for the combined precincts.~~

PART 23. MULTI-COUNTY SCHOOL DISTRICTS

230:40-7-97. Multi-county school districts

A multi-county school district is a school district which includes within its boundaries territory located in two or more counties. Most ~~vocational-technical school~~ technology center districts are multi-county school districts. Independent and elementary school districts may be multi-county districts.

[OAR Docket #03-76; filed 1-8-03]
(format accepted 1-14-03)

TITLE 230. STATE ELECTION BOARD CHAPTER 45. CONTESTS OF ELECTION

[OAR Docket #03-77]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 3. Recounts
Part 7. Recounts for Question Elections
230:45-3-36. Petitions presumed valid [REVOKED]
230:45-3-36.1. Petitions verified [NEW]
AUTHORITY:
Title 26 O.S., Section 2-107. Secretary of the State Election Board
DATES:
Adoption:
November 20, 2002
Approved by Governor:
January 2, 2003
Effective:
Immediately upon approval by Governor
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATION BY REFERENCE:
n/a
FINDING OF EMERGENCY:
The Secretary of the State Election Board finds that the following compelling public interests require the adoption of emergency amendments in this chapter. Senate Bill 1350 included an amendment to 26:8-111 that affects rules in this Chapter. That amendment became effective when the Governor signed the bill on June 6, 2002. County Election Board personnel rely on these rules to perform their duties. Although they have been notified on the amended law and have been advised of appropriate methods for implementation, it is necessary to provide the updated rules as soon as possible.
ANALYSIS:
An amendment to 26:8-111 requires the County Election Board Secretary to verify the validity of the signatures on a petition requesting a recount in a question election. In Subchapter 3, one section is revoked and a new section is added to accommodate this requirement. The new Section details a procedure for verifying such signatures.
CONTACT PERSON:
Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 3. RECOUNTS

PART 7. RECOUNTS FOR QUESTION ELECTIONS

230:45-3-36. Petitions presumed valid [REVOKED]

~~A petition filed pursuant to 230:45-3-35 is presumed to be valid. The Secretary of the County Election Board shall count the number of signatures on the petition to ascertain that the minimum required number of signatures is present. The Secretary shall not attempt to verify the signatures against either the Precinct Registries or voter registration records.~~

230:45-3-36.1. Petitions verified

Within 24 hours of receiving a petition requesting a recount of the results of a question election, the Secretary of the County Election Board shall determine whether the petition contains a sufficient number of valid signatures. The 24-hour period shall not include Saturday, Sunday or legal holidays. The Secretary shall follow these steps to determine the validity of signatures on the petition.

(1) Photocopy the petition pages and use the photocopy during the verification process.

(2) Determine the minimum number of valid signatures required. See 230:45-3-35.

(3) Count the total signatures on the petition. Note the total number of signatures in the upper left corner of the first page.

(4) Use OEMS to verify that each person who signed the petition is a registered voter.

(A) If a signer's name is not found in OEMS, look in the Central File. If the signer's name is not found in the Central File, the person is not registered. Strike through the person's name on the photocopy.

(B) If the signer's name is found in OEMS, note the voter ID number and the precinct number beside the name on the petition.

(5) Refer to the appropriate Precinct Registry to verify that the voter voted in the election.

(A) If the voter did not sign the Precinct Registry, check absentee voting records to determine whether the voter cast an absentee ballot in the election.

(B) If the voter did not vote in the election strike through the name on the petition.

(6) After verifying each signature on the petition as outlined in steps (4) and (5), count the number of valid signatures.

(A) If there are at least the minimum required number of valid signatures, the petition is valid. Proceed with arrangements for the recount.

(B) If there are fewer than the minimum required number of valid signatures, the petition is not valid. Notify the person who filed the petition that it has been determined to be invalid and that the recount cannot be conducted.

[OAR Docket #03-77; filed 1-8-03]
(format accepted 1-14-03)

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 520. SOLID WASTE MANAGEMENT

[OAR Docket #03-183]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 3. Permit Provisions
252:520-3-1.1. Permit not required [AMENDED]
Subchapter 5. Application for Permit
252:520-5-2. Certifications [AMENDED]
252:520-5-3. General information [AMENDED]
252:520-5-5. Maps and drawings [AMENDED]
Subchapter 9. Construction/Demolition Landfills
252:520-9-11. Operational standards [AMENDED]
Subchapter 19. Biomedical Waste
252:520-19-10. Permit applications [AMENDED]
Subchapter 21. Waste Tire Recycling, Certification, Permits, and Compensation Requirements
252:520-21-15. Erosion control, bank stabilization and other conservation projects [AMENDED]
252:520-21-20. Waste tire baling plans [NEW]
252:520-21-21. Eligibility requirements for waste tire baling plans [NEW]
Subchapter 23. Closure, Post-closure, and Financial Assurance
252:520-23-8. Closure plan [AMENDED]
Subchapter 27. Landfill gas incentive payments [NEW]
252:520-27-1. Authority and applicability [NEW]
252-520-27-2. Funding [NEW]
252-520-27-3. Proposal required [NEW]
252-520-27-4. Life of project [NEW]
252-520-27-5. Content of proposal [NEW]
252-520-27-6. Encumbrance of funds [NEW]
252-520-27-7. Reimbursement [NEW]
252-520-27-8. Contract renewal [NEW]
252-520-27-9. Prioritization of funding [NEW]
252-520-27-10. Penalties [NEW]
AUTHORITY:
Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Solid Waste Management Advisory Council powers and duties, 27A O.S. § 2-2-201; the Oklahoma Solid Waste Management Act, 27A O.S. § 2-10-101 *et seq.*, and the Oklahoma Waste Tire Recycling Act, 27A O.S. § 2-11-401 *et seq.*
DATES:
Comment period:
September 1, 2002 through October 10, 2002
Public hearings:
October 10, 2002 and November 14, 2002
Adoption:
November 14, 2002
Approved by Governor:
January 2, 2003
Effective:
Immediately upon Governor's approval
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 3. Permit Provisions
252:520-3-1. Permit required [AMENDED]
252:520-3-1.1. Permit not required [AMENDED]
Subchapter 5. Application for Permit
252:520-5-2. Certifications [AMENDED]
252:520-5-3. General information [AMENDED]
252:520-5-5. Maps and drawings [AMENDED]
252:520-5-9. Waste tire baling permits [REVOKED]
Subchapter 9. Construction/Demolition Landfills
252:520-9-11. Operational standards [AMENDED]
Subchapter 19. Biomedical Waste
252:520-19-10. Permit applications [AMENDED]
Subchapter 21. Waste Tire Recycling, Certification, Permits, and Compensation Requirements
252:520-21-15. Erosion control, bank stabilization and other conservation projects [AMENDED]
252:520-21-20. Waste tire baling plans [NEW]
252:520-21-21. Eligibility requirements for waste tire baling plans [NEW]
Subchapter 23. Closure, Post-closure, and Financial Assurance
252:520-23-8. Closure plan [AMENDED]
Subchapter 27. Landfill gas incentive payments [NEW]
252:520-27-1. Authority and applicability [NEW]
252-520-27-2. Funding [NEW]
252-520-27-3. Proposal required [NEW]
252-520-27-4. Life of project [NEW]
252-520-27-5. Content of proposal [NEW]
252-520-27-6. Encumbrance of funds [NEW]

252-520-27-7. Reimbursement [NEW]
252-520-27-8. Contract renewal [NEW]
252-520-27-9. Prioritization of funding [NEW]
252-520-27-10. Penalties [NEW]

Gubernatorial approval:
July 22, 2002

Register publication:
19 Ok Reg 2873

Docket number:
02-1300

INCORPORATION BY REFERENCE:
None

FINDING OF EMERGENCY:
The Environmental Quality Board finds that a compelling public interest necessitates the seeking of emergency certification of the rules and regulations adopted today. These proposed rule changes are necessary to implement various statutory requirements. Under the terms of the Administrative Procedures Act, unless an emergency is declared and certified, these amendments could not go into effect until June 1, 2003, delaying implementation of statutory requirements.

ANALYSIS:
The proposed new and amended Sections are designed to implement various statutory requirements. These include the following: Senate Bill 337 (regarding landfill vegetation and passed during the 2001 legislative session), Senate Bill 89 (regarding landfill soil borrow areas and passed during the 2001 legislative session), House Bill 1398 (regarding waste tire baling permits and passed during the 2001 legislative session), Senate Bill 1406 (affecting entities installing river bank stabilization and other conservation projects and passed during the 2002 legislative session), House Bill 2151 (revising provisions of House Bill 1398 and passed during the 2002 legislative session), 27A O.S. § 2-10-802(C)(6) regarding incentive payments for use of landfill methane gas, and 27A O.S. § 2-10-308(E) regarding timelines for review of biomedical waste facility certificates of need.

CONTACT PERSON:
Contact Jon Roberts at jon.roberts@deq.state.ok.us or (405) 702-5100 (phone) or 702-5101 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D).

SUBCHAPTER 3. PERMIT PROVISIONS

252:520-3-1.1. Permit not required

(a) The following do not require a solid waste permit:

(1) Rock and dirt fills that receive only uncontaminated rock, dirt, concrete, bricks and solidified asphalt.

(2) When a natural disaster creates a need for additional public solid waste disposal sites in the "disaster area". The Department may approve a site for immediate, short term operation, subject to conditions set by the Department.

(3) Persons who dispose of their own household waste upon land owned by that person in accordance with 27A O.S. § 2-10-301(B).

(4) A facility or site which is used

(A) as a citizen collection station;

(B) as a collection and processing point for source separated non-putrescible recyclable wastes;

(C) as a collection point for parking-lot or street sweepings;

(D) as a collection point for wastes collected and received in sealed plastic bags from such activities as periodic cleanup campaigns for cities, rights-of-way, or roadside parks.

(5) On-site incinerators meeting the exemption requirements of 27A O.S. § 2-10-501(K) or those used by hospitals, clinics, or laboratories, or other similar facilities for incineration of infectious or pathological wastes generated on-site, shall comply with any applicable regulations of other state agencies or parts thereof, including the Air Quality Division of the Department.

(6) A facility or site that composts only yard waste if operated under a Departmental approved plan. The plan shall include, at a minimum, the location, a disclosure statement, demonstrated compliance with OAC 252:520-7-2, description of operations and equipment, and shall comply with any applicable regulations of other state agencies or parts thereof, including the Water Quality Division of the Department, or local government ordinances.

(7) Persons under a DEQ order to remediate an abandoned or inactive waste site in accordance with 27A O.S. § 2-10-301(H).

(b) Units of local or county government wishing to use baled waste tires in engineering projects must have a plan meeting the requirements of OAC 252:520-21-20 approved prior to beginning the project.

SUBCHAPTER 5. APPLICATION FOR PERMIT

252:520-5-2. Certifications

(a) **Applicant.** The application for a permit shall be signed by the owner/operator under oath on a form provided by the Department.

(1) It is the responsibility of the owner/operator to acquire or possess a right to the use of the property, including any on- or off-site soil borrow areas, for which a permit is sought, including the access route thereto. The owner/operator shall maintain the right of entry to the site for at least the designated post-closure period after closure of the disposal site, for post-closure inspection, monitoring and maintenance. The owner/operator shall certify that he/she own sufficient interest in the land for which the permit is sought to construct and operate the proposed disposal site on said land. The owner/operator shall include in the application a true and correct copy of an instrument demonstrating such interest, certified by the clerk of the county in which the proposed site is located.

(2) If the owner/operator has an option which is predicated upon the issuance of a disposal site permit prior to the exercise of that option, then the owner/operator may submit a copy of the option. Once the permit has been issued and prior to construction, the owner/operator shall comply with (1) of this Subsection.

(b) **Engineer of record.** The engineer of record shall affix his/her seal to the application page and each map and drawing as it is filed or resubmitted as a certification that, to the

best of his or her knowledge, the information contained in the application is accurate and verifiable. The cover page of each re-submittal shall also be sealed along with all other supplemental documents, maps and drawings. A stamp shall be considered the equivalent of a seal for purposes of this requirement.

252:520-5-3. General information

The following information is required in all applications:

(1) **Applicant.** The owner/operator's name, address and phone number.

(2) **Disclosure statement.** Completed disclosure statement (27A O.S. § 2-10-302).

(3) **Name.** The name by which the facility will be known.

(4) **Legal description.** A legal description of the proposed permitted boundary~~ and a legal description of~~, the proposed disposal area, and any on- and off-site soil borrow areas. Said description may be by metes and bounds, section, township, and range (and parts thereof), or book and page number of plat records (for platted property)~~. If~~, and, if available, a street address for the proposed site.

(5) **Location.** The location of proposed site from the nearest town or city.

(6) **Land use.** Land use of adjacent property and general area within two miles of the proposed permitted boundary.

(7) **Description.** A brief description of the proposed operation.

(8) **Waste.** A description of the anticipated waste streams, including the anticipated volumes.

(9) **Population served.** Population or population equivalent to be served.

(10) **Life.** The anticipated life of the site.

(11) **Access roads.** Types of road construction and materials to ensure that all access roads within the site shall be passable during inclement weather by normal vehicular traffic.

(12) **Equipment.** A list of anticipated equipment to be used in the construction and operation of the disposal site.

(13) **Operational plan.** An operational plan for the following, in accordance with applicable Subchapter(s) of this Chapter:

(A) public access control,

(B) measuring waste,

(C) salvage or recycling operations, if any,

(D) liquids restrictions and co-disposal,

(E) procedures for excluding the receipt of hazardous and other waste not consistent with the permit for the disposal site,

(F) animal exclusion,

(G) litter control,

(H) disease vector control,

(I) dust control,

(J) explosive gases control, if applicable,~~ and~~

(K) accident prevention and safety~~.~~, and

(L) vegetative cover.

(14) **Recordkeeping.** A description of the recordkeeping procedure employed by the owner/operator of the disposal site.

252:520-5-5. Maps and drawings

(a) **Generally.** Complete maps, plans, specifications and narrative demonstrating that the proposed disposal site is designed and constructed in accordance with this Chapter shall accompany and support the application and shall be prepared by or under the direction of a Registered Professional Engineer licensed to practice in the State of Oklahoma, if required. The Engineer of record must affix their seal to the drawings, maps, and application page.

(b) **Required maps and drawings.** All constructed maps shall be prepared at a scale of one inch equals one hundred feet. This does not apply to published maps. Each constructed map shall be complete with legend, title, north arrow and proper labeling of the proposed permit boundary, buffer zone, disposal or processing boundary(ies) and monitor well locations, if required. All maps must be legible. Illegible maps will be cause for returning the application. The following maps shall be provided in the following order:

(1) **General location map.** A general location map shall be all or part of a one-inch-to-two-miles scale county highway map as published by the Oklahoma Department of Transportation. The location of the proposed disposal site and any airports within two miles of the site shall be clearly identified. If a disposal site is located within a municipality and a municipal map with better information is available, then it may be used.

(2) **Flood plain map.** A flood plain map shall be an original Flood Insurance Rate Map prepared by the Federal Emergency Management Agency, a copy of the Flood Prone Area Map prepared by the United States Geological Survey or an equivalent constructed map that depicts the limits and elevations of any one-hundred (100) year flood plain on or adjacent to the proposed site.

(3) **Quadrangle topographic map.** A quadrangle topographic map shall be an original United States Geological Survey 7.5 minute series topographic quadrangle map. If 7.5 minute series maps have not been printed, 15 minute series may be used. If the site is located on the edge of the quadrangle, then adjoining maps shall be provided. The location of the site boundaries shall be clearly depicted and marked, as well as the following items within one mile of the site:

(A) access routes;

(B) homes and buildings;

(C) water wells, including private and municipal, potable and irrigation water;

(D) public water and wastewater collection, treatment, and distribution facilities;

(E) proposed surface water monitoring points; and

(F) receiving waters and surface variations.

(4) **Existing contour map.** An existing contour map shall be a constructed map showing the topographic contours prior to any operations on the site. The contour intervals shall not be greater than two feet and may be

generated by aerial photography. This map shall show the location and quantities of surface drainage entering and exiting the site and the locations of all boreholes, if required, with their surface elevations.

(5) **Site map.** A site map, which may be plotted on the existing contour map, shall show the following, as applicable to the facility:

(A) dimensions of permit boundary as indicated by legal description, receiving, processing, storage or disposal boundary areas and buffer zone;

(B) locations and surface elevations of each borehole, monitor well, test well, monitoring site, test pit, sampling site and permanent benchmark, if any;

(C) surface drainage, including location of diversion ditches, dikes, dams, pits, ponds, lagoons, berms, terraces and other relevant information;

(D) fencing and gate(s), utility lines, and easements;

(E) access roads into and on the site;

(F) employee and equipment shelters~~.~~;

(G) on- and off-site soil borrow areas.

(6) **Additional map(s).** Individual Subchapters of this rule may require additional facility specific maps and drawings.

(7) **Details.** A separate sheet(s) may be added to provide the necessary details of the design specifications for such things as the receiving, processing, storage or disposal areas, drainage channels, retention structures or other ground water and surface water protection measures and any other specific site item requiring explanation.

(8) **Aesthetic enhancement.** Designs shall include plans for aesthetic enhancement of the facility. Construction plan maps shall show the placement of berms, fences, trees, shrubs, vegetation and such other features that will enhance the visual harmony of the facility with the surrounding area and reduce transmission of dust and noise from the facility.

SUBCHAPTER 9. CONSTRUCTION/DEMOLITION LANDFILLS

252:520-9-11. Operational standards

Owners/operators shall operate construction/demolition landfills in accordance with this Subchapter. Any owner/operator who is in non-compliance with this Subchapter shall be required to take such additional measures as the Department deems necessary in order to come into compliance. On- and off-site soil borrow areas are only subject to (2), (4), (8), (10), and (16) of this Section.

(1) **Acceptable material.** Construction/demolition landfills shall NOT accept liquid waste, NHIW, biomedical waste, municipal solid waste, putrescible waste or special waste, except tires.

(2) **Public access control.** Owners/operators shall control public access and prevent unauthorized traffic and uncontrolled dumping of wastes by using artificial barriers, natural barriers or both. Access control shall be constructed and maintained as described in the permit application.

(3) **Measuring waste.** The owner/operator shall comply with 27A O.S. § 2-10-802.

(4) **Litter.** The owner/operator shall control and prevent litter from leaving the site. Unloading shall be performed so as to minimize scattering of refuse. The owner/operator shall require all users to adequately cover their loads to prevent blowing litter. The entire site and the approach roadways within one half (1/2) mile of the site shall be cleaned at least once a week or more often if necessary.

(5) **Protective cover requirements.**

(A) **Earthen cover.** The owners/operators of all landfills shall cover disposed solid waste with at least six inches of compacted earthen material once every seven days or more often as dictated by the nature and volume of waste. The material shall be free of garbage, trash or other unsuitable material to prevent insect or rodent problems, infiltration of water and wind dispersion of waste materials.

(B) **Vegetative cover.** ~~Owners/operators shall establish and maintain vegetative cover, or other alternative cover materials as approved by the DEQ, over waste disposal areas according to this rule.~~ Vegetative cover shall be established at all landfills exceeding fifty feet (50') above natural surface contours and accepting more than two hundred (200) tons per day of solid waste.

(i) ~~Permanent or interim vegetation, or other alternative cover materials approved by the DEQ, shall be established within the first growing season on all exterior sideslopes which extend above natural surface contours, in areas where additional waste will not be placed within one year.~~ Permanent or interim vegetation shall be established in all disposal areas that have been undisturbed for ninety (90) days or more.

(ii) ~~Interim vegetation shall provide a quick-germinating fast-growing vegetative cover capable of protecting the soil from erosion.~~ Interim vegetation must be quick-germinating, fast-growing and capable of providing erosion and dust control. The owner/operator shall not plant noxious vegetation.

(iii) ~~Vegetation on final cover areas shall provide for an effective and permanent cover that is capable of self-regeneration and plant succession. Vegetative cover shall consist of a mixture of species that are of equal or superior utility to native vegetation during each season of the year.~~ Permanent vegetation must be effective, long-lasting and capable of self-regeneration and plant succession. Plant species shall be used that are of equal or superior utility to native vegetation during each season of the year. The owner/operator shall not plant noxious vegetation.

(iv) ~~Trees, woody shrubs, or deep-rooted plants may not be planted or allowed to grow on the vegetated areas, unless the owner/operator demonstrates to the satisfaction of DEQ that the roots will not penetrate the cover, cap or drainage layer.~~ Deep-rooted plants, trees, or other similar vegetation is prohibited.

(6) **Intermediate cover.** On all areas of the landfill not protected by final cover or managed with runoff control structures, an additional twelve (12) inches of compacted earthen material meeting the design standards of OAC 252:520-9-10(d)(2)(A)(ii) must be placed on existing earthen protective cover to minimize infiltration of water. The earthen material shall be free of garbage, trash or other unsuitable material.

(7) **Final cover requirements.** A uniform layer of clay or silty clay cover, or cover material equivalent to the liner material, shall be compacted to a minimum depth of two and one-half feet and placed over the entire surface of the final lift. Six inches of cover capable of sustaining plant growth shall be placed on top of the landfill. The earthen cover shall be compacted in layers no more than eight (8) inches thick, and shall be placed over the surface of each completed portion of the fill within one week following placement of the final layers of refuse in that portion.

(A) Final cover gradient on top of the fill, as measured from the center of the fill area to the break in slope between the top and sides of the fill, shall not exceed four percent (25:1) so as to prevent the erosion of cover.

(B) Final side slopes of the fill shall not exceed a 25 percent grade (4:1).

(C) The uppermost six (6) inches of final cover shall be earthen material suitable for topsoil and capable of supporting plant growth within the first season after placement so as to stabilize the fill.

(D) All modifications to surface contours, including final grading of completed disposal areas, shall be accomplished in a manner that will prevent either ponding of water on, or channelized flow of water to the active or completed parts of the facility.

(8) **Air criteria.** Owners/operators of all landfills shall ensure that they do not violate any applicable requirements of the Oklahoma Clean Air Act, as amended, or regulations promulgated pursuant thereto. Owners/operators of all landfills shall adhere to all requirements as developed under a State Implementation Plan (SIP) as approved or promulgated by the Administrator of the U.S. Environmental Protection Agency. The burning of solid waste at landfills is prohibited.

(9) **Disease vector control.** Owners/operators of all landfills shall prevent or control on-site populations of disease vectors using techniques appropriate for the protection of human health and the environment.

(10) **Dust control.** Measures shall be taken to control dust.

(11) **Animal feeding.** All domestic animals shall be excluded from the site, except guard dogs owned by the owner/operator. The owner/operator shall ensure that animals are not allowed to feed from the garbage.

(12) **Discharge.**

(A) Owner/operators of disposal sites shall comply with all requirements of their NPDES or OPDES permits.

(B) Owner/operators of disposal sites shall not:

(i) Cause a discharge of pollutants, including sediment, into waters of the United States, including wetlands, that violates any requirements of the federal Clean Water Act, including, but not limited to, the National Pollutant Discharge Elimination System (NPDES) requirements, pursuant to section 402 of the federal Clean Water Act, or the Oklahoma Pollutant Discharge Elimination System (OPDES) Act, 27A O.S. § 2-6-201 *et seq.* and OPDES requirements; or

(ii) Cause the discharge of a nonpoint source of pollution to waters of the United States, including wetlands, that violates any requirement of an area-wide or State-wide water quality management plan that has been approved under section 208 or 319 of the federal Clean Water Act, as amended.

(C) If leachate or other contaminated or waste liquids flow off site, by accident or otherwise, the owner/operator shall take immediate actions to stop such flow or discharge, and modify operational practices at the site so as to terminate the causes of such flow or discharge. Additionally, the owner/operator shall notify the Department and take such actions as may be necessary to remediate contamination of ground or surface waters resulting from the flow or discharge.

(13) **Waste placement.** Wastes shall not be placed or allowed to enter, accidentally or otherwise, waters that communicate with surface waters that leave the site or with ground waters. This section shall not apply if the contaminated waters are treated prior to discharge. Waste shall not be placed inside buffer zone or other restricted zones, as described and approved in the permit application.

(14) **Accident prevention and safety.** The owner/operator shall provide training for employees in the specific operational procedures necessary to prevent accidents. Multi-purpose ABC fire extinguisher shall be provided on all equipment.

(15) **Salvage.** No scavenging shall be permitted at the disposal site. Salvage and recycling operations, if carried on at the disposal site, shall be in a separate area. Salvage and recycling must have a written operation plan approved in advance by the Department.

(16) **Soil borrow areas.** On- and off-site soil borrow areas which are no longer to be used to obtain soil shall be reshaped and revegetated to blend with surrounding terrain within one hundred eighty (180) days of the date the area ceased being used.

SUBCHAPTER 19. BIOMEDICAL WASTE

252:520-19-10. Permit applications

Prior to submitting an application for a new permit, the applicant shall obtain a Certificate of Need~~, as required by 27A O.S. § 2-2-102~~.

(1) A request for a Certificate of Need shall be submitted to the DEQ and contain, at a minimum, the information specified by 27A O.S. § 2-10-308(B).

(2) The DEQ will review and thoroughly investigate the information submitted within thirty (30) days of receipt of the request. The DEQ may request additional information as necessary.

(3) When the DEQ's review is complete, the Certificate of Need request and results of the DEQ's investigation will be presented to the Board at its next regularly scheduled meeting.

(4) The Board will consider the request and information presented by the DEQ and determine whether the conditions of 27A O.S. § 2-10-308(D) have been met.

(5) The Board may remand the request to the DEQ for additional information or investigation.

(6) The request shall be deemed denied if the Board fails to approve the request within one (1) year of original receipt by the Board.

SUBCHAPTER 21. WASTE TIRE RECYCLING, CERTIFICATION, PERMITS AND COMPENSATION REQUIREMENTS

252:520-21-15. Erosion control, bank stabilization and other conservation projects

(a) **Permits or other authorizations.** Permits or other authorizations for erosion control, bank stabilization or other conservation projects may be obtained from the United States Army Corps of Engineers or a local Conservation District in accordance with 27A O.S. § 2-11-407.1.

(b) **Use of proper tires.** For each project, at least 10% of the waste tires for which compensation will be requested must come from tire dumps identified on the PCL or from community-wide clean up events in the State of Oklahoma and installed in accordance with this Subchapter and the permit or other authorization obtained in accordance with Subsection (a).

(c) **Waste tire collection.**

(1) **Rim diameter greater than 17-1/2 inches.** Entities requesting compensation from the Fund shall provide for statewide collection and transportation of waste tires with a rim diameter of greater than 17-1/2 inches, at no cost to the waste tire generator.

(2) **Rim diameter less than 17-1/2 inches.** Entities shall receive compensation from the Fund for waste tires with a rim diameter less than 17-1/2 inches for only those waste tires obtained from tire dumps identified on the PCL or from community-wide clean up events in the State of Oklahoma.

(~~b~~d) **Eligibility for reimbursement.** Qualified entities shall be eligible for reimbursement from the Waste Tire Recycling Indemnity Fund upon compliance with 27A O.S. § 2-11-407.1 and the rules of this subchapter. The following information is required to be maintained by the entity seeking reimbursement for a period of three years and is required to be submitted to the Department when reimbursement is requested:

(1) the name, address and telephone number of the applicant;

(2) the tire dump name, if any, and Department identification number;

(3) identification of the community-wide cleanup event, if any;

(4) quantity of tires removed, by tire type;

(5) name and location of the approved project;

(6) quantity and type of tires delivered to and installed at the project;

(7) a copy of the permit or other authorization issued by the U.S. Army Corps of Engineers or local Conservation District;

(8) a copy of the planting plan developed in conjunction with and approved by the Division of Forestry of the State Department of Agriculture;~~ and~~

(9) documentation of compliance with (c)(1) and (e) of this Section; and

(~~9~~10) other information required by the Department.

(~~c~~e) **Proper disposal.** The applicant shall properly dispose of any waste tires not needed for the project.

252:520-21-20. Waste tire baling plans

(a) **Plan required.** Units of local or county government in Oklahoma who will seek reimbursement from the Fund for use of baled waste tires in engineering projects shall have a DEQ approved plan describing the nature of the proposed project. Such plan shall include:

(1) the location at which waste tire baling operations will be performed;

(2) a description of the engineering project for which the baled tires will be used;

(3) the approximate date construction will begin and the estimated time to complete the project;

(4) plans for aesthetic enhancement in accordance with 252:520-5-5(b)(8);

(5) engineering designs that are signed and stamped or sealed by a professional engineer licensed in the State of Oklahoma;

(6) documentation that the project has been approved by:

(A) the unit of local government for projects sponsored by a local government; or

(B) the Board of Commissioners for the county in which the project will be located for projects sponsored by a unit of county government; and

(7) a description of how compliance with 252:520-21-21 will be achieved.

(b) **DEQ review.** After review, the DEQ may require alterations to the plan prior to construction.

(c) **Initiation of construction.** Construction of the project shall not begin until the plan has been approved by the DEQ.
(d) **Bale storage.** No more than 50 waste tire bales shall be accumulated prior to beginning construction of the project.
(e) **Recordkeeping.** The governmental entity shall maintain all records related to the project and required by this Section for at least three years after completion of the project.

252:520-21-21. Eligibility requirements for waste tire baling plans

(a) **Use of proper tires.** Only waste tires obtained from tire dumps identified on the Priority Cleanup List or from community-wide cleanup events in the State of Oklahoma and used in accordance with the approved plans shall be eligible for compensation.
(b) **Project completion report.** Upon completion of the project, the governmental entity shall submit a project completion report signed and stamped or sealed by a professional engineer licensed in the State of Oklahoma, certifying the project was completed in accordance with the approved plans. The report shall include the following:
(1) the name, address and telephone number of the government entity and the certifying engineer;
(2) the tire dump(s) from which tires came, if any, and DEQ identification number(s);
(3) identification of the community-wide cleanup event(s) from which tires came, if any;
(4) quantity of tires removed from the tire dump(s) or community-wide cleanup event(s), by tire type;
(5) the location of the approved project;
(6) quantity and type of tires delivered to and installed in the project;
(7) documentation to verify compliance with (c) of this Section, if applicable; and
(8) other information required by the DEQ.
(c) **Proper disposal.** The applicant shall dispose of any waste tires not needed for the project at a permitted waste tire processing or other waste tire recycling facility, or a permitted solid waste disposal facility.
(d) **DEQ inspection.** After submittal of the project completion report, the DEQ shall inspect the project and the project file to determine compliance with the Act, the rules in this Subchapter, and project plans.
(e) **Project complete.** If the project is complete, the DEQ shall notify the governmental entity in writing, with copies to the Oklahoma Tax Commission.
(f) **Project incomplete.** If any aspect of the project is not complete, the DEQ shall give written notification of the deficiencies to the governmental entity who shall respond accordingly. DEQ shall not authorize partial compensation for incomplete projects.
(g) **Recordkeeping.** Records required by this Section shall be maintained by the governmental entity for a period of three years after completion of the project.

SUBCHAPTER 23. CLOSURE, POST-CLOSURE, AND FINANCIAL ASSURANCE

252:520-23-8. Closure plan

(a) **Plan scenario.** For landfills, the plan for the final closure shall provide for the closure of the site when no phased or final closure has been conducted for twelve months, storage capacity is filled and the site has accepted its final wastes for disposal. For processing facilities, including transfer stations, incinerator facilities and composting sites, the plan for final closure shall provide for the closure of the site at a time when the facility has received the maximum amount of waste to be processed and/or transferred and has full storage.
(b) **Final closure activities applicable to all sites.** Final closure activities applying to all sites include:
(1) contracting for technical consultative services;
(2) providing administrative overhead for oversight and recordkeeping;
(3) identifying temporary buildings and other improvements not designated as permanent in permit application and removing each from site;
(4) identifying all equipment to be removed from site after final closure has been certified as complete and removing it from site;
(5) when monitoring is required, reworking or replacing any defective groundwater monitor wells and other defective monitoring equipment, monitoring ground and surface water, and collecting and analyzing soil and water (surface and subsurface) samples;
(6) maintaining site security and access control;
(7) preparing final closure certification and other final closure reports and notices required by this Subsection; and
(8) performing any other tasks necessary to achieve complete and final closure of the site.
(c) **Final closure activities applicable to landfills.** In addition to 252:520-23-8(b) above, final closure activities applying to landfills shall include:
(1) redesigning final closure in accordance with existing site conditions and applicable regulations;
(2) disposing of final wastes and affected soils;
(3) describing the final cover construction, including a calculation of the amount of material needed for each phase of closure, the identification of the soil type and location to be used for the final cover, analysis of the proposed cover material's permeability (hydraulic conductivity), and the schedule and method of placement of the final cover;
(4) obtaining, hauling and placing soil for final cover;
(5) grading, planting, fertilizing and establishing vegetation on disturbed areas and final cover, including reshaping and revegetation of on- and off-site soil borrow areas to blend with surrounding terrain, or another approved reclamation plan;
(6) constructing additional or reworking existing surface drainage and erosion control measures as necessary;
(7) remedying all former improper closure at the site;
(8) collecting, treating and properly disposing of leachate;

(9) conducting the final closure survey; and necessary to accomplish final closure of all previously closed disposal areas.

(d) **Phased closure activities for landfills.** In addition to 252:520-23-8(b) above, the section on phased closure shall specify how the activities in 252:520-23-8(c) above will be performed in phases. The phased closure section shall also identify the areal extent of the site to be closed in each phase, set forth a proposed schedule for such closures, and specify a progression of surface drainage controls which will prevent or minimize erosion and the contact of waste with water upon the closure of each phase.

(e) **Closure activities applicable to processing facilities.** In addition to 252:520-23-8(b) above, closure plans for processing facilities shall include plans for:

(1) removing all on-site waste, residues, including contaminated soils or other affected materials, if any, to a disposal site permitted to accept such wastes;

(2) analyzing soils from adjacent waste handling and storage areas; and

(3) decontaminating facility.

SUBCHAPTER 27. LANDFILL GAS INCENTIVE PAYMENTS

252:520-27-1. Authority and applicability

This Subchapter is authorized by 27A O.S. § 2-10-802(C)(6) and applies to any person, firm or corporation located in Oklahoma desiring to apply for incentive payments for projects that generate energy by utilizing solid waste landfill methane gas.

252:520-27-2. Funding

At least once each fiscal year during the process of preparing budgets for the next fiscal year, the DEQ shall determine the availability of funds for this program. Potential applicants should first inquire about the availability of funds budgeted for this program.

252:520-27-3. Proposal required

Persons seeking incentive payments shall submit an application in the form of a proposal. The proposal shall describe the project in sufficient detail for the Department to determine that the project complies with the Oklahoma Solid Waste Management Act and this Subchapter.

252:520-27-4. Life of project

The project must operate for a minimum of seven years.

252:520-27-5. Content of proposal

The proposal shall include the following information:

(1) a description of the proposed energy generation project including the method of utilizing the solid waste landfill methane, the anticipated quantities of energy to be generated and the market for the energy;

(2) documents that specify the equipment to be utilized to generate energy from the solid waste landfill methane and the cost of the equipment. Equipment used to collect solid waste landfill methane as required in OAC 252:100 shall not be included in the proposal;

(3) a written agreement with the owner/operator of the landfill that generates the methane, if the proposer is other than the landfill owner/operator;

(4) the proposed amount of incentive payments based on the amount of energy generated, along with a detailed rationale for the amount proposed; and

(5) a business plan that demonstrates that the project will have a positive cash flow during the three-year period of incentive payments and thereafter over the anticipated life of the project, not to be less than seven years.

252:520-27-6. Encumbrance of funds

If funds are available, the Department shall present a contract to the proposer after determining that the proposal is complete and that it complies with the Oklahoma Solid Waste Management Act and this subchapter. This contract will commit the funds for the project. The Department shall encumber the funds for the initial contract period coinciding with the state fiscal year, not to exceed one year.

252:520-27-7. Reimbursement

(a) **Submittal of invoices.** The project manager may begin submitting invoices to Department upon the receipt of a purchase order. Invoices shall be submitted monthly or quarterly. Each invoice shall itemize the quantities of energy generated by the project and purchased by the project's market. Each invoice shall be a proper invoice as defined at 62 O.S. § 41.4(c).

(b) **Inspection.** The Department may inspect the project and may evaluate its records to verify that the project is functioning properly and that invoices submitted are accurate.

(c) **Payment.** The Department shall reimburse the project manager not later than 45 days from the date that a proper invoice is received by the Department contact identified in the contract.

252:520-27-8. Contract renewal

(a) **Renewal allowed.** The project manager may renew the contract twice, for a cumulative period of incentive payments not to exceed three years.

(b) **Renewal proposal.** A project manager planning to renew an existing contract shall submit an proposal for renewal no later than 90 days prior to the end of the contract period.

(c) **Content of proposal.** The proposal shall include data on the technical and economic performance of the project and a revised business plan based on the actual operation.

252:520-27-9. Prioritization of funding

(a) **Financial soundness.** The Department shall prioritize projects for continued receipt of incentive payments based upon a determination that:

(1) the project has operated with a positive cash flow; and

(2) financial performance is reasonably expected to continue over the anticipated life of the project, especially after incentive payments have ended.

(b) **Existing vs. new projects.** If the Department receives proposals for more than one project and for more incentive payments than funds available, priority will be given to existing projects over start-up projects. If further prioritization is necessary, the Department shall give first consideration to projects entering the third year of operation.

252:520-27-10. Penalties

If a project ceases operations before the required seven years of operation, the recipient of incentive payments shall reimburse the DEQ for all payments received.

[OAR Docket #03-183; filed 1-23-03]
(format accepted 1-28-03)

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 110. FEE AND FINE SCHEDULE FOR OCCUPATIONAL LICENSING

[OAR Docket #03-81]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 1. General Provisions
310:110-1-1 [AMENDED]
Subchapter 5. Administrative Fine Schedule
310:110-5-6 [NEW]
310:110-5-7 [NEW]
AUTHORITY:
Oklahoma State Board of Health; Fee and Fine Schedule for Occupational Licensing Service Title 63 Section 1-106.1 et seq., Title 59 Section 61.1 et seq., and Title 59 Section 858-621 et seq.
DATES:
Comment Period:
October 15, 2002 through November 14, 2002
Public Hearing:
November 14, 2002
Adoption:
November 14, 2002
Approved by Governor:
January 6, 2003
Effective:
Immediately upon Governor's approval
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
"n/a"
INCORPORATIONS BY REFERENCE:
"n/a"
FINDING OF EMERGENCY:
The State Board of Health finds that public interest requires seeking of emergency certification of the rules in Chapter 110. Unless an emergency is declared and certified, this rule cannot go into effect until approximately July 14, 2003, which would mean the rules would not be in concert with the statute revisions and the penalties established during the 2001 and 2002 legislative sessions. The Barber Advisory Board and the Committee of Home Inspector Examiners support the adoption of these rules by the Board of Health.
ANALYSIS:
The proposal amends Subchapter 1 to allow violations of the Barber Licensing Act, Barber rules, the Home Inspection Licensing Act and the Home Inspection Industry Regulations to utilize the administrative fine schedule. The proposal amends Subchapter 5 by adding Section 5-6, Schedule of fines for the Home Inspection Industry and 5-7, Schedule of fines for the Barber Industry. Legislation passed during the 2001 and 2002 session provided the authority for the Board of Health to establish and levy administrative fines. The legislation for the Barber Industry becomes effective November 1, 2002 and July 1, 2003 for the Home Inspection Industry.
CONTACT PERSON:
Rocky McElvany, Consumer Protection Service, Protective Health Services, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299; telephone:(405) 271-9444, ext. 57901; facsimile: (405) 271-3458 electronic mail: rockym@health.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 1. GENERAL PROVISIONS

310:110-1-1. Purpose

(a) Subchapter Three of this Chapter implements the fee provisions of the Public Health Code which authorize license fees for licenses issued by the Commissioner of Health or the Oklahoma State Department of Health for occupations and professions codified in Title 59 of the Oklahoma Statutes, as they exist and may be amended.

(b) Subchapter Five of this Chapter implements the administrative fine schedule for violations of the Electrical License Act, the Mechanical Licensing Act, The Plumbing License Law of 1955, ~~and~~ the Alarm Industry Act, the Barber Licensing Act and the Home Inspection Licensing Act, as they exist and may be amended, and the rules promulgated thereunder, respectively.

SUBCHAPTER 5. ADMINISTRATIVE FINE SCHEDULE

310:110-5-6. Schedule of fines for the Home Inspection Industry

The fine schedule for citations issued by the Department for Violations of the Home Inspector Licensing Act or the Rules promulgated thereunder shall be subject to the following fines:

(1) Violations of 310:276-11-2(a):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00

(2) Violations of 310:276-11-2(b):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00

(3) Violations of 310:276-11-2(c):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(4) Violations of 310:276-11-2(d):
(A) First violation: up to $200.00
(B) Subsequent violation: up to $500.00
(5) Violations of 310:276-11-2(e):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(6) Violations of 310:276-11-2(f):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(7) Violations of 310:276-11-2(g):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(8) Violations of 310:276-11-2(h):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(9) Violations of 310:276-11-2(i):
(A) First violation: up to $500.00
(B) Subsequent violation: up to $1,000.00
(10) Violations of 310:276-11-2(j):
(A) First violation: up to $1,000.00
(B) Subsequent violation: up to $2,000.00
(11) Violations of 310:276-11-2(k):
(A) First violation: up to $200.00
(B) Subsequent violation: up to $500.00
(12) Violations of 310:276-11-2(l):
(A) First violation: up to $200.00
(B) Subsequent violation: up to $500.00
(13) Violations of 310:276-11-2(m):
(A) First violation: up to $200.00
(B) Subsequent violation: up to $500.00
(14) Violations of 310:276-11-2(n):
(A) First violation: up to $200.00
(B) Subsequent violation: up to $500.00

310:110-5-7. Schedule of fines for the Barber Industry

The fine schedule for citations issued by the Department for violations of the Barber Act or rules promulgated thereunder shall be subject to the fines as follows providing each day a violation continues shall be a separate offense:

(1) Engaging in barber business as an instructor, barber or apprentice without a license in the appropriate category:
(A) First: $250
(B) Subsequent: $500
(2) Employing an unlicensed person to perform barber work (per person):
(A) First: $50
(B) Subsequent: $50
(3) Allowing a graduate apprentice or a barber apprentice to work without direct supervision:
(A) First: $50
(B) Subsequent: $50
(4) Employing more than one barber apprentice and one graduate apprentice per shop (fine per apprentice):
(A) First: $50
(B) Subsequent: $50
(5) Operating a barber work station in an unsanitary condition or without the proper sanitizer contact between patrons:
(A) First: $50
(B) Subsequent: $50
(6) Failure to comply with a specific provision of the Barber Act or Regulations by a graduate apprentice, barbers or barber apprentice:
(A) First: $50
(B) Subsequent: $50
(7) Failure to comply with a specific provision of the Barber Act or Regulations by an individual not licensed under the Barber Act:
(A) First: $250
(B) Subsequent: $500
(8) Operating a barber school without a state barber school license:
(A) First: $250
(B) Subsequent: $500
(9) Operating a barbershop or school without notifying the appropriate authority for a sanitation and equipment inspection:
(A) First: $50
(B) Subsequent: $50
(10) Operating a barber college without the appropriate number of licensed instructors:
(A) First: $50
(B) Subsequent $50

[OAR Docket #03-81; filed 1-8-03]
(format accepted 1-14-03)

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 205. ALARM INDUSTRY ~~REGULATIONS~~

[OAR Docket #03-82]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 3. License Requirements
310:205-3-2 [AMENDED]
310:205-3-3 [AMENDED]
310:205-3-4 [AMENDED]
310:205 Appendix A [REVOKED and REENACTED]
AUTHORITY:
Oklahoma State Board of Health; Alarm Industry Act, 59 O.S. Sections 1800.1 et seq.
DATES:
Comment Period:
October 15, 2002 through November 14, 2002
Public Hearing:
November 14, 2002
Adoption:
November 14, 2002
Approved by Governor:
January 6, 2003
Effective:
Immediately upon Governor's approval

Expiration:

Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATIONS BY REFERENCE:

"n/a"

FINDING OF EMERGENCY:

The State Board of Health finds that public interest requires seeking of emergency certification of the rules in Chapter 205. Unless an emergency is declared and certified, this rule cannot go into effect until approximately July 14, 2003, which would mean the public would not be afforded the protection from unscrupulous alarm companies recommended by the alarm industry and forwarded unanimously by the Alarm Advisory Committee for adoption by the Board of Health.

ANALYSIS:

The proposal amends Subchapter 3 of the present Alarm Industry Regulations. The current rule requires the company to place the state issued company license number on all letterhead stationery, business cards, bids, estimates, printed advertisements, yard signs and in all electronic media advertisements. The proposed change requires the state issued license number to be included on invoices, statements, contracts and vehicles where the company name is displayed.

"Burglar alarm company manager" as defined by 310:205-1-2 of the Alarm Industry Regulations "means an officer or manager of a company, corporation, partnership or proprietorship, with the authority to bind the company by contract, who shall provide direct supervision over the function and local operations of such alarm industry business or a branch thereof." "Fire alarm company manager" has a similar definition. 310:205-3-3(C)states, "Each manager shall be responsible for all activities of the company with the State of Oklahoma." The industry recognizes that it is virtually impossible for the alarm company managers who are the licensed company manager for as many as eight (8) companies to competently meet the intent of the current Alarm Industry Rules and the Alarm Industry Act. The proposed rule recommended by the Oklahoma Burglar and Fire Alarm Association and approved by the Oklahoma Automatic Fire Alarm Association makes the current regulations enforceable by requiring burglar and fire alarm company managers to meet one of two options: (1) be the single alarm company manager for only one company for which he is a full time employee, or (2) have a majority interest in all of the companies for which he is the manager. The proposed rule also allows burglar and fire alarm companies to operate branch offices across the state and requires the company to keep information about the branch offices current with the Department.

Some alarm companies program the alarm system using an installer's lockout code to prevent unauthorized access to the alarm system. Consumers and alarm companies have complained that some alarm companies will not remove the code from customer owned equipment after their contract for monitoring services has expired. If this code is not removed, another alarm company cannot reprogram the system for monitoring by the new company, rendering the system worthless. This rule requires alarm companies to remove their lockout code from systems that are customer owned when requested to do so.

Citizens in the state of Oklahoma have complained that some alarm contracts contain a "consumer trap". Most alarm contracts automatically renew. In order to cancel, some contracts require the customer to notify the alarm company ninety days prior to the termination of contract (or any renewal period thereafter) or the contract is automatically renewed for one or more years. The proposed rules are intended to help the consumer understand the terms of the contract by requiring that all of the terms of the contract standout on the face of the contract or in a separate disclosure statement. This rule also requires the licensed company representative who sold the agreement to write his name and state issued license number on the contract/agreement.

The National Training School who provides certification for unlimited fire alarm technicians and managers has upgraded their training programs to meet current requirements. The proposed rule makes changes to the rules to allow the Department to accept the new NTS/NBFAA certifications as approved by the Alarm Industry Committee.

CONTACT PERSON:

Rocky McElvany, Environmental Health Service, Protective Health Services, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299; telephone:(405) 271-9444, ext. 57901; facsimile: (405) 271-5254 electronic mail: rockym@health.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 3. LICENSE REQUIREMENTS

310:205-3-2. License fees, period and display, and examination alternatives or prerequisites

(a) **Initial license fees.** The following fees apply to alarm industry licensure:

(1) Alarm Company License - $200.00; license issued after February 1, but before the end of the State fiscal year - $125.00

(2) Alarm Company Manager - $50.00

(3) Alarm Technician/Alarm Technician Trainee - $25.00

(4) Alarm Salesperson - $25.00

(5) Re-Examination, Per Attempt - $25.00

(b) **License period.**

(1) A license shall expire on June 30, 1991, and each year thereafter, and may be renewed without penalty during the month of July. Beginning on August 1, a license may be renewed by paying double the renewal fee.

(2) Initial application for Alarm Technician Trainees shall be submitted within three (3) working days of employment to the Department. This registration shall be contingent on a security background investigation. All individuals employed for any length of time shall have application and finger prints submitted to employer prior to employment.

(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.

(c) **Re-examination.** Any applicant initially failing to pass the appropriate examination, if required, shall not be permitted to take the same category examination for at least thirty (30) days, and thereafter any such applicant failing to pass the examination shall not be permitted to take a subsequent examination for at least ninety (90) days.

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

(e) **Personal license display.** Each Manager, Technician, Technician Trainee, or Salesperson, shall possess the state issued card any time the person is working. The card shall be shown when requested.

(f) **Certification.**

(1) An applicant for an alarm license may submit certification or proof of passing the appropriate examination(s) from a nationally recognized organization as a prerequisite to, or as a substitute for, an alarm examination administered by the Department as provided for in Sections 310:205-3-3, 310:205-3-4 or 310:205-3-7 of this Chapter.

(2) In order to qualify, certification submitted by an applicant for alarm licensure shall be from an organization that issues national certification to individuals in the alarm industry and is based on successful completion of an examination which determines if the applicant is sufficiently knowledgeable in alarm systems or technical subfields of alarm systems to plan, install, repair, alter, maintain, service, sell, inspect, advertise, and monitor alarm systems or technical subfields of alarm systems according to nationally acceptable code standards.

(3) The Department shall accept certification from an organization if the certification standards have been verified by the Alarm Industry Committee to include that the certifying organization:

(A) shall conduct certification activities which are national in scope;

(B) shall be administratively independent in matters pertaining to certification. Administratively independent means that all policy decisions relating to certification matters are the sole decision of the certifying organization and not subject to approval by any other body or the membership of an affiliated body, and that all financial matters related to the operation of the certifying organization are segregated from those of the parent or any affiliated organization;

(C) shall demonstrate that the organization staff possesses the knowledge and skills necessary to conduct the certification or recertification programs or that non-staff consultants and professionals are available to sufficiently supplement staff knowledge and skills;

(D) shall use reliable testing mechanism(s) to evaluate individual knowledge that is objective, fair to all candidates, job-related, and based on the knowledge and skills needed to function in the alarm industry or technical subfield of the alarm industry;

(E) shall establish pass/fail levels that protect the public determining if the applicant is sufficiently knowledgeable in alarm systems to design, install, service, and sell alarm systems or technical subfields of the alarm industry that meet applicable code standards, and that are generally acceptable in the psychometric community as being fair and reasonable; and

(F) shall publish and make available to the Department general descriptive materials on the procedures used in examination construction and validation, all eligibility requirements and determination procedures, and the procedures for examination administration including exam dates and locations, fees, reporting of results, recertification requirements, and grievance or appeals procedures.

310:205-3-3. Burglar alarm license requirements

Licensing requirements for the burglar alarm industry are as follows:

(1) **Company.**

(A) Each burglar alarm company shall employ an Oklahoma licensed burglar alarm company manager. After January 1, 2003, all burglar alarm companies applying for initial licensure and/or any burglar alarm company which changes its burglar alarm company manager or ownership shall comply with section 310:205-3-3(2)(C) of this chapter. After July 1, 2003, all burglar alarm companies will comply with section 310:205-3-3(2)(C) of this chapter.

(B) A licensed burglar alarm technician or manager shall be on site for any work being performed.

(C) A burglar alarm company may operate branch offices provided each branch office has the same name and ownership of the parent company. The company will notify the department of the physical address and telephone number for each branch office and will keep this information current with the department.

(D) The alarm company shall remove access and "lockout" codes from the alarm system after the legal termination of the monitoring agreement on customer-owned equipment upon the receipt of a written request from the owner to remove such codes.

(E) The customer shall be given a copy of all documents at the time of the sale and the company shall maintain a copy of all of the documents. All monitoring and/or lease contracts shall include, as a minimum, the following information: the initial term of the agreement, the renewal term of the agreement, the terms for notification of cancellation of the agreement as well as the costs involved of all the terms of the agreement, the company name and the state issued license number, the sales representative's name and state issued license number, and the customer's name and address. The minimum information described above shall be disclosed in one of the following two ways:

(i) Printed on the front or face of the written contract in not less than twelve (12) point bold type and at least two (2) points larger than the rest of type size of the remaining text in the written contract; or,

(ii) On a separate disclosure form appended to the written contract and dated, and signed by the customer and the licensed alarm company representative who made the sale.

(2) **Manager.**

(A) Each application for licensure as a manager shall include verification of at least eight thousand (8,000) hours of experience in the burglar alarm business.

(B) Each licensed burglar alarm company manager shall pass an examination administered by the Department which qualifies him and determines if the applicant is sufficiently knowledgeable in burglar alarms to plan, install, repair, alter, maintain, service, sell, inspect, advertise, and monitor burglar alarm systems according to acceptable code standards.

(C) Each licensed burglar alarm company manager shall be responsible for all activities of the burglar alarm company within the State of Oklahoma.

(D) Each licensed burglar alarm company manager shall have a security background verification.

(E) A burglar alarm company manager shall be the burglar alarm company manager of only one burglar alarm company, where he or she must be a full time employee; otherwise a burglar alarm company manager shall hold majority ownership in any burglar alarm company for which he or she is the licensed burglar alarm company manager.

(3) **Technician.**

(A) Each technician shall work for a licensed burglar alarm company and under the supervision of a burglar alarm company manager.

(B) Each technician shall pass an examination administered by the Department which determines if the applicant is sufficiently knowledgeable in burglar alarms to design, install, service, and sell burglar alarm systems that meet applicable code standards when installed; or in lieu of examination by the Department, an applicant for a license as a burglar alarm technician shall submit proof of Level 1 certification by NBFAA/NTS or proof of certification by another organization that offers national certification to individuals in the burglar alarm industry in accordance with subsection 310:205-3-2(f) of this Chapter.

(C) Each technician shall have a security background verification.

(4) **Technician trainee.**

(A) A technician trainee shall be employed by a licensed Oklahoma burglar alarm company.

(B) A technician trainee shall work under the direct supervision of a licensed burglar alarm company manager or a burglar alarm technician.

(C) There shall be no more than three (3) technician trainees per burglar alarm company manager or burglar alarm technician per job site.

(D) Each technician trainee shall have security background verification.

(5) **Salesperson.**

(A) Each salesperson shall work for a licensed burglar alarm company and under the supervision of a burglar alarm company manager.

(B) Each salesperson shall pass an examination administered by the Department which determines if the applicant is sufficiently knowledgeable in burglar alarms to design and sell burglar alarm systems that meet applicable code standards when installed; or in lieu of examination by the Department, an applicant for a license as a burglar alarm salesperson may submit proof of Level 1 certification by NBFAA/NTS or proof of certification by another organization that offers national certification to individuals in the burglar alarm industry in accordance with subsection 310:205-3-2(f) of this Chapter.

(C) Each salesperson shall have a security background verification.

310:205-3-4. Fire alarm license requirements

Licensing requirements for the fire alarm industry are as follows:

(1) **Company.**

(A) Each company shall employ an Oklahoma licensed fire alarm company manager. After July 1, 2002, all fire alarm companies applying for initial licensure or any fire alarm company which changes managers or ownership shall comply with section 310:205-3-4 (2)(H) of this chapter. After July 1, 2003, all fire alarm companies will comply with section 310:205-3-4 (2)(H) of this chapter.

(B) A licensed fire alarm technician or manager shall be on site for any work being performed.

(C) A company whose manager only holds a limited fire alarm manager license shall be issued a limited fire alarm company license.

(D) A company whose manager holds an unlimited fire alarm manager license shall be issued an unlimited fire alarm company license.

(E) A company with a limited fire alarm company license shall only offer to, or engage in the planning, installation, repair, alteration, maintenance, service, sale, inspection, or advertisement of fire alarms for use in Residential Building and manufactured housing.

(F) A company with an unlimited fire alarm company license may offer to, or engage in the planning, installation, repair, alteration, maintenance, service, sale, inspection, or advertisement of fire alarm systems for any residential or commercial use.

(G) Any equipment installed by a company as part of a fire alarm system shall be listed by Underwriters Laboratories, Factory Mutual or any other nationally recognized testing entities for such purpose.

(H) A fire alarm company may operate branch offices provided each branch office has the same name and ownership of the parent company. The company will notify the department of the physical address and telephone number for each branch office and will keep this information current with the department.

(I) A properly licensed fire alarm technician or manager of a properly licensed alarm company shall perform the initial testing, inspection, or certification of the entire fire alarm system, and that licensed alarm company shall assume full responsibility for the installation of the alarm system.

(2) **Manager.**

(A) Each application for licensure as a fire alarm manager shall include verification of at least eight thousand (8,000) hours of experience in the fire alarm business.

(B) Each manager shall pass an examination administered by the Department which qualifies him and determines if the applicant is sufficiently knowledgeable in fire alarms to plan, install, repair, alter, maintain, service, sell, inspect, advertise, and monitor fire alarm systems according to acceptable code standards.

(C) Each licensed company manager shall be responsible for all activities of the company within the State of Oklahoma.

(D) Each licensed company manager shall have a security background verification.

(E) A manager with a limited fire alarm manager license shall only offer to, engage in, or supervise the planning, installation, repair, alteration, maintenance, service, sale, inspection, or advertisement of fire alarm systems for use in Residential Building and manufactured housing.

(F) A manager with an unlimited fire alarm manager license may offer to, engage in, or supervise the planning, installation, repair, alteration, maintenance, service, sale, inspection, or advertisement of fire alarm systems for any residential or commercial use.

(G) An applicant for initial licensure as, or renewal of, an unlimited, fire alarm manager license shall submit proof of NICET II, technical subfield Fire Alarm Systems, certification, NBFAA/NTS Level IIB certification or certification by another organization that offers national certification to individuals in the fire alarm industry in accordance with subsection 310:205-3-2(f) of this Chapter. After July 1, 2002, an applicant for initial licensure as an unlimited fire alarm manager license shall submit proof of NICET II, technical subfield Fire Alarm Systems, certification; or NBFAA/NTS Level IIB Fire Systems Installation Standards, certification NBFAA/NTS Level IIB Controls & Communications, certification and Level IIA Advanced Electronics, certification; or NBFAA/NTS Level IIB Fire Systems Installation Methods and Level IIA Advanced Electronics, certification; or proof of certification by another organization which offers national certification to individuals in the fire alarm industry in accordance with subsection 310:205-3-2(f) of this Chapter. After July 1, 2003, an applicant for initial licensure as, or renewal of, an unlimited fire alarm manager license shall submit proof of NICET II, technical subfield Fire Alarm Systems, certification; or NBFAA/NTS Level IIB Fire Systems Installation Standards, certification, NBFAA/NTS Level IIB Controls & Communications, certification and Level IIA Advanced Electronics, certification; or NBFAA/NTS Level IIB Fire Systems Installation Methods and Level IIA Advanced Electronics, certification or proof of certification by another organization which offers national certification to individuals in the fire alarm industry in accordance with subsection 310:205-3-2(f) of this Chapter.

(H) A fire alarm company manager ~~will have a 50% or greater ownership in the company for which he is the manager or shall be the manager of only one company where he is a full time employee of the company.~~ shall be the fire alarm company manager of only one fire alarm company, where he or she must be a full time employee; otherwise a fire alarm company manager shall hold majority ownership in any fire alarm company for which he or she is the licensed fire alarm company manager.

(3) **Technician.**

(A) Each technician shall work for a licensed fire alarm company and under the supervision of a fire alarm company manager.

(B) Each technician's application shall include verification of experience in the fire alarm industry by a licensed fire alarm company manager.

(C) Each technician shall pass an examination administered by the Department which determines if the applicant is sufficiently knowledgeable in fire alarms to design, install, service, and sell fire alarm systems that meet applicable code standards when installed.

(D) Each technician shall have a security background verification.

(E) Each technician shall perform or supervise only fire alarm work within the fire alarm license category for which the fire alarm company is licensed.

(F) An initial applicant for a limited technician license shall be issued a limited license after successful completion of the appropriate technician examination; or in lieu of examination by the Department, an applicant for a license as a limited fire alarm technician shall submit proof of Level 1 certification by NBFAA/NTS or proof of certification by another organization that offers national certification to individuals in the limited fire alarm industry in accordance with subsection 310:205-3-2(f) of this chapter.

(G) A technician with a limited technician license shall only install, repair, alter, maintain, service, sell, or inspect fire alarm systems for use in Residential Building.

(H) A technician with an unlimited technician license may install, repair, alter, maintain, service, sell, or inspect fire alarm systems for any residential or commercial use.

(I) Beginning July 1, 2000, an applicant for an initial unlimited technician license, or an applicant for renewal of an unlimited technician license, may be issued an unlimited technician license after successful completion of the appropriate technician examination and submission of proof of passing the examinations required for NICET II certification, subfield Fire

Alarm Systems; or proof of NBFAA/NTS Level IIB Fire Systems Installation Standards, NBFAA/NTS Level IIB Controls and Communications, certification, and NBFAA/NTS Level IIA Advanced Electronics, certification~~,~~; or NBFAA/NTS Level IIB Fire Systems Installation Methods and Level IIA Advanced Electronics, certification; or proof of certification by another organization which offers national certification to individuals in the fire alarm industry in accordance with subsection 310:205-3-2(f) of this Chapter.

(4) **Technician trainee.**

(A) A technician trainee shall be employed by a licensed Oklahoma fire alarm company.

(B) A technician trainee shall work under the direct supervision of a licensed fire alarm company manager or a fire alarm technician.

(C) There shall be no more than three (3) technician trainees per fire alarm company manager or fire alarm technician per job site.

(D) Each technician trainee shall have a security background verification.

(E) Each technician trainee shall only install, repair, alter, maintain, service, sell, or inspect fire alarm systems within the fire alarm license category for which the supervisor is licensed.

(5) **Salesperson.**

(A) Each salesperson shall work for a licensed fire alarm company and under the supervision of a fire alarm company manager.

(B) Each salesperson shall pass an examination administered by the Department which determines if the applicant is sufficiently knowledgeable in fire alarms to design and sell fire alarm systems that meet applicable code standards when installed.

(C) Each salesperson shall have a security background verification.

(D) An applicant for an initial limited salesperson license shall be issued a limited license after successful completion of the appropriate salesperson examination; or in lieu of examination by the Department, an applicant for a license as a limited fire alarm salesperson shall submit proof of certification by NBFAA/NTS or proof of certification by another organization that offers national certification to individuals in the limited fire alarm industry in accordance with subsection 310:205-2-3(f) of this chapter.

(E) Each salesperson shall design and sell only fire alarm systems in the license category for which the fire alarm company is licensed.

(F) An initial applicant for an unlimited salesperson license shall be issued an unlimited license after successful completion of the appropriate salesperson examination or submission of proof of NICET II certification, subfield Fire Alarm Systems, or NBFAA/NTS Practical Fire Alarm certification or certification by another organization which offers national certification to individuals in the fire alarm industry in accordance with subsection 310:205-3-2(f) of this Chapter.

APPENDIX A. TABLE OF ALARM INDUSTRY LICENSE REQUIREMENTS [REVOKED]

APPENDIX A. TABLE OF ALARM INDUSTRY LICENSE REQUIREMENTS [NEW]

License Category	Alarm Company Manager	Alarm Technician	Alarm Technician Trainee	Alarm Salesperson
Burglar Alarm Company	4. Eight Thousand Hours Experience 5. Exam* 6. Security Verification	3. Exam* or NBFAA/NTS Level I or Other National Certification 4. Security Verification	Security Verification	3. Exam* or NBFAA/NTS Level I or Other National Certification 4. Security Verification
Limited Fire Alarm Company (Residential Building & manufactured housing Only)	4. Eight Thousand Hours Experience 5. Exam* 6. Security Verification	4. Verified Experience 5. Exam* or NBFAA/NTS Level I or Other National Certification , 6. Security Verification	Security Verification	3. Exam* or NBFAA/NTS Level I Certification 4. Security Verification
Unlimited Fire Alarm Company (All buildings)	5. Eight Thousand Hours Experience. 6. Exam* 7. NICET II technical subfield Fire Alarm Systems or **(a)** NBFAA/NTS Level IIB Fire Systems Installation Standards **and (b)** Controls & Communications **and (c)** Advanced Electronics or NBFAA/NTS Level IIB Fire Systems Installation Methods or Other National Certification. 8. Security Verification	5. Verified Experience 6. Exam* 7. NICET II, subfield Fire Alarm Systems or **(a)** NBFAA/NTS Level II Fire Systems Installation Standards, **(b)** Controls & Communications **and (c)** Advanced Electronics or NBFAA/NTS Level IIB Fire Systems Installation Methods or Other National Certification 8. Security Verification	Security Verification	3. Exam* or NICET II or NBFAA/NTS Practical Fire Alarm or Other National Certification, 4. Security Verification
Monitoring Company	Security Verification	License or Register Not Applicable	License or Register Not Applicable	License or Register Not Applicable
Vehicle Alarm Company	Security Verification	License or Register Not Applicable	License or Register Not Applicable	License or Register Not Applicable

License Category	Alarm Company Manager	Alarm Technician	Inspector
Limited Fire Sprinkler Company	NICET II, technical subfield of automatic sprinkler systems layout	National Fire Sprinkler Association Certification for residential multipurpose piping systems	N/A
Unlimited Fire Sprinkler Company	NICET Level Three or Other National Certification or Registered Professional Engineer	3. Verified Experience 4. Exam*	July 1, 2002 Sprinkler Manager or Sprinkler Technician License. After July 1, 2004 NICET Level II certification sub-field of Inspection & Testing of Water-Based Systems After July 1, 2005 NICET Level III certification or certification sub-field of inspection & Testing of water-Based Systems

*State qualifying examination given by OSDH.

[OAR Docket #03-82; filed 1-8-03]
(format accepted 1-14-03)

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 276. HOME INSPECTION INDUSTRY

[OAR Docket #03-83]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 1. General Provisions [NEW]
310:276-1-1 [NEW]
310:276-1-2 [NEW]
310:276-1-3 [NEW]
Subchapter 3. Procedures of the Committee [NEW]
310:276-3-1 [NEW]
Subchapter 5. License Requirements, License Fees, License Period, Re-examination, Display and Insurance [NEW]
310:276-5-1 [NEW]
310:276-5-2 [NEW]
Subchapter 9. Examination Applications, Examinations, Course Approval Requirements, Instructor Requirements, Continuing Education, Denied Application Appeal, Submission of Records, and Continuing Education Reciprocity [NEW]
310:276-9-1 [NEW]
310:276-9-2 [NEW]
310:276-9-3 [NEW]
310:276-9-4 [NEW]
310:276-9-5 [NEW]
310:276-9-6 [NEW]
310:276-9-7 [NEW]
310:276-9-8 [NEW]
Subchapter 11. License Revocation and Suspension and Prohibited Acts [NEW]
310:276-11-1 [NEW]
310:276-11-2 [NEW]
AUTHORITY:
Oklahoma State Board of Health; 59 O.S. 2001, § 858-621 et seq.
DATES:
Adoption:
November 14, 2002
Approved by Governor:
January 6, 2003
Effective:
Immediately upon Governor's approval
Expiration:
Effective through July 1, 2003, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
"n/a"
INCORPORATIONS BY REFERENCE:
"n/a"
FINDING OF EMERGENCY:
The State Board of Health finds that compelling extraordinary circumstances exist due to the regulatory function of the department that is mandated by law for the home inspection industry, which requires rules to be adopted by the Board of Health.
ANALYSIS:
The purpose of these rules is to set forth the Home Inspection Industry regulations mandated by the Home Inspection Licensing Act. These rules have no antecedent and the Home Inspection Licensing Act became effective on November 1, 2001. The rules adopt and set forth standards of workmanship, advisory Committee procedures, examination procedures, licensure fees, continuing education requirements and prohibited acts.
CONTACT PERSON:
Rocky McElvany, Chief, Consumer Protection Services, Protective Health Services, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299, telephone:(405) 271-5288; facsimile: (405) 271-3458; electronic mail: rockym@health.state.ok.us.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 1. GENERAL PROVISIONS

310:276-1-1. Purpose

The rules in this Chapter implement the Home Inspection Licensing Act, Title 59 O.S. 2001, § 858-621 et seq.

310:276-1-2. Definitions

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

"Act" means the Home Inspection Licensing Act, found at 59 O.S. 858.621 et seq.

"Alarm systems" means warning devices, installed or free-standing, including but not limited to: carbon monoxide detectors, flue gas and other spillage detectors, security equipment, ejector pumps and smoke alarms.

"Applicant" means any person applying for an examination for a license or registration under the Act.

"Architectural service" means any practice involving the art and science of building design for construction of any structure or grouping of structures and the use of space within and surrounding the structures or the design for construction, including but not specifically limited to, schematic design, design development, preparation of construction contract documents, and administration of the construction contract.

"Board" means the State Board of Health.

"Certificates of course completion" means a document acceptable to the Committee which signifies satisfactory completion of course work and reflects the hours of credit earned.

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

"Classroom hour" is equal to fifty (50) minutes out of each sixty (60) minute segment.

"Commissioner" means the State Commissioner of Health.

"Committee" means the Committee of Home Inspector Examiners.

"Component" means a part of a system.

"Continuing education" means education that is approved by the Committee to satisfy education requirements in order to renew licensure as a home inspector.

"Continuing education verification form" means a form acceptable to the Committee and completed by the course provider, that documents compliance with the continuing education requirements.

"Decorative" means ornamental; not required for the operation of the essential systems and components of a home.

"Defect" means a condition, malfunction or problem, which is not decorative, that would have a materially adverse

effect on the value of a system or component, or would impair the health or safety of the occupants or client.

"Department" means the Oklahoma State Department of Health.

"Describe" means to report a system or component by its type or other observed, significant characteristics to distinguish it from other systems or components.

"Dismantle" means to take apart or remove any component, device or piece of equipment that would not be taken apart or removed by a homeowner in the course of normal and routine homeowner maintenance.

"Engineering service" means any professional service or creative work requiring engineering education, training, and experience and the application of special knowledge of the mathematical, physical and engineering sciences to such professional service or creative work as consultation, investigation, evaluation, planning, design and supervision of construction for the purpose of assuring compliance with the specifications and design, in conjunction with structures, buildings, machines, equipment, works or processes.

"Further evaluation" means examination and analysis by a qualified professional, tradesman or service technician beyond that provided by the home inspection.

"Home" or **"residence"** means any dwelling, from one to four (1-4) units in design, intended principally for residential purposes by one (1) or more individuals.

"Home inspection" or "inspection" *means a visual examination of any or all of the readily accessible physical real property and improvements to real property consisting of four or fewer dwelling units, including structural, lot drainage, roof, electrical, plumbing, heating and air conditioning and such other areas of concern as are specified in writing to determine if performance is as intended*.

"Home inspection license unit" means the staff and administrative support unit to the Committee of Home Inspector Examiners.

"Home inspection report" means a written opinion of the functional and physical condition of property written by the licensed home inspector pursuant to home inspection.

"Home inspector" means an individual licensed pursuant to the Home Inspection Licensing Act who, for compensation, conducts home inspections.

"Inspect" means to examine readily accessible systems and components of a building in accordance with these Standards of Practice, using normal operating controls and opening readily openable access panels.

"Installed" means attached such that removal requires tools.

"Instructor" means a person who presents course materials approved for qualifying education and continuing education credit hours that has the experience, training, and/or education in the course subject matter and has been approved by the Committee.

"Normal working order" means the system or component functions without defect for the primary purpose and manner for which it was installed.

"Normal operating controls" means devices such as thermostats, switches or valves intended to be operated by the homeowner.

"Provider" means a person, corporation, professional association or its local affiliates, or any other entity, which is approved by the Committee and provides approved qualifying and continuing education to home inspectors.

"Readily accessible" means available for visual inspection without requiring moving of personal property, dismantling, destructive measures, or any action which will likely involve risk to persons or property.

"Readily openable access panel" means a panel provided for homeowner inspection and maintenance that is within normal reach, can be removed by one person, and is not sealed in place.

"Reciprocity agreement" means an agreement whereby a home inspector who is licensed in other states with substantially similar or greater licensure requirements may be licensed in this State after payment of a fee for licensing by reciprocity.

"Recreational facilities" means spas, saunas, steam baths, swimming pools, exercise, entertainment, athletic, playground or other similar equipment and associated accessories.

"Report" means to communicate in writing.

"Representative number" means one component per room for multiple similar interior components such as windows and electric outlets; one component on each side of the building for multiple similar exterior components.

"Roof drainage systems" means components used to carry water off a roof and away from a building.

"Shut down" means a state in which a system or component cannot be operated by normal operating controls.

"Solid fuel burning appliances" means a hearth and fire chamber or similar prepared place in which a fire may be built and which is built in conjunction with a chimney; or a listed assembly of a fire chamber, its chimney and related factory-made parts designed for unit assembly without requiring field construction.

"Structural component" means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).

"System" means a combination of interacting or interdependent components, assembled to carry out one or more functions.

"Technically exhaustive" means an investigation that involves dismantling, the extensive use of advanced techniques, measurements, instruments, testing, calculations, or other means.

"Under-floor crawl space" means the area within the confines of the foundation and between the ground and the underside of the floor.

"Unsafe" means a condition in a readily accessible, installed system or component which is judged to be a significant risk of personal injury during normal operation. The risk may be due to damage, deterioration, improper installation or a change in accepted residential construction standards.

"Wiring methods" means identification of electrical conductors or wires by their general type, such as "non-metallic

sheathed cable" ("Romex"), "armored cable" ("bx") or "knob and tube", etc.

310:276-1-3. Standards of workmanship and practice

(a) **General Requirements and Limitations.**

(1) The inspector shall be governed by the following general requirements:

(A) Only readily accessible systems and components of homes listed in these Standards shall be required to be inspected.

(B) Only installed systems and components of homes listed in these Standards shall be required to be inspected.

(C) The inspector shall report on those systems and components inspected which, in the professional opinion of the inspector, are not in normal working order.

(D) The inspector shall report a reason why, if not self-evident, the system or component is not in normal working order.

(E) The inspector shall report the inspector's recommendations to correct or monitor the reported deficiency.

(F) The inspector shall report on any systems and components designated for inspection in these Standards which were present at the time of the Home Inspection but were not inspected and a reason they were not inspected.

(G) These Standards are not intended to limit inspectors from including other inspection services, systems or components in addition to those required by these Standards.

(H) These Standards are not intended to limit inspectors from specifying repairs and providing an opinion of the costs to cure, provided the inspector is appropriately qualified and willing to do so.

(I) These Standards are not intended to limit inspectors from excluding systems and components from the inspection if requested by the client.

(2) Inspections performed in accordance with these Standards are not technically exhaustive, will not identify concealed conditions or latent defects, and are applicable to buildings with four or fewer dwelling units and their garages or carports.

(3) The inspector is not required to perform any action or make any determination unless specifically stated in these Standards, except as may be required by lawful authority.

(4) Inspectors are not required to determine the condition of systems or components which are not readily accessible, the remaining life of any system or component, the strength, adequacy, effectiveness, or efficiency of any system or component, the causes of any condition or deficiency, the methods, materials, or costs of corrections, future conditions including, but not limited to, failure of systems and components, the suitability of the property for any specialized use, compliance with any regulatory requirements other than this Chapter (codes, regulations, laws, ordinances, etc.), the market value of the property or its marketability, the advisability of the purchase of the property, the presence of potentially hazardous plants or animals including, but not limited to wood destroying organisms or diseases harmful to humans, the presence of any environmental hazards including, but not limited to toxins, carcinogens, noise, and contaminants in soil, water, and air, the effectiveness of any system installed or methods utilized to control or remove suspected hazardous substances, the operating costs of systems or components, or the acoustical properties of any system or component.

(5) Inspectors are not required to offer or perform any act or service contrary to law, perform engineering services, perform work in any trade or any professional service other than home inspection, or warranties or guarantees of any kind.

(6) Inspectors are not required to operate any system or component which is shut down or otherwise inoperable, any system or component which does not respond to normal operating controls, or shut-off valves.

(7) Inspectors are not required to enter any area which will, in the opinion of the inspector, likely be dangerous to the inspector or other persons or damage the property or its systems or components, or the under-floor crawl spaces or attics which are not readily accessible.

(8) Inspectors are not required to inspect underground items including, but not limited to underground storage tanks or other underground indications of their presence, whether abandoned or active, systems or components which are not installed, decorative items, systems or components located in areas that are not entered in accordance with these Standards, detached structures other than garages and carports, or common elements or common areas in multi-unit housing, such as condominium properties or cooperative housing.

(9) Inspectors are not required to perform any procedure or operation which will, in the opinion of the inspector, likely be dangerous to the inspector or other persons or damage the property or its systems or components, move suspended ceiling tiles, personal property, furniture, equipment, plants, soil, snow, ice, or debris, or dismantle any system or component, except as explicitly required by these Standards.

(b) **Structural System Inspection Requirements.**

(1) The inspector shall inspect the structural components including foundation and framing, by probing a representative number of structural components where deterioration is suspected or where clear indications of possible deterioration exist. Probing is not required when probing would damage any finished surface or where no deterioration is visible.

(2) The inspector shall describe the foundation and report the methods used to inspect the under-floor crawl space, the floor structure, the wall structure, the ceiling structure, and the roof structure and report the methods used to inspect the attic.

(3) The inspector is not required to provide any engineering service or architectural service, or offer an opinion as to the adequacy of any structural system or component.

(c) **Exterior Inspection Requirements.**

(1) The inspector shall inspect the exterior wall covering, flashing and trim, all exterior doors, attached decks, balconies, stoops, steps, porches, and their associated railings, the eaves, soffits, and fascias where readily accessible from the ground level, the vegetation, grading, surface drainage, and retaining walls on the property when any of these are likely to adversely affect the building, and the walkways, patios, and driveways leading to dwelling entrances.

(2) The inspector shall describe the exterior wall covering.

(3) The inspector is not required to inspect screening, shutters, awnings, and similar seasonal accessories, fences, geological, geotechnical or hydrological conditions, recreational facilities, outbuildings, seawalls, break-walls, and docks, and erosion control and earth stabilization measures.

(d) **Roof System Inspection Requirements.**

(1) The inspector shall inspect the roof covering, the roof drainage systems, the flashings, the skylights, chimneys, and roof penetrations.

(2) The inspector shall describe the roof covering and report the methods used to inspect the roof.

(3) The inspector is not required to inspect antennae, interiors of flues or chimneys which are not readily accessible, or other installed accessories.

(e) **Plumbing System Inspection Requirements.**

(1) The inspector shall inspect the interior water supply and distribution systems including all fixtures and faucets, the drain, waste and vent systems including all fixtures, the water heating equipment, the vent systems, flues, and chimneys, the fuel storage and fuel distribution systems, and the drainage sumps, sump pumps, and related piping.

(2) The Inspector shall describe the water supply, drain, waste, and vent piping materials, the water heating equipment including the energy source, and the location of main water and main fuel shut-off valves.

(3) The inspector is not required to inspect, the clothes washing machine connections, the interiors of flues or chimneys which are not readily accessible, wells, well pumps, or water storage related equipment, water conditioning systems, solar water heating systems, fire and lawn sprinkler systems, or private waste disposal systems.

(4) The inspector is not required to determine whether water supply and waste disposal systems are public or private, the quantity or quality of the water supply, or operate safety valves or shut-off valves.

(f) **Electrical System Inspection Requirements.**

(1) The Inspector shall inspect the service drop, the service entrance conductors, cables, and raceways, the service equipment and main disconnects, the service grounding, the interior components of service panels and sub panels, the conductors, the overcurrent protection devices, all readily accessible installed lighting fixtures, switches, ceiling fans, and receptacles, the ground fault circuit interrupters, and accessible wiring and splicing including the basement and attic.

(2) The Inspector shall describe the amperage and voltage rating of the service, the location of main disconnect(s) and sub panels, and the wiring methods.

(3) The Inspector shall report the presence of solid conductor aluminum branch circuit wiring, and the absence of smoke detectors.

(4) The inspector is not required to inspect the remote control devices unless the device is the only control device, the alarm systems and components, the low voltage wiring, systems and components, the ancillary wiring, systems and components not a part of the primary electrical power distribution system, or measure amperage, voltage, or impedance.

(g) **Heating System Inspection Requirements.**

(1) The inspector shall inspect the installed heating equipment, the vent systems, flues, and chimneys.

(2) The inspector shall describe the energy source, and the heating method by its distinguishing characteristics.

(3) The inspector is not required to inspect the interiors of flues or chimneys, which are not readily accessible, the humidifier or dehumidifier, the electronic air filter, the solar space heating system, or determine heat supply adequacy or distribution balance.

(h) **Air Conditioning Systems Inspection Requirements.**

(1) The inspector shall inspect the installed central and through-wall cooling equipment.

(2) The inspector shall describe the energy source, and the cooling method by its distinguishing characteristics.

(3)The inspector is not required to inspect electronic air filters, or determine cooling supply adequacy or distribution balance.

(i) **Interior Inspection Requirements.**

(1) The inspector shall inspect the readily accessible walls, ceilings, and floors, the steps, stairways, and railings, the countertops and a representative number of installed cabinets, and the readily accessible doors and windows, garage doors and garage door openers, and the following installed household appliances: garbage disposal, stove, cook top, dishwasher, vent hood, and free-standing stove.

(2) The inspector is not required to inspect the paint, wallpaper, and other finish treatments, the carpeting, the window treatments, the central vacuum systems, the household appliances not listed in OAC 310:276-1-3(i)(1), or recreational facilities.

(j) **Insulation and Ventilation Inspection Requirements.**

(1) The inspector shall inspect the insulation and vapor retarders in unfinished spaces, the ventilation of attics and foundation areas, and the mechanical ventilation systems.

(2) The inspector shall describe the insulation and vapor retarders in unfinished spaces, and the absence of insulation in unfinished spaces at conditioned surfaces.

(3) The inspector is not required to disturb insulation or vapor retarders, or determine indoor air quality.

(k) **Fireplaces and Solid Fuel Burning Appliances Inspection Requirements.**

(1) The inspector shall inspect the vent systems, flues, and chimneys and the readily accessible portion of the firebox.

(2) The inspector shall describe the fireplaces and solid fuel burning appliances, and the chimneys.

(3) The inspector is not required to inspect the interiors of flues or chimneys, the firescreens and doors, the seals and gaskets, the automatic fuel feed devices, the mantels and fireplace surrounds, the combustion make-up air devices, or the heat distribution assists whether gravity controlled or fan assisted.

(4) The inspector is not required to ignite or extinguish fires, determine draft characteristics, or move fireplace inserts or stoves or firebox contents.

SUBCHAPTER 3. PROCEDURES OF THE COMMITTEE

310:276-3-1. Procedures of the Committee

(a) Committee meetings are generally, and unless otherwise stated by the Committee, held in the State Department of Health Building at 1000 N.E. 10th Street, Oklahoma City, Oklahoma 73117-1299. The committee shall meet as often as is necessary, but at least once each quarter. Meetings of the committee will comply with the Oklahoma Open Meetings Act.

(b) The Committee shall provide oversight to the overall licensure examination process; shall set minimum standards for certifying qualified applicants; may write examinations; may recommend regulations to the Commissioner and to the Board of Health; and, shall act as advisor to the Commissioner on home inspection matters.

(c) The only formal procedure available to the public is to apply for a home inspection license. This shall be done by filling out an application for examination on a form provided by the Committee.

(d) The public may communicate with the Committee in person or by mail through the Department. The Department will make available all forms and instructions used by the Committee, rules, and all other written statements of policy or interpretations, all final orders, decisions and opinions. Copies of same may be provided in accordance with OAC 310:2-3-5.

SUBCHAPTER 5. LICENSE REQUIREMENTS, LICENSE FEES, LICENSE PERIOD, RE-EXAMINATION, DISPLAY AND INSURANCE

310:276-5-1. Home inspection license requirements

No person, on behalf of himself or a firm or company engaged in home inspection work shall engage or offer to engage in, by advertisement or otherwise, any home inspection work who does not possess a valid and appropriate license from the Department, unless otherwise exempt by law.

310:276-5-2. License fees, license period, re-examination, display, and insurance requirements

(a) **Initial license fees.** The following fees apply to home inspection industry licensure:

(1) Approval fees for schools, instructors and home inspection organizations - $100.00

(2) Approval fees for educational course content - $50.00

(3) Application for license - $30.00

(4) Licensure for reciprocity - $50.00

(5) Examination fee - $200.00

(6) License fee - $250.00

(7) License Renewal - $150.00

(8) License reactivation - $50.00

(b) **License period.**

(1) A license shall expire twelve months after issuance, and may be renewed without penalty during the month following expiration.

(2) A license which has been expired for more than one (1) year shall not be renewed. An individual may obtain a valid license by successful completion of the appropriate examination and other licensure requirements.

(c) **Re-examination.** Any applicant initially failing to pass the appropriate examination, if required, shall not be permitted to take the same category examination for at least thirty (30) days, and thereafter any such applicant failing to pass the examination shall not be permitted to take a subsequent examination for at least ninety (90) days.

(d) **License display.** The state issued license number shall be placed on all letterhead stationery, business cards, bids, estimates and printed advertisements, and shall be included in electronic media advertisements. Decals and yard signs shall display the state issued license number.

(e) **Personal license display.** All persons subject to these rules shall possess the state issued card any time the person is working. The card shall be shown when requested.

(f) **Insurance requirements.** Each licensee must maintain insurance coverage and furnish and maintain in effect a certificate of insurance therefor which indicates that the licensee has a comprehensive general liability policy. Limits of liability are to be no less than $50,000.00 combined single limit for bodily injury and property damage. The certificate of insurance shall provide for thirty (30) days notice to the Home Inspection License Unit, prior to cancellation or material alteration of the required insurance.

SUBCHAPTER 9. EXAMINATION APPLICATIONS, EXAMINATIONS, COURSE APPROVAL REQUIREMENTS, INSTRUCTOR REQUIREMENTS, CONTINUING EDUCATION, DENIED APPLICATION APPEAL, SUBMISSION OF RECORDS, AND CONTINUING EDUCATION RECIPROCITY

310:276-9-1. Qualifications and examination applications

Applicants for home inspection license examinations must be eighteen (18) years of age or older and be of good moral character, and every application must be accompanied by evidence of successful completion of fifty (50) clock hours of home inspection training that is approved pursuant to 310:276-9-3, or its equivalent.

310:276-9-2. Examinations

(a) Home inspection license examinations may include, without limitation, written questions, consisting of open book, closed book and problems, based on current national standards, and other related questions.

(b) The maximum grade value of each part of the examination shall be 100 points. A passing score is 70% or more on each part.

(c) Each applicant shall pay all examination and license fees before undertaking any examination. Reexamination fees shall be the same as the initial examination fees.

(d) Unless authorized by the Committee, only examinees shall be permitted in the examination area.

(e) Applicants shall present positive identification before undertaking an examination.

(f) Any applicant who fails a first examination must wait thirty (30) days before retaking the home inspection examination. All subsequent failures will result in a waiting period of at least ninety (90) days.

(g) An examinee cheating or fraudulently representing an applicant shall immediately be expelled from the examination. A written record of the proceedings shall be made and become a part of the applicant's file. The Committee shall determine when the applicant may retake the exam, which time shall be no fewer than three hundred sixty-five (365) days.

310:276-9-3. Course approval requirements

(a) Any person or entity seeking to conduct an approved course for qualifying or continuing education credits shall make application and submit documents, statements and forms as may reasonably be required by the Committee in accordance with Section 310:276-5-2. All providers shall provide to the Committee:

(1) Name and address of the provider;

(2) Contact person and his or her address, telephone number and fax number;

(3) The location of the courses or programs;

(4) The number and type of education credit hours requested for each course;

(5) Topic outlines, which list the summarized topics, covered in each course and upon request a copy of any course materials;

(6) If a prior approved course has substantially changed, a summarization of these records; and,

(7) The names and qualifications of each instructor who is qualified in accordance with Section 310:276-9-4.

(b) In addition to accepting courses approved as described in this section, qualifying and continuing education credits may be granted to an individual in such case that said individual supplies acceptable documentation showing that the offering meets applicable Committee requirements for the category of credit applied for, including proof that said individual attended and successfully completed the offering.

(c) The Department may automatically accept without further review, courses pre-approved by the Committee.

(d) The Committee may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.

(e) No person or entity sponsoring or conducting a course shall advertise that it is endorsed, recommended, or accredited by the Committee. Such person or entity may indicate that the Committee has approved a course of study if that course of study has been pre-approved by the committee before it is advertised or held.

(f) At the completion of each course the provider shall provide to the committee a list of all attendees who completed the course on the course completion form approved by the Committee.

(g) Providers shall maintain course records for at least five (5) years. The Committee may order an examination of the records for good cause shown.

310:276-9-4. Instructor requirements

(a) **Instructor Qualifications.** An instructor should have one of the following qualifications:

(1) Three (3) years of recent experience in the subject matter being taught; or

(2) A degree related to the subject area being taught; or

(3) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college credit and/or vocational technical school technical credit hours in the subject being taught.

(4) Other educational, teaching, or professional qualifications determined by the Committee which constitute an equivalent to one or more of the qualifications in the previously stated sub-paragraphs (1), (2), and (3) of this paragraph.

(b) **Instructor Renewal.** In order to maintain approved status, an instructor must furnish evidence that the instructor has taught a Committee approved course, or any other CEU course the Committee determines to be equivalent, within a required thirty-six (36) month period.

(c) **Re-application.** Any instructor not meeting the requirements of this subsection will be required to re-apply as an original instructor applicant.

310:276-9-5. Continuing education

(a) **Continuing education hours.** No home inspection license shall be renewed unless the licensee has completed at least five (5) clock hours of continuing education prior to the date of renewal.

(b) Special Approval requirements for continuing education. All continuing education providers shall abide by the following requirements:

(1) All courses shall be at least two (2) hours in length.

(2) Unless provided after regular working hours, the training location shall be outside the regular work place.
(3) Each attendee shall complete a course evaluation on a form provided by the Department. The CEU provider shall return the completed evaluation forms to the home inspection license unit with the sign-in sheets.

310:276-9-6. Denied application appeal

(a) **Denied Instructor/Provider Application.** If the Committee fails to approve or rejects any proposed instructor or entity seeking to conduct an approved course, the Committee shall give written notice of the rejection and the cause therefore within fifteen (15) days after such decision. The applicant may appeal the decision by filing a written request for a hearing before the Committee within thirty (30) days after notice of denial. The Committee shall set the matter for hearing to be conducted within sixty (60) days thereafter. No part of the application fee is refundable.

(b) **Denied Course Application.** If the Committee fails to approve or rejects any proposed continuing education offering or fifty (50) hour home inspection training course, the Committee shall give written notice of the rejection and the cause therefore within fifteen (15) days after such decision to the party applying for approval. Upon the written request from such party, filed within thirty (30) days after such notice of denial, the Committee shall set the matter for hearing to be conducted within sixty (60) days thereafter for an appeal of the determination of the cause for rejection. No portion of the fee is refundable.

310:276-9-7. Submission of records

An entity conducting an offering shall, within five (5) working days of the completion thereof, submit to the Committee on a form approved by the Committee, a list of the names and license numbers or social security numbers of the licensees who successfully completed the said offering. Each licensee successfully completing an offering shall be furnished a certificate certifying completion.

310:276-9-8. Continuing education reciprocity

If a non-resident licensee satisfies a continuing education requirement in another state for license renewal, the Committee will exempt the non-resident licensee from the continuing education requirement in the state. In order to qualify for the exemption, the non-resident licensee must file with the license renewal of this state a certificate from the state in which the continuing education was satisfied stating that the non-resident licensee had completed the continuing education requirement for license renewal in that state. The certificate from the state verifying the non-resident's compliance with continuing education in the other state must be received by the Committee within sixty (60) days of issuance by the other state and must be received in conjunction with license renewal.

SUBCHAPTER 11. LICENSE REVOCATION AND SUSPENSION AND PROHIBITED ACTS

310:276-11-1. 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 provisions 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 contendre 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 Department within ninety (90) days of issuance of such assessment or order shall be subject to license suspension.
(e) Any person whose license is suspended pursuant to these Rules may not perform a home inspection and, prior to reinstatement, must make application therefor, which must be accompanied by evidence of successful completion of the continuing education requirements set forth in OAC 310:276-9-3.
(f) Any person whose license is revoked pursuant to these rules may not perform a home inspection before attaining licensure pursuant to OAC 310:276-9-1.

310:276-11-2. Prohibited Acts

(a) No person, entity, or firm may perform home inspection work without first obtaining a license or registration pursuant to these Rules.
(b) No person shall offer to engage in work as a home inspector during the period his license is suspended or revoked.
(c) No employing home inspection firm shall employ or use an unlicensed home inspector to perform home inspection work.
(d) No person, entity, or firm may transfer a license or registration.
(e) No home inspector, 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 Department.
(f) No person shall make a materially false or fraudulent statement in an application for license or for approval of continuing education, engage in cheating, or otherwise commit an act in violation of 310:276-9-2(g).
(g) No person shall falsify or fail to disclose in a home inspection report a material defect.
(h) No person shall accept inspection assignments when the employment itself is contingent upon reporting a predetermined estimate, analysis or opinion.
(i) No person shall accept inspection assignments when the fee to be paid is contingent upon the opinion, the conclusion, analysis, or report reached, or upon the consequences resulting from such assignments.
(j) No person shall perform repair or maintenance work, or receive compensation either directly or indirectly from a company regularly engaged in home repair work, on a property

having four or fewer dwelling units that the home inspector inspected within one (1) year from the date of the inspection.

(k) No person shall knowingly accept compensation from more than one client for a single home inspection, unless the home inspector has informed all clients who are paying a fee for that home inspection that such compensation is sought or anticipated.

(l) Unless upon demand in writing by the Department, a law enforcement agency, or by order of a court of competent jurisdiction, no person shall disclose the results of a home inspection to any person other than the client without the written consent of the client.

(m) No person shall fail to disclose to the client any conflict of interest of which the inspector knows or should have known that may adversely affect the client.

(n) No person shall fail to submit a written home inspection report within a reasonable time as determined by the Board to the client after compensation has been paid to the home inspector.

[OAR Docket #03-83; filed 1-8-03]
(format accepted 1-14-03)

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 400. LICENSED MARITAL AND FAMILY ~~THERAPIST REGULATIONS~~ THERAPISTS

[OAR Docket #03-84]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 5. Rules of Professional Conduct
310:400-5-3 [AMENDED]
Subchapter 17. Enforcement
310:400-17-2.1 [AMENDED]
AUTHORITY:
Oklahoma State Board of Health; 59 O.S. 1990, Section 1925.5(A)(1)
DATES:
Comment Period:
October 15, 2002 through November 14, 2002
Public Hearing:
November 14, 2002
Adoption:
November 14, 2002
Approved by Governor:
January 6, 2003
Effective:
Immediately upon Governor's approval
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
"n/a"
INCORPORATIONS BY REFERENCE:
"n/a"
FINDING OF EMERGENCY:
The State Board of Health finds that public interest requires seeking of emergency certification of the rules in Chapter 400. Unless an emergency is declared and certified, this rule cannot go into effect until approximately July 14, 2003, which would mean the public would not be afforded the identity protection for individuals wishing to make complaints regarding child custody evaluations.
ANALYSIS:
The amendments to Subchapter 5 provide for requirements for LMFTs who perform forensic services, including, assessment, interviews, consultations, evaluations, custody evaluations, reports, or expert testimony, as well as to provide clarification of roles for treating therapists who perform forensic services. The amendments to Subchapter 17 provide for maintaining the confidentiality of complaints as well as the identity of the person(s) filing the complaint.
CONTACT PERSON:
Nena West, Director, Professional Counselor Licensing, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 telephone:(405) 271-6030; facsimile: (405) 271-1918; electronic mail: nenaw@health.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 5. RULES OF PROFESSIONAL CONDUCT

310:400-5-3. Professional competence and integrity

(a) LMFTs are dedicated to maintaining high standards of professional competence and integrity.

(b) LMFTs are presumed to have violated high standards of integrity or competence if they:

(1) are convicted of a felony;

(2) are convicted of a misdemeanor (related to their qualifications or functions);

(3) engage in conduct which could lead to conviction of felonies, or misdemeanors related to their qualifications or functions;

(4) have their licenses or certificates suspended or revoked; or

(5) are no longer competent to practice marital and family therapy because they are impaired due to physical or mental causes or the abuse of alcohol or other substances.

(c) LMFTs shall seek appropriate professional assistance for their own personal problems or conflicts that are likely to impair their work performance and their clinical ~~judgment~~judgment.

(d) LMFTs, as teachers and supervisors, are dedicated to maintaining high standards of scholarship and presenting information that is accurate.

(e) LMFTs shall remain abreast of new developments in family therapy knowledge and practice through both educational activities and clinical experiences.

(f) LMFTs shall not engage in sexual or other harassment or exploitation of clients, students, trainees, supervisees, employees, colleagues, research subjects, or actual or potential witnesses or complainants in ethical proceedings.

(g) LMFTs shall not attempt to diagnose, treat, or advise on problems outside the recognized boundaries of their competence.

(h) LMFTs shall prevent the distortion or misuse of their clinical and research findings.

(i) LMFTs are aware that, because of their ability to influence and alter the lives of others, they must exercise special care when making public their professional recommendations and opinions through testimony or other public statements.
(j) LMFTs shall protect the welfare of the client by storing and/or destroying, when appropriate, client files.
(k) LMFTs shall not, under normal circumstances, offer professional services to clients concurrently receiving services from another professional except with the knowledge of the professional.
(l) LMFTs shall display their original, current license certificate in a prominent place in the primary location of their practice.
(m) LMFTs shall keep the Department updated regarding changes in mailing address, phone number and place of employment. Failure to do so may place the license in jeopardy due to missed renewal notices and other important communications.
(n) LMFTs who perform forensic services, including, but not limited to, assessments, interviews, consultations, custody evaluations, reports, or expert testimony, must comply with all other provisions of the Rules and Regulations to the extent they apply to these services as described in Subchapters 310:400-5-1(c) and 310:400-5-3(e)(g)(h)(i) of this Chapter.
(1) LMFTs must base their forensic work on appropriate knowledge of and competence in the areas relevant to the issues in question. The scope of the evaluation shall be determined by the evaluator and shall be based on the nature of the referral. All evaluations shall be conducted in a manner that meets the standard of care required for any LMFT, and is subject to the Rules of Professional Conduct.
(2) LMFTs forensic assessments, recommendations, and reports must be based on information and techniques sufficient to provide appropriate substantiation for their findings.
(3) LMFTs shall provide written or oral forensic reports or testimony regarding an individual only after they have conducted a thorough examination of the individual that is adequate to support their conclusions.
(A) The role of an LMFT is that of a professional expert, and therefore, the LMFT must maintain an objective position.
(B) The LMFT shall not give an opinion regarding an individual who has not been evaluated, face-to-face, by the LMFT.
(C) The LMFT shall maintain written records of all contacts regarding all forensic evaluations, reports, or expert testimony.
(D) The LMFT shall use multiple methods of data gathering in all forensic work.
(4) LMFTs shall clarify the reliability and validity of their written or oral forensic reports or testimony. To avoid misleading others, LMFTs limit the extent of their conclusions or recommendations to those persons on which they have conducted a thorough examination.
(o) LMFTs should avoid role conflicts that can occur when treating therapists perform forensic services.
(1) Whenever possible, LMFTs who provide therapy services for a client should limit their role to fact witness in forensic matters involving that client.
(2) When circumstances require LMFTs to serve more than one role in a forensic matter (for example, fact witness and expert for the court), they avoid compromising their objectivity or misleading others by clarifying in advance their role, financial requirements, and the limits of confidentiality to each party involved.

SUBCHAPTER 17. ENFORCEMENT

310:400-17-2.1. Complaints

(a) Any person may file a complaint against an LMFT or a person practicing marital and family therapy. A person wishing to report a complaint or alleged violation against a licensee or person practicing marital and family therapy may notify the Department in writing, by telephone, or by a personal visit. The Department will determine whether the complaint alleges a possible violation of the Act or this chapter. The Department may present the complaint to the Advisory Board for consultation.
(b) LMFTs are encouraged to file complaints when they have knowledge of other LMFTs who have violated the LMFT Act or regulations.
(c) The complaint and the identity of the complainant shall be confidential and shall not be available for public inspection, until such time that the complaint becomes a part of the public record of an administrative hearing.

[OAR Docket #03-84; filed 1-8-03]
(format accepted 1-14-03)

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 403. LICENSED BEHAVIORAL PRACTITIONERS

[OAR Docket #03-85]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 7. Rules of Professional Conduct
310:403-7-2 [AMENDED]
Subchapter 15. Supervised Experience Requirement
310:403-15-1 [AMENDED]
AUTHORITY:
Oklahoma State Board of Health; 59 O.S. 2001, Section 1934(A)(1)(2)
DATES:
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Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
"n/a"
INCORPORATIONS BY REFERENCE:
"n/a"
FINDING OF EMERGENCY:
The State Board of Health finds that public interest requires seeking of emergency certification of the rules in Chapter 403. Unless an emergency is declared and certified, this rule cannot go into effect until approximately July 14, 2003, which would mean the public would not be afforded protection during child custody evaluations. Current regulations require supervision after December 31, 2004, however the Act currently requires supervision to obtain licensure.
ANALYSIS:
The amendments to Subchapter 7 provide for requirements regarding professional statements, opinions, assessments, reports, diagnoses, or evaluations made by LBP applicants, candidates and licensees. The amendments to Subchapter 15 provide for supervision requirements to be completed by LBP applicants who apply for licensure after December 31, 2001, after the grandfathering period. The supervision requirement is established in the LBP Act.
CONTACT PERSON:
Nena West, Director, Professional Counselor Licensing, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 telephone:(405) 271-6030; facsimile: (405) 271-1918; electronic mail: nenaw@health.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 7. RULES OF PROFESSIONAL CONDUCT

310:403-7-2. Competence

(a) **Behavioral health services.** LBPs shall practice only within the boundaries of their competence, based on their education, training, supervised experience, state and national professional credentials, and appropriate professional experience.

(b) **Testing.** LBPs shall know the limits of their competence and shall therefore perform only those testing and assessment services for which they have been trained. LBPs shall be familiar with related standardization and proper application and security of any technique utilized. LBPs using computer-based test interpretations shall be trained in the construct being measured and the specific instrument being used prior to using this type of computer application. LBPs shall ensure the proper use of assessment techniques by persons under their supervision.

(c) **Specialty.** LBPs shall not represent themselves as specialists in any aspect of behavioral health services, unless so designated by the Board.

(d) **Research.**

(1) LBPs shall plan, design, conduct, and report research only in a manner consistent with current, pertinent ethical principles put forth in the "Ethical Standards and Code of Conduct" governing Northamerican Association of Masters in Psychology (NAMP), federal and state laws, rules, and scientific standards governing research with human subjects.

(2) The research principles of the NAMP "Ethical Standards and Code of Conduct" are as follows:

(A) Principle 8: Research with Human and Animal Participants

(i) 8.1 Relevant research. The Masters in Psychology shall only undertake research pertaining to human subjects when such research contributes to psychology as a science and humankind in general. On the premise of this forethought, one conducts the research with the utmost concern for the dignity and welfare of their research participants.

(ii) 8.2 Informed consent in research. The Masters in Psychology shall make certain that research participants fully understand the conditions and comprehend the general nature of the research when requesting informed consent. Research that involves deception on the part of the researcher should in general be avoided, unless the perceived outcomes far exceed any perceived minimal adverse reactions and in either case a debriefing session suitable to the research will always be conducted.

(B) Principle 10: Teaching, Training & Research Publication

(i) 10.1 Candidness in research techniques. The Masters in Psychology shall make every effort to make available any and all appropriate materials supporting research materials and to readily disseminate results for replication.

(ii) 10.2 Proper supervision. The Masters in Psychology shall maintain proper supervision of their employees, subordinates, supervisees, and research assistants in the delegation of duties and shall make every ethically appropriate effort to ensure that only those individuals competent to perform such services do so.

(e) **Impairment.** LBPs shall not offer or render professional services when their physical, mental or emotional problems are likely to harm clients or other associates. LBPs shall seek assistance for such problems, and, if necessary, limit, suspend, or terminate their professional responsibilities.

(f) **Evaluations.** LBP applicants, candidates and licensees shall not make oral or written professional statements, opinions, reports, and/or diagnoses about persons the LBP has not formally evaluated. This evaluation must include at least one face-to-face assessment of the person or persons in question. This prohibition is directed toward but is not limited to, child custody evaluations.

SUBCHAPTER 15. SUPERVISED EXPERIENCE REQUIREMENT

310:403-15-1. Supervised experience

All applicants for licensure after December 31, ~~2004~~2001 shall complete the supervised experience required by the Act before being licensed.

[OAR Docket #03-85; filed 1-8-03]
(format accepted 1-14-03)

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 405. LICENSED PROFESSIONAL ~~COUNSELOR REGULATIONS~~COUNSELORS

[OAR Docket #03-86]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 3. Rules of Professional Conduct
310:405-3-2 [AMENDED]
AUTHORITY:
Oklahoma State Board of Health; 59 O.S. 1985, Section 1905(A)(1)(2)
DATES:
Comment Period:
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SUPERSEDED EMERGENCY ACTIONS:
"n/a"
INCORPORATIONS BY REFERENCE:
"n/a"
FINDING OF EMERGENCY:
The State Board of Health finds that public interest requires seeking of emergency certification of the rules in Chapter 405. Unless an emergency is declared and certified, this rule cannot go into effect until approximately July 14, 2003, which would mean the public would not be afforded the identity protection for individuals wishing to make complaints regarding child custody evaluations.
ANALYSIS:
The amendments to Subchapter 3 provide for requirements regarding professional statements, opinions, assessments, reports, diagnoses, or evaluations made by LPCs.
CONTACT PERSON:
Nena West, Director, Professional Counselor Licensing, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 telephone:(405) 271-6030; facsimile: (405) 271-1918; electronic mail: nenaw@health.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 3. RULES OF PROFESSIONAL CONDUCT

310:405-3-2. Competence

(a) **Counseling.** LPCs shall practice only within the boundaries of their competence, based on their education, training, supervised experience, state and national professional credentials, and appropriate professional experience.

(b) **Testing.** LPCs shall know the limits of their competence and shall therefore perform only those testing and assessment services for which they have been trained. LPCs shall be familiar with related standardization and proper application and security of any technique utilized. LPCs using computer-based test interpretations shall be trained in the construct being measured and the specific instrument being used prior to using this type of computer application. LPCs shall ensure the proper use of assessment techniques by persons under their supervision.

(c) **Specialty.** LPCs shall not represent themselves as specialists in any aspect of counseling, unless so designated by the Board.

(d) **Research.** LPCs shall plan, design, conduct, and report research only in a manner consistent with current American Counseling Association Code of Ethics and Standards of Practice, pertinent ethical principles, federal and state laws, rules, and scientific standards governing research with human subjects.

(e) **Impairment.** LPCs shall not offer or render professional services when such services are impaired by physical, mental or emotional problems. LPCs shall seek assistance for problems, and, if necessary, limit, suspend, or terminate their professional responsibilities.

(f) **Evaluations.** LPCs shall not give, either verbally or in written form, professional statements, diagnoses, or opinions about persons who the LPC has not formally evaluated in person. This prohibition is directed toward but is not limited to child custody evaluations.

[OAR Docket #03-86; filed 1-8-03]
(format accepted 1-14-03)

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #03-111]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 5. Individual Providers and Specialties
Part 79. Dentists
317:30-5-700.1. [AMENDED]
(Reference APA WF # 02-16)
AUTHORITY:
The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.100

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SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
FINDING OF EMERGENCY:
The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of revisions to Medical Providers-Fee for Service, Dentists specific, rules to improve access for Medicaid eligible children who are in need of orthodontic services. Revisions are designed to retain and recruit new Orthodontists as Medicaid contracted providers which in turn will increase the availability of specialized services for young Medicaid patients.
ANALYSIS:
Medical Providers-Fee for Service, Dentists specific, rules are revised to remove the replacement of lost or broken retainers from the global fee for orthodontic treatment. Current rules state that the payment for the banding, wires, and adjustments includes all ancillary services, including the removal or repair of appliances, construction and placing of retainers and the replacement of lost or broken retainers for one set fee. Some currently contracted Medicaid Orthodontists are unwilling to continue to render services to Medicaid patients as they have stated that they are no longer willing to absorb the costs of replacing lost or broken retainers. The Agency is federally mandated to provide adequate access to services for the Medicaid eligible population. Therefore, rule revisions are needed to remove the reimbursement for the replacement of lost or broken retainers from the global fee for orthodontic treatment.
CONTACT PERSON:
Joanne Terlizzi at (405)522-7272

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 79. DENTISTS

317:30-5-700.1. Orthodontic prior authorization

(a) The necessary documentation for seeking orthodontic services for a child is listed below. The following records and documentation, plainly labeled with the patient's full name, case number, and the orthodontist's name, must be submitted to the Medical Authorization Unit of the OHCA for review.

(1) Completed DHS form MS-MA-5, Notification of Needed Medical Services, Section I and Section III;

(2) Completed and scored Handicapping Labio-Lingual Deviations Index with Diagnosis of Angle's classification;

(3) Detailed description of any oromaxillofacial anomaly;

(4) Estimated length of treatment;

(5) If multi-stage treatment is indicated, delineate each stage, as well as the service to be provided and length of treatment required for each stage;

(6) Properly occluded and anatomically trimmed study models;

(7) Panoramic films. Cephalometric x-rays with tracing and facial photographs are not compensable and are not required to be submitted with a request for prior authorization of orthodontic treatment;

(8) An oral surgeon's written opinion that orthognathic surgery or bone grafting is indicated; and

(9) Additional pertinent information as determined by the orthodontist or as requested by OHCA's Orthodontic Consultant.

(b) Models, radiographs and all required documentation must be submitted in one package. OHCA shall not be responsible for lost or damaged materials.

(c) All records and documentation submitted in a request for prior authorization for orthodontic treatment shall be reviewed by the OHCA Orthodontic Consultant for compensability and length of treatment.

(d) The Oklahoma Health Care Authority recognizes that some children who do not receive a score of 26 on the Handicapping Labio-Lingual Deviation Index (HLD) may have other conditions which should be scored. In the case that an orthodontist believes that there are other medical, social, or emotional conditions which may impact the general health of the child, such conditions are listed on the EPSDT exception section found on the HLD. Other "medical, social, or emotional conditions" are limited to those conditions that affect the medical, social or emotional function of the child. Other medical, social, or emotional conditions will not be scored if the sole condition sought to be improved is the cosmetic appearance of the child. Such "other medical, social, or emotional conditions" must be demonstrated by objective evidence such as supported documentation outside the child's immediate family (i.e., a child's teacher, primary care physician, mental health provider, school counselor). Such objective evidence must be submitted with the HLD. When such "other medical, social, or emotional conditions" are reflected on the HLD, the OHCA Orthodontic Consultant shall review the data and use his or her professional judgment to score the value of the conditions. The OHCA Orthodontic Consultant may consult with and utilize the opinion of the orthodontist who completes the form.

(e) If it is determined that the malocclusion is not severe enough to warrant medically necessary orthodontic services or the patient's age precludes approval, a computer generated notice is issued with notice of the denial, the reason for the denial, and appeal rights (see OAC 317:2-1 for grievance procedures and process).

(f) If orthodontic treatment is approved, a computer generated notice is issued authorizing the first year of treatment. Authorization for the first year will include the banding and wires and the first year of adjustments. Subsequent adjustments will be authorized in one year intervals. All approved treatment will be included on the original prior authorization and will include the total payment for that treatment year. Payment for the first year of treatment includes the banding,

wires, and adjustments ~~includes~~ as well as all ancillary services, including the removal ~~or repair~~ of appliances, and the construction and placing of retainers~~ and the replacement of lost or broken retainers~~. The authorization number on the form must be included on all claims submitted for processing. The provider will file one claim at the beginning of each treatment year for the entire year.

(g) Relative Value Units (RVU's) have been developed by OHCA for the first year's treatment and each subsequent year's treatment. The allowable charge will be computed by multiplying the RVU by the current conversion factor.

(h) If the client moves from the geographic area or shows a need to change their provider, then the provider who received the yearly payment is financially responsible until completion of that client's orthodontic treatment for the current year.

(i) If the provider who received yearly payment does not agree to be financially responsible, then the Oklahoma Health Care Authority will recoup funds paid for the client's orthodontic treatment.

(j) All orthodontic services are subject to post-utilization review. This review may include a request by the OHCA to submit medical documentation necessary to complete the review. After review is completed, these materials will be returned to the orthodontist.

(k) Study models must be diagnostic. This means that they must be properly poured and adequately trimmed with neither large voids nor positive bubbles present. Centric occlusion must be clearly indicated by pencil lines on the study models, making it possible to occlude the teeth on the models in centric occlusion.

(1) If study models are not diagnostic as described, they are not accepted and the provider is asked to send new models that do meet these requirements. If the provider does not respond, the request for treatment is denied.

(2) All measurements are made or judged on the basis of greater than or more than the minimal criteria. Measurement, counting, recording, or consideration is performed only on teeth that have erupted and may be seen on the study models.

[OAR Docket #03-111; filed 1-17-03]
(format accepted 1-21-03)

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #03-110]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 5. Individual Providers and Specialties
Part 83. Residential Behavior Management Services in Foster Care Settings
317:30-5-740. [AMENDED]
317:30-5-740.1. [AMENDED]
317:30-5-741. [AMENDED]
317:30-5-742. [AMENDED]
317:30-5-742.1. [AMENDED]
317:30-5-742.2. [AMENDED]
317:30-5-745. [AMENDED]
(Reference APA WF # 02-19)
AUTHORITY:
The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 440.130(d)
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Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
FINDING OF EMERGENCY:
The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of revisions to Medical Providers-Fee for Service, Residential Behavior Management Services in Foster Care Settings specific, rules to prevent a reduction in the number of contracted providers who are available to provide these specialized services. Children designated for this program have special psychological, social and emotional needs which require more intensive, therapeutic care than can be found in the traditional foster care setting. The loss of providers who are contracted to provide these services would likely result in an increase in inpatient psychiatric utilization, which would lead to much higher treatment costs.
ANALYSIS:
Medical Providers-Fee for Service, Residential Behavior Management Services in Foster Care Settings specific, rules are being revised to implement a more cost effective method of providing specialized services to DHS custody children while maintaining an adequate pool of service providers. Revisions replace group therapy services (minimum of three 30 minute sessions per month) with group rehabilitative treatment services (minimum of two 30 minute sessions per month) and define group rehabilitative treatment services. Group rehabilitative services are more appropriate for the population served in the foster care setting as these services are to help restore the resident's functional level within the community setting. The rule revisions also establish credentialing requirements for providers of group rehabilitative services in foster care setting. Revisions will now allow the admittance of children with a provisional diagnosis to the residential foster care program for a maximum of 30 days. During the 30 day period, a full assessment must be completed by a Mental Health Professional resulting in a DSM IV primary diagnosis for placement in this program to continue. Additional revisions will: (1) clarify provider credentialing; (2) update language to reflect current practices, procedures, and terminology; (3) allow 30 minutes of individual and/or family therapy to be provided in lieu of one hour of group rehabilitative treatment; (4) revise the minimum required individual therapy service from two 30 minute sessions per week to four 30 minute sessions per month; (5) revise the minimum required substance abuse, chemical dependency education, prevention and therapy from two hours per month to two hours per three month period; (6) add discharge planning as a required residential behavior management service (RBMS); and (7) add the American Osteopathic Association as an accreditation body for providers of RBMS. The Department of Human Services or the Office of Juvenile Affairs pay the state share of residential behavior management services for the children in foster care and DHS has requested these revisions to Agency rules. DHS and Agency provider requirements for RBMS have significantly increased in the past few years, yet the rate has remained the same for nine years. DHS staff are concerned that unless these revisions are adopted, there will be a reduction in the number of providers who are willing to contract to provide the specialized services. The inability to find appropriate community based placement for DHS custody children will result in an increase in inpatient psychiatric utilization and costs. Rule revisions are needed in order to implement a more cost effective method of providing residential behavior management services in foster care settings to maintain an adequate pool of service providers.

CONTACT PERSON:
Joanne Terlizzi at (405)522-7272

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR DECEMBER 1, 2002, WHICHEVER IS LATER:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 83. RESIDENTIAL BEHAVIOR MANAGEMENT SERVICES IN FOSTER CARE SETTINGS

317:30-5-740. Eligible providers

(a) Eligible Residential Behavior Management Service (RBMS) agencies must:

(1) have a current certification from the Department of Human Services (DHS) as a child placing agency, and

(2) have a contract with the Division of Children and Family Services of the Department of Human Services, and

(3) have a contract with the Oklahoma Health Care Authority.

(b) Effective July 1, 2002 an eligible RBMS must:

(1) have a current certification from the Department of Human Services (DHS) as a child placing agency, and

(2) have a contract with the Division of Children and Family Services of the Department of Human Services, and

(3) have a contract with the Oklahoma Health Care Authority~~.~~ , and

(4) have current accreditation status appropriate to provide behavioral management services in a foster care setting from:

(A) Joint Commission on Accreditation of Health Care Organization (JCAHO), or

(B) the Rehabilitation Accreditation Commission (CARF), or

(C) the Council on Accreditation (COA), or

(D) the American Osteopathic Association (AOA).

(c) For eligible RBMS agencies to bill the Oklahoma Health Care Authority for services ~~of~~ performed by their providers, a provider of behavior management therapies must:

(1) be a licensed psychologist, social worker (clinical specialty only), professional counselor, marriage and family therapist, or behavioral practitioner, or under Board ~~Supervision~~ approved supervision to be licensed in one of the above stated areas; or

(2) have one year of experience in a behavioral health treatment program and a master's degree in a mental health treatment field licensable in Oklahoma by one of the following licensing Boards:

(A) Psychology,

(B) Social work (clinical specialty only),

(C) ~~Licensed professional~~ Professional counselor,

(D) ~~Licensed marriage~~ Marriage and family therapist, or

(E) ~~Licensed behavioral~~ Behavioral practitioner; or

(3) have a baccalaureate degree in a ~~mental~~ behavioral health related field ~~in one of the stated areas listed in (2) of this paragraph~~ AND three or more years post-baccalaureate experience in providing direct patient care in a behavioral health treatment setting and be provided a minimum of weekly supervision by a staff member licensed as listed in paragraph (1) of this ~~paragraph~~ subsection; or

(4) be a registered psychiatric nurse; AND

(5) demonstrate a general professional or educational background in the following areas:

(A) case management, assessment and treatment planning;

(B) treatment of victims of physical, emotional, and sexual abuse;

(C) treatment of children with attachment disorders;

(D) treatment of children with hyperactivity or attention deficit disorders;

(E) treatment methodologies for emotionally disturbed children and youth;

(F) normal childhood development and the effect of abuse and/or neglect on childhood development;

(G) treatment of children and families with substance abuse and chemical dependency disorders;

(H) anger management; and

(I) crisis intervention.

(d) For eligible RBMS agencies to bill the Oklahoma Health Care Authority for services of their providers for behavior management therapies in a foster care setting as of July 1, 2003 providers must have the following qualifications:

(1) be licensed in the state in which the services are delivered as a licensed psychologist, social worker (clinical speciality only), professional counselor, marriage and family therapist, or behavioral practitioner, or under Board ~~Supervision~~ approved supervision to be licensed in one of the ~~above stated~~ areas listed in (c)(2)(A-E) of this section, or

(2) be licensed as ~~a Advanced Practice Nurse~~ an advanced practice nurse certified in a psychiatric mental health speciality, licensed as a registered nurse with a current certification of recognition from the Board of Nursing in the state in which services are provided AND

(3) demonstrate a general professional or educational background in the following areas:

(A) case management, assessment and treatment planning;

(B) treatment of victims of physical, emotional, and sexual abuse;

(C) treatment of children with attachment disorders;

(D) treatment of children with hyperactivity or attention deficit disorders;

(E) treatment methodologies for emotionally disturbed children and youth;

(F) normal childhood development and the effect of abuse and/or neglect on childhood development;

(G) treatment of children and families with substance abuse and chemical dependency disorders;

(H) anger management; and

(I) crisis intervention.

(e) For eligible RBMS agencies to bill the Oklahoma Health Care Authority for Group Rehabilitative Treatment Services in a foster care setting facilitated by their staff, providers must have the following qualifications:

(1) be licensed in the state in which the services are delivered as a licensed psychologist, social worker (clinical specialty only), professional counselor, marriage and family therapist, or behavioral practitioner, or under Board approved supervision to be licensed in one of the areas listed in (c)(2)(A-E) of this section; or

(2) be licensed as an advanced practice nurse certified in a psychiatric mental health specialty, licensed as a registered nurse with a current certification of recognition from the Board of Nursing in the state in which services are provided; or

(3) have a baccalaureate degree in a behavioral health field, a minimum of one year of experience in providing direct care and/or treatment to children and/or families, and have access to weekly consultation with a licensed mental health professional.

317:30-5-740.1. Eligible provider contracting requirements

(a) Eligible agency providers that are defined in section OAC 317:30-5-740 shall have written policies and procedures for the orientation of new staff and foster parents which is reviewed and updated annually, for the following:

(1) pre-service training of foster parents in treatment methodologies and service needs of emotionally and behaviorally disturbed children;

(2) treatment of victims of physical, emotional, and sexual abuse;

(3) treatment of children with attachment disorders;

(4) treatment of children with hyperactive or attention deficit disorders;

(5) normal childhood development and the effect of abuse and/or neglect on childhood development;

(6) treatment of children and families with substance abuse and chemical dependency disorders;

(7) the ~~Child in Need of Mental Health Treatment Act~~ Inpatient Mental Health and Substance Abuse Treatment of Minors Act;

(8) anger management;

(9) ~~gatekeeping~~ inpatient authorization procedures;

(10) crisis intervention;

(11) grief and loss issues for children in foster care; and

(12) the significance/value of birth families to children ~~placed~~ receiving services in residential behavior management services in a foster care setting.

(b) Eligible agency providers defined at OAC 317:30-5-740 shall provide staff with access to professional psychiatric and/or psychological consultation as deemed necessary for the planning, implementation and appropriate management of the resident's treatment.

317:30-5-741. Coverage by category

(a) **Adults.** Residential Behavior Management Services are not covered for adults.

(b) **Children.** Residential Behavior Management Services are provided in residential foster care programs for certain children and youth ~~designated~~ authorized by ~~a gatekeeping~~ the designated agent of the Oklahoma Health Care Authority. The children and youth designated for this program have special psychological, social and emotional needs, requiring more intensive, therapeutic care than can be found in the traditional foster care setting. The designated children and youth must continually meet ~~the following~~ medical necessity criteria ~~or other criteria~~ to be eligible for coverage in this program. ~~This~~ The medical necessity criteria ~~must be~~ is continually met ~~during both~~ for initial requests for services and all subsequent requests for services/ extensions. Medical necessity criteria is as follows:

(1) Any DSM-IV AXIS I primary diagnosis, with the exception of V codes and adjustment disorders, with a detailed description of the symptoms supporting the diagnosis. Children with a provisional diagnosis may be admitted for a maximum of 30 days. An assessment must be completed by a Mental Health Professional as defined in OAC 317:30-5-240(c) within the 30 day period resulting in a DSM-IV AXIS I primary diagnosis with the exception of V codes and adjustments disorders, with a detailed description of the symptoms supporting the diagnosis to continue RBMS in a foster care setting.

(2) Conditions are directly attributed to a mental illness/serious emotional disturbance as the primary need for professional attention.

(3) It has been determined by the ~~gatekeeper~~ inpatient authorization reviewer that the current disabling symptoms could not have been or have not been manageable in a less intensive treatment program.

(4) Evidence that the child's presenting emotional and/or behavioral problems prohibit full integration in a family/home setting without the availability of 24 hour crisis response/behavior management and intensive clinical interventions from professional staff, preventing the child from living in a traditional family home.

(5) The child is medically stable and not actively suicidal or homicidal and not in need of substance abuse detoxification services.

(6) The legal ~~guardian~~ guardian/parent of the child (DHS/OJA if custody child~~, parent generally otherwise~~) agrees to ~~active participation~~ actively participate in the child's treatment needs and planning.

317:30-5-742. Description of services

(a) Behavior management services mean all the services listed in ~~(1) (7)~~ (1)-(8) of this subsection as provided in the treatment plan ~~of treatment~~. Each of the service requirements have special duration and frequency requirements as set out in OAC ~~317:30-5-743~~ 317:30-5-742.2.

(1) Individual therapy;

(2) Substance abuse/chemical dependency education, prevention, and therapy;

(3) Group ~~therapy~~ rehabilitative treatment;

(4) Family therapy;

(5) Basic living skills redevelopment;

(6) Social skills redevelopment; ~~and~~

(7) Crisis/behavior management redirection; and

(8) Discharge planning.

(b) Behavior management services must be provided in the least restrictive, noninstitutional therapeutic milieu. The foster care setting is restorative in nature, allowing children with emotional and psychological problems to develop the necessary control to function in a less restrictive setting. Behavior management services are considered an ancillary component of inpatient hospital care and residential treatment services provided in a less restrictive setting and as a less costly alternative to inpatient psychiatric hospital services and other residential treatment services.

(c) Behavioral Management Services must include a treatment plan for each client served. The treatment plan requirements are set out in OAC ~~317:30-5-742.2~~ 317:30-5-742.2(1).

317:30-5-742.1. Residential behavior management reimbursement

(a) All Residential Behavioral Management Services must be prior authorized by the designated agent of the Oklahoma Health Care Authority before the service is rendered by an eligible service provider. Without prior authorization, payment is not authorized.

(b) The Oklahoma Health Care Authority will not reimburse for the services defined in OAC 317:30-5-742 for more than two children in a home at any one time unless additional cases are specifically authorized by the Department of Human Services, Division of Children and Family Services or Oklahoma Office of Juvenile ~~Authority~~ Affairs.

(c) A child who is eligible for the ~~service~~ services defined in OAC 317:30-5-742 shall not receive any other outpatient behavioral ~~service~~ health services defined by OHCA unless prior authorized by ~~OHCA's~~ OHCA or its ~~gatekeeping~~ designated agent. For example, separate individual therapy for a child eligible for Residential Behavioral Management Services will not generally be authorized because this service is part of the bundled service provided by a Residential Behavioral Management ~~Provider~~ provider. If additional outpatient ~~service~~ services are authorized by ~~OHCA's~~ OHCA or its designated agent, the service provider may not be the provider of the Residential Behavioral Management Services.

(d) OHCA will not reimburse an eligible service provider for ~~more~~ units of service ~~than~~ that are not authorized before the service is delivered.

(e) Initial requests for residential foster care ~~will~~ and the first extension request will be approved for a maximum of six months. All subsequent requests for services/extensions will be for a maximum time period not to exceed three months.

(f) No reimbursement shall be made for a service for a client without a written plan of treatment for each client as described in OAC ~~317:30-5-742(c)~~ 317:30-5-742.2(1). Each ~~plan of~~ treatment plan must contain all of the services required in OAC 317:30-5-742(a).

317:30-5-742.2. Required Residential Behavior Management services

All residential behavior management services in a foster care setting (RBMS) are provided as a result of an individual assessment of the resident's needs and documented in the individual treatment plan. Services including treatment plan development, individual therapy, family therapy, basic living skills (re)development, social skills (re)development, group rehabilitative treatment, substance abuse/chemical dependency education, prevention and therapy are provided per minimum requirements identified in this section. All services are based upon the resident's treatment plan and consistent with assessed needs. Individual therapy and family therapy may be provided in lieu of group rehabilitative therapy. Crisis behavior management and redirection services are provided as needed. The following represent the minimum service requirement for a resident receiving ~~residential~~ Residential Behavior Management Services:

(1) **Treatment plan requirement.**

(A) A written treatment plan for each resident shall be formulated by the Provider Agency staff within 30 days of admission with documented input from the resident, legal guardian (DHS/OJA) staff, the foster parent and the treatment provider(s). This plan shall be revised and updated each 90 days with documented involvement of the legal guardian and resident.

(B) The treatment plan must be individualized and take into account the resident's age, history, diagnosis, assessed functional levels, and culture. It includes the resident's documented full five-axis DSM-IV diagnosis, appropriate long term and short term goals, and corresponding measurable objectives to obtain the stated goals within the expected time lines. Each resident's treatment plan shall also address the ~~Provider Agency's~~ provider agency's plans with regard to the provision of services in each of the following areas:

(i) Individual therapy;

(ii) Substance abuse/chemical dependency education, prevention, and therapy;

(iii) Group ~~therapy~~ rehabilitative treatment;

(iv) Family therapy;

(v) Basic living skills ~~redevelopment~~ (re)development;

(vi) Social skills ~~redevelopment~~ (re)development; ~~and~~

(vii) Crisis/behavior management and redirection; and

(viii) Discharge planning.

(2) **Individual therapy.** The ~~Provider Agency~~ provider agency shall provide individual therapy on a ~~week~~ monthly basis to ~~the~~ youth placed in the residential foster care homes. Individual therapy is a method of treating mental health and alcohol and other drug disorders using face to face, ~~or a~~ one to one interaction between a Mental Health Professional as defined in OAC 317:30-5-240(c) and the resident to promote behavioral, emotional or psychological change. Individual therapy is age appropriate and the techniques and modalities employed are relevant to the goals of the individual's treatment plan. The required service for each resident served is a minimum of ~~two 30-minute~~ four 30 minute sessions per ~~week~~ month of individual therapy.

~~(3) **Group therapy.** The Provider Agency shall provide group therapy on a monthly basis to the resident's receiving Residential Behavior Management services. Group therapy is a method of treating mental health or alcohol and drug disorders by using the interaction between a Mental Health Professional and two or more residents to promote behavioral or emotional change. Group therapy modalities and techniques should be age appropriate and the focus of the group must be directly related to the goals and objectives stated in the individual treatment plan. The individual resident's behavior, and the focus of the group must be included in each resident's record. If group treatment is contra-indicated for resident receiving services from a residential behavioral management provider, individual therapy must be provided in its place. In the event that group therapy is provided, a minimum of three 30 minute sessions a month must be provided. If individual therapy is provided as a substitute for group therapy, then 60 minutes of individual therapy must be provided per month. This therapy is provided in addition to the requirement in OAC 317:30-5-742.2.~~

(3) **Group rehabilitative treatment.** The provider agency will provide group rehabilitative treatment as specified in the individual treatment plan for the treatment of mental health and behavioral disorders for a minimum of two 30 minute sessions per month. Group rehabilitative services provided for children receiving RBMS in a foster care setting include educational and supportive services such as basic living skills, social skills (re)development, interdependent living, self-care, lifestyle change and recovery principles. Services are provided in the least restrictive setting appropriate for the reduction of emotional and behavioral impairment and suitable to the restoration of the resident's functioning. Services are consistent with the requirements of age and appropriate to the resident's behavioral functioning and self sufficiency. Meeting with family members, legal guardian, and/or care givers is covered when the services are directed exclusively to the effective treatment of the individual resident. Each service provided under this section must have a goal and purpose, which relates directly to the resident's individual treatment plan. Compensable rehabilitative treatment services are provided to residents who have the ability to benefit from the service. The resident must be able to actively participate and must possess the cognitive, developmental, and communication skills necessary to benefit from the service. Travel time to and from activities is not covered. Staff to resident ratio shall not exceed eight children to one staff member. Staff appropriately trained, including training and certification in a recognized anger management intervention technique, such as MANDT or CAPE, must be present in the group. Thirty minutes of individual therapy and/or family therapy may be provided in lieu of one hour of group rehabilitative treatment.

(4) **Family therapy.** The ~~Provider Agency~~ provider agency shall provide family therapy as indicated ~~by~~ on the resident's individual treatment plan. Family therapy is an interaction between a Mental Health Professional as defined in OAC 317:30-5-240(c) and the family member(s) designated ~~by~~ on the treatment plan. The interaction is intended to facilitate behavioral, emotional, or psychological change and promote understanding through ~~skills of~~ successful communication skills. Family therapy shall be provided for a minimum of four 30-minute sessions per month. The Agency shall:

(A) ~~Work~~ work with the caretaker to whom the resident will be discharged, as identified by the DHS/OJA local worker~~.~~ ;

(B) ~~Seek~~ seek to support and enhance the child's relationships with nuclear and appropriate extended family members, if the DHS/OJA plan for the child indicates family reunification ~~(nuclear and appropriate extended).~~ ;

(C) ~~Arrange~~ arrange for and encourage regular contact and visitation between children and their parents and other family members as specified in the treatment plan~~.~~ ;

(D) ~~Seek~~ seek to involve the child's ~~parents~~ parents/legal guardian in treatment team meetings, plans and decisions and to keep them informed of the child's progress in the program~~.~~ ;

(E) ~~Provide~~ provide consultation to the residential foster ~~parent.~~ care parents;

(F) ~~Provide~~ provide regular support and technical assistance to residential foster parents in their implementation of the treatment plan and with regard to other responsibilities they undertake. Fundamental components of such technical assistance will be the design or revision of in-home treatment strategies including proactive goal-setting and planning, and the provision of ongoing child-specific skills training and problem-solving in the home during home visits. Other types of support and supervision should include emotional support and relationship-building, the sharing of information and general training to enhance professional development, assessment of the youth's progress, observation/assessment of family interactions and stress, and assessment of safety issues. Residential foster parents and their biological children shall have access to counseling and therapeutic services arranged by the ~~Provider Agency~~ provider

agency for personal issues/problems caused or exacerbated by their work as residential foster parents. Such issues may include, for example, marital stress, or abuse of their own child(ren) by a child placed in their care by the ~~Provider Agency~~ provider agency.

(5) **Substance abuse/chemical dependency education, prevention~~,~~ and therapy.** The ~~Provider Agency~~ provider agency shall provide substance abuse/chemical dependency therapy for all residents who are identified by diagnosis or documented social history as having emotional or behavioral problems directly related to substance abuse ~~and or~~ and/or chemical dependency. If a resident is identified as requiring substance abuse/chemical dependency therapy, the ~~Provider Agency~~ provider agency shall provide age appropriate substance abuse/chemical dependency therapy. The modalities employed are provided in order to begin, maintain and enhance recovery from alcoholism, problem drinking, drug abuse, drug dependency addiction or nicotine use and addiction. For those clients identified above, substance abuse/chemical dependency therapy must be provided a minimum of two ~~(2)~~ one-hour sessions per month. In the case a resident who has no identifiable emotional or behavioral problem directly related to substance abuse and or chemical dependency, residents must be provided age appropriate education and prevention activities. These may include self-esteem enhancement, violence alternatives, communication skills or other skill development curriculums. For clients who do not need substance ~~and or~~ and/or chemical dependency therapy, a minimum of two ~~(2)~~ hours of education ~~and or~~ and/or prevention therapy ~~a month~~ per three month period is required.

(6) **Basic living skills redevelopment.** The ~~Provider Agency~~ provider agency shall provide goal directed activities for each resident to restore, retain, and improve those basic skills necessary to independently function in a family or community. Basic living skills redevelopment ~~will be~~ are daily activities that are age appropriate and relevant to the goals of the treatment plan. This may include, but is not limited to, food planning and preparation, maintenance of personal hygiene and living environment, household management, personal and household shopping, community awareness and familiarization with community resources, mobility skills, and job application and retention skills. Basic living skill redevelopment therapy must occur a minimum of 30 minutes each day.

(7) **Social skills redevelopment.** The ~~Provider Agency~~ provider agency shall provide goal directed activities for each resident to restore, retain and improve the self help, communication, socialization, and adaptive skills necessary to reside successfully in home and community based settings. These will be daily activities that are age appropriate, culturally sensitive and relevant to the goals of the individual treatment plan. These may include self-esteem enhancement, violence alternatives, communication skills or other related skill development curriculums approved by the ~~Provider Agency~~ provider agency. Social skill redevelopment therapy must occur a minimum of two ~~(2)~~ 30-minute activities each day.

(8) **Crisis behavior management and redirection.** The ~~Provider Agency~~ provider agency shall provide crisis/behavior redirection by agency staff as needed 24 hours ~~a~~ per day, 7 days per week. The Agency shall ensure staff availability to respond to the residential foster parents in a crisis to stabilize residents' behavior and prevent placement disruption.

(9) **Discharge planning.** The provider agency shall develop a discharge plan for each resident. The discharge plan must be individualized, child-specific and include an after care plan that is appropriate to the resident's needs and in place at the time of discharge. The plan for children in parental custody must include, when appropriate, reunification plans with the parent(s)/legal guardian. The plan for children who remain in the custody of the Department of Human Services or the Office of Juvenile Affairs shall be developed in collaboration with the case worker and in place at the time of discharge. The discharge plan should include at a minimum, recommendations for continued treatment services, educational services, and other appropriate community resources. Discharge planning provides a transition from foster care placement into a lesser restrictive setting within the community.

317:30-5-745. Documentation of records

All services must be reflected by documentation in the records including the date the service was provided, the beginning and ending time the service was provided, the location in which the service was provided, a description of the resident's response to the service and whether the service provided was an individual, group or family session, group rehabilitative treatment, social skills (re)development, basic living skills (re)development, ~~or~~ crisis behavior management and redirection, or discharge planning.

[OAR Docket #03-110; filed 1-17-03]
(format accepted 1-21-03)

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 25. CHILD SUPPORT ENFORCEMENT DIVISION

[OAR Docket #03-154A]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 5. Operational Policies
Part 15. Case Initiation and Case Closure
340:25-5-124 [AMENDED]
340:25-5-124.2 [NEW]
(Reference APA WF # 02-32)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Section 237 of Title 56 of the Oklahoma Statutes; Section 1738B of Title 28 USC, The Full Faith and Credit for Child Support

Orders Act; Section 455 of the Social Security Act, Section 655 of Title 42 of the United States Code; and Part 310 of Title 45 CFR.

DATES:

Adoption:

December 3, 2002

Approved by Governor:

January 21, 2003

Effective:

Immediately upon Governor's approval.

Expiration:

Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Because of changes made by Part 310 of Title 45 of the Code of Federal Regulations, Comprehensive Tribal Child Support Programs, and recognition of the Chickasaw Nation Tribal Child Support Office as a separate IV-D agency rather than a district office of CSED, an imminent peril exists to the preservation of the public health, safety, and welfare, and compelling public interest requires that emergency amendments to the rules in OAC 340:25 are necessary. Increased child support enforcement program effectiveness should contribute to improvements in the health, safety, and well-being of custodial persons and the children entitled to support and failure to adopt these rules could result in reductions in federal financial participation. However, failure to adopt these rules could result in an inappropriate allocation of child support resources, failure to take full advantage of available tribal child support services, and potential loss of federal funding.

ANALYSIS:

The relationship between the Child Support Enforcement Division (CSED) and the Chickasaw Nation Tribal Child Support Office (tribal office) has changed, and the existing rule governing assignment of cases to offices is no longer accurate. The purpose of these changes is to adjust the rules on transferring cases to the tribal office and recognize the new relationship between CSED and the tribal office.

CONTACT PERSON:

Dena Thayer at (405)521-4326

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR, AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 5. OPERATIONAL POLICIES

PART 15. CASE INITIATION AND CASE CLOSURE

340:25-5-124. Assignment of cases to child support offices

(a) Oklahoma child support cases are assigned to a district office serving the county where the Oklahoma order for current child support was entered or docketed in district court. Other child support orders are assigned to a district office serving the county in which the order is registered under ~~Section 601-601~~ Sections 601-100 through 601-901 of Title 43 of the Oklahoma Statutes. If there are multiple Oklahoma support orders, cases are assigned to a district office serving the county where the presumed controlling order for future support was entered or docketed in district court.

(b) If there is no Oklahoma order for current support, cases are assigned to a district office serving the county where the custodian of the ~~child~~ child(ren) resides unless the child is in state custody or an order is registered in Oklahoma. If the child is in state custody, the case is assigned to a district office serving the county in which the child custody order was entered. Except in cases in which an order is registered in Oklahoma, if the custodian of the ~~child~~ child(ren) does not reside in Oklahoma, cases are assigned to the office serving the county where the noncustodial parent or putative father resides.

~~(c) CSED refers eligible cases with significant tribal contacts and as agreed by the appropriate tribe to a tribal child support enforcement office. A tribal child support office may refuse to accept a referral because of lack of jurisdiction to establish or enforce a child support order, or because the case is not eligible for referral.~~

~~(1) The eligibility criteria for the referral to a tribal office for paternity establishment and establishment of a support order are:~~

~~(A) the child(ren) is Native American;~~

~~(B) the noncustodial parent is:~~

~~(i) Native American; or~~

~~(ii) a non-Native American who signs a request for transfer to a tribal office and tribal court jurisdiction on a form prescribed by DHS;~~

~~(C) the case must not have any pending action before a district or administrative court; and~~

~~(D) the custodial person signs a request for transfer to a tribal office and tribal court jurisdiction on a form prescribed by DHS.~~

~~(2) The eligibility criteria for referral to a tribal office for enforcement of support orders are:~~

~~(A) a case must have an order signed by a judicial authority;~~

~~(B) a case must not have any pending action before a district or administrative court;~~

~~(C) if the child support order is not a tribal order, the noncustodial parent must:~~

~~(i) be Native American; or~~

~~(ii) work for a tribe; and~~

~~(D) unless the child support order is a tribal order, the custodial person must sign an affidavit to waive district or administrative court jurisdiction on a form prescribed by DHS.~~

~~(3) For purposes of this Section, "Native American" means a person who is a member or eligible for membership in an Indian tribe, subject to verification by a tribal child support enforcement office.~~

(c) OAC 340:25-5-124.2 contains information regarding cases eligible for transfer to the Chickasaw Nation Tribal Child Support Office.

340:25-5-124.2. Transfer of eligible cases to the tribal office

(a) Child Support Enforcement Division (CSED) transfers eligible cases to the Chickasaw Nation Tribal Child Support Office (tribal office) under the Court of Indian Offenses civil jurisdiction requirements in Section 11.103 of Title 25 of the

Code of Federal Regulations and Section 1738B of Title 28 of the United States Code, the Full Faith and Credit for Child Support Orders Act (FFCCSOA).

(1) The eligibility criteria for transferring a case to the tribal office for paternity establishment and establishment of a support order are:

(A) the noncustodial parent or putative father is:

(i) Native American; or

(ii) non-Native American and the custodian is Native American and both agree to transfer the case to the tribal office and to submit to tribal court jurisdiction; and

(B) the case must not have any pending action before district or administrative court.

(2) Cases with child support orders are eligible for transfer to the tribal office for enforcement if there is no pending action before district or administrative court and if any one of the statements in subparagraphs (A) through (D) is true.

(A) The order is a tribal order.

(B) The order is not a tribal order, but the noncustodial parent is Native American and the custodian is notified of the case transfer.

(C) The order is not a tribal order, but the noncustodial parent is non-Native American and a tribal employee.

(D) The order is not a tribal order, but the noncustodial parent is non-Native American, the custodian is Native American, and both agree to transfer the case to the tribal office and submit to tribal court jurisdiction.

(3) The tribal office notifies the custodian of the case transfer.

(b) For purposes of this Section, "Native American" means a person who is a member of an Indian tribe, or is eligible for membership.

[OAR Docket #03-154A; filed 1-23-03]
(format accepted 1-24-03)

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 40. CHILD CARE SERVICES

[OAR Docket #03-90]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 3. Initial Application
340:40-3-1 [AMENDED]
Subchapter 5. Plan of Service
340:40-5-1 [AMENDED]
Subchapter 7. Eligibility
340:40-7-3 [AMENDED]
340:40-7-8 [AMENDED]
340:40-7-11 [AMENDED]
Subchapter 13. Child Care Rates and Provider Issues
340:40-13-3 [AMENDED]
340:40-13-5 [AMENDED]
(Reference APA WF# 02-27)

AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [Public Law 104-193], and the Balanced Budget Act of 1997 [Pubic Law 105-33], and Parts 98 and 99 of Title 45 of the Code of Federal Regulations.
DATES:
Adoption:
December 3, 2002
Approved by Governor:
December 30, 2002
Effective:
Upon Governor's approval or January 1, 2003, whichever is later.
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
Superseded rules:
Subchapter 3. Initial Application
340:40-3-1 [AMENDED]
(Reference APA WF # 02-16)
Gubernatorial approval:
April 29, 2002
Register publication:
19 Ok Reg 1917
Docket number:
02-984
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
Emergency approval is requested as the Agency finds that a compelling public interest exists in preserving the health, safety, and welfare of children who receive subsidized child care and improving access to care for children in need of those services. No longer allowing parents to choose one star center providers and no longer approving center providers for DHS contracts until they achieve one star plus, two star, or three star status is expected to improve the health and safety of these children as it is anticipated the quality of care provided will improve so that children are in a healthier, safer environment. Additionally, requiring staff statewide to process child care applications within two working days of needed verification being provided and changing the method for computing self-employment income will improve access to child care services by requiring applications to be processed more quickly and allowing self-employment income computations to align with Food Stamp Program rules. The Agency further finds that a compelling public interest exists in reducing child care program costs by implementing rules as recommended by the Administration of Children and Families to stop paying for child care the day before a child reaches the maximum age rather than pay for the full month in which the maximum age is reached.
ANALYSIS:
The purpose of the proposed rules are to: only approve new child care subsidy authorizations in one star centers if exception criteria are met; only approve new Department of Human Services provider contracts with centers that have a status of one star plus or higher; require a parent to choose a child care provider with a valid contract; require statewide implementation of near real-time application processing time frames; change the method for computing self-employment income; and change the date a child is no longer eligible for child care assistance to the day before the 13th birthday for a typical child and the day before the 19th birthday for a child with disabilities.
CONTACT PERSON:
Dena Thayer at (405)521-4326

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D) AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR OR JANUARY 1, 2003, WHICHEVER IS LATER:

SUBCHAPTER 3. INITIAL APPLICATION

340:40-3-1. Initial application

(a) **Initial application.** An applicant or the applicant's authorized representative completes ~~Form PS-1, Request for Services, and~~ Form K-2, Application for Child Care Services, or Form FSS-1, Comprehensive Application and Review ~~Form~~, to apply for child care services. When child care is needed for a child with disabilities, the ~~social services specialist~~ worker and applicant also complete Form ADM-123, Certification for Special Needs Child Care Rate.

(1) **Date of request.** The date of request is the date the applicant requests child care services. A request can be made verbally or in writing.

(~~1~~2) **Date of application.** The date of application is the date the ~~signed application is received in the county office. A verbal request for child care services by either the applicant or the applicant's authorized representative may also serve as the initial application date.~~ applicant or the applicant's authorized representative completes the child care interview and provides all necessary verification to the county office. This includes providing the name of the child care provider the client wishes to use. This provider must already have a valid Department of Human Services (DHS) child care provider contract and not be shown at OAC 340:40-5-1(g) as an exception to choice of provider.

(~~2~~3) **Child care interview.** Child care interviews are typically completed face-to-face with the applicant or authorized representative. A face-to-face interview is required for preventive child care requests and strongly recommended for special needs requests.

(~~3~~4) **Explanation of eligibility factors.** At the time of the initial interview, the ~~social services specialist~~ worker advises the applicant or authorized representative of his or her rights and responsibilities, ~~as well as~~ all factors of eligibility, and explains which child care providers are eligible to receive subsidy payment. The applicant must cooperate with the DHS Office of Inspector General during any audit or investigation of the applicant or the provider the applicant uses for child care. The applicant must report within ten days any changes in his or her circumstances.

(~~4~~5) **Timeliness.** ~~Applications for child care must be completed within 30 days of the date of the application.~~ Near real-time (NRT) benefit processing time frames are used for all child care applications. To be considered timely, the worker must determine eligibility within two working days of receiving all necessary verification to certify or deny the application. If the applicant does not provide requested verification, the worker must deny the request within 30 days of the date of request. The ~~social services specialist~~ worker sends Form FSS-37, Notice Regarding Social Services, explaining the reason for delay to any applicant whose application is over 30 days old.

(~~5~~6) **Right to appeal.** The applicant has the right to appeal the untimely processing of a child care request or the decision of eligibility or ineligibility.

(b) **Expedited eligibility processing.** The ~~social services specialist~~ worker must process an application immediately when required verification is beyond the applicant's control to provide, the applicant does not have the money to pay toward the cost of child care, and without child care the applicant:

(1) is in danger of losing a job; or

(2) cannot start a new job.

(c) **Eligibility determination.** A Family Support Services ~~Division (FSSD) social services specialist~~ (FSS) worker completes all applications ~~where~~ when an eligibility determination for a family must be made. Child Welfare (CW) staff must process all applications made by ~~Child Welfare~~ CW foster parents for child care. Either ~~FSSD~~ FSS or ~~Child Welfare~~ CW staff may process preventive service requests.

(1) **Applicant determined eligible.** ~~The social services specialist approves child care back to the application date if need existed on that date and the applicant used a contracted child care provider.~~ The earliest date the worker approves child care is the date the applicant provides all necessary verification to determine eligibility. The applicant is responsible for any child care used before the certification date ~~of application~~ or which is not part of the approved child care plan.

(2) **Applicant determined ineligible.** The application is denied if the applicant is ineligible or requests cancellation of the application.

SUBCHAPTER 5. PLAN OF SERVICE

340:40-5-1. Plan of service

(a) **Plan of service.** Providing child care is part of an overall plan of service designed to help the ~~parent~~ parent(s) or ~~caretaker~~ caretaker(s) with whom the child(ren) lives to achieve his or her maximum potential for self-support. Quality child care services assure the ~~parent~~ parent(s) or ~~caretaker~~ caretaker(s) that each child has adequate care which affords developmental and learning experiences while the ~~parent~~ parent(s) or ~~caretaker~~ caretaker(s) is engaged in self-support activities. The ~~social services specialist~~ worker helps the client to become more independent by suggesting ways to increase household income and identifying strengths in the client's life. The Family Support Services ~~Division social services specialist~~ (FSS) worker and the Child Welfare staff freely share information to develop a plan that best meets the needs of the family when both are working with the family.

(b) **Plan components.** The plan of service consists of many components that all link to form a goal-directed plan of care. These components include:

(1) the name, age, and grade level of the child(ren) for whom child care is needed;

(2) need for child care;

(3) the days and hours for which care is approved, including travel time;

(4) whether care is approved on a weekly, full-time, blended, or part-time care basis;

(5) whether there is an appropriate, feasible alternative to Department of Human Services (DHS) subsidized child care;

(6) ~~what~~ that the plan ~~is in place~~ to increase the client's income is in place;

(7) a back up plan for care when the child(ren) cannot go to the authorized child care provider;

(8) the name, address, and telephone number of a person who could be called on in case of an emergency;

(9) a plan to help the client choose a child care provider;

(10) a discussion about ~~what, if any,~~ the family share co-payment the family ~~needs to~~ must pay toward the cost of child care, if one is required;

(11) a discussion of any other social service needs of the family; and

(12) a discussion of the client's responsibilities and rights when using subsidized child care.

(c) **Alternative to subsidized child care.** The ~~social services specialist~~ worker explores with the client whether there is an appropriate, feasible alternative to ~~Department~~ DHS subsidized child care. The client has a choice whether ~~or not~~ to use this alternative unless the alternative is a spouse or the natural or adoptive parent of the child(ren) who lives in the home and who does not meet a need factor. Possible alternatives include:

(1) care by a dependable relative who is able and willing to assume responsibility for care and supervision of the ~~child~~ child(ren) for part of the day;

(2) care in a free or low cost facility, such as a preschool, prekindergarten, kindergarten, Head Start, Early Head Start, or tribal child care program;

(3) dependent care expenses paid directly by a Temporary Assistance for Needy Families client which are considered as earned income exemptions; and

(4) for a school age child(ren), the possible rearrangement of the parent's or caretaker's employment or training schedule to coincide with the hours the child(ren) is in school.

(d) **Plan to increase income.** At each application or review, the client and the ~~social services specialist~~ worker discuss ways the client can increase income to the household. The client and ~~social services specialist~~ worker identify together the goals child care helps the family achieve. Together they estimate when the family can assume progressively greater responsibility for the cost of child care. The ~~social services specialist~~ worker makes referrals to other agencies as appropriate.

(e) **Back up plan.** The ~~social services specialist~~ worker discusses with the client the back up plan for child care he or she has in place if the child(ren) cannot go to the usual provider for some reason such as illness, school holidays, or another unforeseen emergency. The back up plan includes the name and address of a person the client feels he or she can rely on when the normal plan of care cannot be used.

(f) **Emergency contact.** ~~The application or review form~~ Form FSS-1, Comprehensive Application and Review, or Form K-2, Application for Child Care Services, includes the name, phone number, and address of a person who can be contacted in case of emergency when the primary parent or caretaker cannot be reached.

(g) **Choice of provider.** The ~~social services specialist~~ worker documents the choice of provider on ~~the application or review form~~ Form FSS-1 or Form K-2. He or she calls the chosen provider to ensure acceptance of the child(ren) does not cause the provider to exceed his or her licensed capacity after describing the days and hours care is needed. If the client does not choose a provider at the time of ~~application~~ the request, the ~~social services specialist~~ worker provides the client with information to help in making the choice. The client can choose a family child care home regardless of star level. The client ~~can choose any child care provider who holds a contract with the state of Oklahoma except~~ cannot choose a child care:

(1) facility that does not have a valid contract with DHS;

(~~1~~2) facility in which the client or his or her spouse has an ownership interest;

(~~2~~3) home in which the child resides;

(~~3~~4) home ~~where~~ in which the client also works during the hours his or her child(ren) is in care;

(~~4~~5) center ~~where~~ in which the client works and has job responsibilities which include care of the child(ren) for whom child care is requested;

(~~5~~6) provider who is related to the client and only accepts a relative's child(ren);

(~~6~~7) provider who does not allow parental access during the hours the provider is caring for children; ~~or~~

(~~7~~8) provider who is receiving state or federal funds, such as Head Start, Early Head Start, or public schools unless:

(A) all parents are charged a fee for the hours subsidy payment is requested; and

(B) the program is offering extended day or full year services. Programs operating only during typical school or Head Start hours are not eligible~~.~~;

(~~8~~9) provider caring for a school age child during the regular school day when such student could be attending a public or private school during those hours~~.~~; or

(~~9~~10) center which is a one star facility unless there is no one star plus, two, or three star centers in the community or one of the special exception criteria are met. Special exception criteria are:

(A) the child(ren) was already approved for care at this one star center prior to January 1, 2003. The child(ren) can remain at this facility unless the child stops attending there for more than 30 days. The child can also be approved at this same facility again if the only reason the child did not attend for more than 30 days was because of a school break or due to circumstances beyond the control of the family such as illness of the child;

(B) care is requested for a child living in the same home as a child already approved for care as described in (10)(A) of this subsection for the same one star child care provider; or

(C) the parent or guardian demonstrates that they do not have another child care option that meets the family's needs.

(h) **Family share co-payment.** The ~~social services specialist~~ worker uses DHS Appendix C-4, Child Care Eligibility/Rates Schedule, to determine the family share co-payment paid by clients who are income eligible. The family share co-payment is applied before ~~the Department~~ DHS pays a child care subsidy. The amounts the family and ~~the Department~~

DHS pay toward the cost of care varies depending on the plan of service, family size, income, and the number of children receiving child care services.

(i) **Social services requests.** When a client requests help in meeting the social ~~service~~ services needs listed on Form FSS-1~~, Combined Application and Review Form~~ or Form K-2, ~~Application for Child Care Services,~~ the ~~social services specialist~~ worker provides all available information to aid a client in meeting these needs.

(j) **Client rights and responsibilities.**

(1) The client has a right to an explanation of the "Client Child Care Responsibilities and Service Plan Agreement" listed on Form FSS-1 or Form K-2 before signing the form.

(2) The ~~social services specialist~~ worker must ~~also~~ advise the client that a child care request is not approved back to the date of request ~~after near real-time benefit processing is implemented~~ unless the interview is conducted and verification is provided on that same date.

(3) The client ~~also~~ has a right to ask for a fair hearing if he or she disagrees with an action taken on the case.

(4) The client is ~~also~~ advised that the provider may charge the client extra for special fees such as enrollment or transportation fees as long as these fees are posted and also charged to the general public. The provider is:

(A) ~~The provider is~~ not contractually allowed to charge the client more for days and hours covered in the child care plan even if the hours are more than customary for a full-time day~~.~~; and

(B) ~~The provider is~~ not allowed to charge the client for days the child(ren) is not in attendance.

(5) The client is ~~also~~ advised he or she is required to cooperate with the DHS Office of Inspector General in any audit or investigation of possible overpayments by the client or by his or her chosen provider.

SUBCHAPTER 7. ELIGIBILITY

340:40-7-3. Age requirements

Children are eligible for child care services through the ~~month~~ day before they turn 13 years of age. Children with disabilities and children under court supervision may be eligible to receive a child care subsidy through the ~~month~~ day before they turn 19 years of age.

340:40-7-8. Defining the need factor for child care services

(a) **Employment.** Employment means the adult earns wages for work performed if the adult is part of the household for income purposes.

(1) If the adult is not making at least minimum wage for the number of hours he or she is working, the ~~social services specialist~~ worker counsels with the individual ~~on~~ regarding increasing income. If counseling is unsuccessful, child care benefits can be reduced or terminated. A person employed and working from his or her own home can receive child care in an out-of-home child care home or center.

(2) Job search meets the definition of employment and child care may be approved only when a recipient who has received child care services for at least 30 days loses employment or successfully completes a formal education or training program and requests child care assistance to look for a job. Child care may be approved for a maximum of 30 calendar days from the date the client loses employment or successfully completes a formal education or training program. Job search may be approved no more than twice per calendar year.

(b) **Training.** Job skills training includes vocational training and "hands-on" work experience to develop technical skills, knowledge, and abilities in specific occupational areas. All training programs must include qualitative measures to evaluate the participant's progress. Examples include competency gains, proficiency levels, and certificates of completion.

(c) **Formal education program.** A formal education program is defined as a course of study which leads to the attainment of an associate's or bachelor's degree.

(d) **Temporary Assistance for Needy Families (TANF) Work activity.** When a client receives TANF assistance, child care may be provided for any activity outlined in the client's Form TW-2, TANF Work/Personal Responsibility Agreement. Need is also met when the individual is waiting to enter an approved TANF Work activity. Approval is limited to a time period not to exceed:

(1) two weeks; or

(2) one month on an exception basis where child care arrangements or other services would otherwise be lost and the subsequent activity is scheduled to begin within that period.

(e) **TANF applicant job search.** TANF applicants referred for immediate employment are eligible for child care for job search. TANF applicants are advised:

(1) child care for job search is limited to 20 days which must be used within 30 calendar days from the date of request;

(2) in-home child care arrangements are not available for TANF applicants;

(3) child care may only be used during the times the applicant is actually looking for a job; and

(4) he or she must notify the county office immediately upon securing employment.

(f) **Food Stamp Employment and Training (E&T) recipients.** Income eligible food stamp recipients who live in a Food Stamp E&T county may receive voucher-authorized child care for E&T activities if child care services are necessary for the parent or caretaker to participate in the E&T activities. Participants are eligible for a maximum of $160~~.00~~ per month per child.

(1) Child care services are available whether the parent or caretaker is a required or voluntary participant.

(2) In two-parent or two-caretaker families, both parents may participate in E&T activities simultaneously and receive voucher-authorized child care unless one parent or

caretaker has been exempted to care for a child(ren) under six years of age.

(3) Child care services are only purchased from licensed and contracted out-of-home child care facilities.

(4) Food Stamp E&T participants are predetermined eligible for ~~voucher authorized~~ voucher-authorized child care and are approved with a zero family share co-payment.

(5) At the end of each calendar month, the client submits to the ~~social services specialist~~ worker a completed Form FSP-22, Job Search Plan.

(6) An overpayment is written for any vouchered child care used by the client for which he or she was not eligible.

(7) The Family Support Services Division, Food Stamp Section monitors a random selection of cases quarterly to ensure the integrity of the program.

(g) **Protective or preventive child care.** Protective or preventive child care services are used as an early intervention strategy in certain critical situations to help in preventing neglect, abuse, or exploitation. The ~~social services specialist~~ worker may approve child care in these situations to help stabilize the family situation or to enhance family functioning.

(1) The ~~social services specialist~~ worker may approve protective or preventive child care for a maximum of 30 calendar days at the county level.

(2) The family may or may not be expected to help in paying the cost of this child care depending on the unique circumstances of the family.

(3) If the family is financially ineligible for child care services but there is evidence the family is so burdened by debt that the additional financial pressure of paying for child care may result in further deterioration of family stability and functioning, the ~~social services specialist~~ worker may approve protective or preventive child care. A plan to reduce such debt must be established.

(4) If determining financial eligibility will take time, the ~~social services specialist~~ worker may approve child care while the parent or caretaker is gathering ~~such~~ necessary information.

(5) Protective or preventive child care is temporary and planning to reduce or eliminate the need for such child care begins at the initial contact.

(h) **Child with disabilities.** A child with disabilities is defined as a child receiving Supplemental Security Income (SSI), SoonerStart early intervention services, or special education services provided in accordance with an Individualized Education Program (IEP) by the local school district. This definition also includes a child whose SSI payment stops because of financial reasons but who still meets the medical definition of disability as determined by the Social Security Administration. A child must receive SSI to be predetermined eligible for child care services with a zero family share co-payment if he or she meets all conditions of eligibility for child care. Child care may be approved for a child with disabilities through the ~~month of~~ day before the child's 19th birthday when a statement from a licensed health care professional is provided stating the child is physically or mentally incapable of self-care as age appropriate.

(1) **Approval for the higher special needs rate.** Form ADM-123, Certification for Special Needs Child Care Rate, is completed and signed by the parent or guardian, the child care provider, Division of Child Care (DCC) licensing staff, and the child's Family Support Services ~~social services specialist~~ worker or Child Welfare ~~specialist~~ worker. The parent or caretaker must submit the child's ~~Individual~~ Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) ~~which~~ that documents the care needs of the child. If a child receiving SSI is not receiving special education services or SoonerStart services, a statement from a health professional describing the care needs of the child is submitted. A change from the applicable daily or weekly rate to the higher special needs rate is effective the first of the month following the month eligibility for the rate is determined by DCC licensing staff. When care is not provided until the special needs rate is approved, it is effective the first day care is provided.

(2) **Enrichment child care services for children with disabilities.** The purpose of enrichment child care services is to assist the child in developing socialization skills. Children with disabilities receiving SSI who are normally not eligible for child care may be approved for enrichment child care services based solely on the needs of the child's condition of delay or disability rather than on the activities of the parent or caretaker. Child care is limited to a maximum of two days per week not to exceed ten full-time or part-time days per month for enrichment child care. The parent or caretaker must provide a statement from a professional involved in the child's life recommending child care be provided and the reason child care would be beneficial to the child. When such enrichment child care is approved, it is provided outside of the child's home, preferably in a setting where at least one other child is present.

340:40-7-11. Sources of income considered

(a) **Sources of income considered.** Income may be received periodically or at irregular intervals. All income unless specifically excluded in OAC 340:40-7-12 is considered in determining monthly gross income.

(b) **Earned income.** The term "earned income" refers to total money earned by an individual through the receipt of wages, salary, commission, or profit from activities in which the individual is engaged as self-employed or as an employee.

(1) **Wages.** Wages include total money received for work performed as an employee including armed forces pay, commissions, tips, piece-rate payments, longevity payments, and cash bonuses before any deductions are made such as taxes, bonds, pensions, union dues, credit union payments, and cafeteria plans.

(A) Only the portion of the cafeteria plan the client controls is counted as income.

(B) Reimbursements for expenses such as a uniform allowance or transportation costs, other than daily commuting, are subtracted from gross income.

(C) Payments made for annual leave, sick leave, or severance pay are considered as earned income during the month such income is received whether paid during employment or at termination of employment.

(D) Wages that are garnisheed or diverted and paid to a third party are also included.

(E) An earned income deduction is allowed for each employed person in the household unit.

(2) **Self-employment.** Earnings derived from a business enterprise owned by the individual ~~is~~ are considered as self-employment income. Gross income is determined by calculating total gross receipts or sales, subtracting the costs of producing the income listed in this Section and allowing the earned income deduction listed on Department of Human Services (DHS) Appendix C-4, Child Care Eligibility/Rates Schedule.

(A) **Costs of producing self-employment income.** Allowable costs of producing self-employment income include, but are not limited to, the identifiable cost of labor, stock, raw material, seed and fertilizer, and ~~interest payments to purchase~~ payments on the principal of the purchase price of income producing ~~property~~ real estate and capital resources, equipment, machinery, and other durable goods, interest paid to purchase income producing property, insurance premiums, and taxes paid on income producing property. Items not considered as a cost of producing self-employment income are:

~~(i) payments on the principal of the purchase price of income producing real estate and capital assets, equipment, machinery, and other durable goods;~~

(~~ii~~i) net losses from previous periods;

(~~iii~~ii) federal, state, and local income taxes, money set aside for retirement purposes, and other work related personal expenses, such as meals and necessary transportation which are accounted for by the appropriate amount of earned income deduction listed on DHS Appendix C-4; ~~and~~

(~~iv~~iii) depreciation;

(iv) penalties and fines; and

(v) charitable contributions.

(B) **Monthly self-employment income.** ~~Self-employed~~ Self-employment income received on a monthly basis is normally averaged over a 12-month period. If ~~however,~~ the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has experienced a substantial increase or decrease in business, the ~~social services specialist~~ worker calculates the self-employment income based on anticipated earnings.

(C) **Seasonal self-employment.** Self-employment income intended to meet the household's needs for only part of the year is averaged over the period of time it is intended to cover.

(D) **Annualized self-employment income.** Self-employment income which represents a household's annual support is averaged over a 12-month period, even if the income is received in a short period of time. If the averaged amount does not accurately reflect the individual's actual monthly circumstances because the individual has experienced a substantial increase or decrease in business, self-employment income is based on anticipated earnings.

(E) **Income from rental property.** Income from rental property is considered income from self-employment. The household is only entitled to the earned income deduction if a member of the household is actively engaged in management of the property an average of at least 20 hours per week.

(F) **Income from room and board.** Payments from roomers or boarders are considered self-employment if the roomer or boarder is paying a reasonable amount.

(G) **Self-employed farm income.** Self-employed farm income is determined ~~just~~ like ~~any~~ other self-employed income except when the business expenses exceed the self-employment income. When the cost of producing self-employment income exceeds the income derived from self-employment as a farmer, such losses are offset against any other countable income in the household. When the annual net loss has been established, the loss is prorated by dividing by 12 for the monthly amount to be subtracted from the total countable income prior to subtraction of the earned income deduction. For purposes of this exception, to be considered a self-employed farmer, the farmer must receive or anticipate receiving annual gross proceeds of $1000 or more from the farming enterprise. Farming is defined as cultivating or operating a farm for profit either as owner or tenant. A farm includes stock, dairy, poultry, fish, fruit, and truck farms, and also plantations, ranches, ranges, and orchards. A fish farm is an area where fish are grown or raised and where they are artificially fed, protected, and the like and does not include an area where they are merely caught or harvested. A plant nursery is a farm for purposes of this definition.

(3) **Training allowances.** Training allowances for vocational and rehabilitative programs recognized by federal, state, or local governments such as the work incentive program and programs authorized by the Comprehensive Employment and Training Act are considered, to the extent they are not reimbursement. The individual must be actively involved in some type of work to be considered countable earnings.

(4) **On-the-job training.** Earned income from regular employment for on-the-job training is considered as any other earned income.

(5) **Workforce Investment Act (WIA).** Income earned in on-the-job training positions is considered earned income. This is on-the-job training provided under Section 134 of the Workforce Investment Act for individuals 19 years of age or older. On-the-job training provided must be full-time positions, and there must be a contract between WIA and the employer for each individual position.

This does not include classroom training and institutional training or intern assignments sponsored by WIA, even when an hourly amount is paid for such training.

(6) **Title I ~~Payments~~ payments of Domestic Volunteer Services Act.** Payments under Title I of the Domestic Volunteer Services Act of 1973 as amended [P.L. 93-113] are considered unless they are excluded under OAC 340:40-7-12. This includes income to Volunteers in Service to America, University Year for Action, and similar volunteer payments.

(7) **Earnings of children.** Earned income of a minor parent is treated as adult earned income. Earnings of children 17 years of age and younger who are under the parental control of an adult household member are excluded as long as the child is attending school regularly. This exclusion continues to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment resumes following the break.

(c) **Unearned income.** The term "unearned income" refers to income an individual receives for which he or she does not put forth any daily, physical labor. Types of income listed in paragraphs (1)~~-~~ through (9) of this subsection are considered unearned income.

(1) **Assistance payments.** Assistance payments include state means tested programs such as Temporary Assistance for Needy Families and State Supplemental Payments to the aged, blind, or disabled, and Refugee Cash Assistance.

(2) **Pensions, disability, and Social Security benefits.** Annuities, pensions, retirement benefits, disability benefits from either government or private sources, or Social Security survivor benefits are considered unearned income.

(3) **Supplemental Security Income (SSI).** SSI is considered ~~as~~ unearned income.

(4) **Unemployment and worker's compensation.** Income from unemployment insurance benefits or worker's compensation is counted as unearned income.

(5) **Child support, ~~court ordered~~ court-ordered child care, and alimony.** Child support, child care payments, and alimony payments, whether ~~court ordered~~ court-ordered or voluntary, which are made directly to the household from non-household members are counted as unearned income. If a child care payment is paid directly to the child care provider, it is not considered income for the client. It is considered as an additional family share co-payment which must be met before DHS makes a subsidy payment to the provider. Any other payment made to a third party for a household expense must be considered as income when a court order directs that the payment be made to the household. Payments for medical support are excluded.

(6) **Veterans' compensation, pensions, or military allotments.** Annuities, pensions, disability compensation, military allotments, servicemen dependents' allowances, subsistence allowances paid to veterans or their dependents for educational purposes, and similar payments are considered ~~as~~ unearned income. Subtract any school expenses associated with receipt of this income. Income is averaged over the period it is intended to cover.

(7) **Contributions.** Appreciable contributions recurrently received in cash are considered ~~as~~ unearned income except in instances where the contribution is not made directly to the recipient. To be appreciable, a contribution must exceed $30 per calendar quarter per individual.

(8) **Dividends, interest, minerals, and royalties.** Dividends, interest income, income from minerals, royalties, and the like are considered ~~as~~ unearned income. When income from these sources is received irregularly or in varied amounts, it is averaged over 12 months. Income from royalties is treated as unearned, self-employment income.

(9) **Educational grants.** Educational grants which are not covered by Title IV of the Higher Education Act or the Bureau of Indian Affairs Student Assistance programs are considered ~~as~~ unearned income to the extent they are available to meet current living expenses. Subtract any school expenses associated with receipt of this income. Income is averaged over the period it is intended to cover.

(10) **Lump sum payments.** Non-recurring lump sum payments which are from a countable income source are considered as income the month they are received. Money not expended is then considered as a resource. Recurring lump sum payments, including income from earnings, are averaged over the period they are intended to cover.

(11) **Family Support Assistance Payment Program.** Family Support Assistance Payment Program payments paid to individuals by the Developmental Disabilities Services Division of ~~the Department~~ DHS are considered ~~as~~ unearned income.

SUBCHAPTER 13. CHILD CARE RATES AND PROVIDER ISSUES

340:40-13-3. Child care payments and rates

(a) The Department of Human Services (DHS) contracts to purchase out-of-home child care services for children only with licensed providers who:

(1) ~~whose~~ post rates and fees are ~~posted~~;

(2) ~~who~~ sign and comply with all the terms of Form CCDF-1-E, Child Care Provider Contract;

(3) ~~who~~ have participated in mandatory contract training; and

(4) ~~who~~ have access to an account at a financial institution for electronic benefit transfer (EBT) purposes once the EBT system is implemented in a county.

(b) By Oklahoma Statutes, ~~the Agency~~ DHS cannot make advance payments to child care providers.

(c) The rates paid by ~~the Department~~ DHS are determined by:

(1) the child's age;

(2) ~~where~~ settings in which the care is provided:

(A) ~~in~~ the child's own home;

(B) ~~in~~ a child care center; or

(C) ~~in~~ a child care home;

(3) whether the child has disabilities and the provider is approved for the special needs rate. The special needs rate is added to the applicable daily~~, blended,~~ or weekly rate;

(4) whether the care is provided on a full-time basis, over four hours per day or a part-time basis, four hours or less per day;

(5) whether care is provided on a daily, blended, or weekly basis and, if on a weekly basis, whether care is provided three, four, five, six, or seven days per week;

(6) the county in which the provider is located; and

(7) whether the facility qualifies for a differential quality rate.

(d) For ~~Department~~ DHS purchased in-home child care services for children, the allowable rate is the amount as shown on DHS Appendix C-4, Child Care Eligibility/Rates Schedule. The in-home rate is 90% of the ~~one star~~ one star child care home rate for the age of the child. If a child is eligible for the severe or moderate special needs rate, this is added to the applicable in-home rate for that child.

(e) For ~~Department~~ DHS purchased out-of-home services, the allowable rate is the amount as shown on DHS Appendix C-4.

(f) When care is authorized for two different providers for the same day, each provider may only be authorized for a part-time rate regardless of the number of hours of care provided.

(g) Charges are authorized and payment is made only when the care provided is in accordance with the jointly developed plan of service between the client, the provider, and ~~the Department~~ DHS.

(h) ~~Age driven~~ Age-driven rate changes are effective the first of the month following the child's birth date except as shown in (i) of this Section.

(i) Eligibility for a child(ren) stops the day before:

(1) a typical child reaches age 13; or

(2) a child with disabilities or a child in DHS custody reaches age 19.

(~~i~~j) A change to add the higher special needs rate to the applicable daily or weekly rate is effective the first of the month following the month eligibility for this rate is determined.

(~~j~~k) A child care provider may be approved for a differential quality rate if he or she meets the criteria for this rate. This rate is given effective the first of the month following the month the provider is approved for this rate by Division of Child Care licensing staff. The rate is designated on DHS Appendix C-4 by its "Star" status.

(~~k~~l) The blended rate may be approved for children age four and older from August 16th through May 15th each year for children attending public school, a prekindergarten program, or Head Start during the traditional school year. The blended rate may be approved for the full calendar year when children attend school the entire year.

340:40-13-5. Child care provider contracts

(a) **Criteria.** In order for the Department of Human Services (DHS) to purchase out-of-home child care services, a provider must have a current child care provider contract on file with the ~~State Office,~~ Family Support Services Division (FSSD), Child Care Section. ~~The Department~~ DHS assures all persons that ~~the Department~~ DHS or any provider of contractual services, does not take into account a person's race, color, religion, sex, national origin, or disability in the selection or eligibility of individuals to receive services and in the manner of providing them. Age may be a factor only to the extent that certain services are designed for a particular age group.

(1) Written complaints of noncompliance with the assurance in (a) of this Section may be made to the Director of ~~the Oklahoma Department of Human Services~~ (DHS) or to the Secretary of Health and Human Services, Washington, D.C. 20201.

(2) County Division of Child Care (DCC) licensing staff provide initial information about contracts for child care facilities. The provider contacts the county child care liaison to obtain an initial contract.

(3) Child care contracts are valid for a maximum of one year. They are automatically renewed for successive one year terms, under the same terms and conditions, unless either the child care provider or DHS gives written notice of its intent not to renew to the other party at least 30 days prior to the expiration of the previous term.

(b) **Procedure for obtaining child care contracts.** ~~The Department~~ DHS enters into contracts only with licensed, out-of-home providers. The star status of a child care center provider requesting an initial contract must be at one star plus, two star, or three star before a contract is submitted. The procedures in (1) ~~-~~ through (7) of this subsection are used to obtain child care contracts.

(1) ~~Licensing~~ DCC licensing staff give the child care provider a promotional flyer containing information about contracting with ~~the Department~~ DHS. The provider is instructed to contact the county child care liaison for training and review of the contracting requirements.

(2) When contacted by the child care provider, the county child care liaison arranges an appointment at which time the provider is required to review the "Contracting with DHS for Child Care Subsidy Payments Handbook" and watch a training video. The provider must fulfill this training requirement before an initial contract may be ~~approved~~ submitted.

(3) If the provider wishes to contract with ~~the Department~~ DHS following this training, the county child care liaison provides Form CCDF-1-E, Child Care Provider Contract, to the child care provider. ~~The provider completes all identifying information on the contract according to the instructions on the form.~~ The child care liaison explains that the earliest date a contract is valid is the date of approval by the DHS Director or designee.

(4) The provider completes all identifying information on the contract according to the instructions on the form. In the presence of a notary, the provider signs one copy of the contract, has it notarized, and returns the contract to the county child care liaison. Proof of ownership is attached. If the DCC licensing staff provide the county child care

liaison with a copy of the provider's Oklahoma State Bureau of Investigation background investigation report, that document is also attached to the contract. ~~After Division of Child Care (DCC) Licensing issues a license or permit to the provider, the liaison enters the proposed effective date of the agreement on the contract document. The proposed effective date cannot be prior to the date the license or permit is issued.~~

~~(5) The county child care liaison submits the contract to the DHS Director or designee for disposition.~~

(~~6~~5) If approved, the FSSD, Child Care Section assigns a contract number. Information from the contract is entered on the Day Care Contract File which is updated and maintained by the FSSD, Child Care Section.

(~~7~~6) If denied, the FSSD, Child Care Section returns the original contract to the provider with a letter advising the provider ~~the Department~~ DHS has decided it is in the best interest of ~~the Department~~ DHS not to contract with the provider.

(c) **Out-of-state providers.** In some situations it is necessary to contract with a child care facility in another state because a client resides in Oklahoma near the border of another state and elects to use an out-of-state facility. When this occurs, the county child care liaison contacts DCC licensing staff and requests verification of the licensed status of the facility. ~~Licensing~~ DCC licensing staff contact the out-of-state agency responsible for licensing. ~~If the facility is licensed and in compliance with the Civil Rights Act, a contract may be executed.~~ A contract may be issued to a child care home if the home is licensed and in compliance with the Civil Rights Act of 1964. Prior to an out-of-state child care center being issued a contract, DCC licensing staff must determine this facility meets Oklahoma DHS criteria for a one star plus, two star, or three star status. The same procedures apply as in contracting with in-state facilities except that a contract is renewed with an out-of-state facility only if services are being provided to a ~~Department~~ DHS client when the contract expires.

(d) **Changes in child care contract status.** A new contract is required when the facility changes ownership or has been closed and subsequently reapplies for a child care license. This includes those instances when a child care facility changes status, such as changing from a home to a center or from a center to a home.

(1) When the status of a child care home changes to that of a child care center, it must meet one star plus, two star, or three star status before a new contract is submitted.

(2) A change from a family child care home to a large family child care home does not require a new contract, even though a new application is completed, as long as the same license number is used.

(3) If a child care center is sold or ownership changes, the new owner must meet one star plus, two star, or three star status before a new contract is submitted.

(e) **Change of address.** When the ownership remains the same and the business moves to a new building, the provider must complete a new contract if the facility is required to obtain a new license. If a new contract is required for a one star child care center, it can be approved if a child(ren) already receiving a child care subsidy at the old location wishes to move to the new location.

(f) **Renewal of child care contracts.** Child care provider contracts are effective July 1 through June 30 of each year. They are automatically renewed for successive one year terms, under the same terms and conditions, unless either the provider or DHS gives written notice of its intent not to renew to the other party at least 30 days prior to the expiration of the previous term. A contract is not renewed when a provider fails to attend required contract training.

(g) **Contract violations.** The ~~social services specialist~~ worker or the county child care liaison investigates all reports of contract violations by providers. The ~~social services specialist~~ worker or the county child care liaison discusses and participates in planning with the provider to eliminate any apparent violation. The provider is informed that, under the terms of the agreement with ~~the Department~~ DHS, all terms of the contract must be met and that ten calendar days are given to correct any violation. If at the end of the ten-day period the provider fails to correct the violation, the ~~social services specialist~~ worker documents and reports the continued violation to ~~the social services~~ his or her supervisor, who is then responsible for submitting the information by memorandum to FSSD, Child Care Section for a determination of further action. Examples of contract violations include but are not limited to:

(1) discriminating against persons seeking services either by charging a discriminatory rate or violating a person's rights as listed in the Civil Rights Act of 1964 as amended, the Rehabilitation Act of 1973 as amended, and the Americans with Disabilities Act of 1990;

(2) failing to post all of the facility's rates and fees;

(3) failing to inform ~~the Department~~ DHS of a change in address or ownership of the business at least 30 days in advance of the change;

(4) charging a client receiving subsidized child care more than ~~the Department~~ DHS rate for days and hours within the client's plan of service;

(5) failing to complete ~~and keep~~ an original Form CCDF-3, Service/Attendance Record, signed by the parent or caretaker for each child claimed by the provider for months care was given before electronic benefit transfer (EBT) is implemented. ~~These records must be kept by the provider for three years or until the resolution of pending legal issues, whichever is longer~~;

(6) failing to keep an original Form CCDF-3, Service/Attendance Record, signed by the parent or caretaker for each child claimed by the provider for the months care was given before EBT is implemented. The provider must keep these records for three years or until the resolution of pending legal issues, whichever is longer;

(~~6~~7) moving ~~children~~ the child(ren) from the agreed upon location listed in the contract for reasons other than field trips and claiming for services at this other location;

(~~7~~8) subcontracting services to another provider without written prior approval from ~~the Department~~ DHS;

(~~8~~9) refusing unlimited access by a parent or caretaker to the facility during the hours of operation;

(~~9~~10) submitting fraudulent claims and documentation of care to ~~the Department~~ DHS;

(~~10~~11) failing to maintain a drug-free workplace; and

(~~11~~12) refusing to make available to ~~the Department~~ DHS all business records which document proper fiscal and program management by the provider within an hour of request by any ~~Department~~ DHS representative.

(h) **Additional EBT contract violations.** Once EBT is implemented in a county, examples of EBT contract violations include:

(1) filing manual claims when they could be filed through the EBT system;

(2) possessing or swiping a client's EBT card;

(3) knowing a client's personal information number (PIN);

(4) failing to ensure accurate time and attendance information was recorded by the parent or caretaker on the point of service (POS) machine. The attendance, not time, of ~~children~~ a child(ren) approved for the part-time or blended rate must be recorded during the school year by the parent or caretaker; and

(5) not maintaining written records for any manual claims filed for at least three years.

(i) **Cancellation of child care provider contracts.** The cancellation is initiated by the ~~State Office,~~ FSSD, Child Care Section by issuing a notice to the provider by certified mail. If a provider refuses to accept the certified letter, the notice is remailed by regular mail allowing three calendar days for receipt.

(1) Contracts may be canceled:

(A) with cause. The effective date of cancellation is ten calendar days after the facility's receipt of the notice. Generally, three calendar days are sufficient mailing time. The notice must contain a reference to the grounds for cancellation including the specific contract provision(s) that was violated; or

(B) without cause. The effective date of cancellation is 30 calendar days after the facility's receipt of the notice.

(2) The ~~State Office,~~ FSSD, Child Care Section communicates with the county child care liaison whenever a contract is being canceled to ensure that county staff ~~has~~ have sufficient time to plan with clients to find another facility, if necessary. When it is necessary to cancel authorizations with a child care provider, the provider is notified by use of a computer generated notice. ~~State Office,~~ FSSD, Child Care Section closes all authorizations with the provider whose contract is canceled.

(3) Copies of all correspondence regarding contract cancellation proceedings which are not initiated by the provider are routed by the ~~State Office,~~ FSSD, Child Care Section to the:

(A) ~~Division of Child Care, Licensing Coordinator~~ DCC, licensing coordinator;

(B) Legal Division;

(C) Finance Division;

(D) Office of the Inspector General;

(E) FSSD, Overpayment Section;

(F) State Office, Commodity Distribution Unit;

(G) Child Care Resource and Referral Agency serving the area where the provider is located;

(H) Department of Education, Child Care Food Program;

(I) Cherokee Nation, if serving the area where the provider is located;

(J) Creek Nation, if serving the area where the provider is located;

(K) Choctaw Nation, if serving the area where the provider is located;

(L) the Field Operations Division ~~Area Office~~ area office where the provider is located; and

(M) the local county director, county child care liaison, licensing supervisor, and licensing staff where the provider is located.

(4) Copies of all correspondence regarding contract cancellation proceedings which are initiated by the provider are routed by the ~~State Office,~~ FSSD, Child Care Section to the:

(A) Finance Division; and

(B) local county director, county child care liaison, licensing supervisor, and licensing staff where the provider is located.

[OAR Docket #03-90; filed 1-13-03]
(format accepted 1-16-03)

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE

[OAR Docket #03-172]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 3. Child Protective Services
340:75-3-5 [AMENDED]
340:75-3-10.1 [AMENDED]
(Reference APA WF # 02-30)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Senate Bill 1329, which includes amendments to Sections 7003-2.1 and 7004-3.4 of Title 10 of the Oklahoma Statutes.
DATES:
Adoption:
December 3, 2002
Approved by Governor:
January 21, 2003
Effective:
Immediately upon Governor's approval.
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
FINDING OF EMERGENCY:
Emergency approval is requested as the Agency finds imminent peril exists to the health, safety, and welfare of abused and neglected children. The revised rules alleviate the peril by specifying: that OCA investigate allegations of child abuse and neglect by community service workers; the placement protocol

for infants at-risk; and the criteria for removal of children from child care and educational facilities.

ANALYSIS:

The revisions to Subchapter 3 incorporate amendments to Oklahoma Statutes, Sections 7003-2.1 and 7004-3.4 of Title 10. Senate Bill 1329 made significant amendments that are effective November 1, 2002 and require state compliance through the rulemaking process. The revisions improve service delivery to children and protect children at risk for serious abuse and neglect. The rules are revised to comply with new statutory requirements regarding procedures in the investigation of child abuse and neglect, placement of infants who are at-risk, and the removal of children.

340:75-3-5, Relationship of Child Protective Services (CPS) to other entities with responsibility in the investigation of child abuse and neglect, is revised to reflect a change in the responsibilities of the Office of Client Advocacy (OCA) regarding the investigation of alleged child abuse and neglect by a community services worker.

340:75-3-10.1, Safety determination and responses, is revised to reflect the new protocol for the placement of an infant who is at-risk and new criteria for removal of a child from an educational or child care facility by a CW worker.

CONTACT PERSON:

Dena Thayer, Rules & Policy Management Unit, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR, AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 3. CHILD PROTECTIVE SERVICES

340:75-3-5. Relationship of Child Protective Services (CPS) to other entities with responsibility in the investigation of child abuse and neglect

(a) **Responsibility.** The responsibility of other entities in the investigation of child abuse and neglect is given in this subsection.

(1) The ~~Department's~~ Department of Human Services (DHS), Office of Client Advocacy (OCA) is responsible for the investigation of any allegation of abuse or neglect of a child in any ~~Department of Human Services~~ DHS facility, or in a public or private residential facility, including but not limited to ~~Specialized Community Homes~~ specialized community homes, jails or detention centers, hospitals, psychiatric facilities and treatment programs, day treatment programs, and any residential child care facility, whether licensed or unlicensed. Additionally, OCA is responsible for the investigation of alleged child abuse, neglect, sexual abuse, and sexual exploitation by a community services worker as defined by Section 1025.1 of Title 56 of the Oklahoma Statutes. Reports of suspected abuse or neglect of a child are made to ~~that office~~ OCA as prescribed in OAC ~~340:2-3-6~~ 340:2-3-33. ~~The Office of Client Advocacy~~ OCA does not investigate allegations of abuse or neglect of a child in a foster home, including therapeutic foster homes, or in a kinship home placement.

(2) ~~The Department's~~ DHS, Division of Child Care (DCC) is responsible for implementing the Oklahoma Child Care Facilities Licensing Act. [10 O.S. § 401 et seq.] Child care standards applicable to the operation of a child care facility are designed to ensure the safety of children. ~~The Division of Child Care~~ DCC and CPS, therefore, have concurrent responsibilities regarding alleged physical abuse, sexual abuse, and neglect in child care centers and homes. Whenever possible, investigations are conducted jointly by ~~the Division of Child Care~~ DCC and CPS. This does not include violations of licensing standards; these are handled by ~~the Division of Child Care~~ DCC.

(b) **Child Protective Services' protocol for inter-agency relationships.** CPS functions as one component of the multi-faceted system established to protect children from abuse and neglect. The system for protecting abused or neglected children, in addition to CPS, includes law enforcement, individuals within the court system, and other social services agencies or organizations. CPS is one component of a larger Child Welfare (CW) services continuum which also includes preventive and protective services, foster care and placement services, and adoption services.

(c) **Role of Child Protective Services.** The role of CPS is to evaluate reports of abuse or neglect, to assess risk of harm and the need for protective services, and to provide and coordinate services. Assessing risk is social work based with a rehabilitative focus.

(d) **Role of law enforcement.** Law enforcement officials investigate a report of child abuse or neglect as a crime. Generally, reports that require joint involvement of CPS and law enforcement are handled as investigations rather than assessments. The focus is on identifying and arresting the ~~offender~~ offender(s), ~~on~~ gathering court admissible evidence, and ~~on~~ protecting the integrity of the evidence so that, if a crime was committed, the ~~offender~~ offender(s) can be prosecuted in criminal court.

(1) In situations requiring crisis intervention, protection by law enforcement may be necessary to protect the child, other family members, and the CW worker. Additionally, when ~~children are~~ the child is in danger, law enforcement officials may take the child into protective custody and authorize immediate medical treatment, if necessary to protect the child's health. [10 O.S. § ~~7003-2~~ 7003-2.1] CW staff are responsible for coordinating with law enforcement officials.

(2) In some instances, a law enforcement official conducting a criminal investigation may ask CW not to interview certain individuals or to delay its investigation. While it is possible that the criminal investigation will supersede the CPS investigation, it is made clear to the other investigating agency that ~~the Department~~ DHS may not relinquish its responsibility. Staff attempt to work with the law enforcement agency to develop a plan which allows CW to fulfill its responsibilities while not interfering with the criminal investigation.

(e) **Role of the district attorney in deprived matters.** The district attorney has the responsibility to determine if the filing of a petition is warranted based on information obtained during the CPS investigation. DHS has the responsibility to make a

written recommendation even if the district attorney has verbally indicated that he or she may not file a deprived petition. Consultation, coordination, and a good working relationship between the CW worker and the district attorney are essential to ensure appropriate use of juvenile court for the protection of children.

(f) **Role of the district attorney in criminal prosecutions.** While CW makes recommendations to the district attorney regarding deprived actions, CW workers do not make recommendations for criminal prosecution. It is the district attorney who has the expertise in this area and it is the district attorney's responsibility to decide whether ~~or not~~ criminal charges ~~will be~~ are filed against the alleged ~~perpetrator~~ perpetrator(s). Because the CPS investigation is limited to what is necessary to protect children, the district attorney may need further evidence to meet the standard of proof necessary for a criminal conviction. This evidence is obtained by law enforcement officials conducting a criminal investigation.

(g) **Role of the attorney for the child.** In deprived actions a separate attorney is appointed for the child. [10 O.S. § 7003-3.7] In criminal actions brought under Section 7115 of Title 10 of the Oklahoma Statutes, the child victim may be appointed an attorney. The role of the attorney for the child is to represent the child and any expressed interests of the child. The attorney for the child meets with the child as soon as possible after appointment. Except for good cause, the attorney meets with the child not less than 24 hours prior to any proceeding. The attorney for the child is given access to all reports, records, or any other information relevant to the case and to any reports of examination of the child's ~~parents~~ parent(s), legal ~~guardian~~ guardian(s), or ~~custodian~~ custodian(s). The attorney is advised of the child's location and how best to contact the child according to OAC 340:75-6-48.1. The CW worker, as an advocate for the child, coordinates and consults with the attorney to ensure the protection and well-being of the child.

(h) **Role of the person serving as the child's guardian ad litem.** In addition to an attorney being appointed to represent the child, the judge may also appoint a person to serve as the child's guardian ad litem. The focus of the guardian ad litem, who may be a court-appointed special advocate (CASA), is to advocate for and monitor the child's best interests. CASA has the same meaning as guardian ad litem under the Oklahoma Children's Code. The guardian ad litem or CASA does not prosecute the case and is usually not an attorney, but looks into the child's situation, and makes reports and recommendations to the court. The guardian ad litem or CASA also conducts interviews with parents, foster parents, providers, CW workers, and others with knowledge of the case in accordance with the best interests of the child. Close coordination and cooperation between the lay guardian ad litem or CASA and the CW social worker is essential to ensure the best services are ~~being~~ provided for the child. [10 O.S. § 7003-3.7 and 7112]

(i) **Role of the judge in deprived matters.** The judge's primary responsibility is to preside over court hearings. ~~In situations in which~~ When a child is in need of immediate protection, the judge may, upon application by the district attorney, issue a court order to place the child in emergency custody. [10 O.S. § 7003-2.1(A)(2)] The judge is responsible for ensuring that fair and proper court procedures are observed and, except when jury trials are held, hears the evidence presented during the hearing and decides whether the child ~~will be~~ is adjudicated. Additionally, the judge decides whether the child ~~will be~~ is placed in the custody of the ~~person~~ person(s) responsible for the child (PRFC(s)), with ~~relatives~~ a relative(s), DHS, or with another agency and usually orders the ~~PRFC~~ PRFC(s) and child to participate in a court-ordered treatment plan.

(j) **Role of the judge in matrimonial or child custody actions.** If a judge, during an action for divorce, annulment, custody of a child, appointment of a ~~guardian~~ guardian(s) for a child, or in subsequent proceedings, determines that there is evidence of abuse or neglect of a child, statutes require that the referring court notify the DHS county office. The court may also enter an order to have the child taken into emergency custody if evidence presented to the referring court indicates a child is in surroundings that ~~are such as to~~ endanger the welfare of the child. [10 O.S. § 7002-1.2]

(k) **Role of other social services agencies.** CW cannot fulfill its responsibilities without interaction with other social services agencies. CW often refers families for counseling, health care, and other identified services, including involvement of one or more of these agencies with a family as part of a treatment plan. The CW worker is also responsible for obtaining information from social service agencies regarding the child's and family's use of the services and progress in working out the difficulties that place the ~~child(ren)~~ child at risk of abuse or neglect. ~~Refer to Section OAC 340:75-1-42 for policy~~ Rules regarding confidentiality of case record information is followed in accordance with OAC 340:75-1-42.

340:75-3-10.1. Safety determination and responses

(a) **Evaluating the safety of a child is a discrete Child Protective Services (CPS) function.** ~~Children~~ A child may be unsafe because of existing family conditions. These conditions must be evaluated to identify a service response which will control risk and ensure the child's safety. Safety refers to the present security and well-being of a child who ~~has been~~ is assessed ~~to be~~ at risk of abuse or neglect. Safety is determined by how controllable the child and family situation is, whether the child's safety is an immediate concern, and what the abuse or neglect is or its results might be.

(b) **Determining the need for a protective custody recommendation ~~and examples of serious abuse and neglect~~.** ~~Listed in (1)-(16) of the Instructions to Staff of this subsection are examples of~~ There are situations in which the Child Welfare (CW) worker must evaluate whether a recommendation for protective custody is appropriate. ~~This is not an all inclusive list but these are~~ These situations include serious abuse and neglect in which the child ~~may be~~ is at risk of serious physical harm.

(c) **Safety planning decisions in cases of serious abuse or neglect.** When an alternative to protective custody is considered in situations in which ~~significant~~ serious physical harm ~~has been~~ is documented, the CW supervisor is consulted. The alternatives to protective custody are discussed and each alternative is evaluated to determine if the child's safety ~~can~~

~~be assured~~ is ensured. ~~If for~~ For example, if a parent aide or visiting nurse can be arranged for the family but cannot be arranged for several weeks, this is not an acceptable safety plan. The safety plan must be discussed and agreed to by the ~~PRFC~~ person(s) responsible for the child PRFC(s).

(d) **Safety planning risk factors.** When a safety plan is considered, other than protective custody, for ~~those~~ cases in which a child has been seriously harmed or is at risk of serious harm, it is critical to evaluate any risk associated with the safety plan.

(1) In cases of sexual abuse and serious physical abuse or neglect, it is imperative that the ~~perpetrator~~ perpetrator(s) is not ~~be~~ allowed to have unmonitored contact with the child victim(s) until the treatment process has begun and there is progress in reducing risk.

(2) In the early stages of working with a family, denial may be a big deterrent to ~~assuring~~ ensuring protection from the ~~perpetrator~~ perpetrator(s). ~~It may be too soon to expect~~ When it cannot be ensured by the family members ~~to assure~~ that there ~~is~~ will be no unmonitored contact with the perpetrator~~. In these situations~~, a recommendation for short term protective custody is ~~likely~~ considered ~~to be~~ a safer option for the child.

(e) **Safety planning and court involvement.** The implementation of a safety plan, instead of protective custody recommendation, when there has been serious abuse or neglect as outlined in OAC 340:75-3-10.1(b), does not mean that court involvement cannot or should not be requested. A safety plan is voluntary without court intervention. It is important in serious cases of abuse or neglect to ~~assure~~ ensure that the family ~~becomes~~ is involved in a treatment plan and that the safety of the ~~child(ren)~~ child is monitored. These cases generally require very specific goal directed treatment that may require many months to complete. In most cases, a voluntary agreement does not provide sufficient structure for the family to ensure protection for the child. In order to ~~assure~~ ensure that a family follows through with all that is required ~~to assure~~ so that the child can be safe in the home, court intervention may be necessary. ~~See OAC 340:75-3-11 Instructions to Staff for options in making recommendations to the district attorney.~~

(f) **Removal of a child from the home.** Whenever possible, a decision to recommend removal of a child from the home is made in collaboration with the CW supervisor. When prior supervisory collaboration is not feasible, the case is reviewed with the CW supervisor as soon as possible.

(g) **Procedures for removal of a child ~~from his home~~ not in the custody of the Department of Human Services (DHS).** According to Oklahoma ~~Statutes~~ statutes and ~~Federal~~ federal law a child ~~should be~~ is removed from the home only when continued placement in the home ~~would be~~ is contrary to the welfare of the child. In addition, reasonable efforts ~~must be~~ are made to prevent removal or a documented emergency ~~must exist~~ exists which requires removal. [10 O.S. § 7003-2.4 and 42 U.S.C. § 671]

(1) A child, whose surroundings endanger the child's welfare, can be removed from the home by law enforcement without a court order ~~as described in (1) - (7) of the Instructions to Staff of this subsection~~.

(2) Under very limited circumstances a child may be removed from an educational or child care facility by a CW worker. The criteria in (A) through (F) are met prior to removal of a child by a CW worker.

(A) It is established by the CW worker and supervisor that the removal is necessary to protect the child from risk of endangerment. Risk of endangerment is a serious abuse or neglect situation.

(B) Law enforcement is contacted and declines to remove the child.

(C) The CW worker prepares an affidavit to the district attorney who obtains a written emergency custody court order that includes a statement that the child may be removed from the educational or child care facility by a CW worker in order to protect the child from risk of endangerment.

(D) A determination is made by the CW worker's supervisor and county director that the removal from the facility can occur without disruption to the facility, humiliation to the child, and any hostility or risk of reprisal from any party.

(E) A copy of the written emergency custody court order is provided by the CW worker to the educational or child care facility at the time of the removal.

(F) The CW worker notifies the PRFC(s) of the removal the same day and provides the PRFC(s) with a copy of the written emergency custody order as soon as possible. If the notification will place the worker in danger, the assistance of law enforcement is requested.

(h) **Procedures for removal of a child currently in the custody of DHS.** A CW worker may remove a child directly from his or her own home if continued placement in the home is contrary to the welfare of the child and the child is already in the current legal custody of DHS. However, to ensure the safety of the child and the CW worker, assistance from law enforcement is requested in these situations.

(~~h~~i) **Preparation for the child and family when removal occurs.**

(1) Removal of a child from his or her home is, by its very nature, an extremely traumatic experience for the child, the family, and the worker. When the decision ~~has been~~ is made to remove a child from his or her home, it is incumbent upon the worker to make every effort to reduce the inevitable trauma for the child and family ~~as much as possible~~.

(2) Providing proper preparation to the child and family can reduce the stress for all persons involved.

(~~i~~j) **Placement considerations when the child is removed from the home.**

(1) **Placement planning.** Once a child has been removed from his or her home, it is critical to make any placement decisions with the long term best interests of the child in mind. Placements are made in accordance with OAC 340:75-6-85~~, CW worker placement decisions and responsibilities~~. ~~The placement that is made at the time of the child's initial removal from the home can have a significant impact on the safety of the child and~~

~~ultimately the possibility for successful reunification with the family or alternative permanent plans for the child. Many placements that were intended to be short term placements can actually turn into placements that last for many months or even years, so it is critical to consider this in making any placement plan for a child.~~

(2) **Placement with relatives or kin.** While placement with relatives or kin is considered whenever possible, it is important to assess relative or kinship placements, not only in terms of safety as per OAC 340:75-3-10.1(e), but in terms of the long term needs of the child. Relatives or kin are only considered when:

(A) the child will be safe with the ~~relative~~ relative(s) or kin as per OAC 340:75-3-10.1(e)~~, Safety Plan Assessment~~. The history of the family is explored extensively, ~~not only~~ with the child's ~~PRFC~~ PRFC(s) ~~but with~~ as well as the ~~relative~~ relative(s) or kin ~~being~~ considered for placement~~. If a child has been seriously abused or neglected, the perpetrator may have been a victim of abuse or neglect within his or her own family. The perpetrator's relatives may also have been victims of abuse or neglect or impacted by the abuse or neglect within the family. This kind of family history could place the child at risk in the relative or kin's home~~;

(B) ~~relatives~~ a relative(s) or kin can provide a home that does not pose an obstacle to reunification plans as demonstrated by the ~~relative~~ relative(s)' or kin's willingness to work with ~~the agency~~ DHS and the family ~~towards~~ toward reunification;

(C) ~~relatives~~ a relative(s) or kin ~~are~~ is willing to accept placement of ~~siblings~~ a sibling(s) so that the siblings ~~do~~ are not ~~have to be~~ separated or the ~~relative~~ relative(s) or kin is willing to facilitate contact between the siblings; and

(D) ~~relatives~~ a relative(s) or kin could potentially provide long term care for the child. It is particularly important to consider the age of ~~relatives~~ the relative(s) or kin in relationship to the child and the commitment of the ~~relatives~~ relative(s) or kin to the child should the placement become long term.

(3) **Placement in ~~Foster Family Care~~ foster family care.** If it is determined that foster family care is the best placement option for the child, considerations are:

(A) the foster ~~family are~~ parent(s) is an age appropriate ~~caretakers~~ provider(s) for the child in case the placement becomes long term;

(B) the other ~~children~~ child(ren) placed in the foster family home ~~do~~ does not pose a safety threat to the child ~~being~~ considered for placement;

(C) the foster family is able to accept placement for ~~siblings~~ a sibling(s) or facilitate contact between the siblings; and

(D) if a foster family placement is made as an emergency, then the emergency placement is evaluated quickly and arrangements made to make a more appropriate placement as ~~quickly~~ soon as possible.

(4) **Placement of an infant who is at-risk.**

(A) Factors that determine whether an infant who is in the custody of DHS is at-risk include:

(i) prematurity;

(ii) history of respiratory distress;

(iii) oxygen dependency;

(iv) a diagnosis requiring special care beyond routine infant care;

(v) under six weeks of age; and

(vi) medical conditions or illnesses that may result in increased episodes of illness, prolonged hospitalization, and increased cost for care.

(B) An appropriate placement for an infant who is at-risk includes an approved foster or kinship family care resource, health care facility, or children's shelter which meets the criteria in (i) through (vi).

(i) The placement provider(s) for the infant has undergone all necessary training required to meet the medical needs of the infant.

(ii) The placement setting has all of the necessary equipment required to meet the medical needs of the infant, the placement provider(s) knows how to use the equipment, and the equipment is in operating condition.

(iii) The placement provider(s) is willing and able to follow all medical requirements and orders as given by the infant's physician(s).

(iv) The placement provider(s) is willing and able to transport the infant to all medical appointments.

(v) The placement provider(s) is willing and able to keep the infant's CW worker fully apprised of the infant's condition.

(vi) The CW worker provides, at the time of placement, to the placement provider(s) all medical and other related information about the condition of the infant and updates the placement provider(s) concerning any new information as it occurs.

(~~j~~k) **Release of a child from protective custody.** Unless there is a standing order of the court that allows for disposition of children taken into protective custody, a child ~~cannot be~~ is not released from protective custody without authorization and as specified by the court. ~~See OAC 340:75-1-16 for specific~~ Specific procedures ~~to be utilized~~ are followed when a child is ~~to be~~ released from protective custody by the court. If the child is released from protective custody, the child ~~can~~ is only ~~be~~ released to the court-ordered ~~custodian~~ custodian(s) as described in OAC 340:75-1-16.

[OAR Docket #03-172; filed 1-23-03]
(format accepted 1-24-03)

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES DIVISION

[OAR Docket #03-154]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 5. Client Services
Part 3. Service Provisions
340:100-5-22.4 through 100-5-22.5 [NEW]
(Reference APA WF # 02-31)
AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Section 1415.1 of Title 10 of the Oklahoma Statutes.
DATES:
Adoption:
December 3, 2002
Approved by Governor:
January 21, 2003
Effective:
Immediately upon Governor's approval.
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
Emergency approval is requested as the Department of Human Services (DHS) finds a compelling extraordinary circumstance exists. The Oklahoma Health Care Authority has requested a waiver for Homeward Bound class members, and rules supporting that waiver are being promulgated. It is imperative that DHS also promulgate rules formalizing services provided to class members.
ANALYSIS:
The new rules are proposed to ensure compliance with residential services requirements of the Homeward Bound vs. The Hissom Memorial Center consent decree. Although the Department of Human Services (DHS) has provided services for several years in accordance with the consent decree, formal rules have never been promulgated.
CONTACT PERSON:
Dena Thayer at (405)521-4326

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR, AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 5. CLIENT SERVICES

PART 3. SERVICE PROVISIONS

340:100-5-22.4. Residential options for Homeward Bound class members

(a) Persons who are members of the class certified in Case Number 85-C-437-E, United States District Court for the Northern District of Oklahoma, have the right to choose either:
(1) independent living;
(2) natural home;
(3) agency companion services, as described in OAC 317:40-5-3;
(4) supported living services, as described in OAC 340:100-5-22.5;
(5) group home services, as described in OAC 340:100-6, in a home serving six or fewer individuals; or
(6) intermediate care facility services for persons with mental retardation, as described in Title 42 Code of Federal Regulations, Part 442, in a facility serving six or fewer individuals.

(b) Property replacement reimbursement in accordance with OAC 340:100-5-22.5(e) is available to class members receiving agency companion services, as described in OAC 317:40-5-3.

(c) Class members may live alone or with a roommate(s) if they so choose.

340:100-5-22.5. Supported living services

(a) **Eligibility.** To assure that the daily living requirements of the class members are met, the Department of Human Services (DHS) provides a payment to the contract residential provider agency serving each person who:
(1) is a member of the class certified in Case Number 85-C-437-E, United States District Court for the Northern District of Oklahoma; and
(2) receives Daily Living Supports services as described in OAC 317:40-5-150.

(b) **Service expectations.** The provider agency ensures that:
(1) all applicable rules of DHS and the Oklahoma Health Care Authority are met including:
(A) Community Residential Supports, OAC 340:100-5-22.1;
(B) Daily Living Supports, OAC 317:40-5-152;
(C) the Developmental Disabilities Services Division (DDSD) mission statement and guiding principles, OAC 340:100-1-3.1;
(D) community records rules, OAC 340:100-3-40;
(E) Individual Plan rules, OAC 340:100-5-50 through 100-5-58; and
(F) health services rules, OAC 340:100-5-26; and
(2) the class member's expenses for housing, food, clothing, recreation, utilities, medical services, property replacement, and transportation are met in accordance with subsection (c) of this Section.

(c) **Room and board payment.** The room and board payments support the class member's housing, food, clothing, recreation, and utility costs in accordance with this subsection.
(1) Each class member contributes an amount to be determined annually by DDSD, not to exceed 90% of his or her income, up to a maximum of 90% of the current Supplemental Security Income (SSI) payment for a single individual.
(A) The maximum may be exceeded by prior written agreement between the individual served or his or her guardian and the provider agency with the written approval of the director of DDSD or designee.
(B) DHS pays a supplement, equal to 90% of the SSI monthly payment for a single individual minus

90% of the class member's income, on behalf of each class member whose income and resources are insufficient for the person to contribute the maximum room and board payment explained in this paragraph.

(2) To supplement the individual's funds for meeting daily living requirements, DHS provides:

(A) a room and board payment at $14 per day; and

(B) a residence size supplement payment to support the cost of a home, based on the number of individuals living in the home.

(i) For an individual with no roommate, the residence size supplement is $10 per day.

(ii) For an individual who has one roommate, the residence size supplement is $6 per day.

(iii) There is no residence size supplement for an individual living with more than one roommate.

(iv) For the purposes of this subparagraph, an individual not listed in Case Number 85-C-437-E is not considered a roommate.

(3) The provider agency completes a written financial agreement with the class member and chosen advocate(s) or the legal guardian in accordance with OAC 340:100-5-22.1.

(4) Room and board revenues must be accounted for separately from other provider agency funds.

(A) Room and board revenues from DHS are managed by the provider to meet the needs of all individuals living in supported living arrangements.

(B) Room and board payments from individuals served are used only to meet the needs of that individual.

(5) Room and board revenues must be used, unless written approval is secured in advance from the DDSD programs administrator for community services, solely for:

(A) housing costs and utilities;

(B) groceries;

(C) household maintenance;

(D) recreation;

(E) personal items and clothing;

(F) household property insurance;

(G) yard care; and

(H) furnishings and appliances.

(6) Room and board payments are authorized as long as the provider agency supports the individual to maintain a household.

(7) Payments from DHS mentioned in paragraph (2) of this subsection are not income to the class member and must not be deposited in the class member's bank account.

(d) **Medical supplement.** DHS reimburses the provider agency for the cost of necessary medical services that are not covered through Medicaid or for persons who are not Medicaid eligible for any individual listed in Case Number 85-C-437-E. The medical supplement is not paid at a rate higher than allowed through the Oklahoma Medicaid Fee-for-Service Program unless approved by the DDSD area manager in writing.

(e) **Property replacement supplement.** A maximum of $850 per class member per fiscal year is reimbursed for replacement of unusable furnishings or necessary furnishings or appliances.

(1) Expenditures for property purchased with the property replacement supplement must not be reported as expenses against the room and board payment.

(2) No reimbursement for replacement of worn out furnishings may occur during the first year of service.

(3) The disposal of any furnishings purchased for class members under this supplement meets the requirements of this paragraph.

(A) Any furnishings purchased through this supplement become the property of the class member.

(B) Any funds received from the disposal of property belong to the class member.

(C) The provider must document the disposal of furnishings in detail.

(D) When the provider believes that the disposal of property is not in the best interest of the class member, the issue is referred to the Personal Support Team for resolution.

(f) **Transportation supplement.** DHS pays a transportation supplement only when the provider agency supplies a vehicle for the exclusive use of each household and the combined mileage for all persons residing in the household totals less than 30 miles per day.

(1) To calculate the authorization for the transportation supplement:

(A) for a class member who does not require adapted transportation, subtract from 30 the number of authorized miles per day supplied to the individual, and multiply by $0.25; or

(B) for an individual who requires adapted transportation, subtract from 30 the number of authorized miles per day supplied to the individual, and multiply by $0.70.

(2) Waiver transportation continues to be authorized in accordance with OAC 317:40-5-103.

(g) **Fiscal accountability.** The provider agency follows fiscal accountability standards established in this subsection.

(1) The provider agency expends all payment supplied in accordance with this Section on the specific activities for which the payment was provided.

(A) Any funds expended for purposes other than the authorized activities are repaid to DHS.

(B) The room and board fund balance at the end of the fiscal year cannot exceed five percent of the total supported living revenues. Any fund balance in excess of five percent is repaid to DHS.

(2) The provider agency maintains copies of all claims, substantiating documents, and records regarding provider agency fiscal status within corporate offices in the state of Oklahoma.

(3) Supported living expenditures must:

(A) be documented;

(B) not include administrative costs of the provider agency; and

(C) be audited annually in accordance with OAC 340:100-3-27.5.

[OAR Docket #03-154; filed 1-23-03]
(format accepted 1-24-03)

TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 65. STATE SURPLUS PROPERTY

[OAR Docket #03-119]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 1. General Provisions
580:65-1-1 through 65:1-2. [AMENDED]
580:65-1-3 through 65-1-6. [REVOKED]
580:65-1-9 through 65-1-12 [NEW]
Subchapter 3. Declaration and Approval of Surplus Property [NEW]
580:65-3-1 through 65-3-4 [NEW]
Subchapter 5. Sale or Disposal of Surplus Property [NEW]
580:65-5-1 through 65-5-5 [NEW]
Subchapter 7. Acquisition of Surplus Property [NEW]
580:65-7-1 through 65-7-7 [NEW]
Subchapter 9. Surplus Property Records [NEW]
580:65-9-1 through 65-9-2 [NEW]
AUTHORITY:
Department of Central Services, 74 O.S., Section 62.3
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November 25, 2002
Approved by Governor:
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Effective:
Immediately upon Governor's approval
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
FINDING OF EMERGENCY:
A compelling public interest exists due to the lack of rules pertaining to the transfer, disposal and acquisition of state surplus property for use by state agencies. Currently, only rules to address surplus vehicles and equipment exist. Recent audits of agencies by the State Auditor & Inspector reveal a critical need for formalized rules to provide agencies with information and procedures to manage state surplus property and to protect the assets of the state.
ANALYSIS:
These rules revoke existing rules related to surplus vehicles and equipment and create new rules which apply to the management of all state surplus property.

Rules in Subchapter 1 provide the purpose and definitions for the chapter in addition to provisions for an agency to request an exemption and prohibitions for the donation of state property.

Rules in Subchapter 3 provide information and procedures pertaining to the declaration and request for approval of state property as surplus by agencies; storage and preservation of surplus property; approval of surplus property requests by the Department of Central Services; documents required for disposal of surplus vehicles and equipment, including repairs, if necessary prior to disposal; cancellation or amendment of an approved surplus property request; and the transport and delivery of surplus property to State Surplus.

Rules in Subchapter 5 provide information and procedures for the sale and disposal of surplus property by state agencies and State Surplus and handling of certain special classes of surplus property.

Rules in Subchapter 7 provide information and procedures for the acquisition of surplus property which include sales to related parties whereby a conflict of interest with the state may exist; priority purchase by authorized entities; transfer of surplus property to State Surplus cutoff date prior to monthly public auction; public auction payment and pick up deadlines; payment provisions, delinquent accounts and insufficient checks; and state agency reimbursement.

Rules in Subchapter 9 provide information and requirements for state surplus property records to be maintained by state agencies and State Surplus.
CONTACT PERSON:
Gerry Smedley, Administrative Programs Officer, 522-6597

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 1. GENERAL PROVISIONS

580:65-1-1. Purpose

This ~~subchapter~~ chapter provides general information and provisions pertaining to the transfer, ~~and~~ disposal and acquisition of state surplus property ~~that~~ for use by state agencies, authorized entities, individuals and business entities pursuant to the ~~shall follow. The rules shall conform to provisions of the~~ Oklahoma Surplus Property Act. [74 O.S., Sections 62.1 et seq.] The Director of Central Services promulgated these rules pursuant to 74 O.S., Section 62.3. to ensure that state-owned surplus property is disposed of at fair market value, in an independent and ethical manner, and that the property or the value of the property has not been misrepresented.

580:65-1-2. Definitions

In addition to terms the Oklahoma Surplus Property Act provides, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly requires otherwise:

"Administrator" means the person in the Department of Central Services designated by the Director of the Department to oversee the State Surplus Property Program.

"Authorized entity" *means a political subdivision, school, group or organization eligible to acquire surplus property from a surplus property program.* [74 O.S., §62.2]

"Authorized signature" means the signature of a state employee duly authorized by the chief administrative officer of a state agency to sign forms on behalf of such agency for submission to the Department or a surplus property agent.

"Business entity" means an individual, partnership, business trust, cooperative, association, corporation or any other firm, group or concern which functions as a separate entity for business purposes.

"Cannibalize" means to take salvageable parts from (as a disabled machine) for use in building or repairing another machine; or to make use of (a part taken from one thing) in building or repairing something else.

"Department" means the Department of Central Services.

"Fiscal year" means the period of time from July 1 of a calendar year through June 30 of the succeeding calendar year.

"Form" means a document prescribed by the Director to be used by state agencies to provide information to the Department or a surplus property agent.

"Inventory" means an itemized list of tangible assets owned by state boards, commissions, institutes and agencies pursuant to provisions of 74 O.S., §110.1.

"Proceeds" means funds the surplus property agent derives from sale of surplus property.

"Program" means the Surplus Property Program established and administered by the Director of the Department of Central Services in accordance with 74 O.S., Section 62.1 et seq.

"Public auction" means either a tangible event at a public location or an electronic event which is advertised and made available to the public via the Internet.

~~**"State agency"** means any office, officer, bureau, board, counsel, court, commission, department, institution, unit, body or house of the executive or judicial branches of the state government, whether elected or appointed, excluding only political subdivisions of the state.~~

"Salvage or scrap" means property which, because of its worn, damaged, deteriorated, incomplete condition or specialized nature has no reasonable prospect of sale or use as designed, but has some value in excess of its basic material content.

"Surplus property agent " or **"agent"** means a person ~~the Director designates to receive, process, redistribute, trade, sell and dispose of surplus property.~~ designated by the Director to perform duties necessary to administer a surplus property program.

"Trade-in" means equipment which is exchanged on replacement equipment.

"Vehicle" or **"equipment"** means automobiles, station wagons, vans, pickups, trucks, buses, other modes of transportation and motorized work devices.

"VIN" mean the unique vehicle identification number of a vehicle or equipment.

580:65-1-3. Vehicle and equipment record keeping by a surplus property agent [REVOKED]

~~(a) **General.** A surplus property agent shall keep and maintain information the Director requires.~~

~~(b) **Vehicle and equipment information.** A surplus property agent shall maintain a file for vehicles and equipment the agent receives from a state agency. The file shall contain a description, transport method and required documents for each vehicle or piece of equipment.~~

~~(c) **Expenses a surplus property agent incurs.** A surplus property agent shall include records for expenses the agent incurs to transport a vehicle or equipment, remove markings from a vehicle or equipment, remove special equipment from a vehicle or equipment, additional parts for a vehicle or equipment and labor expenses to install parts on a vehicle or piece of equipment.~~

580:65-1-4. Vehicle and equipment disposal by a state agency [REVOKED]

~~(a) **General.** A state agency that desires to dispose of vehicles the state agency owns shall notify the surplus property agent. The state agency shall provide information and documents the agent requires.~~

~~(b) **Location.** The state agency shall advise the surplus property agent of the location of the vehicle or equipment.~~

~~(c) **Description.** The state agency shall provide the surplus property agent information for the vehicle or equipment.~~

~~(1) **Basic information.** Basic information shall, at a minimum, include the make, model, model year, mileage or operation hours, color, VIN and general condition of the vehicle or equipment.~~

~~(2) **Identifying markings.** The state agency shall advise the type and location of identifying markings on the vehicle or equipment.~~

~~(3) **Special equipment.** The state agency shall specify whether the vehicle or equipment has special equipment the state agency desires the surplus property agent to remove prior to vehicle or equipment disposal.~~

~~(d) **Transport method.** The state agency shall advise the surplus property agent the transport method the state agency intends to utilize to transport the vehicle to the location the agent specifies.~~

~~(e) **Documents.**~~

~~(1) **Disposal documents.** If laws governing a state agency require written authorization for the state agency to dispose of a vehicle, the state agency shall provide the surplus property agent a copy of required documents.~~

~~(2) **Title.** At the time of vehicle transfer to the surplus property agent, the state agency shall provide title to the vehicle to the agent with authorized signatures for legal transfer of the vehicle.~~

~~(f) **Additional information.** A state agency may provide additional information to the surplus property agent that the state agency desires regarding the vehicle or equipment.~~

~~(g) **Vehicle repairs.**~~

~~(1) **State agency contact.** If a surplus property agent reasonably believes that the cost of minor repairs to a vehicle or equipment will enhance the potential sale value of the vehicle or equipment in an amount that exceeds the cost of the minor repair, the agent shall contact the state agency.~~

~~(2) **State agency approval.** If the state agency approves the minor repairs the surplus property agent shall acquire parts for and repair the vehicle or equipment.~~

~~(3) **Repair documents.** The surplus property agent shall retain receipts for parts and indicate the labor time to install the parts. The agent shall retain the documents in the state agency vehicle and equipment disposal file the agent maintains.~~

580:65-1-5. Vehicle and equipment disposal by a surplus property agent [REVOKED]

~~(a) **General.** A surplus property agent may dispose of a vehicle or piece of equipment through sale to a state agency, sale~~

~~to an authorized entity, sale by auction to individuals or business entities, or salvage.~~

~~(b) **Transfer or sale to a state agency or authorized entity.** A state agency that desires to acquire a vehicle or equipment from a surplus property agent shall negotiate the price the state agency or authorized entity shall pay for the vehicle or equipment with the agent. The agent shall accept funds from the state agency or authorized entity. The agent shall provide the state agency or authorized entity a receipt for the funds signed by the agent and retain a copy of the receipt in the state agency vehicle and equipment file the agent maintains.~~

~~(c) **Sale by auction.** A surplus property agent shall conduct periodic public auctions to dispose of vehicles or equipment to individuals and business entities. The agent shall keep a record for each vehicle or piece of equipment sold by auction. The agent shall provide each buyer a receipt for funds the agent receives from the buyer. The agent shall retain a copy of the receipt in the state agency vehicle and equipment file the agent maintains.~~

~~(d) **Disposal for salvage.** If a surplus property agent reasonably believes a vehicle or equipment has salvage value only, the agent shall adhere to the provisions of this subsection for vehicle or equipment disposal.~~

~~(1) **Documentation.** The surplus property agent shall document reasons the agent believes a vehicle or equipment has only salvage value.~~

~~(2) **State agency notification.** The surplus property agent shall notify the state agency that the agent intends to offer the vehicle or equipment for salvage.~~

~~(3) **Auction.** The surplus property agent may dispose of salvage vehicles through public auction.~~

~~(4) **Solicitation.** For salvage vehicles that the surplus property agent does not dispose of by public auction, the agent may solicit bids in writing, by telephone or by facsimile from individuals or business entities that acquire salvaged vehicles.~~

~~(5) **Bid award.** If the surplus property agent solicits bids, the agent shall award to the individual or business entity that offer the greatest amount for the vehicle or equipment.~~

~~(6) **File documents.** The surplus property agent shall retain copies of documents relating to salvage vehicles and equipment in the state agency vehicle and equipment disposal file the agent maintains.~~

580:65-1-6. Surplus property agent reasonable fee determination and funds remittance [REVOKED]

~~(a) **General.** A surplus property agent shall charge a reasonable administrative fee to determine the amount agent shall retain from proceeds from transfer, sale or salvage of vehicles and equipment.~~

~~(b) **Administrative fee.** A surplus property agent shall retain an administrative fee of ten percent (10%) of the sale price of the vehicle or equipment.~~

~~(c) **Remittance to a state agency.** A surplus property agent shall remit the fund balance of the proceeds for the vehicle or equipment less the reasonable fee to the state agency.~~

~~(d) **Reasonable fee deposit.** A surplus property agent shall deposit the reasonable fee to a special cash fund the Oklahoma Surplus Property Act specifies.~~

580:65-1-7. Statutory citations

Statutory citations refer to the most recent codification of statute.

580:65-1-8. Program forms

The Director shall approve forms and instructions for use by state agencies and authorized entities to facilitate requirements of this subchapter. The Department shall provide forms upon request.

580:65-1-9. Exemption

(a) **State agency inability to perform Program requirements.** If a state agency reasonably believes that it is unable to perform a requirement of the Program, the state agency may submit a written request for an exemption to the Administrator. The request must be signed by the chief administrative officer of the agency and state the reason for the exemption request.

(b) **Approval of exemption and notification.** The Administrator will review the request and determine whether to approve, conditionally approve or deny an exemption. Written notification of such determination which shall set forth conditions for approval or reasons for denial of the request will be sent to the state agency.

(c) **Exemption expiration.** Approval of an exemption shall expire upon the completion of the transaction designated in the exemption request.

580:65-1-10. Prohibitions

(a) **Donations of state property.** Donations of state property to private individuals, for-profit organizations or state employees is prohibited.

(b) **Sales to state employees.** The sale of state property to state employees is prohibited unless items are sold at announced public sales or auctions.

SUBCHAPTER 3. DECLARATION AND APPROVAL OF SURPLUS PROPERTY

580:65-3-1. Declaring state property surplus

(a) **Declaration and approval.** A state agency shall determine when its personal property is surplus property in accordance with 74 O.S., Section 62.2.

(b) **Storage and preservation of surplus property by agency.** A state agency is responsible for the preservation of its surplus property prior to the official approval of its disposal required by the rules of this chapter.

(1) A state agency must make reasonable efforts to protect its surplus property from the elements, theft or any other means of destruction or deterioration.

(2) A state agency must make reasonable efforts to store surplus property no longer than six (6) months to minimize its depreciation.

(c) **Request for approval to sell or transfer surplus property.** State owned property shall not be destroyed, sold, transferred, traded in, traded, discarded, donated or otherwise disposed of without prior written approval of the Administrator. This rule applies to and includes any residue that may be remaining from agency cannibalization of property.

(d) **Surplus Property Transfer Form.** To request official approval to dispose of surplus property, a state agency must submit a form, prescribed by the Department, to the Administrator for approval. A surplus property transfer form must be signed by the chief administrative officer of the agency or an authorized agent and shall state:

(1) The legal name of the state agency;

(2) The principal address of the state agency;

(3) The name of the division or department within the agency, if applicable, where property is located.

(4) The name, telephone number, fax number and e-mail address of a contact person authorized to show and/or provide additional information concerning the surplus property to an agent;

(5) The name, telephone number, fax number and e-mail address of the person preparing the form;

(6) The complete address or location of the surplus property;

(7) A desired method of disposal of the surplus property as authorized in 580:65-5-1;

(8) The reason the property has been declared as surplus property, which may be stated as:

(A) No longer needed to perform the duties of the agency; or,

(B) Broken, cost to repair not economical; or,

(C) Obsolete. Not compatible with newer equipment; or

(D) Other, which shall be followed with a specific explanation.

(9) The inventory control number, if any, assigned to the surplus property item;

(10) A description of the surplus property item, including serial, model or other identification numbers, whenever available;

(11) A general statement as to the condition of the surplus property item (i.e. excellent, good, fair, poor, damaged, scrap, missing parts, etc.);

(12) Any known defects or enhancements;

(13) An estimate, current value, suggested selling price or minimum acceptable price;

(14) Any other information or recommendations to assist the approval and efficient disposal of the property.

(A) The name, address and telephone number of a suggested vendor, if any.

(B) Specify whether a recommended buyer is considered to be a related party as described in 580:65-7-1.

(15) A statement that the contents of the form have been reviewed by the chief administrative officer or authorized agent of the agency and that the facts contained therein are true and correct.

(e) **Approval by the Department.** The Administrator shall review the request and determine whether to approve, conditionally approve or deny the disposal of surplus property. Written notification of such determination, which shall set forth conditions for approval or reasons for denial of the request, will be sent to the state agency.

(f) **Exception.** A surplus property transfer form is not required when equipment is transferred between departments within the same agency, even though a purchase price may be charged.

580:65-3-2. Declaration of surplus vehicles and equipment

(a) **Additional information.** Whenever a state agency desires to dispose of vehicles or equipment, the following information shall be included on the surplus property transfer form required by 580:65-3-1(d):

(1) Make, model and model year;

(2) Body style, load rating, seats or passenger capacity, number of cylinders, number of drive wheels (i.e. 2 x 4 or 4 x 4)

(3) Vehicle options (i.e. power steering, power brakes, air conditioning, AM/FM radio etc.)

(4) Mileage or operation hours;

(5) Color;

(6) VIN;

(7) General condition (i.e. runs, driveable, etc.);

(8) Type and location of any identifying markings on the vehicle or equipment;

(9) Any special equipment the state agency desires the surplus property agent to remove prior to vehicle or equipment disposal. Failure to request the approval and removal of special equipment at least 24 hours in advance of the disposal of the vehicle or equipment by an agent may result in the loss of the special equipment.

(b) **Required Documents.**

(1) **Disposal documents.** If laws governing a state agency require written authorization for the state agency to dispose of a vehicle, the state agency shall provide the surplus property agent a copy of required documents.

(2) **Title.** At the time of vehicle transfer to the surplus property agent, the state agency shall provide title to the vehicle to the agent with authorized signatures for legal transfer of the vehicle.

(c) **Vehicle or equipment repairs.**

(1) **Notice to state agency.** If a surplus property agent reasonably believes that the cost of minor repairs to a vehicle or equipment will enhance its potential sale value in an amount that exceeds the cost of the minor repairs, the agent shall send written notice to the state agency and request approval to authorize the repairs.

(2) **State agency approval.** Within five (5) business days after receipt of the repair notice in (1) of this subsection, the state agency shall send written notice of approval or disapproval of the repairs to the agent.

(d) **Repair documents.** Upon receipt of the written approval by a state agency, the surplus property agent shall acquire parts for and repair the vehicle or equipment. The agent shall retain receipts for the parts and document the labor time to install the parts. All repair documents shall be filed and maintained in the state agency vehicle and equipment disposal records of the Department.

580:65-3-3. Cancellation or amendment of a surplus property transfer request

(a) A state agency may notify the Department of its decision to:

(1) Withdraw a request for approval of the disposal of surplus property;

(2) Cancel a request for disposal of surplus property after its approval by the Administrator;

(3) Add or delete one or more items from a list of property submitted to or approved by the Administrator.

(b) A cancellation or amendment request must be in writing and shall include an explanation of the request.

(c) The Administrator shall send written notice to the state agency of the approval or disapproval of a cancellation or amendment request.

(d) The Department may assess charges for any transportation, handling and processing expenses incurred in the return of surplus property.

580:65-3-4. Transport and delivery of surplus property

(a) **Transport method.** Upon receipt of approval of the disposal of surplus property from the Department, a state agency shall advise the surplus property agent the transport method the state agency desires to utilize to transport the property, vehicle or equipment to the location the agent specifies.

(1) A state agency shall be responsible for delivering surplus property to State Surplus, whenever possible. A state agency shall notify a surplus property agent at least 24 hours prior to the date it proposes to deliver surplus property to the State Surplus location.

(2) Whenever a state agency is unable to transport surplus property, the agency shall contact a surplus property agent to schedule pick up and transport by State Surplus.

(A) A state agency shall provide State Surplus a notice of no less than thirty (30) business days prior to the date the agency desires surplus property to be picked up.

(B) The notice period required in (A) of this paragraph may be decreased if it is determined that an emergency or other conditions exist which warrant earlier removal of surplus property upon approval by a surplus property agent.

(b) **Handling and loading surplus property for transport.** A state agency shall assist, whenever possible, with loading and handling of surplus property for transport by a surplus property agent.

(1) The contact person identified on the surplus property transfer form [See 580:65-3-1(d)], or a designee, shall be present during the handling and loading of surplus property by an agent.

(2) A surplus property agent will verify surplus property for loading and transporting against the surplus property list approved in accordance with 580:65-3-1(d).

(A) Any property not specified on the approved list shall not be loaded or transported by a surplus property agent.

(B) Any property specified on the approved list which is missing at the time an agent is loading for transport to State Surplus shall be noted as missing on the copy of the approved list. Such note shall be initialed at that time by both the agent and the state agency contact.

SUBCHAPTER 5. SALE OR DISPOSAL OF SURPLUS PROPERTY

580:65-5-1. Methods of disposal of surplus property

(a) The method of disposal of surplus property must be approved by the Administrator in accordance with 580:65-3-1(d) prior to disposal of state property by a state agency.

(b) Methods of disposal of surplus property are:

(1) **Transfer to a state agency or authorized entity.** Property is transferred to another state agency or authorized entity with or without charge as mutually agreed by both parties.

(2) **Sealed bid.** Property is sold by sealed bid in accordance with 74 O.S., §85.1 et seq. and Subchapter 15 of this chapter by the state agency.

(3) **Public auction.**

(A) **State Agency.** Property is sold at a public auction coordinated by the state agency, if authorized by statute.

(B) **Surplus Property Program.** Property is sold at a public auction coordinated by a surplus property agent in accordance with the rules of this Chapter.

(4) **Scrap metal.** Property is sold as scrap metal at the request of state agency.

(5) **Trade-in.** Property is exchanged as trade-in for replacement equipment by a state agency.

(6) **Transfer to Department for disposal by a surplus property agent.** Agent disposes of surplus property, with the exception of vehicles and equipment, by any method listed in this subsection with no remuneration to the state agency.

(7) **Disposal by other means.** Property is disposed of by other specified means which are deemed to be in the best interest of the state at the request of the state agency.

(c) An agency which is approved to dispose of state property shall be responsible for the removal of such property from the agency's official inventory records and submitting notification to the Risk Management Division of the Department, whenever applicable.

580:65-5-2. Disposal by other than a surplus property agent

(a) **Transfer to another state agency or authorized entity.** A state agency may determine that the direct transfer of state property to another state agency or authorized entity, with or without remuneration, is in the best interest of the state and request approval of such transfer from the Administrator.

(1) Official approval must be received prior to the transfer of state property. A request to transfer state property shall be made according to 580:65-3-1(d).

(2) The transferring agency is responsible for maintaining a record of all property transferred pursuant to this section. Records shall include, but are not limited to:

(A) Itemized list of property transferred;

(B) Reason for transfer;

(C) To whom property is transferred;

(D) Inventory number of property transferred;

(E) Acquisition cost, if known; and

(F) Estimated value at time of transfer.

(3) Whenever a state property transfer between two state agencies requires remuneration for the state property, all receipts and remittances required to effect such transactions shall be processed through the special cash fund created by 74 O.S., Section 62.5.A.

(b) **Sealed bid or public auction.** A state agency may elect to sell surplus property by sealed bid or public auction without using the services of a surplus property agent and request approval of such sale from the Administrator.

(1) Official approval must be received prior to the sale of surplus property by a state agency. A request to sell state property shall be made according to 580:65-3-1(d).) Sealed bids shall be conducted in accordance with the Oklahoma Central Purchasing Act.

(2) A public auction may be conducted utilizing the services of such state agency employees or by contracting with a professional auction service in accordance with 74 O.S., §85.1 et seq. and Subchapter 15 of this chapter.

(3) A state agency is responsible for maintaining a record of all property it sells or disposes of pursuant to this subsection which shall include, but not be limited to:

(A) Name of the selling agency;

(B) Date of the sale;

(C) Method of sale;

(D) Selling price of property; and,

(E) Name and address of buyer.

(c) **Trade in.** A state agency may determine it is in the best interest of the state to trade in property it owns to receive credit towards the purchase of new property and request approval of such trade in from the Administrator.

(1) Official approval must be received prior to trading in state property. A request to trade in state property for credit against the purchase of new state property shall be made according to 580:65-3-1(d).

(2) In addition to the information required by 580:65-3-1(d), the following information must be submitted to the Administrator for approval:

(A) Description of the item to be purchased;

(B) Cost of the new item;

(C) Value to be allowed for the state property; and,

(D) Name and address of vendor offering the replacement property.

(3) The Administrator will review the request and determine whether to approve, conditionally approve or deny the trade in of the state property. Written notification of such determination which shall set forth conditions for approval or reasons for denial of the request will be sent to the state agency.

(d) **Scrap.** A state agency may determine that property it owns is worn out, damaged, disassembled or in poor condition in such a manner that renders it of no value and request approval to abandon, destroy or sell the property as scrap from the Administrator.

(1) Official approval must be received prior to the abandonment, destruction or selling of state property for scrap. A request to abandon, destroy or sell state property for scrap shall be made according to 580:65-3-1(d).

(2) In addition to the information required in the surplus property form [See 580:65-3-1(d)], a detailed statement of the condition and quantity of such state property which would be useful to the approval process must be submitted to the Administrator for consideration.

(3) The Department will send written notification to the agency that:

(A) A determination was made that some reasonable value can be obtained from the sale of the property as scrap which must be coordinated by a state surplus property agent; or

(B) A determination that there is no value either for salvage or for spare parts; whereas, authorization may be given to abandon or destroy the property in a manner designated or coordinated by a state surplus property agent.

(e) **Prohibitions.** A state agency shall not arrange sales to individuals or non-state agencies.

580:65-5-3. Disposal of state property by a surplus property agent

(a) **Method of disposal.** A surplus property agent shall determine the method of disposal for all surplus property transferred to State Surplus for disposal.

(b) **Public Auction.** A surplus property agent shall conduct periodic public auctions to dispose of surplus property that has been held on-site for longer than thirty (30) days.

(1) A public auction shall be open to individuals and business entities.

(2) The time, date and location of a public auction shall be advertised in a local newspaper and published on the Department website.

(c) **Disposal for salvage.** An agent may reasonably believe that surplus property has salvage value only and shall document the reasons for such a determination.

(1) The agent shall notify a state agency, in writing, that the agent intends to offer the surplus property for salvage and state the reasons.

(2) Surplus property declared to have salvage value only may be disposed of by public auction or solicitation of bids pursuant to the Oklahoma Central Purchasing Act.

(d) **Direct sales.** An agent may sell surplus property directly to state agencies, counties, cities and non-profit organizations at market prices.

580:65-5-4. Processing special class surplus property

(a) **Special classes of surplus property.** An agent may determine any surplus data processing copier, printer, telecommunications, other such technology equipment or portable buildings to be a special class of property based upon its value, operation, or structure.

(b) **Approval of special classes.** Special classes are declared surplus property and approved by the Administrator according to 580:65-5-1.

(c) **On-site demonstrations to potential buyers.** Whenever a state agency declares items named in (a) of this section as surplus property and requests its transfer to the Department, an agent may determine that the property be retained on-site and in operation, if applicable, to permit demonstration to potential buyers. The determination will be based on the following:

(1) Disconnection and transportation of the property may drastically decrease its value;

(2) On-site demonstration of the property is for the overall best interest of the state;

(d) **Coordination of sale.** An agent shall coordinate the sale of property named in this section with the agency and employ the most efficient, timely and cost effective method to process the property. Sales to the public shall be delayed for thirty (30) days to provide priority purchase to state agencies. [see 580:65-7-2.]

580:65-5-5. Disposal of hazardous waste

(a) **Acceptance of hazardous material.** The Department shall not receive, store, handle or process any equipment, fluids, chemicals, residue or other property which have been identified as hazardous to the health or safety of the general public.

(b) **Notification of Department of Environmental Quality.** An agency discovering or suspecting the presence of hazardous material shall immediately contact the Department of Environmental Quality for direction and information related to its disposal.

SUBCHAPTER 7. ACQUISITION OF SURPLUS PROPERTY

580:65-7-1. Sales to related parties

(a) A conflict of interest may exist or appear to exist when a related party attempts to purchase surplus property.

(b) A related party is defined as someone who may fit into any of the following categories pertaining to the surplus property in question:

(1) Has purchasing authority.

(2) Has maintenance authority.

(3) Has disposition or signature authority.

(4) Has authority regarding the disposal price.

(5) Has access to restricted information.

(6) Is perceived to be a related party using other criteria which may prohibit independence.

(c) Owning state agencies must list any recommended purchasers on the transfer of surplus property form [See 580:65-3-1(d)] and specify whether they are considered to be a related party.

(d) When a prospective purchaser is identified or determined to be a related party, the Administrator will employ one of the following procedures:

(1) The Administrator may require written justification and authorization from the Department or Division director. Justification may include reference to maintenance history, purchase price and the absence of conflicts of interest. If the related party is an authorized agent, a higher approval may be sought.

(2) The Administrator may choose to hold the property for sale by public auction or sealed bid. The prospective buyer may then compete against other bidders.

(3) The Administrator may hold the property for a 30 day period before allowing the related party the opportunity to purchase the property, thus allowing for purchase of the property in accordance with the rules of this chapter.

580:65-7-2. Transfer or sale to a state agency or authorized entity

(a) **Priority purchase of surplus property.** An agent shall make all approved surplus property available to state agencies and authorized entities for review and priority purchase for a minimum of thirty (30) days prior to their transfer or sale.

(b) **Acquisition cutoff date.** The agent will schedule a reasonable cutoff date for final acquisition of surplus property by state agencies no less than five (5) days prior to the next regularly scheduled public auction date.

(c) **Transfer cutoff date.** All transfers to State Surplus after the cutoff date is scheduled will be approved by an Agent on a case by case basis based upon storage capacity prior to the auction.

(d) **Purchase price.** A state agency or authorized entity that desires to acquire surplus property, a vehicle or equipment from the Department may negotiate the purchase price for the property with a surplus property agent.

580:65-7-3. Public auction

(a) **Public sales.** Sales to the public shall be made only by means of a public auction or sealed bids.

(b) **Payment deadline.** Final payment for surplus property by the public shall be made no later than 2:00 p.m. on the date of the auction.

(c) **Pick up deadline.** Surplus property shall be picked up after payment no later than 3:00 p.m. on the Tuesday immediately following the date of the auction.

(d) **Cancellation of transaction.** If payment is not made or property is not picked up by the cutoff time scheduled by the agent, the sale transaction shall be canceled.

580:65-7-4. Return of property after purchase

All surplus property, vehicles and equipment are sold "as is" and are nonreturnable.

580:65-7-5. Payment provisions

(a) **General requirements for purchases.** Payment made by the public shall be at the time of purchase and prior to removal of the property purchased. Payment for purchases by state subdivisions shall be within 45 days following the purchase and removal of the property. The following provisions apply to all sale transactions prior to the release of property by an agent:

(1) **State agency, political subdivision, school district.** A state agency, political subdivision or school district shall:

(A) Provide a purchase order for the mutually agreed purchase price at the time of purchase; and,

(B) Submit a billing invoice which contains the name and address of the purchasing agency or authorized entity and the name of the representative making the purchase on behalf of the agency or authorized entity with the payment.

(2) **Private business.** A private business shall provide a business tax identification number and a tax exempt certificate, if applicable, at the time of payment. Otherwise, local sales tax shall be charged.

(3) **General public.** Sales tax shall be collected for all purchases made by the general public unless a tax exempt certificate is presented at the time of payment.

(4) **Non-governmental entities.** Non-governmental entities that are not-for-profit organizations shall provide a copy of the letter issued by the Internal Revenue Service granting its tax exempt status at the time of its first purchase.

(b) **Form of payment from non-governmental entities.** Payment may be in the form of certified funds, business check, money order, or cashier's check.

(1) The presenter of a check must present a valid driver license or other picture form of identification at the time of payment.

(2) A check must be guaranteed by a letter of credit issued by the financial institution and may not be accepted for amounts exceeding $2,500.00.

(3) Unguaranteed checks and 2-party checks shall not be accepted.

(c) **Payment refunds.** All payments received for the purchase of surplus property are nonrefundable.

(d) **Cash.** Cash for exact purchase amounts may be accepted at a public auction.

580:65-7-6. Conditions of service

(a) **Delinquent accounts.** State agencies that are delinquent sixty (60) days or more with payment to the Department shall be considered in arrears. Written notice of the delinquency and outstanding balance will be sent to the agency.

(1) Accounts delinquent for more than 120 days shall be subject to suspension by the Director. Suspension of an account bars the agency from the purchase of additional surplus property until payment is received and the account is no longer in arrears.

(2) The Director may waive suspension if it is determined that the suspension will disrupt vital services to the public, cause undue hardship, or is otherwise in the best interest of the agency and/or the state.

(b) **Insufficient checks.** If a check from the general public is returned by a financial institution for "insufficient funds", "account closed" or other reason, the Department shall send written notice to the debtor stating that the debtor has fifteen (15) days to pay the amount owed with cash, a money order or cashier's check, including any and all additional fees associated with the collection process, such as returned check fees.

(1) Any customer who presents the Department with an insufficient check will be notified in writing of the requirement to make payment by cash, money order or cashier's check for any future surplus property purchases made for twelve (12) months following the date of such notice.

(2) The Administrator may waive the payment requirement in paragraph (1) of this subsection.

580:65-7-7. State agency reimbursement

(a) **Payment schedule.** Whenever the Department sells vehicles or equipment for a state agency, reimbursement of sales receipts shall be issued to the state agency in the month following the month of sale of the property.

(1) Sales receipts shall be accompanied by a report which includes:

(A) a description of the item(s) sold;

(B) the sale price and the portion of the sale price paid back to the agency.

(2) If the sale price of item(s) is lower than cost incurred by State Surplus to sell the item(s), no sales report shall be provided to the state agency.

(b) **Surplus Property Program fee determination and funds remittance.** A reasonable administrative fee shall be charged and retained by the Department from sales receipts for the transfer, sale or salvage of vehicles and equipment.

(1) The Department shall retain an administrative fee of ten percent (10%) of the sale price of a vehicle or equipment.

(2) The administrative fee shall be deducted from the sale receipts of a vehicle or equipment prior to remittance of sales receipts to a state agency.

(3) All administrative fees collected pursuant to this subsection shall be deposited into a revolving fund as specified by statute.

SUBCHAPTER 9. SURPLUS PROPERTY RECORDS

580:65-9-1. Surplus property record keeping by a state agency

The chief administrative officer of each state agency shall maintain a current list of all surplus property. (74 O.S., Section 62.6.) The list shall include the following:

(1) Detailed description of surplus property;

(2) Street address and city or town where surplus property is maintained;

(3) Original purchase price, if known. If purchase price is unknown, estimate of current market value;

(4) If surplus property is disposed of, the method of disposal approved by the Administrator, which shall include:

(A) If sold, date of sale, selling price, name and address of buyer; or,

(B) If transferred, name and address of state agency or authorized entity to which transferred; or,

(C) If otherwise disposed of, a description of the manner of disposal.

(5) Any other information that will document or account for status and location of surplus property.

580:65-9-2. Surplus property record keeping by a surplus property agent

The surplus property agent shall keep and maintain the following surplus property records:

(1) **Vehicle and equipment information.** A record for each vehicle or piece of equipment received from a state agency for disposal, which contains:

(A) a description of the vehicle or equipment;

(B) the transport method;

(C) all documents required by this subchapter related to the vehicle or equipment;

(D) records for expenses incurred by the agent for:

(i) transport of the vehicle or equipment;

(ii) removal of markings from a vehicle or equipment;

(iii) removal of special equipment from a vehicle or equipment;

(iv) additional parts for a vehicle or equipment; and

(v) labor expenses to install parts on a vehicle or equipment.

(2) **Surplus property information.** A record for each surplus property item sold by the agent, which contains the following:

(A) a general description of the surplus property item;

(B) a copy of the signed receipt issued to the buyer.

(3) **Surplus property disposed of as salvage or scrap.** A record for any surplus property disposed of as salvage or scrap, which contains the following:

(A) a general description of the surplus property;

(B) a record of the sale;

(C) the method of disposal for the salvage;

(i) if disposal of surplus property declared of salvage value is by bid solicitation, documentation of the bid solicitations; and,

(ii) documentation of the bid award.

[OAR Docket #03-119; filed 1-21-03]
(format accepted 1-22-03)

TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 70. STATE INVENTORY

[OAR Docket #03-118]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 1. General Provisions [NEW]
580:70-1-1 through 70-1-4 [NEW]
Subchapter 3. Tangible Assets Reporting [NEW]
580:70-3-1 through 70-3-6 [NEW]
Subchapter 5. Tangible Assets Management [NEW]
580:70-5-1 through 70-5-2 [NEW]
AUTHORITY:
Department of Central Services; 74 O.S., Section 110.1.B.
DATES:
Adoption:
November 25, 2002
Approved by Governor:
January 3, 2003
Effective:
Immediately upon Governor's approval
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
FINDING OF EMERGENCY:
These emergency rules are adopted to facilitate the effective administration of the statutory mandates Senate Bill 1358, effective November 1, 2002, wherein 74 O.S., Section 110.1 mandates the Department of Central Services to maintain a current inventory of tangible assets owned by state boards, commissions, institutions, agencies and the institutions comprising The Oklahoma State System of Higher Education and the University Hospitals Authority; to establish procedures for the Director of Central Services to specify a tangible asset reporting threshold for each entity; and ensure assets are properly coded in such a manner that they may be readily identified as property of the State, which are each necessary for the preservation of public health, safety and welfare.
ANALYSIS:
Rules in Subchapter 1 provides the purpose and definitions for the new chapter; establishes the general tangible asset reporting threshold, procedures by which the Director may specify individual thresholds and the designation of an agency inventory control officer.

Rules in Subchapter 3 establish requirements and procedures for the annual report of tangible assets by agencies to the Department; review of the reports by the Department of Central Services and procedures for noncompliance or insufficient reporting.

Rules in Subchapter 5 establishes procedures and information for properly coding tangible assets and availability of inventory records for Risk Management reporting purposes.
CONTACT PERSON:
Gerry Smedley, Administrative Rules Liaison, 522-6597

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 1. GENERAL PROVISIONS

580:70-1-1. Purpose

This Chapter establishes procedures and standards and provides information for the administration of inventories of tangible assets owned by state boards, commissions, institutions, agencies and the institutions comprising The Oklahoma State System of Higher Education and the University Hospitals Authority as authorized pursuant to the provisions of 74 O.S., Section 110.1 and the Administrative Procedures Act.

580:70-1-2. Definitions

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

"Agency" means a state board, commission, institution, agency, or an institution comprising the Oklahoma State System of Higher Education and the University Hospitals Authority.

"Agency inventory control officer" means a person an agency appointing authority designates to provide tangible asset information to the Department.

"Computer application" or **"application"** means a system that allows electronic data entry, storage and transfer from one computer or system to another.

"Department" means the Department of Central Services.

"Director" means the Director of Central Services.

"Form" means a document the Director prescribes and requires agencies to use to provide inventory information to the Department.

"Historical significance" means a tangible asset that has enhanced value due to its relation to past events or circumstances.

"Inventory" means a detailed list of tangible assets.

"Inventory tag" or "**tag**" means a form of unique identification an agency applies to a tangible asset.

"State inventory control officer" means a person the Director designates to receive agency tangible asset information.

"Surplus property" means a tangible asset an agency intends to dispose of pursuant to applicable provisions of law.

"Tangible assets" mean *machinery, implements, tools, furniture, livestock, vehicles and other apparatus that an agency may use repeatedly without material impairment of its physical condition and have a calculable period of service and a value exceeding the reporting threshold the Director of Central Services establishes for the entity.* [74 O.S., §110.1(D)]

"Threshold" means the dollar amount specified by the Director as the value of tangible assets required to be reported by an agency.

580:70-1-3. Threshold determination

(a) **General threshold.** Unless the Director specifies otherwise (Reference (b) of this Section), the threshold for tangible asset inventory reports is $500.00.

(b) **Specified threshold.** The Director may specify an individual threshold for an agency which shall be greater than $100.00 but not to exceed the amount authorized by 74 O.S., §110.1.

(c) **Threshold considerations.** Whenever the Director specifies an individual threshold for an agency, the capabilities of the agency to provide an inventory of tangible assets to the Department shall be considered:

(1) If an agency demonstrates reliable tangible asset reporting capabilities, the Director may specify a threshold greater than $500.00 but not to exceed the amount authorized by 74 O.S., §110.1.

(2) If an agency demonstrates unreliable tangible asset reporting capabilities or does not meet reporting requirements, the Director may specify a threshold not to exceed $500.00.

(d) **Unreliable reporting.** Whenever it is determined that an agency with an established threshold exceeding $500.00 has provided unreliable information or has not met the reporting requirements of this Chapter, the Director may reduce the threshold of the agency.

(e) **Review of specified threshold.** No less than six (6) months after the reduction of its threshold, an agency may submit a written request for review of the agency's inventory reporting capabilities to the Director.

(1) If the review determines the agency has demonstrated the capability to provide reliable inventory reports, the Director may increase the agency threshold to an amount not to exceed the amount authorized by 74 O. S., Section 110.1.

(2) If the review determines the agency has provided unreliable information or has not met the reporting requirements of this Chapter, the Director may reduce the agency threshold to an amount exceeding $100.00.

(f) **Notice of reporting threshold.** The Director shall provide an agency with written notice of the tangible asset reporting threshold specified pursuant to this section which states the amount and determination for the change.

580:70-1-4. Agency inventory control officer

(a) **Inventory control officer.** Each agency subject to this chapter shall appoint at least one (1) agency inventory control officer.

(1) The name, address and telephone number of the individual designated pursuant to this subsection shall be submitted in writing to the Department by January 15.

(2) Written notification of any changes to information relating to the agency inventory control officer must be submitted to the Department within thirty (30) days of the change.

(b) **Internal inventory procedures.** To ensure accuracy of state inventory records, an agency shall develop internal procedures for reporting and maintaining information related to the acquisition, reallocation, relocation and disposition of tangible assets to an agency inventory control officer.

SUBCHAPTER 3. TANGIBLE ASSETS REPORTING

580:70-3-1. Inventory report

(a) **Report due date.** All agencies must submit an annual report of current inventory of tangible assets owned by the agency as of June 30 of the preceding fiscal year to the Department by August 15. The report shall include all tangible assets based upon the threshold stated in 580:70-1-3(a).

(b) **Report formats.** The Director shall specify tangible asset identification data elements an agency inventory report shall contain and the forms and computer applications the Director shall accept for the agency to report the inventory information. The Director may specify data elements applicable to a tangible asset type.

(c) **Inventory report contents.** The inventory report shall by signed by the agency inventory control officer and shall include for each tangible asset:

(1) the agency number;
(2) the asset tag number;
(3) the model and serial number, if any;
(4) the manufacturer;
(5) the description;
(6) product name;
(7) physical location;
(8) acquisition date and cost;
(9) any other information which may be requested by the Department to ensure the integrity of state inventory records.

(d) **Supporting documents.** An agency shall maintain supporting documents to identify tangible assets. Document types include acquisition, digital photographs or images and other documents that may provide pertinent tangible assets identification information.

(e) **Report forms.** An agency shall submit inventory reports on forms prescribed by the Director. The Department will provide forms upon request.

(f) **Electronic report submission.** The Director may accept electronic inventory submission. The state inventory control officer shall advise an agency of computer applications the Department may accept.

580:70-3-2. Additional asset reporting identification elements

Whenever a tangible asset named in this section is reported by an agency, the asset shall be specifically identified by type in the inventory report required by 580:70-3-1(a):

(1) tangible assets with historical significance;
(2) livestock assets by breed, gender and approximate value;
(3) assets on loan to another agency; a copy of the written instrument documenting the loan shall be submitted with the annual inventory report;
(4) assets that have been traded in by the agency;
(5) assets the agency is unable to affix an inventory tag to;
(6) assets that have been disposed of in accordance with the state surplus property program;
(7) assets that reach the end of its useful life.

580:70-3-3. Missing, stolen and destroyed tangible assets

(a) **Asset loss reports.** An agency shall report a loss to the state inventory control officer within thirty (30) days of discovery that a tangible asset is missing, stolen or destroyed by vandalism.

(b) **Asset loss documentation.** A report of missing, stolen or destroyed tangible assets shall be accompanied by:

(1) A copy of the notice reporting the loss submitted to the insuring entity; and,
(2) A copy of a report from a law enforcement agency made by the agency to report the loss, theft or vandalism.

(c) **Director notification of loss.** The state inventory control officer shall compile a list and report all missing tangible assets to the Director.

580:70-3-4. Agency inventory submission to the Department

(a) **Electronic report submission.** An agency inventory control officer shall request prior approval of submission of inventory data via a computer application from the state inventory control officer and specify the computer application.

(b) **Acceptance of electronic inventory reports.** Upon receipt of a request pursuant to (a) of this section, the state inventory control officer shall provide written authorization to an agency to indicate the Department will accept an inventory report via the computer application identified in such request or advise the agency of alternate computer applications the Department is able to accommodate.

(c) **Rejection of electronic inventory reports.** Electronic versions of inventory reports submitted without the written authorization provided by this section will be rejected by the state inventory control officer.

580:70-3-5. Department review of agency inventory report submissions

(a) **Inventory report review.** Upon receipt of an agency inventory report the state inventory control officer shall review an inventory submission and identify tangible assets that contain incorrect or irreconcilable data elements.

(b) **Report errors and additional information.** The state inventory control officer shall send written request for information to the agency appointing authority of all tangible assets with errors or irreconcilable data elements.

(c) **Agency response.** An agency shall review the state inventory control officer findings and, within thirty (30) days:

(1) shall provide written evidence of error reconciliation to the state inventory control officer; or,
(2) if unable to reconcile an error, shall provide written notice of such facts to the state inventory control officer.

(d) **Director notification of insufficient report or response.** The state inventory control officer shall submit written notice to the Director if an agency is unable to provide

evidence in response to a reconciliation request or fails to respond to a reconciliation request. The notice shall include previous tangible asset data elements, a description of irreconcilable elements, the agency written notice and the agency response, if available.

580:70-3-6. Director action in the event of agency noncompliance

Upon receipt of written notice that an agency is missing tangible assets, irreconcilable data elements or has failed to respond to a request by the state inventory control officer, the Director shall determine a course of action.

(1) The Director declares the asset reporting of the agency unreliable and sends written notice of a reduction in the reporting threshold to the agency appointing authority with an explanation of the declaration; or,

(2) The Director shall provide a written report of the known facts regarding missing tangible assets, irreconcilable data elements or the agency's failure to respond to a law enforcement agency with jurisdiction for the agency.

SUBCHAPTER 5. TANGIBLE ASSETS MANAGEMENT

580:70-5-1. Tangible asset identification

(a) **Inventory tags.** An agency shall affix a unique identifier as an inventory tag to all tangible assets.

(b) **Inventory tag location.** The inventory tag shall be affixed in a location to ensure accessibility by an inventory control officer.

(1) An agency shall affix inventory tags in a similar fashion and location on tangible assets similar in nature and use.

(2) An agency shall place inventory tags for tangible assets that do not have an affixed tag in a central location readily accessible to inventory control officers.

(3) If an agency affixes an inventory tag in an inconspicuous location on a tangible asset, the agency shall indicate the location on an inventory list.

(c) **Inventory tag material.** Inventory tags shall be a durable material designed to withstand physical elements the tag may endure.

580:70-5-2. Insurance

The Director shall ensure that the agency inventory reports are accessible by the Risk Management Division of the Department. An agency that acquires insurance from the Risk Management Division of the Department for tangible assets and consumable supplies may use inventory data to identify assets and supplies as reportable losses.

[OAR Docket #03-118; filed 1-21-03]
(format accepted 1-22-03)

TITLE 600. OKLAHOMA REAL ESTATE APPRAISER BOARD
CHAPTER 15. DISCIPLINARY PROCEDURES

[OAR Docket #03-108]

RULEMAKING ACTION:
Emergency Adoption
RULES:
600:15-1-2. Definitions [AMENDED]
600:15-1-3. Screening officers and hearing officers [REVOKED]
600:15-1-4. Complaint process procedure [AMENDED]
600:15-1-5. ~~Screening officers to respond~~Issuance of formal complaint: setting date for formal hearing [AMENDED]
600:15-1-6. Notice of disciplinary proceedings [AMENDED]
AUTHORITY:
Oklahoma Real Estate Appraisers Board, 59 O.S. § 858-706.
DATES:
Adoption:
October 4, 2002
Approved by Governor:
October 22, 2002
Effective:
Immediately upon approval by the Governor
Expiration:
Effective through July, 14, 2003, unless superseded by another rule or disapproved by the Legislature
SUPERSEDED EMERGENCY ACTION:
N/A
INCORPORATION BY REFERENCE:
N/A
FINDING OF EMERGENCY:
The Oklahoma Real Estate Appraisers Board ("Board") voted that an emergency existed due to the significant delay in the analysis and prosecution of disciplinary action against individuals regulated by the Board. This severity and seriousness of this delay was detrimental to the profession, the users of appraisal services and in particular, the regulatory insurers of federally related transactions who are charged by law with employing qualified appraisers. These rules provide for more effective analysis and swifter prosecution of individuals regulated by the Board.
ANALYSIS:
These emergency rules provide for the establishment of a Probable Cause Committee to review the complaints filed with the Board against individuals regulated by the Board and to provide a more effective procedure to be used by the Board in such disciplinary proceedings.
CONTACT PERSON:
Travis Parsons, Board member, Oklahoma Real Estate Appraisers Board, P.O. Box 488, Edmond, OK 73083, 405-478-4977

PURSUANT TO THE ACTIONS, DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S. § 253(D)

600:15-1-2. Definitions

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

"Act" means the Oklahoma Certified Real Estate Appraisers Act, cited as 59 Oklahoma Statutes, Sections 858-700 et seq.

"Administrator" means the Commissioner of the State Insurance Department.

"Board" means the Oklahoma Real Estate Appraiser Board.

"Certified Real Estate Appraiser" means those persons meeting the requirements for certification as set forth in the Oklahoma Certified Real Estate Appraisers Act.

"Clear and convincing evidence" means that considering all the evidence in the case, the proposition in question is highly probable and free from serious doubt.

"Department" means the State Insurance Department.

"Director" means the person designated by the Administrator as Director of the Real Estate Appraiser Division of the Oklahoma Insurance Department.

"Licensed Real Estate Appraiser" means those persons meeting the requirements for licensure as set forth in the Oklahoma Certified Real Estate Appraisers Act.

"Panel" means the three member panel of appointed Hearing Officers selected by the Board to conduct a disciplinary hearing.

"Person" means an individual, company, association, organization, society, partnership, trust, corporation or estate.

"Probable Cause Committee" will be Board selected and will be comprised of three (3) members: a past Appraiser member of the Board, a current member of the Board, and a Certified Appraiser from the Disciplinary Committee.

"Respondent" means a Trainee, State Licensed, Certified Residential, or Certified General Real Estate Appraiser against whom a complaint has been received and not been finally resolved.

~~**"Screening Officers"** means the person(s) designated by the Insurance Department to assist the Beard in the disciplinary process.~~

"Trainee Appraiser" means those persons meeting the requirements for licensure as a Trainee Appraiser as set forth in the Oklahoma Certified Real Estate Appraisers Act.

"Uniform standards" means the Uniform Standards of Professional Appraisal Practice, as authorized by the Appraisal Subcommittee pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and which are the standards rules that meet the minimum requirements adopted by the Appraisal Foundation.

600:15-1-3. Screening officers and hearing officers [REVOKED]

~~(a) The two screening officers shall include no less than one person who is qualified as a State Certified General Appraiser.~~

~~(b) Disciplinary proceedings shall be conducted by a three member hearing panel comprised of two appraiser hearing officers and one attorney hearing officer, or three appraiser hearing officers.~~

~~(c) Appraiser hearing officers shall be appointed by Board order. All such persons must be State Certified Residential or State Certified General Appraisers and competent to sit as hearing officers in the particular matter to which they are assigned by the Board. All hearing officers shall be selected by the Board for case assignments on a selection system adopted by the Board.~~

~~(d) Any hearing officer who is an attorney shall be appointed by Board order. All such persons must be duly licensed to practice law by the Supreme Court of Oklahoma at all times during their service.~~

~~(e) Any hearing officer who hears a case shall complete the case and issue any rulings, findings, conclusions or recommendations, prior to any resignation, retirement or withdrawal from the case unless specifically excused from so doing by the Board.~~

~~(f) Any person subject to the jurisdiction of the Board, who shall attempt to pressure, coerce, intimidate, or otherwise influence or affect the opinion of a Board member, hearing officer, screening officer, witness, Real Estate Appraiser Division staff or complainant regarding a disciplinary matter, shall be subject to disciplinary action by the Board.~~

~~(g) In the event any hearing officer or screening officer has any personal, social, or economic relationship with the complainant, respondent named in any complaint, or any attorney involved in the proceedings, the hearing officer or screening officer shall make full disclosure of that relationship to the Director who shall take appropriate administrative action to assure objectivity in the proceedings including, if necessary, replacement of any panel member or screening officer.~~

600:15-1-4. Complaint process procedure

(a) ~~A complaint may be filed with the Board against a Trainee, State Licensed, State Certified Residential or State Certified General Appraiser on a form prepared by the Board. In addition, where reasonable cause exists, a complaint may be brought against a Trainee, State Licensed, State Certified Residential or State Certified General Appraiser directly by the Board.~~ A complaint may be filed with the Board against a Trainee, State Licensed, State Certified Residential or State Certified General Appraiser on a form prepared by the Board. In addition, where reasonable cause exists, a complaint may be brought against a Trainee, State Licensed, State Certified Residential or State Certified General Appraiser directly by the Board.

(b) ~~The Department shall dispose of any complaint that is not under the Board's jurisdiction and the Respondent shall be notified.~~ All complaints will be deemed informal until the Board votes it a formal complaint.

(c) ~~Upon receipt of a complaint which is under the jurisdiction of the Board, the Department shall promptly provide Notice of Pending Complaint to the Respondent named in the complaint. Such Notice shall be forwarded by Certified Mail, Return Receipt Requested, to the last address reported to the Board by the Respondent. Such Notice shall be in writing, shall include a copy of the actual complaint form filed with the Board and all its attachments, and a letter of determination, if jurisdiction is founded. Such Notice shall give the Respondent twenty days from receipt thereof to file a written response to the complaint with the Board.~~ The Probable Cause Committee will review all formal complaints.

(d) ~~If the Respondent fails to respond, the Department shall appoint screening officers and shall forward the complaint to the screening officers who shall proceed in the absence of the Respondent's response.~~ The Probable Cause Committee will be Board selected, serve for one quarter. and will be comprised of three (3) members: a past Appraiser member of the Board, a current member of the Board, and a Certified Appraiser from

the Disciplinary Committee. The Board selected Prosecuting Attorney will be advisor to the Probable Cause Committee.

(e) ~~In the event new information or evidence is developed in the course of any investigation, the complainant, Respondent, and/or Real Estate Appraiser Board may supplement or amend the complaint or response of record. Any supplement or amendment shall be filed with the Board no less than ten (10) days prior to a scheduled hearing with copies provided to the Respondent, screening officers and any other interested party.~~ The Probable Cause Committee is an advisory body to the Board whose function is to summarize the informal complaint and to make an informed recommendation regarding disposition of the informal complaint.

(f) The Probable Cause Committee will meet on the fourth Wednesday of each month. Any Board member acting as a member of the Probable Cause Committee shall be recused from all Board decisions relating to the complaint.

(g) Due to the severity and seriousness of backlog complaints at this time, the Board may direct the Department to turn over any or all complaints to the Probable Cause Committee for disposition in accordance with procedures found in 600:15-1-4 and 600:15-1-5.

600:15-1-5. ~~Screening officers to respond~~ Issuance of formal complaint: setting date for formal hearing

(a) ~~Following expiration of the twenty (20) day response time, the screening officers shall make a review of the complaint and response, if any, and may initiate any additional investigative efforts deemed necessary in order for the screening officers to make one of the following responses:~~ If the complaint and/or summary and recommendations of the Probable Cause Committee appear to the Board to warrant and support such action, and upon the affirming vote of a majority of the members present in open meeting, the Board shall file its own complaint (the Board vs. the license holder) and shall set the date, time and place for a formal hearing in open meeting. Notice shall be served as specified in 600:15-1-6 following except that notice shall be served twenty (20) days before the date of hearing.

~~(1) No factual basis exists to support disciplinary proceedings, and the matter has been dismissed with prejudice.~~

~~(2) The existing information is insufficient to support the allegations set forth in the complaint, and the matter has been dismissed without prejudice.~~

~~(3) The complaint and the allegations therein, if taken as true and correct, do not constitute a violation of any rule, statute or professional standard of practice which the Board is authorized to enforce, and the matter has been dismissed with prejudice.~~

~~(4) The screening officers believe a reasonable basis exists to support one or more of the allegations in the complaint and further disciplinary proceedings will follow.~~

(b) ~~The screening officers shall have forty five (45) days following receipt of the Respondent's response to make one of the above enumerated responses, unless for good cause shown, the Board extends the response time by proper order.~~ The Prosecuting Attorney will select from the Disciplinary committee a Certified Appraiser to assist in the presentation before the Hearing Panel.

600:15-1-6. Notice of disciplinary proceedings

(a) Where the Board deems the Probable Cause Committee's ~~screening officers'~~ response to the complaint provides for actual disciplinary proceedings, the Department shall serve the Respondent with Notice of Disciplinary Proceedings which shall specify the rule, statute, or standard(s) of professional conduct allegedly violated by the Respondent. Service of such notice shall be by Certified Mail, Return Receipt Requested to the last address reported to the Board by the Respondent.

(b) The Notice of Disciplinary Proceedings shall specify a time, date and location for a hearing, which date shall be no earlier than twenty (20) ~~thirty (30)~~ days nor later than thirty (30) ~~sixty (60)~~ calendar days from the date of mailing of the Notice of Disciplinary Proceedings.

(c) No less than ten (10) days prior to the scheduled hearing, the Department shall provide written notice to the parties stating which individual Hearing Officers will comprise the Panel conducting the disciplinary proceedings. Upon a showing of good cause, any Panel member selected may be removed by either party. If the parties cannot agree upon a Panel, either party may make written application to the Board which shall then make an appointment.

(d) Following selection and acceptance of the three (3) member Hearing Officer Panel, the three members shall elect one member to serve as Chairman of the Panel, to preside over the hearing for which they have been selected.

(e) By mutual agreement of the parties and approval of the Hearing panel the hearing may be rescheduled at both a different time, date or location with proper written notice of such change given to all parties.

(f) Disciplinary proceedings shall be conducted by a three member panel comprised of three appraiser hearing officers.

(g) Appraiser Hearing Officers shall be appointed by Board order. All such persons must be State Certified Residential or State Certified General Appraisers and competent to sit as hearing officers in the particular matter to which they are assigned by the Board. All hearing officers shall be selected by the Board for case assignments on a selection system adopted by the Board.

(h) Any hearing officer who hears a case shall complete the case and issue any rulings, findings. conclusions or recommendations. prior to any resignation, retirement or withdrawal from the case unless specifically excused from so doing by the Board.

(i) Any person subject to the jurisdiction of the Board, who shall attempt to pressure, coerce, intimidate, or otherwise influence or affect the opinion of a hearing officer, witness or complainant regarding a disciplinary matter, shall be subject to disciplinary action by the Board.

(j) In the event any hearing officer has any personal, social, or economic relationship with the complainant. appraiser named in any complaint, or any attorney involved in the proceedings, the hearing officer shall make full disclosure of that

relationship to the Department Administrator who shall take appropriate administrative action to assure objectivity in the proceedings including, if necessary, replacement of any Panel member.

[OAR Docket #03-108; filed 1-17-03]
(format accepted 1-23-03)

TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT CHAPTER 15. FISCAL, PERSONNEL AND GENERAL OPERATIONS

[OAR Docket #03-88]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 37. Pay Incentive Plan [NEW]
AUTHORITY:
Oklahoma Tourism and Recreation Commission to make rules pursuant to Section 1847.1(A)(14) of Title 74 of the Oklahoma Statutes.
DATES:
Adoption:
November 21, 2002
Approved by Governor:
January 3, 2003
Effective:
Immediately upon Governor's approval
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
NA
INCORPORATIONS BY REFERENCE:
NA
FINDING OF EMERGENCY:
The compelling extraordinary circumstance necessitating the approval of these rules relates to the passage of legislation during the 2002 Legislative Session authorizing the Oklahoma Tourism and Recreation Commission (Commission) to develop and implement pay incentive plans for employees of the Divisions of Parks, Lodges, Golf Operations and Oklahoma Today Magazine (SB 1271, 2002 Legislative Session). Further, the public interest of the State of Oklahoma is served by the potential benefits of providing financial relief to various operations within the Oklahoma Tourism and Recreation Department (Department).

The direct impact of this legislation is that the Commission has the authority establish and implement incentive programs that will serve to improve the financial condition of our park system and magazine operations. Fiscal Year 2003 budget reductions, coupled with declining revenues attributable to the lack of capital funding for critical environmental repairs at several key parks, have resulted in cutbacks to personnel and programs. These factors have eroded the Department's ability to generate revenue-accounting for about 50% of the agency's budget. Incentives to employees to increase financial performance will facilitate the generation of additional revenue to keep facilities open and services delivered to citizens and visitors in order to support the public interest.

The Department will also be seeking the adoption of permanent rules for the establishment and implementation of the emergency rules contained herein.
ANALYSIS:
These rules provide the basis for allowing the Commission to develop and implement pay incentive plans for various operations of the Department to improve financial performance. ***Section 1847.1 of Title 74 of the Oklahoma Statutes (SB 1271, 2002 Legislative Session)*** provides the authorization for the program. The rules serve to articulate the purpose and procedures for the creation and implementation of the program.
CONTACT PERSON:
Robb Gray, Legislative Analyst/Operations Analyst (405) 522-1051

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 235 (D):

SUBCHAPTER 37. PAY INCENTIVE PLAN

725:15-37-1. Purpose

The purpose of this subchapter is to establish an incentive pay program for eligible Division of Parks, Division of Lodges, Golf Operations and Oklahoma Today Magazine employees to be based on improved financial performance of the facilities and the magazine.

725:15-37-2. Annual Incentive Pay Plan

(a) Each fiscal year, the Executive Director shall submit to the Commission for its approval a proposed incentive pay plan for the subsequent fiscal year.

(b) The incentive pay plan shall specify:

(1) the financial and other performance goals of each facility or the magazine,

(2) the method by which a facility's or the magazine's total incentive pay shall be calculated based on the degree of success in attaining the financial performance goals,

(3) employee positions that will be eligible to receive incentive pay,

(4) the method by which each eligible employee's share of the facility's or magazine's total incentive pay will be calculated, and

(5) the date on which incentive pay relating to the subject year shall become payable to eligible employees.

[OAR Docket #03-88; filed 1-10-03]
(format accepted 1-16-03)

TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT CHAPTER 25. STATE LODGES OPERATIONS

[OAR Docket #03-87]

RULEMAKING ACTION:
EMERGENCY adoption
RULES:
Subchapter 21. Lodge Division Employee Pay Incentive Plan [REVOKED]
725:25-21-1. Purpose [REVOKED]
725:25-21-2. Guidelines [REVOKED]
725:25-21-3. Eligibility [REVOKED]
725:25-21-4. Special shares [REVOKED]
725:25-21-5. Distribution [REVOKED]
AUTHORITY:
Oklahoma Tourism and Recreation Commission to make rules pursuant to Section 1847.1(A)(14) of Title 74 of the Oklahoma Statutes.
DATES:
Adoption:
November 21, 2002

Approved by Governor:
January 3, 2003
Effective:
Immediately upon Governor's approval
Expiration:
Effective through July 14, 2003, unless superseded by another rule or disapproved by the Legislature.
SUPERSEDED EMERGENCY ACTIONS:
NA
INCORPORATIONS BY REFERENCE:
NA
FINDING OF EMERGENCY:
The compelling extraordinary circumstance necessitating the approval of these rules relates to the passage of legislation during the 2002 Legislative Session authorizing the Oklahoma Tourism and Recreation Commission (Commission) to develop and implement pay incentive plans for employees of the Divisions of Parks, Lodges, Golf Operations and Oklahoma Today Magazine (SB 1271, 2002 Legislative Session). Further, the public interest of the State of Oklahoma is served by the potential benefits of providing financial relief to various operations within the Oklahoma Tourism and Recreation Department (Department).

The impact of this legislation, in conjunction with the emergency rules promulgated in new Subchapter 37 of Chapter 15 of Title 725 of the Oklahoma Administrative Code also adopted by the Commission on November 21, 2002, is that the Commission has the authority establish and implement incentive programs that will serve to improve the financial condition of the state park system and magazine operations.

Fiscal Year 2003 budget reductions, coupled with declining revenues attributable to the lack of capital funding for critical environmental repairs at several key parks, have resulted in cutbacks to personnel and programs. These factors have eroded the Department's ability to generate revenue-accounting for about 50% of the agency's budget. Incentives to employees to increase financial performance will facilitate the generation of additional revenue to keep facilities open and services delivered to citizens and visitors.

The revokation of Subchapter 21 of Chapter 25 of Title 725 of the Oklahoma Administrative Code is necessary to remain consistent with the emergency rules drafted in new Subchapter 37 of Chapter 15 of Title 725 of the Oklahoma Administrative Code also adopted by the Commission.

The Department will be seeking the adoption of permanent rules for the establishment and implementation of the emergency rules contained herein.
ANALYSIS:
These rules conform to the Oklahoma State Statute, and serve as the basis for allowing the Commission to develop and implement pay incentive plans for various operations of the Department to improve financial performance. ***Section 1847.1 of Title 74 of the Oklahoma Statutes (SB 1271, 2002 Legislative Session)*** provides the authorization for the program. The rules serve to articulate the purpose and procedures for the creation and implementation of the program.
CONTACT PERSON:
Robb Gray, Legislative Analyst/Operations Analyst (405) 522-1051

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 235 (D):

SUBCHAPTER 21. LODGE DIVISION EMPLOYEE PAY INCENTIVE PLAN [REVOKED]

725:25-21-1. Purpose [REVOKED]

~~The purpose of this subchapter is to recognize and reward employees for work performance that results in increased revenue and improved financial condition of State Lodges authorized by 74 O.S., Section 1847.1 (A)(13).~~

725:25-21-2. Guidelines [REVOKED]

~~(a) Total incentive payments will not exceed the increase in Lodge Division revenues or twenty percent (20%) of the improved financial condition, whichever is less.~~
~~(b) Payments will be made quarterly based on the preceeding 12 months' performance compared to the current year's performance with the corresponding period in the previous fiscal year (Legislation established FY-93 as the base year).~~
~~(c) A lodge must meet performance benchmarks for its employees to be eligible for incentive pay.~~
~~(d) Benchmarks will be established by the Executive Director upon recommendation of the Director of Lodges and the Department Comptroller.~~
~~(e) If a lodge fails to meet its benchmarks, that portion of the incentive pay will not be distributed.~~

725:25-21-3. Eligibility [REVOKED]

~~(a) Every permanent full time employee will receive an equal payment or share except for award of special shares as provided for in OAC 725:25-21.4.~~
~~(b) Pro-rated payments will be made to permanent part-time and project employees.~~
~~(c) Pro-rated payments will be made to seasonal employees provided that the employee has fulfilled their employment contract.~~
~~(d) Any employee against whom formal disciplinary action was taken during the period will not be eligible to receive payment for that quarter.~~
~~(e) The Executive Director, Director of Lodges, and Department Comptroller, will not be eligible for pay incentive shares under this plan.~~

725:25-21-4. Special shares [REVOKED]

~~(a) Each lodge may nominate up to five (5) individuals for an extra or special share.~~
~~(b) Nominations will be reviewed by the Executive Director.~~
~~(c) The Commission may approve awards of an extra or special share if it is determined the individual made an exceptional contribution to financial improvement or customer satisfaction.~~

725:25-21-5. Distribution [REVOKED]

~~(a) The Commission will review and approve all employee payments to be made under this plan before distribution is made to employees.~~
~~(b) The first pay incentive distribution under this plan will not be made before July 1, 1994.~~

[OAR Docket #03-87; filed 1-10-03]
(format accepted 1-16-03)

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register.* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code.*

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2003-02.

EXECUTIVE ORDER 2003-02

I, Brad Henry, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American flags on State property at half staff from 8:00 a.m. to 5:00 p.m., on Monday, February 3, 2003, for one day, to honor former Senator Jack Bell, who died on Friday, January 31, 2003. Senator Bell served in the Oklahoma State Senate from 1992-1996.

This Executive Order shall be forwarded to the Director of the Department of Central Services who shall cause the provisions of this Order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 31st day of January, 2003.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

Brad Henry

ATTEST:
Dawn Amundsen
Assistant Secretary of State

[OAR Docket #03-229; filed 1-31-03]

Local Projects

Executive Order 95-26 requires executive agencies to "announce the availability of contracts for local project funds by publication in the *Oklahoma Register* at least one month prior to the deadline for applications for such contracts" [EO 95-26 (5)].

A "local project funding contract" is defined as "an agreement between a state agency and either a local government or private entity, or both, in which the state agency agrees to provide funding to the local government or private entity who agrees to accomplish a public purpose. In addition, the direct benefits of such a contract accrue primarily to the local population rather than the state as a whole.... Local project funding contracts do not include contracts subject to state competitive bidding requirements." [EO 95-26 (1)].

For additional information on local projects, see Executive Order 95-26 and Attorney General Opinion 87-100.

OKLAHOMA DEPARTMENT OF LIBRARIES
Local Project Funding Contract Announcement

[OAR Docket #03-100]

DESCRIPTION OF PROJECT:
Institution Library Grants
Federal Library Services and Technology Act Funding.

Grant for libraries (excluding school, law or staff libraries) in state supported institutions to:

purchase library materials and/or equipment for use by institutionalized individuals

produce library program events for groups of these individuals,

provide services or other resources which such individuals would normally have available or benefit from through use of a public library if they were not institutionalized.

FUNDS AVAILABLE:

$65,000

ELIGIBILITY:

Applications must be from institutions:

a. Operating a library which is fulfilling the role of a public library for use by its institutionalized population.

b. Whose library is supervised by paid full time employees of the institution, with training in library service.

c. In compliance with rules outlined in the "Rules of Grant Eligibility for State Institution Libraries," 1999, Oklahoma Dept. of Libraries.

AUTHORITY:

Public Law 104-208 as amended and related Long-Range and Annual Programs.

APPLICATION DEADLINE:

March 18, 2003

CONTACT PERSON:

Gary Phillips, LSTA Coordinator,
Oklahoma Dept. of Libraries, (405) 522-3317 or 1-800-522-8116.
Email to: gphillips@oltn.odl.state.ok.us
Return application to:
Phil Cooke
Office of Library Development
Oklahoma Dept. of Libraries
200 NE 18th St.
Oklahoma City, OK 73105

[OAR Docket #03-100; filed 1-14-03]